



mar al-Bashir welcoming South African President Jacob Zuma to Sudan – 2011 Photo Credit: [Government ZA](#)

## **Failure to Arrest al-Bashir Undermines International Justice**

Last week, in defiance of an International Criminal Court (ICC) arrest warrant and an order by the South African High Court barring his exit, Omar al-Bashir boarded a

plane back to Sudan after attending the 25th African Union (AU) Summit in Johannesburg. In 2009, the ICC issued two arrest warrants against al-Bashir under charges of war crimes, crimes against humanity, and genocide. South Africa, as a State Party to the Rome Statute, is obliged to execute ICC arrest warrants, but on June 5, South Africa and the AU signed an agreement guaranteeing diplomatic immunity to participating heads of state. The South African High Court initiated a case to investigate whether the ICC warrant trumped the diplomatic immunity agreement and ordered authorities to prevent al-Bashir from leaving until a final decision had been made. The South African government, however, violated that order, resulting in alarming ramifications for the ICC and its potential efficacy in other countries like Syria.

While ICC State Parties have defied arrest warrants in the past, South Africa, a country that struggled through its own transitional justice process and has been an advocate for human rights, seemed an unlikely candidate to undermine international justice. South Africa's former president and renowned human rights leader, Nelson Mandela said in an interview that one of the pillars for South Africa's foreign policy would be "considerations of justice and respect for international law." But under the leadership of President Jacob Zuma, the government not only disregarded international law, it violated its own constitution and destabilized national trust in the judiciary.