

Deviating from the Historic Path

The Reasoning behind South Africa's Attempt to Withdraw from the International Criminal Court

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COVER

A view of the premises of the International Criminal Court in Den Haag.

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PUBLICATION DATE

July 2018

WISSENSCHAFT & SICHERHEIT ONLINE

WiSi Online, short for German "Wissenschaft und Sicherheit Online - Research and Security Online" is the electronic publication series of the German Academic Association for Security Studies (BSH). All WiSi Online articles are subject to a double-blind peer review. Listed under ISSN 1667-9649, WiSi Online is being published in a new edition since 2015.

IMPRINT

© Bundesverband Sicherheitspolitik an Hochschulen (BSH)

Editorial Board: Jonas Jacholke, Johannes Kummerow, Stefan Maetz, René Muschter, Sebastian Nieke, Timm Schulze

Layout: Marcus Mohr, Stefan Maetz

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ABSTRACT

South Africa's notice of withdrawal from the International Criminal Court, which prosecutes the most heinous crimes, appears as a puzzle in light of its apartheid history and fight for human rights. The paper analyses the drivers behind the foreign policy decision to leave the international court on the basis of the theory of neoclassical realism. Mouritzen and Wivel's explanatory levels are utilized as a method to investigate the foreign policy decision on different levels. The paper finds that when looking at inter-state relations, South Africa reaffirmed its regional power position and followed a geopolitical trend. In addition, the decision was motivated by intra-state considerations and the desire to shield its political elite from possible future persecution. The future of the relationship between South Africa and the International Criminal Court will remain a topic of discussion and will be influenced by the individuals in power.

KEYWORDS

South Africa, International Criminal Court, foreign policy, neoclassical realism

In the year 1998, a total of 120 states came together to establish the first permanent international court to affirm "that the most serious crimes of concern to the international community as a whole must not go unpunished" (Rome Statute of the International Criminal Court 1998). The International Criminal Court (ICC) is unique in terms of the list of crimes that it attends to, but furthermore in regard to the preconditions and limitations to its jurisdiction.¹ More specifically, the ICC is mandated to investigate and proceed alleged cases of genocide, crimes against humanity, war crimes and the crime of aggression. Henceforth, the ICC represents the only permanent international court with the power to prosecute individuals, including heads of state, that have committed grave crimes and that states are unable or unwilling to investigate or prosecute. The relationship between South Africa and the ICC is the focus point of the following analysis. Strictly speaking, the decision by former South African president Jacob Zuma and the African National Congress (ANC) to submit a notice of withdrawal from the Court's founding treaty is being investigated.

SOUTH AFRICA AND THE INTERNATIONAL CRIMINAL COURT

Like other nations on the African continent, the Republic of South Africa has experienced grave human rights vio-

lations in the past. Hence, adopting the Rome Statute of the ICC was a step towards a more secure world in which accountability and justice for victims are ingrained. Given the fact that South Africa was one of the first signatories to the Statute, the decision to issue a notice of withdrawal of the nation as a State Party to the Rome Statute (RS) in 2016 came as a significant foreign policy move (UN Secretary-General [UNSG] 2016). Initially, representatives of South Africa declared the establishment of the Court a step that "would not only strengthen the arsenal of measures to combat gross human rights violations but would ultimately contribute to the attainment of international peace." (United Nations 1998: 65). The foreign policy decision to submit a withdrawal notification from the ICC, despite South Africa's transitional justice aspirations and commitment to Human Rights, represents a puzzle.

