

**SPECIAL COURT FOR SIERRA LEONE
OUTREACH AND PUBLIC AFFAIRS OFFICE**



PRESS CLIPPINGS

Enclosed are clippings of local and international press on the Special Court and related issues obtained by the Outreach and Public Affairs Office

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Press clips are produced Monday through Friday.
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International News

UP Wants Lewis Brown Out - But Minister Reserves Comment / <i>The News</i>	Pages 3-4
Cambodia: Workers at Khmer Rouge Tribunal Strike / <i>Associated Press</i>	Page 5
Khmer Rouge War Crimes Court Threatened by Pay Dispute / <i>The Guardian</i>	Pages 6-7
When Liberian Child Soldiers Grow Up / <i>Newsweek</i>	Pages 8-15
Kenya: Q&A on The ICC Trial of Kenya's Deputy President / <i>Human Rights Watch</i>	Pages 16-25

The News (Liberia)

Thursday, 8 August 2013

UP Wants Lewis Brown Out - But Minister Reserves Comment

A day following assertion by Montserrado County District #6 Representative Edwin Snowe that the National Oil Company of Liberia (NOCAL) was seated on a 'time bomb' that could be exploded anytime for the alleged wasteful spending of the country's scarce resources, the Chairman emeritus of the former ruling National Patriotic Party (NPP) has made another revelation about the country's oil sector.

Chief Cyril Allen says **former Liberian President Charles G. Taylor** was ousted from Liberia for his refusal to mortgage the country's oil resources and not for his involvement in the Sierra Leonean war as perceived.

Former President Taylor is serving a 50-year jail sentence in The Hague for 'aiding and abetting' war crime and crimes against humanity in neighboring Sierra Leone.

Speaking Wednesday on the Truth Breakfast Show on Truth FM in Paynesville, Chief Allen said the former Liberian leader never supported or was not involved with the war in Sierra Leone because he was not financially potent to carry out such act.

"Taylor is in jail because of the oil in Liberia; Taylor was not active with war in Sierra Leone because he had no money," Allen said.

He said the former president is not in jail for refusing to turn over the country to politicians or for any war crime, but rather he has been detained for his firm stance against mortgaging the country's natural resources.

The NPP Chairman emeritus further indicated that it was realized later during the various peace negotiations by the Americans and the International Community that politicians who were involved with the country's civil war were greedy for power and ill prepared to end the conflict.

Allen disclosed that this was evidenced by the increased number of warring factions that were created on a daily basis and the countless numbers of failed peace conferences that were held.

He said throughout the 32 peace conferences that were held, it was noticed that new warring factions sponsored by various groups and politicians who were greedy and eager for the country's resources were financed thereby leaving the sponsors of the peace conferences to favor the NPP for the 1997 elections and not because of a particular deal with Taylor.

He said he's ready and prepared to form part of any legal and democratic means that will compel the government of Liberia to do things that any rational government would do, being guided by the constraint that governs human conduct.

"I have had my own experience with fighting with guns; guns have no experience, they have no eye and they can't be controlled and if I have to do it again, I will do it with a different objective, and the objective is the political will. We will be for peaceful political rallies that worked in other countries and if the need arises; I am not saying that the situation does arise now, but gradually, if we degenerate into that, I think

the best approach to it would be a peaceful mass demonstration and I am certain that the government would understand that," Chief Allen added.

The statement by the NPP Chairman emeritus also supports Taylor former brother-in-law and now Montserrado County District #6 Representative Edwin Melvin Snowe's assertion that the country's oil resources are being wastefully spent by authorities at NOCAL.

Rep. Snowe said the wasteful spending of the state resources could lead to mass demonstration against the government for the abuse of the country's resources.

However, NOCAL Vice President for Public Affairs, Israel Akinsanya refuted Rep. Snowe's claim about wasteful spending at the entity.

Mr. Akinsanya said NOCAL was not involved in any form of extravagant spending as alleged by Snowe.

Associated Press

Monday, 2 September 2013

Cambodia: Workers at Khmer Rouge Tribunal Strike

Nearly 200 staff members at the Khmer Rouge tribunal, which is supported by the United Nations, have gone on strike to demand wages that are several months overdue, a court spokesman said Monday. A majority of the court's Cambodian employees, including interpreters and translators essential to the court's functions, did not show up for work on Monday because their wages had not been paid since June, said the spokesman, Neth Pheaktra. Budgetary shortfalls, along with the defendants' advanced age and poor health, have raised concerns that the tribunal's trial may grind to a halt. A United Nations spokesman at the court, Lars Olsen, said the strike threatened to delay proceedings at the tribunal, which was set up to seek justice for atrocities committed by the Khmer Rouge in the late 1970s. An estimated 1.7 million Cambodians died under the Khmer Rouge as a result of forced labor, starvation, medical neglect and executions.

The Guardian

Monday, 2 September 2013

Khmer Rouge war crimes court threatened by pay dispute

Strike by Cambodian staff paralyses court already hit by resignations and accusations of political interference

Reuters in Phnom Penh



Former Khmer Rouge prison chief Kaing Guek Eav is the only person so far convicted by the Extraordinary Chambers in the Courts of Cambodia. Photograph: Ho/AFP/Getty Images

Cambodian staff at a Khmer Rouge war crimes tribunal have gone on strike as a funding crisis deepened at a court already bogged down by resignations, political interference and the frail health of its elderly defendants.

Two hundred and fifty Cambodians have not been paid since June at the UN-backed court, caught up in a standoff between donors and a government criticised for its lack of support for hearings into one of the darkest chapters of the 20th century.

The national component of the Extraordinary Chambers in the Courts of Cambodia (ECCC) had a shortfall of \$3m (£1.9m) in its annual budget, court spokesman Neth Pheaktra said, confirming that about 100 people have gone on strike and will not return until they have been paid.

Up to 2.2 million people – about a quarter of the population – died under the brutal Maoist Khmer Rouge regime from 1975 to 1979, many as a result of hard labour, torture or execution.

Under the agreement for the tribunal, the United Nations was to pay for international staff and operations, while Cambodia paid for the national side. But the government has been repeatedly criticised for its lack of support.

"We are very concerned about the possible risk of disruption to the judicial process through the strike by national staff," said UN spokesman Lars Olsen.

The funding dispute puts the spotlight on the commitment of the government, which has been accused of interfering behind the scenes to undermine the court and limit the scope of investigations that could implicate powerful political figures.

