Rights Groups Fear Zambia Could Be Latest African Country to Abandon The ICC

April 11, 2017

By [Ludovica Iaccino](http://www.newsweek.com/user/25552)

Newsweek

<http://www.newsweek.com/zambia-icc-581698>

Rights groups are urging Zambia not to leave the International Criminal Court (ICC) in the Hague, after the country began consultations on whether to revoke its ICC membership in March. It is expected to announce a decision at an African Union (AU) summit later this year.

At least 17 organizations are calling on the country to reaffirm its ICC membership in order to promote “justice for victims of atrocities.”

The NGOs, including Human Rights Watch and the International Federation for Human Rights , say Zambia is championing peace, democracy and human rights. They claim that leaving the ICC would send the wrong message and “threaten respect for the rights of victims of the most brutal crimes” across the continent.

“It would be ill-advised as Zambia does not have any laws that would ensure that should international crimes of genocide, war crimes and crimes against humanity take place in that country, there would be no avenues for accountability,” Allan Ngari, Senior Researcher at the Institute for Security Studies in Pretoria, South Africa, told Newsweek. “Zambian victims of international crimes would have no recourse to justice.”

The Zambian embassy in London has not replied to Newsweek’s request for comment on its ICC membership. Earlier this year, Zambian opposition leader Nason M’soni claimed the government wanted to leave the court to evade justice. The opposition accuses President Edgar Lungu of electoral fraud and of cracking down on freedom of speech in the run-up to a general election held in August 2016.

“President Lungu thinks that by running away from ICC he cannot face the ICC,” M’soni told the AFP.

However, Mumbi Phiri, Deputy Secretary General of the ruling Patriotic Front party was quoted by local media as saying Lungu wants his country to continue to be part of the ICC.

Zambia—which signed the Rome Statute, the treaty that established the ICC—in 1998, is the latest African nation to signal it might leave the ICC.

Earlier this year, the A.U. announced a strategy for a mass withdrawal from the court. Although the decision was not legally binding, some analysts saw it as a signal of Africa’s increasing frustration with a perceived ICC bias.

Some African leaders—such as Uganda’s Yoweri Museveni—have claimed the organization is not impartial and focuses its investigations on Africa, while it allegedly ignores crimes being committed in other parts of the world. The ICC, however, has always rejected the allegations.

The A.U.’s mass-withdrawal strategy followed announcements by South Africa and Burundi that they would pull out from the ICC. In 2015, South Africa said it was considering leaving the court following widespread criticism over its refusal to arrest Sudan President Omar al-Bashir, wanted by the ICC for alleged crimes including genocide committed during the Darfur conflict, which began in 2003.

Bashir rejected the charges and refuses to stand trial because his country does not recognise the ICC’s jurisdiction. Kenya—which the ICC is currently investigating over alleged crimes against humanity committed during post-electoral violence in 2007-08—said it was watching the withdrawals “with very keen interest,” according to local media.

Phil Clark, Reader in Comparative and International Politics with reference to Africa at SOAS University in London, says rights groups should delve further into reasons that might prompt countries to leave the ICC.

“The Zambian government is not in the Court’s crosshairs for prosecution, so this isn’t about protecting themselves,” he told Newsweek. “This reflects a broader discontent among African governments and populations that, in its first fifteen years of operation, the ICC has focused exclusively on Africa.

“The ICC has consistently over-promised and under-delivered in terms of tackling the toughest cases and contributing to peace and stability. The Court and its supporters prefer to blame African governments for their shaky support of the Court but this amounts to denial of the ICC’s categorical failures in Africa to date.”

However, William Nyarko, Executive Director at the Africa Center for International Law and Accountability in Ghana, says the allegations of bias are not supported by facts.

“There are three ways by which the ICC becomes [involved in] a case,” he told Newsweek. “The first is a referral by a state party. The other two are a referral by the United Nations Security Council and a referral by the ICC prosecutor acting pursuant to proprio motu powers, i.e. based on information received.

“The ICC is a court of last resort and it operates by complementarity, meaning it only opens an investigation into a situation if a state is unable or unwilling to bring alleged perpetrators to justice,” he continued. “Out of the nine situations that the ICC has prosecuted in Africa, African states parties referred five of those cases themselves—DR Congo, Uganda, Mali, Central African Republic twice.”

Not all African countries are in favor of a mass withdrawal. In February, the Nigerian government restated its commitment to the ICC, claiming the court represented the hope and aspirations of millions of people. Botswana made similar remarks, urging countries not to leave “the only permanent international criminal tribunal.”

Under the previous leadership of Yahya Jammeh, Gambia also announced its withdrawal from the ICC in 2016. However, the decision was revoked by new President Adama Barrow, who took office earlier this year.”