Yet, South Africa is not the only nation that has shown disregard for the ICC. In recent times voices have been raised that the Court is biased against Africans and constitutes a new form of imperialism (Maxwell 2016). Criminal law scholars and researchers have delved into the pushbacks from African states and the change in relationship with the Court (Jalloh/Bantekas 2017; Werle/Fernandez/Vormbaum 2014). While current literature mainly focuses on the general relationship between the

¹ The ICC only has jurisdiction in respect to a crime if a situation has been referred by a State Party or by the United Nations Security Council or where the Prosecutor initiated an investigation. Also, the ICC can only exercise jurisdiction if the crime has been committed on the territory of a State Party or by a national of a State Party, with the exception of referrals of situations in any country by the Security Council when determined to constitute a threat to international peace and security. See Article 12 (2) and Article 13 of the Rome Statute for details.

African Union (AU) and the International Criminal Court, the reasons for the submission of notices of withdrawal by Burundi, The Gambia, and South Africa have been the topic of individual work (Ssenyonjo 2017). In this vein, the paper links up to the state of knowledge by focusing on the withdrawal notice of South Africa and the motivations behind it. Addressing only a single country allows for a more nuanced explanation and clarification. South Africa has been chosen as a case due to its dominant position within the AU and importance as a regional power (Flemes 2009).

It is well known that South Africa has not followed through on its submission of withdrawal and is a State Party to the Rome Statute up to date. The country's Gauteng High Court has found the withdrawal unconstitutional and invalid since the government cannot make such a decision without the consent of the parliament, and therefore revoked it in 2017 (UNSG 2017).² One can nevertheless wonder why South Africa abandoned its ethical foreign policy in the first place by handing in the notice. This paper will seek answers to the question of how the decision can be explained.

Furthermore, the foreign policy analysis indirectly addresses South Africa's non-compliance with an international treaty by not cooperating with the Court on the arrest of Sudanese president Omar al-Bashir following his indictment in 2008. This decision is regarded significant since it appears to have been a key moment contributing to the degenerating relationship with the ICC.

In order to seek explanations in a systematic manner, the analysis follows a method proposed by the researchers Mouritzen and Wivel (2012). First, the methodology and the respective theory will be outlined. Second, the analysis is conducted by dividing it into three focus points, the system level, the inter-state level and the intra-state level. Finally, the outcome will consist of a brief outlook on the future relationship between the ICC and South Africa. Overall, the paper finds that South Africa reaffirmed its regional power position through the foreign policy decision in question. In addition, the decision was motivated by a geopolitical trend and intra-state considerations.

NEOCLASSICAL REALISM AND THE EXPLANATORY LEVELS

Finding what Mouritzen and Wivel (2012: 24) call the "explanatory dynamite" is the aim of this paper. South Africa's action appears as a deviation from its historic path that is based on its Apartheid history and Nelson Mandela's fight for equality, freedom and human rights. Thus, the following approach assists in identifying the most reasonable and striking explanation for South Africa's notice of withdrawal.

The method utilised for the analysis has its starting point in the neoclassical realism school of thought. Neoclassical realism has shown potential as a foreign policy theory and, as such, has been applied to explain the interaction of individual states within the international system (Lobell/Ripsman/Taliaferro 2009). The theory assists in explaining power political behaviour. Adding to the systematic perspective, neoclassical realists take into account that "Foreign policy choices are made by actual political leaders and elites, and so it is their perceptions of relative power that matter" (Rose 1998: 147). Thus, they seek explanations both at the system and the intra-state level. The foreign policy researchers Hans Mouritzen and Anders Wivel (2012) have developed a ladder of levels methodology that suits the case-study approach chosen for the paper at hand. The authors suggest complementing the theory of neoclassical realism by inserting a third level of explanation, namely the geopolitical inter-state level. Therefore, the proposed ladder methodology makes the analysis a more holistic undertaking, broadening the possibilities of factors influencing and guiding foreign policy decisions.

