The Indictment of Kenya’s Big Four

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There is no hiding place for the masterminds of the 2007 post-election violence in Kenya as the International Criminal Court, ICC, gets ready to try them

The roll call of personalities involved reads like that of dignitaries slated to receive a national award. But, the list has nothing to do with any reward. It is for less glorifying reasons. They are those indicted by the International Criminal Court, ICC. The two presidential candidates, a former cabinet secretary and a former education minister in Kenya are to stand trial over crimes against humanity during the post-poll violence in 2007. The indictments were made following the request by Luis Moreno-Ocampo, the ICC chief prosecutor, to prosecute the cases reflecting the political and ethnic divisions behind Kenya’s 2007 post-election violence. Uhuru Kenyatta, finance minister, Francis Mutaura, cabinet secretary and William Ruto, former minister will also face charges. They are accused of crimes against humanity, including murder and persecution. Though they all denied the accusations, they are the four prominent Kenyans who will stand trial soon. Joshua Arap Sang, a radio presenter, will also stand trial in a separate case. In the case again Kenyatta, prosecutors alleged that he met members of Mungiki, a secret criminal organisation, at a shopping centre in Nairobi, Kenya’s capital, before the election in 2007 to arrange some of the attacks. Kenyatta denied the accusation at a preliminary hearing at the ICC last September. Kenyatta, son of Jomo Kenyatta, the country’s first president and a supporter of President Mwai Kibaki, is accused of organising a campaign of violence including murder and rape against Raila Odinga’s supporters. Kibaki eventually emerged victorious after a bitter circles of violence which eventually led to his emergence as president while Odinga was installed as prime minister under a power-sharing deal brokered by Kofi Annan, former UN secretary general. Like Kenyatta, Ruto also backed Odinga during the period but they have since fallen out and was to contest against Odinga in the elections until the latest development occurred. The indictments seems to have re-opened old wounds that is now threatening Kenya’s shaky coalition government. The Kibaki wing, comprising loyalists within the Party of National Unity, PNU, is spearheading a withdrawal campaign and has even instigated a motion in parliament to have Kenya withdraw entirely from the Rome Statute, the treaty that underpins the ICC’s existence. Moreover, Kibaki is worried over Kenyatta’s predicament and that of his closest confidante Francis Muthaura, a secretary to the cabinet and that of Hussein Ali, the former police commissioner. The case against these three is that they organised retaliatory attacks against the initial perpetrators of the massacres. The president has served as vice-president for eight years, served as lawmaker and held various cabinet positions. He is currently serving his second and final term as president. The rival Orange Democratic Movement, ODM, led by Odinga, is however, going in the opposite direction and has insisted that the country’s obligations to the Rome Statute be upheld. The ICC has promised to give the suspects a fair hearing. “It is our utmost desire that the decisions issued by this chamber today bring peace to the people of the Republic of Kenya and prevent any sort of hostilities,” Ekaterina Trendafilova, the ICC presiding judge said, adding, “We are not passing judgement on the guilt or innocence of the individuals,” before a public hearing held in The Hague. But Trendafilova emphasised that the decisions do not mean guilty verdicts against the suspects, only that there is sufficient evidence to send them to trial. This decision will have a great bearing on the future of Kenyan politics. Kenyans are due to head to the polls in fresh elections early next year. Ruto and Kenyatta, two of the indicted men want to contest the Kenyan presidency in the next elections. Some Kenyan politicians would definitely benefit from this development. The foremost beneficiary of this development is Odinga, who judging by opinion polls is seen as the 2012 presidential frontrunner. The other silent beneficiary is Vice-President Kalonzo Musyoka who opted to play his cards more carefully than Odinga by deliberately taking a position against the ICC campaign. By doing this, he is attracting potential supporters in the areas that Kenyatta and Ruto control. The expectation is that he will reap the rewards during the elections. So, if Kenyatta and Ruto are out of the race, based on their ICC problem, then Musyoka may gain from that fallout. This is not unconnected with his supporters’ belief that he was framed up to prevent him from contesting the election. But, this logic is negated by the fact that the Kenyan government had also lobbied for the ICC probe into the post-election crisis to be dropped. This position was endorsed last year by the African Union, AU, and subsequently pushed to the UN Security Council. There, the Kenyan lobby failed to stop the ICC probe. Still, Kenyatta, the opposition’s top choice, may come under intense pressure to suspend his political ambitions so as to clear his name in court. Then, if successful, he can have a shot at the presidency in another five years. The news of the trials was also welcomed by Human Rights Watch, an international advocacy campaign group. “The ICC trials will break decades of impunity in Kenya for political violence. But Kenya should act to widen accountability by carrying out prosecutions at home,” the group said in a statement. This is a veiled reference to the need to bring to justice other culprits still roaming free in Kenya. The clashes between supporters of Odinga and Kibaki, the two rival presidential candidates quickly snowballed into a bloody round of vengeance and communal killing after the December 2007 elections. More than 1,200 people were killed in weeks of unrest and some 600,000 people were forced to flee their homes. Many are still homeless. Eventually, a power-sharing deal was signed, April 2008. The road to the impending trials started in November 2009 after the ICC chief prosecutor expressed its intention to investigate post-poll violence and by December 2010, the court had provided the names of suspects. Kenya’s bid to halt the election probe was unsuccessful and last week, the ICC confirmed the charges against the four suspects. New Game Plan Against al-Assad Endurance Akoro The United Nations, is set to throw its weight behind the Arab League to put an end to the raging crises in Syria. The Arab League recently requested the government of Bashar al-Assad, president of Syria, to form a unity government that would comprise the different warring factions in the country but he rejected the idea. The League made up of 22 countries requested that the UN