The court, dogged from the outset by allegations of corruption, political interference and profligacy, had spent \$175.3m (£112m) by the end of last year. It has only convicted one prisoner, former prison chief Kaing Guek Eav, alias "Duch", who was jailed for life for the deaths of more than 14,000 people.

The government said on Monday it had already contributed \$16.9m to the court.

"If the ECCC is going to fail just because of a budget shortfall, the failure of the court is the failure of the United Nations, the failure of the Cambodian government and the failure of the international community as the whole," government spokesman Ek Tha said. "We hope the international community will not stand and watch."

Newsweek
Friday, 30 August 2013

When Liberian Child Soldiers Grow Up

By Clair MacDougall



A generation of girls fought in Liberia's brutal wars. What they tell their own children about the past will inform the country's future.

Mary Goll is asleep in a white plastic chair. Around her, in the modest bar by the sea that she owns, the sandy ground is flecked with cigarette butts and shiny cracker wrappers glinting in the dull morning light. Plastic bags that once held white rice have been stitched up to cover parts of the shambolic structure, made from odd, corrugated zinc plates and bits of chicken wire. Farther up the beach a cluster of canoes lie facedown by the water as if asleep. Mary's bar—known as Ma Mary—resembles a makeshift vessel that, carrying a motley crew and cargo, has crashed onto the shoreline and is slowly falling apart.

The morning light sharpens the contours of the bar. Mary, now awake, languidly gets up from her chair. She is dressed in a loose white tank-top that accentuates her broad shoulders and thick arms. A yellow piece of fabric with blue stars is wrapped around her waist. Her short hair is braided in cornrows.

A bare-chested young man comes into the bar, orders a shot of gana gana, a bitter cane juice known as "African whisky," swallows it without saying a word, then resumes his walk toward Cape Montserrado,

where the first black immigrants from America landed in 1822, the vanguard of a settlement that eventually became the Republic of Liberia, its capital, Monrovia, named after U.S. President James Monroe.

This desolate stretch of land, where echoes of Liberia's past still play out, is known as Poto Corner in the local Liberian-English vernacular, meaning a place for those without use. It is situated within Monrovia's largest slum, West Point, on a peninsula home to migrants, fishermen, crack addicts, street kids, and many Liberians who, like Mary, fought and were displaced by the successive and complex civil wars that ravaged the country during most of the 1990s, pitting Charles Taylor and his militia, known as the National Patriotic Front of Liberia, against the repressive government of Samuel Doe. Taylor eventually gained control of most of the country and, following Doe's execution and a subsequent peace deal, became president in 1997. Two years later, though, the country slid back into civil war. The fighting lasted another four years.

Mary was 13 when she joined up on the side of the pro-Taylor government militias, and her scars tell the story of a girl who saw close combat. A bullet grazed her right knee during a fierce battle in northeastern Liberia near the border with Guinea. Puckered skin between her shoulders bears witness to a bullet that came dangerously close to her spine. And then there are the self-made markings of war: crude, roughly drawn tattoos that serve as totemic reminders of her deeds. An octopus spreads its tentacles across her lower back; another covers her right knee. The octopus is a "wicked animal," Mary says, and "I was wicked."

For three years, Mary fought in a civil war that became known around the world for its atrocities, often involving children and teenagers as both perpetrators and victims. Mary commanded about 30 boys and girls, women and men, attaining the status of women's artillery commander before being captured and forced to fight on the rebel side. She was 16 when the war ended.

When a Comprehensive Peace Agreement finally brought an end to the fighting in August 2003, she was disarmed but peace did not follow. Like many of her generation, Mary has been unable to quiet the battles that still rage in her mind.

Neighboring Sierra Leone went through its own civil war when forces supported by Taylor sought to overthrow the government in 1991. That war ended in 2002. Last year a U.N.-backed tribunal for Sierra Leone sentenced Taylor to 50 years in prison for murder, rape, sexual slavery, the use of child soldiers, and other war crimes. The court is expected to make a ruling on his appeal in September.

A separate war-crimes trial has not taken place in Liberia, where Ellen Johnson Sirleaf has governed since 2006. Johnson Sirleaf has received international acclaim as the first elected female African head of state, but she was also an early supporter of Taylor during the civil war, and her government has proven disappointing to those who had hoped for a meaningful healing process. A 2009 report from the country's Truth and Reconciliation Commission included Johnson Sirleaf among those who should be barred from holding office for 30 years on account of her association with Taylor. But she refused to step down. Instead she apologized to the Liberian people for having been "fooled" by Taylor early on.

Over 38,000 children took part in the war as fighters, porters, ammo carriers, cooks, and sex slaves.

The country's reconciliation process was further damaged in the fall, when the Nobel Peace Prize-winning activist Leymah Gbowee resigned as head of the separate Reconciliation Initiative after sharply criticizing Johnson Sirleaf for nepotism and her failure to address present-day issues such as corruption. In a

statement, Gbowee referred to “differences in opinion on the pathway for national healing and reconciliation” as her reason for stepping down.

This June, the government launched a new roadmap that lays out an 18-year plan for reconciliation. But to date, only one of the many recommendations of the 2009 TRC report has been implemented, and though almost 10 years have passed since the end of the fighting that left more than a quarter million people dead, Liberia has yet to fully reckon with its history.

When I go to see Gbowee at a farm just outside Monrovia, where she is hosting a camp for disadvantaged youth, she says that if the country is to move forward, Liberians must not only focus on the injustices of the past but also look to the present. “We can’t talk reconciliation from 1990 if we don’t look at some of the issues of social justice now,” she argues. “If you look around Monrovia, we have a very angry population. How do we start to address some of these things that are making people angry before we start to address some of the issues of the war? How do we address these issues simultaneously?”

A big part of the challenge is that many Liberians are former child soldiers. More than 38,000 children are estimated to have taken part in the war as fighters, porters, ammunition carriers, cooks, and sex slaves. What they saw and did—and what was done to them—is an unredeemable reality. But the future is still open. In fact, this is a crucial moment: Liberia’s generation of child soldiers is now coming of age. And how they deal with their history is going to have major consequences for their country.

Mary tells me her story in a fragmented fashion over the course of several weeks, but ultimately weaves a narrative of overcoming great adversity: she chose to be a fighter, she disarmed, and now her life has turned around.