Altogether, the researchers distinguish between three explanatory levels to which they allocate different theories or approaches. It starts with the system level for which they select the neorealist structural theory, goes on with the inter-state level which they explain through proximate power incentives, and finishes off with the intra-state level and socio-psychological theories such as 'lessons of the past' (Mouritzen/Wivel 2012: 24). The central thesis of Mouritzen and Wivel (2012: 6) conveys that one has to be economically reasonable when doing research on decision-making procedures. Hence, one cannot study every detail, but has to weigh the explanatory strength gained at each level against the loss of the theoretical parsimony. The following paragraphs display the applicability of their ladder approach to South Africa's foreign policy decision and show how different explanation attempts can compete with, or supplement one another.

THE SYSTEM LEVEL AND THE UNIPOLE

The system level of the ladder approach focuses on the examination of interactions within the international system and explains state behaviour in relation to anarchy and relative power. Thus, at the outset a step is made towards structural realism, taking into account the constraints that states are facing (Waltz 1979). Even though the theory explains what confines states, it lacks in explaining the reasoning behind a certain policy moves. Therefore, we move further towards why certain decisions are made. The explanatory level, as envisaged by

² The South African High Court ruled that the notice of withdrawal was invalid and unconstitutional. It was said that the government could not take such an action without a prior approval by the parliament.

Mouritzen and Wivel, focuses on the apparent drive of individual states for security and survival in the international system. The relative power of states and the incentive to balance other powerful states are considered. Among the several assumptions on the struggle for power, Mearsheimer (2003: 31) writes that states "are aware of their external environment and they think strategically about how to survive in it." An eventual cost and benefit analysis influences the decision on whether or not to balance other powers within the system. Balancing as a kind of state behaviour can either be done through the aggregation of internal capabilities or through external means, like the forging of alliances (Mouritzen/Wivel 2012: 31). Power is hereby considered an end to a mean and the ultimate goal is to survive within the international system. The different strategies that are possibly pursued at this level also include bandwagoning which is regarded a rare occurrence (Waltz: 1979). The notion stands for the strategy of a relatively weak state to align with a more powerful one to gain a relative advantage.

In respect to the decision by South Africa to leave the International Criminal Court, one must evaluate whether the decision to leave the ICC had the aim of improving South Africa's relative power position. In regard to the structure of the international system, who can be considered the hegemon of the 21st century? Arguably China is challenging the global hegemony of the United States, especially on the African continent (Campbell 2008). Nevertheless, the acceding of South Africa to the BRICS economic association speaks to the fact that the country is still concerned with the Western domination of the international system. According to Tella (2017: 387) "the BRICS countries seek to put an end to the hegemonic position the United States" hold. Following the theoretical framework above, South Africa could attempt to balance the US further, and challenge the unipolar system through political means and foreign policy projects. Yet, one cannot find convincing arguments to state that pursuing either bandwagoning or balancing at the systemic level has been the main trigger for the unfolding of the events.

The United States are not a state party to the Rome Statute. In 2002 the Bush administration notified the Secretary-General of the United Nations (UN) that it had no intention of becoming a state party to the treaty (U.S. Department of State 2002). Therefore, the government withdrew its prior signature to the RS. This action, which opposes a state's obligation to refrain from defeating "the object and the purpose of a treaty prior to its entry into force" (Vienna Convention on the Law of Treaties 1969: art. 18), shows a dismissal of the ICC. If South Africa was planning on bandwagoning with the United States on this matter, it would have likely done so at the very beginning, in alignment with states such as China and Israel, that joined in to vote against the Court. Yet, South Africa was among the states that have been criticizing

the UN Security Council (SC) for following the United States' demand for immunity from prosecution. The Security Council did request the ICC not to undertake investigations or prosecutions of cases that involve peace-keeping personnel of states which are not parties to the Rome Statute. Resolution 1422 was contested for 'damaging international efforts to combat impunity, the system of international justice, and the collective ability to use these systems in the pursuit of international peace and security' (UN Security Council [UNSC] 2002). In fighting for the independence of the Court, South Africa did not directly challenge the US approach, but voiced its opposition to the strategy of interference.

