*THE INTERNATIONAL CRIMINAL COURT SHOULD GIVE THE PROSECUTOR A CHANCE TO USE ANOTHER PART B’’ TO BRING UHURU KENYATTA TO THE TEATH OF THE CONVICTION.*

*The witnesses have been compromised by an exchange with money, threats and by killing them in order to shield the truth.*

*Ms. Bensouda will now use the outcome from the recommends from Commission chapter contains the Commission’s recommendations that relate to the State Security Agencies and to issues of impunity. The discussion, findings and conclusion that the recommendations are based upon are fully laid out in the preceding chapters.*

*Ms. BENSOUDA WILL USE THE GOVERNMENT GAZETTED FROM (WAKI’S COMMISSION FINDINGS AND THE AKIWUMI’S FINDINGS.*

*In according with the established Teams of Reference regarding recommendations from measures to eradicate impunity, legal and administrative measures and following an investigation into actions and omissions of the State Security Agencies, the Commission makes the recommends appearing below.*

*These recommendations should be implemented under the auspices of the panel of Eminent Africa Personalities acting in consultation with the President and the Prime Minister of Kenya, with the full co-operation of Parliament, the Judiciary and the office of the Attorney General as more specifically described below.*

1. *A special tribunal, to be known as the Special Tribunal for Kenya be set up as a court that will sit within the territorial boundaries of the Republic of Kenya and seek accountability against persons bearing the greatest responsibility for crimes, particularly crimes against humanity, relating to the 2007 General Elections in Kenya. The Special Tribunal shall achieve this through the investigation, prosecution and adjudication of such crime.*
2. *The Special Tribunal shall apply Kenyan law and also the International Crimes Bill, once this is enacted, and shall have Kenyan and international judges, as well as Kenyan international staff to be appointed as provided hereunder.*
3. *In order to fully give effect to the establishment of the Special Tribunal, an a agreement for its establishment shall be signed by representative of the parties to the Agreement on National Accord and Reconciliation within 60 days of the presentation of the Report of the Commission of Inquiry into the Post-Election Violence to the Panel of Eminent African Personalities, or the Panel’s representative. A statute (to be known as “the Statute for the Special Tribunal”) shall be enacted into law and come into force within a further 45 days after the signing of the agreement.*
4. *The date of commencement of the functioning of the Special Tribunal shall be determined by the President, in consultation with the Prime Minister, the Chief Justice, and the Minister for Justice, National Cohesion and Constitutional Affairs and the Attorney-General, within 30 days after the giving of Presidential Assent to the Bill enacting the Statute.*
5. *If either an agreement for the establishment of the Special Tribunal is not signed, or the Statute for the Special Tribunal fails to enacted, or the Special Tribunal fails to commence functioning as contemplated above, or having commenced operating its purposes are subverted, a list containing names of and relevant information on those suspected to bear the greatest responsibility for crimes falling within the jurisdiction of the proposed Special Tribunal shall be forwarded to the Special Prosecutor of the INTERNATIONAL CRIMINAL COURT. The Special Prosecutor shall be requested to analyze the seriousness of the information received with a view to proceeding with an investigation and prosecuting such suspected persons.*
6. *The Bill establishing the Special Tribunal shall ensure that the Special Tribunal is insulated against objection on constitutionality and to that end; it shall be anchored in the Constitution of Kenya.*
7. *The Bill establishing the Special Tribunal shall provide that the Special Tribunal shall consist of four organs: the Chambers (including an Appeals Chamber) and the Prosecutor, which shall be independent of each other, the Registry, and the defense Office.*
8. *The Bill establishing the Tribunal shall provide that Chambers shall be composed of 6 independent judges, three in the Trial Chamber, and three in the Appeals Chamber. The Presiding Judge of each Chamber shall be a Kenyan while the other two judges in each chamber shall be non-Kenyan and drawn from member state of the Commonwealth.*
9. *The Bill establishing the Special Tribunal shall provide for the following procedure for the appointment of the judges for each chamber and the Prosecutor of the Special Tribunal:*
10. *The President shall appoint the Chair of the Trial Chamber in consultation with the Prime Minister, both acting on the advice of the Chief Justice, from among persons qualified to be appointed judge of the High Court of Kenya.*
11. *The Panel of Eminent Africa Personalities shall identify the other two members who will be appointed by the President, in consultation with the Prime Minister, from among persons qualified to serve as judge of a superior court of record in any part of the Commonwealth, from a list provided by the Panel of Eminent African Personalities.*
12. *The some procedure shall be applied for the appointment of the Chair and members of the Appeals Chamber.*
13. *The Prosecutor of the Tribunal shall be appointed by the President in consultation with the Prime Minister from among persons qualified to serve as judge in a superior court of record in any part of the Commonwealth, from a list provided by the Panel of Eminent Africa Personalities.*
14. *The Bill establishing the Special Tribunal shall further provide for:*
15. *The jurisdiction of the Tribunal which shall include the jurisdiction to adjudicate over the criminal cases brought against persons bearing greatest responsibility for serious crimes, particularly crimes against humanity, related to the 2007 post-election violence.*
16. *The right of appeal from the decisions of the Trial Chamber to the Appeals Chamber of the Special Tribunal.*
17. *The ouster of the Jurisdiction of ordinary counts from the in relation to the proceedings of the Special Tribunal.*
18. *The Bill establishing the Tribunal shall provide for sufficient authority and independence to the Special Tribunal to conduct investigations and shall in particular provide that:*