enforces the proposal. Peter Wittig, the German ambassador to the UN, is one of those pushing for the backing of UN Security Council for the new plan of the Arab League. The Arab League’s plan is a game changer for the Security Council which has been deadlocked over Syria, according to Witting. The UN seems constrained by the refusal of Russia, and a lesser extent China, to condem al-Assad’s stance. The Syrian uprising began in March 2011, following a popular revolt that overthrew long-serving leaders in Tunisia and Egypt. Assad retaliated with a deadly crackdown that the UN said has left more than 5,400 people dead. There is growing urgency, however, to find a resolution to a crisis that is becoming increasingly violent as the regime’s opponents and army defectors who have switched sides have started to fight back against government forces. Among those also fighting against the Syrian government is the European Union, EU. In a bid to force Assad to hand over power, they have agreed on new sanctions against 22 Syrian officials accused of human rights abuses and eight companies that financially supported the Assad regime, hitting them with travel bans and a freeze of assets. Existing EU sanctions include an arms embargo, a ban on the import of Syrian crude oil and a ban on new investment in the Syrian petroleum sector. Egypt Takes First Step To True Democracy It was a day of both elation and unease for the people of Egypt as the newly elected members of the parliament took oaths of office during the first legislative session of the assembly on Monday, January 23. The convening of the People’s Assembly, the lower house of parliament, is the first of such occasion since last year’s uprising that forced the resignation of Hosni Mubarak. It is also the beginning of the efforts to form a representative government. To most Egyptians, the event symbolises the freest and most transparent elections in the history of a country long ruled by military tyrants, colonial occupiers and pharaohs. Hundreds of Islamists gathered outside the parliament to cheer the victory of their representatives. They were flanked by anti-military protesters and activists who pressed the parliamentarians to respect the goals of the revolution. Mahmoud al-Saqa, 81, a member of the liberal Wafd Party and the oldest member of parliament, opened the session in Cairo, the capital, as acting speaker, beginning with a moment of silence for those killed in the uprising against Mubarak. The auditorium of the parliament was filled with mostly men, many with long beards and religious garbs, reflecting the domination of the elections by the same Islamic parties that Mubarak feared and repressed. Islamists dominated the elections held for the People’s Assembly over the past three months, winning 73 percent of the seats. The Muslim Brotherhood’s Freedom and Justice Party won 235 seats, the ultra-conservative Salafist Nour Party, 121 and the moderate al-Wasat Party, 10. Immediately after the oath taking ceremony, the house had to elect a speaker and deputy speaker of the house. Various nominations were made by the different parties represented in the house. However, Saad el-Katatni, the secretary-general of the Muslim Brotherhood’s Freedom and Justice Party won the election for speaker. Ashraf Thabet, Salafist Nour Party represen-tative and Abdel-Alim Daoud, liberal Wafd representative were elected as deputy speakers. Katatni won 399 out of 496 votes cast in the poll for the position.