Overall, one can conclude that the system level does not offer sufficient substance for explaining the foreign policy decision at hand. The structural factors at the system level, which form part of the neoclassical realism theory, do not appear to be crucial to the decision to hand in a notice of withdrawal. If South Africa aimed at a strategy of bandwagoning through withdrawing from the ICC in 2016, it would have been a delayed move that was contrary to its original stance. While the US had an uneasy past with the Court, the Obama administration rather pursued a policy of positive engagement (Lambert 2014). A withdrawal for the sole purpose of improving South Africa-US relations is therefore an all too small possibility.

The notice of withdrawal as a means of balancing the hegemon does not have sufficient explanatory weight either. The US would not have been challenged if the withdrawal would have come into effect. If anything, staying with the ICC is giving South Africa more power, since member states have the right to refer situations to the Court, according to Article 14 of the Rome Statute (1998). The referral is hereby not explicitly bound to situations within a state party's own territory. Generally, leaving the Court might make South Africa less vulnerable to the external prosecution of crimes, yet it also makes the country less capable of ensuring accountability and justice around the globe.

PROXIMATE POWER RELATIONS

At the inter-state level, namely the geopolitical sphere, states are considered units placed within a specific environment. Mouritzen and Wivel (2012: 34) write "when it comes to a unit's behavior, the crucial factors are more likely to be found in this salient environment than in (...) developments of the system as a whole." A state is thus primarily concerned with its proximate relationships and geopolitical trends. As indicated, the authors regard this level of explanation as the missing spatial factor within neoclassical realism (Mouritzen/Wivel 2012: 8). The theory that they allocate to this explanatory level can instead be traced back to the discipline of social sciences, specifically the analysis of situations and respective actions (Popper 1957; Weber 1978). The direct environ-

ment in which a decision is made plays a relevant role. Such being the case, the balancing theory can be applied to the salient environment of a state when regarding the geographic proximity as a vital factor (see Walt 1987). South Africa's decision was vitally driven by its salient environment, the continent's African Union, and its own quest for power.

OPPOSING THE COURT OF LAST RESORT

In order to place South Africa's notice of withdrawal within a geopolitical context, tendencies within the AU are assessed, followed by an account of South Africa's role on the African continent. When the Rome Statute entered into force, the African countries were in strong support of the permanent International Court, and even today 33 out of 123 state parties to the Statute are from Africa. However, since South Africa's decision to leave the Court was not the only action that signalled a change in the relationship with the ICC, one must consider tendencies within the Union. Alongside South Africa, Burundi and The Gambia submitted their notices of withdrawal from the International Criminal Court in 2016. While South Africa and The Gambia both revoked their withdrawal, Burundi's withdrawal took effect in October 2017 (Ssenyonjo 2017: 3). Burundi has not only become the first nation to ever leave the ICC, but furthermore, has been blamed for triggering a new trend within the African Union (The Guardian 2017). Accordingly, one could argue that South Africa has been following a bandwagoning strategy with the East African country.

However, Burundi was not alone in advocating for steering clear of the International Criminal Court. The African Union already called upon its member states to follow a non-cooperation policy with the Court in light of the investigations into Darfur and the indictment of Sudan's president al-Bashir. The organization decided that member states should no longer cooperate in accordance with the Rome Statute's provision on the waiver of immunity, since the Security Council did not use its powers to halt the investigations (African Union [AU] 2009: 2 para.10). Accordingly, South Africa justified the decision to leave the ICC by referring to conflicting obligations under international law (UNSG 2016). The notice to the Secretary-General pointed out how the obligation under the RS to arrest Omar al-Bashir during the 2015 25th AU Summit in Johannesburg conflicted with customary international law and agreements of the African Union that give immunity to representatives of member states. The contention over South Africa's failure to arrest the indicted president swayed the country to request the development of consultation mechanisms in accordance with Article 97 of the Rome Statute. The mechanism would be

