

## I fought the law: South Africa leaves the ICC

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SOUTH AFRICA has become the second African country to announce its intention to withdraw from the International Criminal Court, a move that has raised concerns of a possible exodus by African states who of late have accused the ICC of unfairly targeting the continent.

South Africa's announcement came days after Burundi's president Pierre Nkurunziza signed a decree paving the way for his country to leave the the court. He acted as ICC investigators were beginning an inquiry into a violent crackdown on government opponents. Concerns are high that many more African countries will act on threats to pull out amid claims that the court that promised to pursue injustices without fear or favour is not the one they see before them today. In recent years a significant number of African political leaders, commentators and pundits have questioned its apparent focus on Africa and its failure to address obvious violations committed by other states worldwide. In the ICC's 13 year history, it has only brought charges against Africans. This has rankled African leaders who have claimed that the continent is being singled out and that the ICC is applying discriminatory double standards. One case that caused considerable anger was the ICC's pursuit of former Kenyan president Uhuru Kenyatta for his alleged role in the deadly violence that followed the 2007 presidential elections. These charges were later withdrawn. Another was the indictment of Sudanese president Omar al-Bashir for war crimes in Darfur. This prompted South Africa's decision to leave, following a pending case before the country's Constitutional Court to decide whether it has violated its obligations under international and domestic law when it failed to arrest al-Bashir on his visit to the country last year. The South African government's refusal to hold him has been viewed in some circles as a breach of international law.

Following these debacles many African leaders have been united in condemning the Court with Rwandan president Paul Kagame calling the ICC "a fraudulent institution" that was made for 'Africans and poor countries'. Some like Robert Mugabe of Zimbabwe have gone so far as to accuse the ICC of being a neo-colonialist institution peddling a western agenda that seeks to control African politics. They point to the way the court is inextricably tied to the EU which provides 60 per cent of its funding. The fact that the big five ICC funders are former colonial masters does not sit well with a continent suspicious of recolonisation by legal diktat. In January this year Kenya proposed at the African Union summit to develop a road map for the withdrawal of African nations. This has received widespread support among other states party to the the Rome Statute. The implications for this call by South Africa and Burundi are particularly disturbing as other countries are emboldened to follow suit and move to withdraw from the

ICC.



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