

Petition to the Republic of Zambia Ministry of Justice over the question whether Zambia should remain a member of the International Criminal Court or withdraw its membership

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Petition made on March 27, 2017 day of MONDAY in Mongu

The International Criminal Court (ICC) is an International Court which looks at cases committed by individuals against their communities.

Types of cases:

- **Crime against humanity**—These are acts that are deliberately committed as part of a wide spread or systematic attack directed against any civilian population or an identifiable party of the population.
- **War Crime**—This is grave breach of the Geneva Convention such as willful killings, violation of human rights, torture or inhuman treatment.
- **Examples** of people indicted in the ICC:
 - i) Omar al-Bashir - Sudan
 - ii) Uhuru Kenyatta - Kenya
 - iii) Muammar Gaddafi - Libya
 - iv) Laurent Gbagbo - Ivory Coast
 - v) Joseph Kony - Uganda and
 - vi) Many more

WAR CRIMES

- The Nuremberg trials—has a long list of individuals, tried and convicted for long sentences in Prison.
- The Milch Trials—has a long list of individuals tried by the Court and convicted.

In both cases, most of the perpetrators were Europeans. Therefore, the argument that the ICC targets only African leaders falls away. Instead it targets individuals who commit atrocities.

Madam Chairperson, having critically analyzed the definitions above, the functions of the ICC and the type of cases different individuals have been indicted for by the ICC, it is my clear conscious that Zambia must remain a member of the ICC. The choice to remain a member is to choose peace. The choice to withdraw membership is to choose violence.

I must say shamefully, that Africa is a burial site of very good constitutions. Most African political leaders choose to be supper human beings who do not respect their national constitutions. They are above everything. It is for this reason that they:

- i) commit atrocities in their countries and get away with it.
- ii) are already guilty and want to continue tormenting their citizens without anybody watching over them.

This is why I strongly object to the proposal of withdrawing from ICC with a big NO.

Madam Chairperson, let me briefly address myself to the Zambian situation. A peaceful nation? I don't believe so because there are a lot of situations where crimes against humanity have been committed in the name of a peaceful nation or a Christian nation. Allow me, Madam Chairperson to shade light on what peace is:

- Peace is not just the absence of war but also the presence of conditions for a just and sustainable peace, including access to food, safe drinking water, education, security from physical harm and other inviolable human rights.
- We can also view peace as a political condition that makes Justice Possible. In the Zambian situation, justice is impossible. The continuous absence of justice leads to violence, and the one who holds instruments of power is tempted to commit atrocities. Hence the ICC is needed to keep watch on would be culprits. Peace and Justice entails political order that requires value and stability. In the absence of institutionalization, there is a primacy of politics. In such a situation, every group uses its unique endowment to pursue and enforce its interests.

Madam Chairperson, in a country where politicians pocket government institutions, such as the Judiciary, Police, Legislature (Parliament) you should be sure that one day they would be tempted to unleash forces on their citizenry and commit serious crimes. It is for this reason that ICC in most poorly governed countries would stand as **big brother** to protect the poor and opposition political parties. Therefore, Zambia should not withdraw its membership of ICC.

Madam Chairperson, we know that in order to avoid injustices, to have peace, politics must be mediated by stable structures and secular culture. This means then that Peace is achievable where citizens become more participants and have political values like equity, tolerance, bargaining and negotiations, which should be standard norms.

I would like to pose a question here, are the Zambian politics tolerant, equal—are political parties given fair play in terms of right to assembly, freedom of expression and freedom of press? Is the constitution respected? Is the judiciary free? These questions should be answered. Are we not violating human rights? Are we not mentally torturing minds of people? It is for this reason that the ICC should be maintained in order to keep watch over these transgressions when committed, thereby by allow the ICC to step-in if and when necessary.

Madam Chairperson, political order, Justice and Peace entails that government minimally employs coercive apparatus of the state, such as the armed forces and police in dealing with its citizens, especially the opposition political parties and unsatisfied citizens. When the ruling political party perceives that its interests are challenged, those challenging are met with arrests, torture and detention without trial, even if it is them who are offended.

Take the case in place of the people of Western Zambia (Barotseland). Kaunda in his capacity as President of Zambia abrogated the Barotseland Agreement 1964—in which the rights of the Barotseland people were enshrined. He took away their rights, which further lead to arrests, torture and economic marginalization of the territory that in turn resulted in high poverty levels, high mortality rates and deprivation of infrastructure development. These transgressions were deliberate and a systematic attack directed against a civilian Barotseland population as well as a crime against humanity. In this regard, I would like to note:

- The January 2011 Mongu riots—where several Barotse were killed, maimed and tortured while several others went missing, for simply voicing out concerns about their human rights during Banda’s Presidency. These are crimes against humanity.
- The continuous arrests and harassment of Barotse activists during the Kaunda, Chiluba, Banda, Sata and Lungu regimes are crimes against humanity.
- The current Zambian Constitution does not accommodate Barotseland Agreement 1964 as per the international treaty obligations. It goes without saying that keeping the Barotseland people in this scenario like hijackers holding passengers hostage. This act of blocking the Barotse’s rights to self-determination is in my view a crime against humanity.

Madam Chairperson, when you look at the crimes successive Zambian regimes have committed against the people of Barotseland, you will agree with me that there is more to it than what meets the eye. Hence I submit that Zambia must remain a member of ICC.

In conclusion, I must say, it should be noted that, society could perpetrate and perpetuate oppression of the citizenry by the ruling politicians, if peace and justice are portrayed as simple order. The reason is that behind order, which ostensibly is desired by everyone, is the domination of the weak by the powerful. In most African countries, political leaders, traditional leaders and the rich people perceive their privileges, comfort and dominance as order or God’s will and any challenge to the status quo is deemed to undermine their interests and should be crushed, yet the oppressed are fighting for equal opportunities.

It is at this point when ruling political leaders turn hostile against the people. Already, they have corrupted the system—Judiciary, Legislature and Security forces. They are already above the law, immune and proceed on a trial of committed atrocities at will, because they feel safe. It is for this reason that the ICC was created—to help would be perpetrators of crime against humanity and war to be conscious of their activities and refrain from committing new ones. It makes political leaders to realize that while they are immune in their countries, international law shall force them to be accountable for their atrocities. Zambia is not an exception. Hence, it must retain its membership to ensure that those who committed atrocities appear before the ICC. The ICC is a good watchdog and it enhances Democratic principles world over.

I thank you.