Yet her actions tell a different story. Like many former child soldiers, she is trapped between the past and the future, still unwilling or unable to let go of her wartime identity as a fighter, which, if nothing else, offered a sense of purpose and direction. She has a boyfriend and two children but has never married. The war taught her independence. “I’m the man for the family,” she says. “I’m the man because I fought.”

While she surrendered her arms years ago, Mary still has the swagger of a commander fiercely guarding her corner of the world. Homeless, crack-smoking teenagers and men known as gronna boys hang out near the bar, and Mary sometimes orders them to settle things “the gronna way”—to dole out beatings to customers who don’t behave.

On this morning, a tall middle-aged man with bloodshot eyes walks in. Scrunching his face in pain, he asks for gana gana on credit. He has been here before. “Move your stink self from here,” she yells in her Liberian-English, chin cocked out. The man walks away before she can push him out. “You have to have sharp mouth because the people, they love fighting [and are] quick to take weapon,” she says. “You have to be careful.”

Mary runs her bar with a 10-year-old girl whom she refers to as “the manager.” Tiny with a dark, pretty, wide face, the girl works at the bar day and night, throwing shots of liquor into grubby tumblers. She also does most of the household chores and cares for Mary’s 1-year-old daughter, Desire.

Mary says she adopted the young girl when she found her toward the end of the war—a baby, abandoned in an empty house. She calls the girl her daughter and claims to care for her, but one night, when the girl breaks a bottle of whisky while handling the wires to turn on the lights in the bar, Mary beats her to the ground and kicks her in the stomach as customers sit in silence, continuing to drink. “That little girl thinks

she knows everything!” she yells. When I ask her about her violent outburst later, she defends herself, saying she was only trying to teach her a lesson and that she feared the girl would electrocute herself by fumbling with the wires.

But violence is clearly visceral, Mary’s first response. At one point, walking through a market, she attacks a man, believing he has called her a beggar. Over and over again, she smashes his head with a motorbike helmet while threatening to cut him up and drag him out to her beach where they can settle it “the gronna way.” After bystanders break up the fight, Mary calls the police and, greasing the palm of a policeman with 100 Liberian dollars, gets the man locked up. “He can’t fight, he can only scratch,” she says later. When I ask her why she got into the fight in the first place, she says that because of her past serving as a commander in the war she is “his superior.” “People like that, during the war, they stay hiding,” she says.

In the aftermath of the wars, the government and Western aid agencies created programs to help former child soldiers reenter society, but many have been unable to build normal lives—especially the girls and women whose soldier past is seen by Liberian society as more of a transgression.

While many male commanders negotiated government positions after the war, female combatants were largely excluded from the process. Today many of the women who went to war are shunned and live in slums, scraping by for survival, often by prostituting themselves for a few dollars. Leena Kotilainen from the University of Turku in Finland, who is conducting a study on the reintegration of former girl soldiers, found that almost half of those she interviewed were involved in prostitution, most of them in ghettos throughout Monrovia. “Some of them are so destitute and disempowered that they don’t believe they are human beings anymore,” she says.

Former female combatants find it more difficult to get married, have families, and reintegrate back into society because they are seen as unfeminine, tainted, and depraved, says Irma Specht, an anthropologist who has studied the issue since the end of the war. “Girls who [fought] alongside boys in the bush are not regarded as decent. They have crossed the line of femininity, the norms in society on how women should behave. They are generally not regarded as potential candidates for marriage, and most employers are reluctant to hire them,” says Specht. As a result, “they live in ghettos and hide their past.”

Mary will half-brag about her own cruelty and then, moments later, appear tormented by the horror of what she did. Her sense of guilt isn’t fully formed; it appears only partially realized.

The third in a family of seven, Mary was just 2 years old when Taylor’s militia set off the first civil war. Born in the rural town of White Plains just outside Monrovia, Mary was a child of conflict: she knew how to drop to the ground during crossfire and how to wait out violence in the surrounding scrub. Her mother, Patricia, sold grilled fish and ran a small video club to make ends meet. She had split from Mary’s father, Amos, because of “girlfriend business,” as Patricia puts it, and 9-year-old Mary was sent to live with her father and his new wife to ease the financial burden on her.

Mary says her stepmother abused her and took her out of school to sell chicken on the streets. She was also made to do most household chores, fetching water and pressing clothes with a coal iron before school. When she was disobedient, she says, her father and stepmother would tie her elbows together and rub hot pepper in her eyes, leaving her in the sun to suffer.

“Mary from her birth has been a bad kind of li’l girl,” her father tells me one day at a bodega near his home. He is ashamed of his daughter, he says, and wants her to reform. She should leave her beach bar,

sew herself some nice dresses, and come with him to church, he says. (When asked about her father, Mary simply says he is “useless” and “insincere”—a sentiment echoed by her sister.)

Effectively orphaned, Mary went to stay with her grandmother in a quaint little housing community of brightly-colored worker cottages just outside Monrovia. But to Mary, who had grown accustomed to fending for herself and who supported herself by sometimes turning tricks, her grandmother’s way was far too strict.

At 13, Mary became pregnant. The father was a handsome man she had watched play basketball in the moldy concrete ruins of the local community center. He was 25 and not prepared to be a father. (Today he lives in Boston and has some contact with her family, though Mary refuses to speak to him.)

Mary named her newborn Courage to help her find courage in God, but her mother took the baby girl away two weeks after she was born. Mary says she didn’t mind. She knew she was too young for “baby business.” And she had other plans.



In 2000, Mary’s mother decided that she and her children would escape the war by going to Ghana. But Mary was having none of it—and hid until they departed. Having just given birth to her daughter and seen her taken away, she wanted to escape her family. “I thought it better I go to the bush and fight,” she says. She also joined for “advantage,” she says, for protection and benefits. She had observed the power the soldiers enjoyed—and how they abused it, beating the men and harassing the women. She wanted their power, their air of being inviolate and untouchable.

As a younger child, Mary had seen a tall, strong-looking woman in fatigues standing outside the training barracks in downtown Monrovia, and her air of strength, control, and discipline left an indelible impression. She began to imagine herself a soldier in a national army or volunteering to become a U.S. Marine, marching along in a neat uniform.

One afternoon, she set off to meet Larry Mulvey, a local commander who was headquartered in a house on Somalia Drive, a dusty road lined with sad-looking palm trees. When the small girl, dressed in a yellow tank-top and a short black skirt, told him she wanted to join the government Army, he readily agreed. Without saying goodbye to her grandmother, she left a week later on the back of a green pickup truck. She was taken to Camp Jackson in Naama, where she was taught basic target training and how to handle firearms. Discipline was a problem, though, and Mulvey named her “Disgruntled” because she was rude and wouldn’t take orders.

