

ICTJ Deplores ANC Resolution to Lead Africa-wide Withdrawal from ICC

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NEW YORK, October 13, 2015 — The International Center for Transitional Justice (ICTJ) deplores the resolution of the African National Congress (ANC), at its National General Council meeting on Sunday, to [withdraw](#) South Africa from the International Criminal Court and lead an Africa-wide walkout from the court.

“The ANC’s decision impacts profoundly on the rule of law in South Africa and beyond,” said [David Tolbert](#), president of ICTJ. “An ICC walkout led by South Africa represents a serious threat to the struggle against impunity and the system of accountability established by the ICC more than 10 years ago.”

The ICC was created in 2002 to help end impunity for perpetrators of the most serious crimes of international concern, namely, genocide, war crimes and crimes against humanity, and to help prevent such crimes.

[South Africa](#) played an important role in creating the ICC and was one of the first countries to ratify the Rome Statute that set up the Court, and incorporate it into its domestic law.

“In past years South Africa has stood as a beacon of hope and inspiration to oppressed peoples around the world. Above all nations, it was expected to side with victims of mass extermination, rape, and mutilation; not with their tyrants and persecutors,” said Tolbert.

As a state party to the Rome Statute, South Africa is obliged to cooperate fully with the ICC in all court matters. Yet in June, South Africa [failed](#) to arrest and transfer Sudanese President Omar Hassan Ahmad al-Bashir to the ICC and facilitated his escape from the country in open defiance of a High Court order prohibiting his departure. Al-Bashir is wanted by the ICC on five counts of crimes against humanity, two counts of war crimes, and three counts of genocide, for the ethnic cleansing of the Fur, Masalit, and Zaghawa tribes.

“Should the South African government persist with its refusal to cooperate with the ICC, as is indicated by its further invitation to al-Bashir to visit South Africa in December,” said Tolbert, “It will do so in open defiance of its own Constitution and law.” The ANC’s campaign to orchestrate a mass walkout from the ICC is inconsistent with Article 4 of the African Union’s constitutive act that rejects impunity, as well as the treaty obligations of

the 30 African governments that ratified the Rome Statute of the ICC.

Further, more than 160 civil society groups from across Africa endorsed a call for African states to commit themselves to enforcing the ICC’s arrest warrant against al-Bashir. The organizations ranged from the West Africa Bar Association in the west, to the Zimbabwe Human Rights NGO Forum in the south, to the Kenya Human Rights Commission and East Africa Law Society in the east, to the Moroccan Organization of Human Rights in the north.

These 160 organizations represent a widely held view in Africa that impunity for the worst crimes known to humankind is no longer acceptable. Their stand dispelled the myth that there is popular support on the continent for a so-called “unity of purpose” in rejecting the indictments of African leaders. Such solidarity is confined largely to those ruling elites who may have cause to fear the rule of law.

“The ANC’s decision to lead a continental wide walkout threatens to block justice for victims of the worst crimes committed on the continent and foster lawlessness on the African continent,” said Tolbert.

While the eight situations now before the ICC are all from Africa, four were referred to the court by African governments themselves. Two situations were referred to the ICC by the UN Security Council, which includes Darfur. One voluntarily accepted the ICC’s jurisdiction. The ICC acted on its own initiative in only one country, Kenya, but this was only after this country was unable to launch domestic prosecutions.

“In spearheading a campaign to persuade African countries to withdraw from the Rome Statute, South Africa has lost its place as a proud member of the community of nations seeking to end impunity for crimes that threaten global peace and security,” said Tolbert. “The campaign must be roundly condemned and vigorously opposed.”

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PHOTO: South African President Jacob Zuma (right) shakes hands with Sudanese President Omar al-Bashir (left) in China in September 2015. ([Some rights reserved Government of South Africa/Flickr](#))

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