

# The Principle of Non-Refoulement

–By Quincy Kiptoo



Just before we all become stereotypic (*not out of our own wish but internal ignorance and religiously believing of what leaders can say about National Security, Refugees and Audio Visual context displayed by most media platforms*) – be pleased to attain invaluable knowledge from one Mr. Quincy Kiptoo as he discusses The Principle of Non-Refoulement. Herein, there other articles rich of knowledge: Kenyan Legal proffers you the rostrum.

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## **ANTI – ICC MOVEMENT ILL ADVISED; THE KENYAN PERSPECTIVE**



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Since the 2008, a question still hangs on the balance as to whether the victims of the post-election violence in Kenya will ever get justice. This question, however seem to be overlooked by many due to time factors as well as incidental interests that have been acquired by the champions of justice.

Kenya and, by extension, Africa has pit ICC as a political outfit whose main goal is to water down the rising African sovereignty which results into inappropriate targeting of Africans . This attitude was recently evident in the inaugural statement as the new African Union Boss of the current Zimbabwean president Mugabe when he quoted that Africa is for Africans and that imperialism is no more pointing to the alleged imperialist acts by the International criminal court. This is not a one-off attitude but has however resulted from very many intervening factors since the year 2008.

As early as first half of the Kenyan parliamentary life in 2008, there was a famous slogan ‘Don’t be vague, let’s go to the Hague.’ which was used by those who were opposed to the formation of an independent tribunal in order to provide African solutions to the African problems. At this time, the general view irrespective of political alignments in Kenya was that it was only ICC which was able to do justice to perpetrators and victims of the heinous acts after the 2007 elections that led to an approximate death toll of 1,000 persons as well as displacement of 300,000 Kenyans.

The proposers of the ICC were insistent that the establishment of a local tribunal, despite being championed by the then prime minister and the president, failed spectacularly under their close watch. After thorough investigations, a list was finally presented to the then UN Secretary –General Koffi Annan which revealed the first bunch of the suspects of the heinous acts. This was the turning



point. First, almost all the former proponents abandoned their justification for ICC intervention. Secondly, most of the named suspects were politicians.

It is on the second point that I am basing my argument that the Kenyan movements against ICC are ill informed. Politicization of ICC has taken root after the revealing of names in the list that the answer to the question of whether justice has been reduced in Kenya to yes or no depending on the political coalition that one belongs.

It is important to note that Africa has its peculiar problems which include bad governance, clinging into power by the African leaders, corruption at different levels of governance as well as poaching activities just to mention a few of them. However there is no justification for having an African solution as the only effective solution. As Africans, we have lost the moral authority to do so since we approach foreign governments for economic sustenance in cases of economic crisis. This is only a show of the fact that there is politicization of court institutions with no real intention of saving African from the real problems that face it .The ICC however targets Africans effectively but the only challenge is that most of the accused persons are usually politicians making it difficult to refute the claim of politicization of the whole ICC process.

To justify the claim of politicization, look at examples of non politicians who have ever been accused at ICC. An example is Dominic Ongwen who was recently referred to ICC by the Ugandan government. AU Summit was not held to discuss the threat that this causes on the African sovereignty because he was a military man and no political interests are at stake. This is an evidence that the current anti-ICC movement is political and doesn't not propose solutions of the most pinching problems in Africa including the abject poverty that people face

If only the Kenyan government and A.U at large and its influential leaders would return to their first positions on ICC, and to realize the pull outside ICC is a Chinese plot to have say in African matters at the expense of USA and instead concentrate on solving real African problems, Africa will be an admirable content in not so many years to come.