During her first foray to the front lines, she served under the command of another woman, nicknamed Tina Girl, who eventually became her friend. At first, the crackle of gunfire and pounding of rocket-propelled grenades made Mary tremble, but she says her fears subsided as she watched Tina Girl fight. “She was brave,” she says, “and I was [following in] her footsteps.” (After the war, Tina Girl died of an overdose in a derelict cemetery in downtown Monrovia where many former combatants slept in old graves.)

For three years—her most formative teenage years—she fought in a war so brutal it almost defies belief. One study of the mental-health effects of the intertwined wars in Liberia and Sierra Leone found that atrocities included “intentional hacking off of limbs, carving the initials of rebel factions into victims’ skin, slaughtering pregnant women to bet on the gender of the unborn child, and use of young girls as human sacrifices. Numerous people have reported that they were forced to cut, cook, eat, and serve human flesh and internal organs, including those of their own parents and infants. Countless numbers of children and teenagers were forced to watch the torture, rape, and brutal murders of their parents and siblings. In many cases, family members—including children—were forced to rape, murder, and mutilate each other. During these acts, victims were forbidden to show any emotion, or, in many cases, were commanded to laugh. In some instances, people who shed tears in response to these atrocities were punished by being permanently blinded.” Violence against women was so endemic during the civil war that some surveys suggest that between 60 percent and 90 percent of Liberia’s girls and women were raped.

In a study on child soldiers in neighboring Sierra Leone, Theresa Betancourt, an associate professor at the Harvard School of Public Health, found that girl soldiers, while often also victims themselves of sexual abuse, were as likely as the boys to have been involved in the injury and killing of others. But Betancourt found that the psychological toll was greater on girls, who had significantly higher levels of depression and anxiety than boys did.

Yet little attention has been paid to the experience of these girls. As Rosana Schaack, who heads one of the few programs aimed at former female child soldiers, puts it, after the war “when you said child soldiers, everybody looked at the boys.”

Mary recalls that she would cut off ears and fingers of those her unit captured. She and her soldiers even skinned a prisoner. But it is not these atrocities that appear to keep her awake at night. What troubles her is the recollection of an order she gave her soldiers to gang-rape a woman who had been caught, seemingly spying on their position.

Mary can't quite explain why this is worse than flaying someone, but she identified with the woman. And perhaps her prisoner's helplessness reminded Mary of her own.

One day in 2003, her unit came under heavy fire from LURD (Liberians United for Reconciliation and Democracy) rebels and began to retreat but was caught in an ambush. Three girls were killed when they tried to fight their way out. Along with two men, Mary surrendered. For days, they were beaten, humiliated, and jailed. Eventually they were forced to join the rebels.

For several months, Mary fought for the other side—a fact that doesn't seem to trouble her much today. Identification with any political cause was never the point. And when the rebels advanced on Monrovia for a final push, she recounts a celebratory mood. "The looting was too much, so the enjoyment was sweet," she says. In the final days of the war, during the last battle for the capital, she managed to escape and run home to West Point.

After handing over her AK-47 and her RPG launcher during a disarmament drive, Mary returned to what she had known before the war: life on the streets, drugs, and prostitution.

When Schaack, a soft-spoken Liberian social worker with the evangelical humanitarian group Samaritan's Purse, approached her in late 2003, just months after the ceasefire, Mary told her: "Move from here that shit. The whole day you passing around and lying to people." But after a while, Schaack managed to persuade Mary and eight other girls to live for nine months at a Christian mission where they received counseling as well as courses in pastry making and tie dying.

The stay at the mission helped Mary kick her habit of smoking marijuana, and these days she doesn't hustle for money. "I've moved my life forward," she says. Schaack believes it's an upward trajectory that will continue if Mary can just leave West Point. She has faith in the young woman and has nicknamed her "Bright Future."

But Mary is less certain of her prospects. She says the bar is an anchor—it earns her about \$45 a month, a princely sum in the slum—and she feels safe here, among her own people. "When I around them, no one can do nothing to me," she says. "So for me to leave from this area would be too hard."

And while Mary speaks about Schaack with affection, she says neither aid groups nor the government has done much for her or the other women who fought alongside her.

Mary's daughter Courage is graduating from elementary school. At 13, she is the same age her mother was when she got pregnant, left her family, and went into the bush to fight. Mary was reunited with her younger daughter, Desire, when Patricia, her mother, returned from Ghana in 2008, but Patricia will not allow Courage to live with Mary in West Point. "I don't feel it is a good place for children to grow up," Patricia tells me as we sit under a tree outside her home in Barnesville. "Even the little girl that is there, I want to take her ... That place is too full of former combatants ... That is why I took Courage, and I can't give her back to her."

In Liberia, graduations are big, noisy affairs, with food, alcohol, and dancing—an important ritual because school so often in the past was interrupted by fighting—and Mary has been saving for months for the occasion. "I want for her to be proud of me," she says. "I don't want to be like my father."

On the evening of her graduation, Courage is strutting around in a bobbed wig and a backless pink-and-blue-striped halter-top, short denim skirt, and shiny black shoes. Children dance while adults, reclining in their plastic chairs, chat and enjoy their drinks.

Though she has paid for the party, Mary is not there. She is having her own party a few miles away at Ma Mary's. She doesn't want her gronna friends embarrassing her daughter with their bad manners, smoking, and cursing.

Having retreated to Ma Mary's, where she feels safe, she surveys the remains of the party: the food is gone, and the bar is almost dry. A lone fluorescent lightbulb shines starkly, defining the silhouettes in the bar. Mary notices a jumble of empty bottles on the table and starts to curse. It is her daughter's graduation, and she has only a bottle of Club beer to toast with. She throws her head back for a swill. The music is still playing as night falls on Poto Corner.

From our Aug. 30, 2013, issue; When Liberian Child Soldiers Grow Up.

Human Rights Watch

Monday, 2 September 2013

Kenya: Q&A on The ICC Trial of Kenya's Deputy President

The trial of Kenya's deputy president, William Ruto, and his co-defendant, the radio broadcaster Joshua arap Sang, is scheduled to begin at the International Criminal Court (ICC) on September 10, 2013. A three-judge trial chamber sitting in The Hague will hear the case.

