The Sahel's ICC Exit

Sovereignty as Shield or Responsibility?

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In September 2025, the military governments of Mali, Burkina Faso, and Niger jointly announced their withdrawal from the International Criminal Court (ICC) – a move hailed at home as "a step toward full sovereignty." The message was carefully staged: three juntas, standing shoulder to shoulder, rejecting a tribunal they called "a tool of neocolonial repression." In their narrative, leaving The Hague symbolizes emancipation from Western tutelage and the rebirth of African self-determination, seeking to uphold justice through "indigenous" mechanisms.

Yet the symbolism conceals a much starker reality. Each of the three regimes came to power through a coup and faces credible allegations of atrocities by their security forces and allied foreign units. By denouncing the ICC's legitimacy, they are not reclaiming lost sovereignty but cutting the last safety net for accountability. The Rome Statute already gives domestic courts the first right to prosecute. What withdrawal removes is not foreign interference, but international recourse when those courts fail.

This article argues that the Sahel states' exit from the ICC carries less the scent of decolonization than that of self-immunization. The question, therefore, is not whether international justice is selective – but whether justice will exist at all.

The withdrawal under international law

Under Article 127 of the Rome Statute, any state party may withdraw by sending written notice to the UN Secretary-General. The withdrawal takes effect one year after the notification, but Article 127(2) makes clear that it does not erase obligations incurred while still a member.

For Mali, Burkina Faso, and Niger, this means they technically remain ICC members for another year. During that period, any alleged crimes committed on their territories still fall under ICC jurisdiction. The ICC's ongoing investigation into war crimes in northern Mali, for instance, continues to apply until the withdrawal formally takes effect. In reality, however, having denounced The Hague as illegitimate, Bamako, Ouagadougou, and Niamey are unlikely to cooperate with requests from the Court.

These Sahel governments are not the first to turn their backs on the ICC. Burundi became the first state to withdraw in 2017, shortly after the Court opened an investigation into political violence there. The Philippines followed in 2019, as the ICC was examining killings linked to President Duterte's "war on drugs." In both cases, withdrawal served less as a legal shield than as a political statement – one that did little to halt the Court's scrutiny.

The juntas' claim

From the juntas' perspective, the ICC embodies Western interference masquerading as international justice. In their joint declaration, the three military-led governments labeled the Court an instrument of "neocolonialist repression," accusing it of unfair targeting. By withdrawing, they aim to reclaim exclusive jurisdiction over crimes on their soil and shield themselves – as well as allied foreign forces such as Russia's Wagner mercenaries operating in Mali and Burkina Faso –from international scrutiny.

It is undeniable that since its inception, the ICC's docket has been heavily skewed toward African cases. Yet many of these cases originated from self-referrals by African governments seeking international assistance to prosecute insurgents or warlords. Situations in Uganda, the DR Congo, Mali, the Central African Republic, and Côte d'Ivoire were all referred to the ICC

by their own leaders, while the Darfur (Sudan) and Libya cases came through the UN Security Council.

Critics, however, highlight a stark asymmetry: no Western leaders or their allies have faced ICC charges, despite credible allegations of war crimes in conflicts such as Iraq and Afghanistan. Major powers outside the ICC, including the United States, have actively shielded their personnel from prosecution. For example, when the Court's Prosecutor sought to investigate alleged crimes by U.S. and NATO forces in Afghanistan (an ICC member state), diplomatic pressure stalled the effort for years, ultimately limiting the focus to crimes committed by the Taliban and ISIS.

Yet, the sharpest objections within Africa often come from governments whose own conduct is under scrutiny. Human Rights Watch and UN experts have documented serious abuses, including a 2022 massacre by Malian troops and foreign contractors. Framed by the juntas as resistance against "neo-colonial" justice, their withdrawal timing reads less like principled opposition and more like an attempt to pre-empt accountability.