used in cases where a country believes obligations under the Statute to clash with international legal instruments (International Criminal Court 2016). The incident also contributed to the development of an AU withdrawal strategy. In its draft document of the strategy, the AU points at the impaired relationship with the ICC and the lack of judicial independence. Additionally, it calls for solidarity in opposing the Court cases against al-Bashir, Kenyan president Uhuru Kenyatta and his deputy William Ruto, and proposes the implementation of the withdrawal strategy on a case by case basis (AU 2017a). The proposed strategy is said to reframe political rhetoric regarding the ICC through the strategic use of international law (Labuda 2017). More specifically, the AU bargains and likewise advocates for the amendment of the Rome Statute and the Security Council, while ultimately aiming at enhancing African representation (see Ngari 2017). For this effect, the Union of African States officially welcomed and supported the decisions of Burundi, South Africa and The Gambia in implementing the withdrawal strategy (AU 2017b).

It thus becomes apparent that South Africa did not make a sudden foreign policy decision, but has become part of the African States that are distancing themselves from the International Criminal Court. The threat of a state's withdrawal is seen as a way of forcing a reform of the Court and the international system. Generally, the issue of the arrest warrant against al-Bashir by the ICC constituted a turning point. It was set into motion by the first ever referral from the Security Council and has left the AU worried in regard to the immunity of its heads of states. This suspicion about the prosecutorial justice and accusations of subjectivity have only increased the Union's insistence on the immunity of heads of states from the law and its political rhetoric against the ICC. South Africa's decision basically constituted a public pledge to the other African nations, signalling that South Africa will continue to respect the immunity of heads of states.

ON THE MOVE FOR REGIONAL POWER

The decision to withdraw cannot solely be explained based on a geopolitical trend. South Africa's quest for regional and global influence is also a key aspect that guides its foreign policies. In regard to the action at hand, South Africa's Minister of Justice and Correctional Services, Michael Masutha (2016), explicitly mentioned the country's role on the continent. Its leading position in resolving conflicts in Africa and contributing to a peaceful and stable region has repeatedly been highlighted. When the bill to repeal the Implementation of the Rome Statute of the International Criminal Court Act³ was introduced to the National Assembly of South Africa,

³ South Africa was the first state to implement the Rome Statute into the national legal framework through enacting a domestic statute. When the government decided to withdraw from the ICC, the Implementation of the Rome Statute of the International Criminal Court Act, 2002 (Act No. 27 of 2002) had to be repealed as well.

the government once more pointed out South Africa's unique role in conflict resolution and as a founding nation of the African Union (Republic of South Africa [RSA] 2016: 4 para.1.2). Therefrom, the decision of withdrawing from the Rome Statute seems to have also been taken with a concern for its regional role. As a nation which is highly regarded for political liberal values, the image that South Africa is creating for itself has implications on its future position within the geopolitical sphere. It has been said that South Africa has significant soft and hard power potential which bolsters its regional leadership (Isike/Ogunnubi 2017: 173). Accordingly, the decision of withdrawal has contributed to South Africa's advances as a leader on the African continent, since the country has taken a clear stance and active role in the strife with the ICC. At the same time, South Africa has been harshly criticized for abandoning its ethical foreign policy and undermining its own reputation as a defender of human rights. "South Africa's actions fly in the face of the late Nelson Mandela's vision of the ICC and its role in bringing peace and justice to Africa." (Coalition for the International Criminal Court 2016). Yet, in order to assert its position as regional hegemon, South Africa has chosen to show its strengths through insisting on its independence as a sovereign state capable of supporting governments in the region.