The men face crimes against humanity charges for their alleged roles in murders, deportation or forcible transfer of population, and persecution during Kenya's 2007-2008 post-election violence. Ruto, who was a member of parliament at the time, will be the first senior Kenyan politician to stand trial for crimes committed during the violence.

"Kenya's leaders broke their promises to hold national trials, which obliged the ICC to step in as a court of last resort," said Elizabeth Evenson, senior international justice counsel at Human Rights Watch. "As the trial begins, we should focus on the crimes committed more than five years ago and Kenya's failure to afford justice to the victims who lost so much."

The trial of Kenya's president, Uhuru Kenyatta, in a related but separate case, is due to start at the ICC in November. Ruto and Kenyatta were on opposite sides of the political divide in 2007-2008 and are accused of organizing attacks against one another's supporters. They were elected in March 2013 on a joint ticket.

The 2007-2008 violence followed what was widely perceived as a rigged presidential election. At least 1,100 people were killed and as many as 650,000 people forced from their homes. Thousands were injured. The scope of sexual violence committed at the time is still not fully known. The ICC stepped in to investigate in 2010 after Kenya's then-leaders broke repeated promises to hold those responsible to account in national trials.

Ruto, Kenyatta, and Sang are not subject to arrest warrants, having cooperated with the court until now, and have pledged to continue voluntarily appearing before the ICC. The Kenyatta government has repeatedly tried, since taking office in April, to seek the support of regional leaders and political bodies – including the United Nations Security Council and the African Union – to end the ICC's cases. This undermines its stated commitment to the court.

For additional information about the Kenya cases, please see "Kenya: Q&A on Recent Developments on the International Criminal Court" (April 2013), "Kenya: Q&A on Pre-Trial Hearing in Second ICC Case" (September 2011), "Kenya: Q&A on Pre-Trial Hearing in First ICC Case" (August 2011), "ICC: First Appearance of Kenya Suspects" (April 2011), and "Kenya: Q&A on Kenya and the International Criminal Court" (January 2011).

1. What is the case against Ruto and Sang about? What crimes are they charged with?

William Ruto and Joshua arap Sang are charged with the crimes against humanity of murder, forcible transfer of population or deportation, and persecution, stemming from their alleged involvement in an attack on perceived supporters of former President Mwai Kibaki's Party of National Unity (PNU).

According to the International Criminal Court (ICC) prosecution, perpetrators destroyed houses and businesses identified as belonging to members of Kikuyu, Kamba, and Kisii ethnic groups thought to be

PNU supporters, killing over two hundred people and injuring over a thousand more and forcing hundreds of thousands to flee. Five specific incidents occurring between late December 2007 and mid-January 2008 in Kenya's Rift Valley form the basis for the charges.

The prosecutor contends that Ruto along with others, and supported by Sang, worked for up to a year before the election to create a network to carry out the plan, and that this network was activated when the election results in favor of Kibaki were announced. The goals of the plan, the prosecutor alleges, were to punish and expel from the Rift Valley people perceived to support the PNU, and to gain power in the province.

Ruto at the time was a member of parliament and a senior member of the Orange Democratic Movement (ODM), the party of Kibaki's principal challenger, Raila Odinga. Sang was a radio host on the Eldoret-based Kass FM. The prosecutor will seek to prove at trial that Ruto created and supervised the network's implementation of attacks, while Sang incited and then helped coordinate attacks by disseminating coded messages through his broadcasts.

The defendants are not required to set out their case in advance of trial. The Ruto defense has indicated that it intends to prove that prosecution witnesses colluded with one another and with the support of "international and domestic Kenyan organizations" to fabricate evidence.

The ICC prosecutor had initially sought charges against a third suspect in this case – Henry Kiprono Kosgey, then also a senior ODM member of parliament – but a pre-trial chamber found insufficient evidence to send the case against him to trial.

2. What is the case against Kenyatta about? What crimes have been charged against him?

Uhuru Kenyatta is charged with committing the crimes against humanity of murder, forcible transfer of population or deportation, rape, other inhumane acts, and persecution. The prosecutor will seek to show that Kenyatta enlisted the Mungiki, a criminal gang, to carry out attacks on perceived ODM supporters in and around Nakuru and Naivasha towns during the last week of January 2008. During these attacks, allegedly organized in response to attacks on PNU supporters in other areas of the Rift Valley, the prosecutor alleges that Mungiki and other pro-PNU youth – some transported to the Rift Valley from other parts of Kenya – killed, raped, and injured (including through forced circumcision and penile amputation). They also allegedly looted and destroyed properties and displaced thousands of people.

3. Why aren't any of the accused facing arrest warrants?

All three defendants in the ICC's Kenya cases are subject to voluntary summonses to appear.

These may be issued at the ICC in the place of arrest warrants, where the judges consider that a warrant is not necessary to ensure the person's appearance before the court.

Like an arrest warrant, an ICC summons to appear contains the crimes an individual is alleged to have committed and triggers proceedings that may bring a case to trial. But unlike an arrest warrant, the summons imposes only an obligation on the individual to appear before the court in The Hague; a summons does not impose any obligation on the authorities in Kenya or any other ICC state party to arrest the person. If the accused fails to appear or does not comply with any conditions listed in a summons, the pre-trial chamber may decide to issue an arrest warrant. All the accused have complied with their summons to date.

4. Will Ruto be required to attend the trial in person?

Yes, for the time being. In June 2013, the trial chamber excused Ruto from personally appearing before the court for considerable portions of the trial. The trial chamber by a 2-1 majority found that although ICC defendants have a duty to appear in person, the need to accommodate Ruto's responsibilities as deputy Kenyan president justified an exception to this rule. The chamber required Ruto to attend certain hearings including the trial's opening, closing, if victims present their views in person, and the delivery of the judgment.

The decision is not final, however. The trial chamber, by a different majority, granted the prosecution leave to appeal and a decision is still pending from the ICC's appeals chamber. The appeals chamber decided in August 2013 that Ruto will be required to attend all sessions of the trial until it renders a final decision on the appeal.

5. What did Human Rights Watch's research show about the Kenyan post-election violence?

In January and February 2008, Human Rights Watch researchers were on the ground documenting the post-election violence as it unfolded. Human Rights Watch conducted more than 200 interviews with victims, witnesses, perpetrators, police, magistrates, diplomats, Kenyan and international nongovernmental organization staff, journalists, lawyers, businesspeople, local government officials, and members of parliament across the country, from all major ethnic groups.