Bias, Perception, and Reality

The ICC itself acknowledges shortcomings in the regional diversity of its cases. In the recent years, efforts have been made to broaden its jurisdiction: in 2022, it launched a full investigation into the war in Ukraine, leading to high-profile arrest warrants against Russian officials for alleged war crimes. The Court has also investigated and charged individuals from Georgia (related to the 2008 war in South Ossetia) and Myanmar (for crimes against the Rohingya, via Bangladesh's jurisdiction), and is presently examining potential crimes by both Israeli and Palestinian actors in the Palestine situation.

Nevertheless, skepticism remains. Critics argue that – even with these newer cases – the ICC's actions still reflect Western geopolitical interests. Charging Russian officials over Ukraine, for instance, was widely praised in the West, while investigations into U.S. and NATO conduct in Afghanistan were quietly narrowed, reinforcing the perception of double standards.

Fundamentally, however, the ICC was established to address impunity for the world's gravest crimes – genocide, crimes against humanity, war crimes, and aggression – regardless of borders. Under the Rome Statue's principle of complementarity, the ICC intervenes only when domestic courts are unwilling or unable to prosecute genuinely. Ideally, international justice serves as a backup: states punish atrocity crimes themselves, and the ICC only steps in when national mechanisms fail. The withdrawal of the Sahel states raises real concerns that victims in Mal, Burkina Faso, and Niger may find themselves without any avenue for justice if their governments suppress investigations or protect offenders.

Finally, it is worth considering who truly promotes accountability. In fact, African states have regularly taken international criminal obligations seriously and referred cases to the ICC. Meanwhile, powerful non-member states have refused to joinor cooperate. That African leaders comply does not prove "selective justice" is an ICC problem; rather, it reveals the limits of international law where major powers abstain or obstruct.

The Legal Dimension

The accusation of "selective justice" may resonate politically, but it lacks legal substance. The Rome Statute establishesthe ICC as a court of last resort, not an all-powerful global enforcer. Again: Its core principle, complementarity (Article 17), means the Court is only competent if national authorities are unwilling or unable to genuinely prosecute. States freely chose to ratify the Statute, and the design gives domestic courts priority. Withdrawal, as set out in Article 127, is also the exercise of sovereign consent: states can join or leave, but the fundamental responsibility remains national.

The sovereignty critique loses force in this light. If authorities prosecute violations at home, the ICC has no mandate to intervene. Conversely, if justice is denied domestically, the ICC becomes available as a safeguard. Under Articles 12(2)(a) and 13, the Court's territorial jurisdiction includes crimes committed on

the territory of a State Party, no matter the perpetrator's nationality.

Ultimately, the real obstacle is not the law but cooperation. The ICC depends entirely on member states to execute arrests and cooperation requests; it has no police force of its own. Impunity usually results when powerful states shield suspects, highlighting the limits of international justice in a system built on voluntary participation, not a deliberate policy of selectivity by the Court itself.

The Stakes for Justice, Sovereignty, and Victims' Rights

The question after the Sahel states' withdrawal is not whether justice is selective, but whether it will exist at all. In a world where powerful nations evade The Hague by simply staying outside the Rome Statute, the answer cannot be to follow suit. The failures of the strong are not an excuse for the weak to abandon accountability – they are a challenge to do better.

By ratifying the Rome Statute, Sahel governments joined a global commitment: prosecute serious crimes at home, and the ICC stays away; refuse or fail to do so, and the Court steps in. That is sovereignty understood as responsibility, not spectacle. It gave victims a path to justice and symbolized African leadership in global accountability. Walking away now inverts that promise. It narrows the space for victims to seek redress, lowers the costs of atrocity for those in power, and advertises that sovereignty equals discretion without duty.

International justice has never been perfect, but it remains a fragile lifeline where national courts collapse or collude. The ICC's system, built on consent and complementarity, does not impose on sovereignty; it measures it. The standard is simple: investigate, prosecute, and cooperate. Anything less is not decolonization – it is abdication.

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