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African Union: Reject Kenya's attempt to shield its leaders from accountability

The African Union (AU) must throw out the resolution tabled by the Kenyan government calling for the International Criminal Court's (ICC) case to be referred for trial in Kenya, Amnesty International has urged.

President Kenyatta and Vice-President Ruto are accused of crimes against humanity allegedly committed during the violence which followed the disputed December 2007 election and left more than 1,000 people dead and half a million displaced. The crimes set out in the decision of the Pre-Trial Chamber of the ICC include murder, forcible transfer of population, rape, persecution and other inhuman acts.

"The African Union must reject Kenya's attempts to shield its leaders from being held to account for the human rights violations that took place in Kenya in 2007-2008," said Netsanet Belay, Amnesty International's Africa Programme Director.

"The Organisation of African Unity, the AU's predecessor organisation, was founded to end the innumerable human rights violations meted out on Africans through the yoke of colonialism. Today, the AU must stand firm with the victims of human rights violations allegedly perpetrated by their own leaders."

"It is a shame that the Kenyan government's predominant concern is the protection of its leaders from the ICC. At no point before the United Nations or the AU has the Kenyan government mentioned the needs of the victims of the 2007-2008 violence, their cries for justice, reparations and guarantees of non-repetition."

The current initiative follows an effort earlier this month by Kenya's Ambassador to the United Nations for the UN Security Council to terminate the cases against Kenyan President Kenyatta and Vice-President Ruto.

"This is another worrying attempt by the Kenyan authorities to avoid justice. This initiative lacks any legal basis and will not result in the Trial Chamber of the ICC deferring the trial before it. Kenya's diplomatic offensive is nothing more than an attack on the work of the International Criminal Court."

The draft decision – due to be considered on Sunday – calls for a deferral of ICC investigations and prosecutions in relation to the period after the 2007 post-election violence to allow time for a national mechanism in Kenya to deal with the issue.

Kenya has previously sought deferral before the ICC's Pre-Trial Chamber as it was investigating the matter. The application was dismissed in May 2011. Kenya filed an appeal, which was dismissed in August 2011. In both cases, the ICC judges ruled that the Kenyan authorities had failed to demonstrate that they are able and willing to genuinely prosecute the crimes.

“The Government of Kenya should focus on cooperating with the ICC and not proposing resolutions that serve no purpose other than to undermine the institution in Africa,” said Netsanet Belay.

Amnesty International calls on all AU members to reject this decision. The 34 AU members that have ratified the Rome Statute should take a strong stand to protect the international justice mechanism they have committed to.

In recent years the AU has become a forum for some African leaders to attack the ICC and to seek to protect those charged by the Court rather than demand justice for the victims. In particular, the AU has repeatedly called for African states not to cooperate with the arrest and surrender of Sudanese President Omar al-Bashir to the ICC.