Human Rights Watch documented essentially three patterns of violence. First, members of the Kenyan police forces responded to demonstrations and riots with excessive force in some areas. They fired on unarmed demonstrators and bystanders to break up riots, and to keep people away from demonstrations. In other areas, the police did nothing as mobs committed acts of brutality. The Commission of Inquiry into Post-Election Violence (CIPEV), also known as the Waki Commission, found that of the more than 1,100 people killed during the violence, 405 were shot fatally by police. An additional 557 individuals were injured by police gunfire.

Second, mobilized opposition supporters – especially in the Rift Valley and the informal settlements of Nairobi – attacked those they assumed had voted for Kibaki and his PNU. The victims were predominantly Kikuyu, Kenya's largest ethnic group, reflecting an ethnic dimension to the violence. Around Eldoret, local ODM mobilizers and other prominent individuals called meetings during the election campaign to urge violence in the event of a Kibaki victory. In the days that followed, attacks were often meticulously organized by local leaders.

Third, Kikuyu militia carried out reprisal attacks on members of ethnic groups seen to be associated with the ODM. In Naivasha and Nakuru in the southern Rift Valley, PNU mobilizers and local businesspeople called meetings, raised funds, and directed youth in their attacks on non-Kikuyus and their homes.

Human Rights Watch has consistently called for those behind the attacks to be held to account, and for investigations to determine the extent of links between the attackers and the national leaderships of the opposition and ruling parties. Human Rights Watch's research suggested some leaders may have been at least aware of what was happening and done little to stop it. Some may have been more directly involved.

6. Will Kenyan victims be able to participate in the trial?

Yes, although few, if any, will appear in person before the ICC.

Under an innovative system at the ICC, some victims may participate in the case against Ruto and Sang. These are individuals who suffered harm in the specific incidents underlying the charges in the case and they are participating in their own right, rather than exclusively as witnesses called by the prosecution or defense. The victims in the case have a court-appointed lawyer, Wilfred Nderitu, a member of the Kenyan bar, serving as their common legal representative and supported by staff of the ICC's Office of Public Counsel for Victims.

According to a decision of the trial chamber, apart from key moments in the trial like the opening statements, staff of the Office of Public Counsel for Victims will appear in court on behalf of Nderitu. On behalf of his clients, he may seek permission to question witnesses and introduce evidence. At the request of a victim, via the common legal representative, the judges may also give a victim permission to present his or her views directly to the court, either in person or via video-link.

The court said 327 victims participated in proceedings before the pre-trial chamber. The trial chamber ordered a new system to register victims so they are not required to submit individual applications, as has been the practice of other trial chambers. It is uncertain how many victims will participate in the trial. In June 2013, a letter was sent to the court, purportedly on behalf of 93 victims, seeking to withdraw their participation in light of a loss of confidence in the process. The circumstances under which the letter was sent have not been publicly verified.

7. Why did the ICC get involved in Kenya?

Kenya joined the ICC in 2005. The ICC is a court of last resort, stepping in only where national authorities are unable or unwilling to genuinely prosecute crimes within the court's jurisdiction. It was on the basis of inaction by the Kenyan authorities to hold those responsible that the ICC opened cases in Kenya.

In 2008, mediators appointed by the African Union, called the Panel of Eminent African Personalities and led by former UN Secretary-General Kofi Annan, helped negotiate an end to the violence. An agreement by the parties put in place the Commission of Inquiry into Post-Election Violence or Waki Commission. The commission found that serious crimes had taken place and recommended establishment of a special tribunal in Kenya to hold those most responsible to account in national trials. Its report contained a strict timeline for setting up the tribunal and putting it to work, which, if breached, would require the mediator – Kofi Annan – to pass a sealed envelope with the names of chief suspects to the International Criminal Court.

In December 2008, Kibaki and Odinga, who became prime minister in the coalition government, agreed to establish a special tribunal to prosecute perpetrators of the post-election violence. Kibaki and Odinga, however, failed to follow through, and did not marshal necessary support in parliament for the tribunal. In what now seems a clear attempt to stall domestic justice efforts, Ruto, among other members of parliament, purported to support the ICC under the rallying cry "Don't be vague! Let's go to The Hague!" Legislative efforts to establish the tribunal went nowhere over the course of 2009.

In the absence of national steps toward accountability, and after Annan had handed over the envelope from the Waki Commission in July 2009, the ICC prosecutor announced in November 2009 that he would seek authorization from the pre-trial chamber to open an investigation. In authorizing the prosecutor's

investigation in March 2010, the pre-trial chamber found that there were no relevant national proceedings regarding the types of offenses and high-level individuals likely to be targeted in the ICC investigation.

8. Apart from the ICC process, have victims and their families had access to justice in Kenya for crimes committed during the post-election violence?

No. According to Human Rights Watch's research, although tremendous pressure from the Kenyan population stirred initial efforts in the aftermath of the violence to bring accountability, slapdash investigations and prosecutions were so hurried that they resulted in acquittals.

Following initial failures, the criminal justice apparatus appeared to lose momentum. Out of thousands of potential cases, Human Rights Watch has confirmed only a handful of convictions for serious crimes related to the 2007-2008 post-election violence, and convictions in only three murder cases. This is in spite of the adoption of a new constitution in 2010 and reforms to the judiciary. The previous government did not show a serious commitment to ensuring fair, transparent and effective investigations of those who organized and financed the violence.

In 2012, the Kenyan Director of Public Prosecutions (DPP) announced that his office would review at least 5,000 cases with a view to prosecuting them ahead of the 2013 elections, but a committee appointed to review the cases said in August 2012 that it was finding it difficult to obtain evidence in most cases. The DPP recently indicated that his office obtained an additional 54 convictions for crimes of sexual violence committed during the post-election violence.

Police officials implicated in crimes have enjoyed impunity, with an acquittal in one case of murder brought against a police officer. This was in spite of the fact that the police officer was caught in footage broadcast on national television shooting two protesters who appeared to be unarmed. Both protesters died.

In many police shooting cases, surviving victims or family members sought to file criminal complaints, but were turned away. The father of two children shot by police, one an 11-year-old girl, told Human Rights Watch:

I went to the police and said "The police killed my child." They said, "The police don't kill people." They refused to write a statement. When I insisted, they said, "If you continue to play around, you could be shot, too."

