The PEV & ICC Quagmire in Kenya

Dr Matunda Nyanchama; matunda@matunda.org

The PEV & ICC Quagmire in Kenya – Appeal and Action

This note is part appeal and part prescription with respect to our country’s dilemma on the 2008 post-election violence (PEV) matter. I believe many Kenyans share these sentiments and will be pleased to see our political leaders adopt them accordingly.

This time calls for constrained, reasoned action that would ensure justice for PEV victims and those accused plotting and carrying out atrocities, resettlement of internally displaced people, restoration of our institutions (especially the justice system) and rehabilitation of our country’s battered international image.

In doing this, I appeal to our political leaders and citizens: we all have a duty towards the betterment of our nation; we owe future generations a country with strong foundations based justice and equity; and a country where (to rephrase Martin Luther King Junior) one is charged by the content of their character rather than their ancestry. We need a more caring country with empathy and caring for fellow citizens. And that leaders need to tame short-term political ambitions, be less emotion and above all put the interests of our country and people above all else.

The need for statesmanship has never been greater. It is more urgent than ever!

As a start the coalition partners need to stop outdoing each other, especially in the international arena! Two recent shameful actions come to mind: mediation efforts in Cote d’Ivoire by the prime minister and the matter of the so called Ocampo Six and the International Criminal Court (ICC), The Hague.

To be called upon to mediate in such a crisis as Cote d’Ivoire post-election quagmire is an honour, both for the country and person called upon to lead in the peace effort; and for that honour to be bestowed to a Kenyan ought to have made us all proud. Indeed, if there were reservations, these should have been expressed at home, away from international glare and with all the respect deserving of office and holder of the prime minister.

On the matter of the ICC, more consultations needed to have been taken; and once a national position had been reached, it was important that all parties adhere to this in the face of the international community.

Instead, the results of actions by the two parties (ODM and PNU), due to diametrically opposed positions at the United Nations and African Union has not helped either of them. Instead, both come out diminished in stature and further reduced the country’s image on the world stage.

Simply said, the internecine zero-sum war between the two hasn’t been good nor will it be good for either of the two parties; it is also of little benefit to our country and instead hurts its international image and stature. The only logical way out (if indeed national and citizen interest were to prevail) is for the two parties to stop the warring and start putting the interest of Kenya and her people ahead of partisanship. And the sooner they do it the better for all Kenyans and the watching world.

We need less partisanship, less ethnic leaning and more nationalistic thinking, all for the sake of our country and the people of Kenya.

As the search continues for post-election violence related solutions political leaders need also to start matching their words with action.

Matunda Nyanchama is an Information Communications Technology Professional & a past president of the Kenyan Community Abroad (KCA).
Ideally, the country should try all accused. However, the failure to set up a local tribunal set the stage for ICC intervention. Leaders should have seen this coming and acted accordingly. As it is today, the ICC process will take its course, despite all efforts, diplomatic and others. As a country we should be worrying how to both ensure justice is done in the case of the accused (remember they are innocent until proven guilty) but also repair our nationally and internationally tattered image.

Here is the way forward:

**Revive Interparty Consultations**
Both PNU and ODM should, immediately cease from their internecine zero-sum wars. It is time they revived the interparty committee to help deal with any vexing issues. The committee would conduct all negotiations, examine all positions and propose consensus-based solutions which would then be taken to the principals for assent.

**Manage Political Fallout from ICC Process**
Let the ICC Process take place but let’s manage the fall out. Remember it is the Kenyan parliament that voted for The Hague option. They may have done this without realizing the consequences. Now it is here. As a country, we must deal with it. And it shouldn’t be seen as a way of punishing or pushing political opponents out of the way. Rather, we should treat this as an avenue we chose to bring justice to alleged culprits of the post-election violence. We made our bed; we will lie on it. And we must do this despite the implications the action has on our sovereignty. Many of us warned of the negative consequences of The Hague route.

**Set up a Local Tribunal**
The Ocampo Six are not the only potential culprits of the post-election violence; there are many that committed atrocities that need to stand trial. The government could, for instance start with the names in the Waki envelope. To deal with this needs a local justice mechanism such as the proposed tribunal. This is especially important to assure the international community that leaders in Kenya are committed to ensuring justice as relates to the post-election violence. And in doing this we should and must not disparage the entire judiciary and other instruments of justice. My personal view is that there are still good Kenyans, professionals that would be up to the task of handling the investigation and prosecution of any people accused. A good example: Justice Waki who came up with the report that is the basis of ICC intervention. There are many other Wakis in Kenya.

**Speed up IDP Settlement**
The cry for justice for IDPs has never been greater! To date, government efforts haven’t amounted to much. It is a shame that as the government sets aside money to defend the Ocampo Six, it hasn’t taken as much interest in settling those that faced the brunt of the violence. IDPs need resettlement. To do so effectively requires an overhaul of the approach used to date. The government needs to create, with immediate effect, an **IDP Resettlement Task Force** with powers to determine and settle the IDPs. The said task force would have a limited time (not more than 12 months) within which to complete its work; as part of its terms of reference, the task force would issue a progress report on an ongoing basis indicating how close it is to completing resettlement.

Matunda Nyanchama is an Information Communications Technology Professional & a past president of the Kenyan Community Abroad (KCA).

© March 26, 2011 Matunda Nyanchama, Toronto, Canada