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Kenya: Reject efforts to withdraw from the International Criminal Court

The Kenyan government's proposal to withdraw from the International Criminal Court (ICC) Statute is an affront to the hundreds of thousands of Kenyans who lost their lives or were driven from their homes during the post-election violence that rocked the country in 2007-8.

"This move is just the latest in a series of disturbing initiatives to undermine the work of the ICC in Kenya and across the continent," said Netsanet Belay, Amnesty International's Africa programme director.

The proposal, which will be debated in an emergency parliamentary session on Thursday, comes just days before Kenya's vice president William Ruto will stand trial in The Hague accused of crimes against humanity. Kenyan President Uhuru Kenyatta also faces serious charges; his trial is due to start on November 10.

"Amnesty International calls on each and every parliamentarian to stand against impunity and reject this proposal."

The violence that followed the 2007 election in Kenya left over 1000 people dead and half a million displaced. President Kenyatta and Vice-President Ruto, who were both senior political figures at the time of the post-election violence, are accused of crimes against humanity including murder, forcible population transfer, and persecution. President Kenyatta is also accused of responsibility for rape and other inhumane acts – including forced circumcision and penile amputation – carried out by the Mungiki, a criminal gang allegedly under his control.

They were elected as President and Vice President respectively in March 2013. The ICC's Statute is clear that there can be no immunity, even for heads of state.

Broadcaster Joshua arap Sang also stands accused of murder, forcible population transfer and persecution as crimes against humanity. He is due to be tried with Vice-President Ruto.

Even if Kenya withdraws from the Rome Statute, the decision will only come into effect in one year.

"These cases must proceed and the government has a legal obligation to cooperate fully. Put simply, there is no legal way that the government can evade the justice process in these cases," said Netsanet Belay.

Withdrawal could however preclude the ICC from investigating and prosecuting any future crimes committed after the withdrawal comes into effect. Cases could then only be brought before the Court if the government decides to accept ICC jurisdiction or the UN Security Council makes a referral.

"Essentially, a withdrawal would strip the Kenyan people of one of the most important human rights protections and potentially allow crimes to be committed with impunity in the future," said Netsanet Belay.

"What we currently see is the government committing to cooperate with the ICC's cases on one hand and taking every opportunity to politically attack the ICC and undermine it on the other."

To organise an interview with an Amnesty International spokesperson in London, Nairobi or The Hague, please contact the Amnesty International press office on +44 (0)207 413 5566/+44 (0)7778 472 126 or email katy.pownall@amnesty.org

Notes to editors

The initiative came months after the Kenya Ambassador at the United Nations made a failed and legally impossible attempt to get the UN Security Council to terminate the cases. Shortly afterwards, Kenya

convinced the leaders of the African Union to adopt a similarly legally flawed decision calling for the ICC's cases to be handed back to Kenya – an option that the ICC has ruled out because the authorities repeatedly failed to take genuine steps to investigate and prosecute the cases.

Efforts are also focussed on painting the ICC as a western court that targets Africans, despite the fact that the ICC's Prosecutor is from Gambia and four of the 18 ICC judges are from Africa.

While Amnesty International does want to see the ICC responding to crimes committed in other regions, there is no ignoring the fact that of the eight African situations under investigation, five of them (Central African Republic, Cote d'Ivoire, Democratic Republic of Congo, Mali and Uganda) were commenced by the ICC following requests of those governments of those countries and two were referred by the UN Security Council with the support of its African members.

The ICC was created to step in when national authorities fail to investigate and prosecute genocide, crimes against humanity and war crimes. It is a vital safeguard to ensure that there can be no impunity for these crimes.

Kenyans have suffered from human rights violations for decades, further compounded by impunity for perpetrators. The ICC seeks to challenge that injustice. Parliamentarians should throw out this proposal and instead demand that the government cooperates fully with the ICC, particularly to address concerns about victim and witness protection.