The government has refused to pay compensation in successful civil suits brought by victims of police shootings. Victims of police shootings and of sexual violence committed during the post-election violence have filed two constitutional cases in the Kenyan high court seeking to compel the government to address these crimes.

The failure to hold to account those responsible for the 2007-2008 election violence continues a cycle of impunity in Kenya. Perpetrators of political violence in 1992 and 1997 also escaped justice. As a Kalenjin elder told a Human Rights Watch researcher:

We are very good at saying we don't leave a single stone unturned, but we don't turn a single stone. Maybe we turn pebbles....Small stones are turned. The big ones, no one dares.

9. Does the fact that the Kenyan people elected Kenyatta and Ruto as president and deputy president in March 2013 mean they don't support the ICC process and it should end?

The ICC treaty does not recognize immunity from prosecution for officials, and Kenya's constitution expressly provides that the president is not immune from prosecution for crimes under a treaty to which the country is a party, and which, like the Rome Statute, prohibits such immunity. Cases have been brought in international tribunals against sitting heads of state, including Omar al-Bashir of Sudan, Charles Taylor of Liberia, and Slobodan Milosevic of the former Yugoslavia.

Kenyatta and Ruto campaigned on pledges to continue their cooperation with the ICC, and both restated this pledge following their election. At the same time, however, their campaign rhetoric sought to paint the ICC as a tool of Western imperialism. Since taking office the Kenyatta government has actively courted the support of other African leaders to undermine the ICC (see below). It has also ignored threats against human rights defenders and journalists that seem linked to their perceived association with the ICC

In this context it is unsurprising that views about the ICC process have become increasingly polarized among Kenyans. According to a media report, an unpublished June 2013 poll by South Consulting showed significant continued support for the ICC process – 50 percent of respondents – but this marks a drop from the highest reported level of support in the same poll of 89 percent in June 2011. Another June 2013 survey shows that support for the ICC has dropped even further in Kenya to 39 percent, the first time that this poll, conducted regularly by Ipsos Synovate since October 2010, has recorded support below 50 percent. The ICC process itself has suffered setbacks like the withdrawal of the willingness of some witnesses to testify, including those who have cited security concerns (see below), which may have undermined confidence.

Serious crimes were committed in 2007-2008 and, in the vast majority of cases, those responsible have yet to be held to account. The ICC, while imperfect, is providing a measure of access to justice denied in Kenya.

10. The 2013 elections in Kenya were held without violence, even though trials had yet to take place. Doesn't this show that Kenyans have moved on?

While the 2013 elections were not marked by the scale of violence witnessed in 2007-2008, they were preceded by inter-communal clashes in parts of Kenya which claimed more than 477 lives and displaced another 118,000 people before the vote. Human Rights Watch research demonstrates that the underlying causes of the 2007-2008 post-election violence in the Rift Valley largely remain unaddressed, in spite of pressure from authorities in some areas to "move on".

Victims of the 2007-2008 violence told Human Rights Watch that an absence of justice had contributed to tensions before the 2013 elections. One Kikuyu elder said:

I see people who killed my relatives, raped my cousin, destroyed my property. They have not been arrested and tried. They have not apologized for what they did. How do you expect me to just accept that and move on?

Kenya's impunity crisis is profound. Those responsible for political assassinations under President Jomo Kenyatta's post-independence regime, and for the use of torture against political opponents and excessive use of force by the security services under President Daniel arap Moi, were not prosecuted. The 2007-

2008 election violence was preceded by similar episodes around the 1992 and 1997 elections. Government commissions named names, including prominent politicians, but no one was prosecuted. This entrenched impunity likely encouraged politicians to believe in 2007 that they could get away with virtually anything to achieve their political ends.

Civil society activists interviewed by Human Rights Watch in 2011 could not recall a single case in which a senior politician had been convicted of a serious crime in Kenya, despite an endless stream of allegations of criminal behavior.

Justice is an important right and end in and of itself, but Kenya's history suggests that the failure to deal head-on with past crimes may only encourage future violence.

11. At its May 2013 summit, the African Union called for the ICC's cases to be handled by a "national mechanism" in Kenya. What impact does this have?

No legal impact. The African Union (AU), a regional body, does not have standing to challenge the ICC's jurisdiction in favor of domestic proceedings once an ICC investigation is open. Under Article 19 of the Rome Statute, only the accused, a state that has jurisdiction over the case, or a state that must consent to the court's jurisdiction, may submit such an "admissibility challenge". In light of Kenya's track record on accountability, the AU's call lacks credibility. Kenya lost an admissibility challenge before the ICC in 2011, when judges could find no evidence that Kenyan authorities were actually investigating any of the six individuals then named in the ICC's cases.

The Kenyan government has sought to keep up the appearance of cooperation with the ICC despite the prosecutor's allegations that cooperation has been slow or lacking. But the AU's call resulted in part from concerted advocacy on the part of Kenyatta's government to use political bodies to undermine the ICC's cases. In the run-up to the AU summit, the Kenyan government had also called on the United Nations (UN) Security Council to "terminate" the ICC cases, a power the ICC treaty does not give to the council. Since the summit, the Kenyan government has asked ICC member countries, which meet annually, to convene a special session to consider the AU's call. This request has been turned down.

The ICC depends on the public support of its member countries and other interested parties to create a climate conducive to its work. These initiatives by Kenyan government officials appear to be designed to have the opposite effect. Other ICC member countries should step up their efforts to insist on Kenya's full cooperation – in spirit and in letter – with the court.

12. Some African heads of state charge the ICC with targeting African leaders for prosecution. Is this true?

In the context of the May 2013 African Union summit, several African leaders made public criticisms of the ICC for targeting Africans. Some African leaders have previously made the claim that the ICC is targeting Africa, but the extent of comments around this summit reflects a qualitative increase, especially among leaders of ICC states parties. This is likely at least partly attributable to Kenya's significance in Africa and to "shuttle diplomacy" by Kenyan leaders to secure support at the summit.

While claims that the ICC is targeting African leaders have found traction, they are not factual. The ICC's cases are all from Africa, but the majority came before the ICC as a result of requests by the African governments of countries where the crimes were committed (Uganda, Democratic Republic of Congo, Central African Republic, Cote d'Ivoire, and Mali). Two other situations – Libya and Darfur, Sudan –

were referred by the UN Security Council to the ICC, consistent with the council's authority to make referrals under article 13 of the Rome Statute. Only with regard to Kenya did the ICC prosecution act entirely on its own initiative, and, as discussed above, only after Kenya failed to take action on justice at home and Annan had handed over the sealed envelope from the Waki Commission.