In general, South Africa's foreign policy priorities have been described as lying with "regional solutions to regional conflicts" (Boehme 2016: 52). Regional political considerations influence the decision-making process, lead to the occasional disregard for international legal obligations and even to abandoning former positions. In this regard, South Africa was not active in balancing a nearby threat, but rather in carving out its leadership position through a proactive and firm foreign policy action. After all, it must have appeared relevant, realistic and possible to the government of South Africa to withdraw from the International Criminal Court. Burundi as a forerunner on the matter might have contributed to this impression. The fact that the withdrawal has been declared invalid by its own High Court only points out that the action is not one that can be realistically executed by the government alone. The inter-state level offers ample possible motivations to explain the decision by the African nation. Both the African Union's stance towards the ICC and South Africa's ambition to be a pioneer on the continent appear to have strongly influenced its decision to submit the notice of withdrawal.

INTRA-STATE DECISION-MAKING

Traditionally the intra-state level of the analysis of foreign policies was not part of the realist approaches. Fac-

tors from this explanatory level were excluded as sources of explanations by scholars of structural realism (Waltz 1979). Yet, neoclassical realism nevertheless acknowledges the role of intra-state peculiarities and domestic politics in foreign policy decisions (Wivel 2005). The reasoning behind the decision is sought within the state itself. Thus, the following part of this analysis investigates whether lessons of the past played a significant role in the decision made by South Africa's leaders (Mouritzen/Wivel 2012: 45). The question is: what has motivated them individually? It is assumed that the nation had enough external action space, as in being unaffected by other powers' influences, to allow for intra-state peculiarities to play a relevant role. Indeed, one can argue for two intertwined lessons that have led to South Africa's decision to leave the Court: the politicization of the ICC and the prosecution of heads of states. As Masutha (2016: 3) pointed out, "there are perceptions of inequality and unfairness in the practice of the ICC that do not only emanate from the Court's relationship with the Security Council, but also by the perceived focus of the ICC on African states".

IN THE SECURITY COUNCIL'S GRIP

The Security Council continues to exert influence on the International Criminal Court which is a root of discontent. The Rome Statute of the ICC includes two relevant mechanisms which give the Security Council power over the cases which are being investigated.⁴ For one, the Council can refer a situation to the prosecutor, where the respective crimes seem to have been committed. Additionally, the SC can halt ongoing investigations or prosecutions for a period of 12 months. This apparent power that the Security Council has over the investigations of crimes first became an issue with the case of Darfur and Omar al-Bashir. For the first time in the Court's history, a situation in the territory of a non-state party to the Rome Statute was referred by the SC, and, as a result, al-Bashir became the first sitting president to be indicted by the ICC (UNSC 2005). This development evidently spread wariness among the heads of African states and triggered the previously mentioned attempt by the AU to get a deferral of the Darfur situation. Murithi (2014: 183) writes that the request by the African Union was made for political reasons "since the arrest and arraignment of a sitting Head of State in Africa could set a precedent for a significant number of other leaders on the continent, who could potentially be subject to the criminal jurisdiction of the International Criminal Court for their own actions". One can therefore assume that the prosecution of a head of state through the ICC was within the range of possibility and constituted a lesson learned for other

⁴ See Article 13 (b) and Article 16 of the Rome Statute of the International Criminal Court.

governments. South Africa's decision to leave the Court might not have been based solely on a fear of prosecution, but it certainly played a role. Although, one must bear in mind that a withdrawal from the Rome Statute only takes effect after a one-year period, while the Court can prosecute any mass atrocities that have been committed until that point in time.⁵ Hence, if South Africa's notice of withdrawal had not been revoked, the country would have officially left the ICC in October 2017, still leaving the ICC with jurisdiction over the respective crimes committed until then. The decision to withdraw might have not only been guided by the future protection of its own government, but furthermore constituted a political decision concerned with the immunity of the individuals in power.

THE INTERNATIONAL CAUCASIAN COURT?