* *The Special Tribunal shall have authority to recruit and control its own staff, including such staff, working under the Prosecutor, as will be necessary to conduct prosecutions;*
* *The head of investigations and not less than three other members of the investigation team shall be non-Kenyan so as to provide an independent approach to the investigation function of the Tribunal.*
* *The investigation team shall report to and work under the general direction of the Prosecutor.*

1. *The Special Tribunal shall take custody of all investigative material and witness statements and testimony collected and recorded by this Commission.*

*OTHER RECOMMENDATIONS ARE AS FOLLOWES.*

*The Commission makes the following further recommendations:*

1. *The International Criminal Bill 2008 is fast-tracked for enactment by Parliament to facilitate investigation and prosecution of crimes against humanity.*
2. *The witness Protection Act 2008 is fully utilized in the protection of all witnesses who will need such protection in the course of investigation, prosecution and adjudication of PEV cases.*
3. *The Freedom of information Bill enacted forthwith to enable state and non-state actors to have full access to information which may lead to arrest, detention and prosecution of persons responsible for gross violations.*
4. *All persons holding public office and public servants charged with criminal offences related to post-election violence be suspended from duty until the matter is fully adjudicated upon.*
5. *Upon conviction of the person charged with post-election violence offences of any nature, such persons shall be barred from holding any public office or contesting any electoral position.*
6. *The development and application of the National Security Policy, as articulated in Kenya National Dialogue and Reconciliation Agenda Item 4 and the First Medium Term Plan (2008-2012) be finalized as a matter of urgency, and The conflict and Disaster Early Warning and Response systems, articulated in the First Medium Term Plan (2008-2012), are developed and implemented matter of priority, and The State Security Agencies develop, under the oversight of the NSAC.*

*KENYANS AND THE WORLD: THE SITTING KENYAN ATTORNEY GENERAL MISSLED KENYANS BY ACCEPTING THE INDUCTEES TO RUN OR HOLDING PUPLIC OFFICE: All persons holding public servants charged with criminal offences related to post-election violence are suspended from duty until the matter is fully adjudicated upon.*

*Upon conviction of any person charged with post-election violence offences of any nature, such persons shall be barred from holding any public office or contesting any electoral position.*

1. *The First Example was on: Mr. Henry Kosgey did what were required by the law of Kenya and he never waited to be told by anybody to give space while he was under the Radar.*
2. *The Second excellent and by a good Example was Mr. Muthaura who decided to leave his office once his name was mentioned.*
3. *The third one with a good conduct left the office immediately was: Mr. Joshua Sang.*
4. *The former Police Commissioner Mr. Ali Mohamed was not in the office but he never complained at all, he went The Hague.*

*LOOK AT THE TWO JUBILEE LEADERS NEVER GAVE UP FIFGTING WITH THE LAW: They never give chance as other did why? As the sitting Attorney general Misled the government and Kenyans at large by giving the faulty recommendations to let the Inductees to continue with running for the public offices and see the (The Waki’s and Wakiumi’s commission recommendations and officially published.*

*The ICC Prosecutor Ms. Bensouda will still use many documents officially written with findings from the three elected commissioners and well gazette and published in black and white.*

*The sitting Attorney general is guilty and the time will soon tell who is who. The President and his Deputy should not celebrate, it is too early for celebrations and it is not going to be easy.*

*One article I wrote some months ago about the witnesses that never reached to the destination will have it rough, if you know you were given money by anybody to give false statements and you have been paid you will pay pack ritually.*

*I told Kenyans that if Mr. Toroitich Arap Moi is still kicking believe me Kenyan politics shall never change it can’t do without rigging and killings.*

*The worst is yet to come soon, History of consolidating and using power in Kenya repeats itself with familiar, regular and usual pattern. Fortunately, many of Kenyans are gullible and get into the” honest deception”.*

*The Deputy President Mr. William Ruto first arrogantly said that it was Mr. Raila Odinga who mastermind for their being at The Hague, was he wrong? And what about the witnesses who soon seems to be culprits and what about them who lied?*

*Kenyans: are waiting of the outcome from the Professor Saitoti’s killers report: Kenyans need to know about the goons who killed Dr.robert Ouko Seda?*

*ICC Casses are still going on and we shall find the perpetrators as Kenyans want to MOI&KIBAKI ARE THE SUPREME SUSPECTS.*

*CC. Kenyans.*

*CC. ICC Netherland.*

*CC. Kenyan at large.*

*Tom Nyambok*

*12/21/2013. 3:20pm*