Although claims that the ICC is targeting Africa are inaccurate, double standards are certainly at work in the operation of international justice. Governments are able to shield their citizens and the citizens of their allies from the ICC's authority by not joining the ICC or by using their veto power at the UN Security Council to block referrals of situations to the ICC. It is essential that those supportive of justice for serious crimes, including ICC member countries, work to press for accountability regardless of where crimes are committed and call out double standards when states seek to block access to justice.

13. The ICC prosecutor has alleged “unprecedented” levels of witness interference in the ICC’s cases. What can be done to ensure that witnesses are protected from interference or intimidation?

The ICC prosecutor has characterized the scale of interference with witnesses in the Kenya cases as “unprecedented,” referring to pressure on witnesses and their families. Victims participating in the ICC cases in Kenya have consistently highlighted their safety concerns in court through their legal representatives. In the two Kenya cases, publicly available court records suggest that some potential prosecution witnesses have either not confirmed their willingness to testify or have withdrawn their testimony citing security concerns.

The ability of all witnesses – whether for the prosecution or the defense – to appear before the court securely and without fear of reprisal is essential to fair and credible trials. The same is true with regard to the effective exercise of the rights of victims to participate in ICC proceedings. Interfering with witnesses can amount to a crime leading to prosecution under both the ICC treaty and Kenyan law.

The ICC has an obligation to take appropriate measures to protect the well-being and safety of witnesses, victims participating in the proceedings, and others at risk on account of testimony given by witnesses, including, for example, so-called intermediaries assisting the work of the court. Protective measures may range from steps like permitting witnesses to testify in a closed session to keep their identities hidden from the public to relocating witnesses away from security threats. Protective measures can be taken for both prosecution and defense witnesses.

Long delays in relocating ICC witnesses can expose them to risk and delay proceedings, given the need to ensure that protective measures are in place before witness identities are disclosed to other parties. ICC officials have repeatedly stressed the urgent need for additional countries to sign witness relocation agreements with the court. It is also critical that states respond positively to requests for assistance in relocation in order to meet protection needs. The ICC's new registrar, elected in March, has indicated that the protection, support, and relocation of witnesses will be among his first priorities.

While the ICC has specific obligations for its witnesses, victims, and intermediaries, the Kenyan government has the primary responsibility to protect the safety of all those within its borders. This includes investigating harassment or threats amounting to violations of national law. Kenya's government should make a public commitment to take steps to help ensure the security of those assisting justice processes and to continue strengthening its national Witness Protection Agency.

14. Has the ICC prosecutor effectively investigated the case against Ruto and Sang?

It will be up to the judges to determine on the basis of the full record before them whether the prosecutor brings forward sufficient evidence to prove Ruto and Sang each guilty beyond a reasonable doubt. The defendants are entitled to the presumption of innocence and full protection of their fair trial rights. The Ruto defense has indicated that it intends to prove that prosecution witnesses colluded with one another and with the support of “international and domestic Kenyan organizations” to fabricate evidence. Again, it will be up to the judges to weigh these claims.

More generally, investigations at the ICC face a number of challenges, including securing state cooperation, providing adequate protection to encourage witnesses to come forward, and collecting evidence linking the actions of high-level accused to crimes carried out by other people. Securing state cooperation and witness protection have been two acute challenges in the Kenyan cases.

Human Rights Watch has been concerned that the Office of the Prosecutor’s investigative methodologies may need strengthening to meet these challenges. There are clear signs that the prosecution is taking steps toward this end, including requesting additional resources from ICC states parties for investigations. Adapting the office’s investigative practices to the court’s operational challenges is no easy task, but it is essential to ensuring that the ICC can deliver effective and meaningful justice. Human Rights Watch continues to urge the prosecutor to identify any needed reforms and calls on states parties and other international partners to support the additional resources and cooperation – including in witness protection – which may be needed to improve the efficacy of the office’s investigations.

15. Are the ICC cases alone enough to bring accountability for the post-election violence?

The ICC cases could make a key contribution to break Kenya’s cycle of impunity for political violence and to afford access to justice for some victims of the 2007-2008 violence. But given the limited number of cases the ICC prosecutor has brought in the Kenya situation, and that those cases relate to specific incidents, in specific locations, and on specific dates, there is a clear need to establish special judicial mechanisms in Kenya to investigate and prosecute additional cases in order to bring full accountability.

There is a pressing need, in particular, to address the role police may have played in the post-election violence. Although the ICC prosecutor had alleged that Kenyatta’s then co-defendants, the former head of public service Francis Muthaura and the former Kenyan police commissioner Mohammed Hussein Ali, had worked together to ensure that the Kenya police did not intervene to stop the attacks in Nakuru and Naivashatowns or to punish those who carried them out, an ICC pre-trial chamber did not find sufficient evidence that the police had participated in the attack. The case against Ali was dropped, and a year later, the ICC prosecutor dropped all charges against Muthaura. The prosecutor continues to allege in the Kenyatta case that police uniforms were distributed to the Mungiki; that the police were instructed not to interfere with the transportation of youth into the Rift Valley to carry out attacks; that the police at times refused to intervene or were slow to respond; and that the police later targeted and killed several Mungiki leaders who had knowledge of the involvement of Kenyatta or other politicians in the planning of the violence.

The ICC prosecutor also initially sought to include in the case against Kenyatta, Ali, and Muthaura charges related to police use of excessive force in Kisumu, a city in the former Nyanza province, and Kibera, an informal settlement in Nairobi. But an ICC pre-trial chamber found that the prosecutor had not brought forward sufficient evidence of a link between the three defendants and police actions. Human

Rights Watch had urged the Office of the Prosecutor to continue its investigations of police violence, and, evidence permitting, to reintroduce relevant charges.

Kenya's judicial system faces a number of challenges in taking up additional cases related to the post-election violence. In November 2012 the Kenyan chief justice announced plans to establish an International Crimes Division in the Kenyan high court. The Kenyan government should ensure broad public consultation on the establishment of the International Crimes Division and on other measures that will be necessary to overcome the systematic weaknesses and blockages that have prevented effective prosecution of the post-election violence. In addition to judges with specialized expertise, this includes prosecutors and investigators properly trained and insulated from political interference and the strengthening of Kenya's witness protection system.