The International Criminal Court has repeatedly been described as a political instrument which is targeting the African continent. The perception of inequality has been pointed out in light of the charges against al-Bashir and Kenyatta, but also regarding the list of current investigations (BBC News Africa 2013; The Guardian 2017). In fact, ten out of eleven situations under investigation by the ICC have taken place in Africa. Nonetheless, it is advisable to take a closer look at the cases dealt with by the Court. Five of the situations have been referred by African state parties themselves and only two have been initiated through referrals by the Security Council. In addition, both the ICC prosecutor Fatou Bensouda and the president of the Assembly of State Parties, Sidiki Kaba, are from Africa. Regardless, an increasingly anti-ICC rhetoric based on its assumed biased targeting has spread. This has led states to adapt and learn from past experiences with the Court, and to shield their own political elite from future persecution. Thus, the government of South Africa might have been motivated to take a concrete stance and show power through leadership. Promoting regional cooperation and unity is therefore done through the refusal to bow to an international court that has so far only convicted two African nationals.⁶

To conclude, the intra-state level of analysis offers another possible explanation for South Africa's decision to hand in a notice of withdrawal from the ICC. The approach by Mouritzen and Wivel based on a nuanced neo-classical realism has allowed for an account of socio-psychological theories like the lessons-learned and assisted in viewing the case from an additional angle. South Africa's government has certainly considered the history of the African continent with the International Criminal Court when it decided on the foreign policy decision in question. Taking into account the conse-

quences for the individuals in power was made possible since the government had enough action space. This ultimately contributed to the submission of a notice of withdrawal under the leading ANC. Notwithstanding, other intra-state peculiarities might have further contributed to the decision.

THE FUTURE TO COME

To analyse foreign policy implies exploring different explanations and framing the answer in a reductionist manner. The ladder of levels methodology by Mouritzen and Wivel contributes to the clarification of the reasons behind the foreign policy decision in a significant manner by allowing for the possible interaction of variables at the international and domestic level. The paper finds that there are a number of explanations for South Africa's decision to submit a notice of withdrawal from the ICC. While the neoclassical realism understanding of anarchy and power balance at the system level offers little explanatory substance for the action, the other levels of explanation offer ample. Advancing to the inter- and intra-state level, certain motivations, which most likely have been driving the action, can be identified. First, the geopolitical trend within the AU and South Africa's role as regional power appear to have been relevant for the decision. The country has attempted at bandwagoning with fellow nations and simultaneously carved out its own position in the regional system. South Africa's quest for regional influence appears to be the most persuasive explanation. Second, the heads of African states have learned from the recent track record of the International Court and thus decided to put self-preservation ahead of their human rights agendas. Although the fear of individual persecution can be a deciding factor in itself, it is not considered to be the sole driver in the decision-making process.

This paper contributes to the general literature on the relationship between African nations and the ICC. The work offers insight into the reasoning of a state that is committed to human rights and, nevertheless, acts opportunistic when it comes to the international court of last resort. A number of explanatory approaches on different analytical levels that depart from the theory of neoclassical realism were illustrated.

The future of the relationship between the International Criminal Court and South Africa is not a certain one. The Justice Department has tabled a new bill in parliament which seeks a withdrawal from the ICC, would regulate immunities from prosecution and indeed repeal the previously mentioned national Implementation of the Rome Statute of the International Criminal Court Act (RSA 2017: 2). So far, the opposition to the ANC, the

⁵ See Article 127 of the Rome Statute of the International Criminal Court.

⁶ Comprehensive information can be found at <https://www.icc-cpi.int>.

Democratic Alliance, has announced that it will challenge the International Crimes Bill (Times Live 2017). Considering the opposition to a second attempt to withdraw from the ICC and South Africa's recent change in leadership, one can not expect a timely development on the matter. The newly elected president of South Africa, Cyril Ramaphosa, is said to pursue a more nuanced rhetoric against the West and is believed to put aside the decision to withdraw as he is taking up office (Fabricius 2018). Thus, the future of the ICC membership appears to further depend on how high the individuals in power rank the issue on their agenda and if they can sway the parliament in their favour. In relation to the ICC itself, it has become apparent that its interconnection with the Security Council hampers the Courts credibility and calls for a reform are reasonable to a certain extent.

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