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UN Security Council must reject calls to defer ICC trial on Kenya

The UN Security Council must not give in to political pressure to defer Kenyan President Uhuru Kenyatta's trial at the International Criminal Court for a year, Amnesty International said ahead of a scheduled vote on Friday.

Earlier this month, Rwanda, a Security Council member, circulated a draft resolution seeking the deferral. It is due to be put to a vote on Friday.

"The victims of the post-election violence in Kenya have waited long enough for justice," said Tawanda Hondora, Deputy Director of Law and Policy at Amnesty International. "It would be a shame if Security Council members prioritized the personal interests of political leaders over those of victims of crimes against humanity."

"Deferring the trial sets a dangerous precedent for international justice – paving the way for future trials to be derailed for political interests."

Following the Westgate Mall attack in the Kenyan capital, Nairobi, between 21 and 24 September, the ICC granted Deputy President Ruto's application for postponement of the trials to allow him to deal with the ensuing crisis. The Court has also said it will allow both accused to be absent from Court in exceptional circumstances

"Clearly, the ICC has been properly adjudicating over and managing the trials as provided for under the Rome Statute. There is no reason, therefore, for the Security Council to interfere and politicise ICC trials," said Tawanda Hondora.

Kenyatta's trial, which was due to take place on 12 November 2013, has also been postponed until 5 February 2014.

"In these circumstances, a Security Council resolution would be precipitous and ill-advised," said Tawanda Hondora.

"African leaders displayed their commitment to international justice when they signed the Rome Treaty stating that no-one, not even a head of state, is exempt from criminal responsibility. They should not renege upon this now by calling for a deferral."

Compromises or political trade-offs will seriously undermine the international justice system and entrench impunity for heads of state accused of war crimes, crimes against humanity and genocide.

"The Security Council turned down a previous deferral request by Kenya in 2011 and rejected a request in May this year. We expect them to do the same now, in the interests of the victims of crimes under international law committed in Kenya and around the world" said Tawanda Hondora.

Background

The UN Security Council is able to defer International Criminal Court proceedings for one year under Article 16 of the Rome Statute which governs the Court.

Kenya asked the UN Security Council to defer the cases against President Kenyatta and Deputy President Ruto in May 2013, and the African Union filed a new request on 12 October 2013.

More than 1,000 people were killed and some 600,000 displaced after violence rocked Kenya following the country's presidential and parliamentary elections in late 2007.

Violence erupted between groups supporting Mwai Kibaki of the Party of National Unity (PNU), who was declared the winner of the presidential elections and his main rival Raila Odinga, leader of the Orange Democratic Movement (ODM) and was particularly concentrated in Kenya's Rift Valley and in the west of the country.

President Kenyatta and Deputy-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.

For further information, please see [Amnesty International's open letter to the UN Security Council](#):