



## **KENYAN ASIAN FORUM**

Advancing social justice, reform, cohesion and nationhood

8 March 2011

HE Sibabrata Tripathi  
High Commissioner for India  
Jeevan Bharat House  
Harambee Avenue  
Nairobi

Your Excellency:

**Re: Anti-ICC campaign by a Coalition partner in the Government of Kenya**

The Kenya Asian Forum (KAF) expresses its deep concern regarding the spirited efforts being made by one of the Coalition partners in the Government of Kenya to have the UN Security Council defer International Criminal Court's cases against six Kenyans suspected to be behind the 2007/8 Post Election Violence (PEV).

The shuttle diplomacy is being led by the Vice-President, Hon. Kalonza Musyoka is comprises Cabinet Ministers Sally Kosgei (Agriculture), Helen Sambili (East African Community), Njeru Githae (Nairobi Metropolitan), Chirau Mwakwere (Trade) and Foreign Affairs Assistant Minister Richard Onyonka.

After having convinced the African Union to support their bid for a deferral of the ICC cases, they are now attempting to get acceptance from the UN Security Council for the same. As part of the anti-ICC campaign, they plan to make a similar appeal to the Government of India since it is a member of the UN Security Council.

KAF along with the majority of Kenyan people is totally opposed to the anti-ICC campaign. this position is endorsed by the vast majority of the Kenyan people. The governments of the USA and the UK have already declared that they intend to veto the proposal in the Security Council.

Our grounds for opposing the anti-ICC campaign are as following:

1. All attempts in 2010 to set up a local tribunal to try the alleged perpetrators of the 2007/8 PEV were scuttled by parliament. This was because the Kenyan people were demanding a credible and just process which cannot be implemented under the current judicial structure and political climate.
2. The persons supporting the present initiative were the very ones who then, when the ICC enquiry started, chanted 'Don't be vague – Go the Hague'.
3. When Hon. Kalonzo Musyoka says 'we want our country back' he actually is seeking to get the process under the control of his cabal.
4. Failure to bring the perpetrators to justice could result in gross violence in the 2012 general election. This conflagration will be infinitely more widespread and destructive than that of the 2007/8 PEV. Some of the six persons named by the ICC are already inciting the people on tribal lines as they campaign for the next general election.
5. This initiative, as well as the earlier one to the African Union, to date has neither been discussed in the Cabinet nor approved by it.
6. Huge sums of public monies are being spent on these divisive and futile forays while hundreds of IDPs of the PEV continue to suffer and die in makeshift tents.
7. The Government has refused to suspend from office the individual suspects named by the ICC in spite of repeated calls from Civil Society for it to do so. The so called 'Ocampo Six' continue to sit in Cabinet and make vital decisions affecting the Kenyan people.

KAF requests Your Excellency to convey our stand to the Hon. Prime Minister and the Minister of Foreign Affairs of India and to advise them to desist from supporting the anti-ICC campaign by a Coalition partner in the Government of Kenya. KAF will be making similar requests to other member states of the UN Security Council and the Commonwealth.

We thank you for according us the opportunity to meet with you.

Sincerely

Prof. Yash Pal Ghai - KAF Convenor

On behalf of KAF Steering Committee: Davinder Lamba, Zarina Patel, Suddhir Vidyarthi, Zahid Rajan, Jill Cottrell Ghai, Abdul Hamid Slatch, Mohez Karmali, Madhukant Shah, Rustam Hira