**Appendix A: Backlash Episodes**

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| Zimbabwe vs the South African Development Community | 2011. In 2007, white Zimbabwean farmers brought a case to the SADC Tribunal regarding the Zimbabwean government’s land redistribution program. The Tribunal ruled in favor of the farmers because the program targeted white farmers specifically. President Mugabe denounced the judgment, calling it “nonsense” (Nathan, 2013) (Alter, Gathii, & Helfer, 2016). The court ruled against the government again in 2009 for not complying (Alter et al., 2016). The Mugabe administration refused to appear before the Tribunal anymore and to be bound by its rulings. Mugabe refused to appoint judges to the Tribunal. In 2011, the SADC announced a moratorium on new cases pending review of the Tribunal Protocol, rendering the court ineffective. Other amendments to the treaty have allowed withdrawals and severely limited the court’s functioning (Cowell, 2013) (de Wet, 2013). |
| Trinidad and Tobago exit IACtHR ;11 Caribbean states leave the Privy Council | May 1998. In 1994, the Judicial Committee of the Privy Council heard a case on the use of the death penalty in the Caribbean (Soley & Steininger, 2018). Shortly afterwards, the IACtHR made decisions limiting the possible applications of the death penalty (Soley & Steininger, 2018). This was the reason cited when Trinidad and Tobago denounced the American Convention effective May 1999. Some have argued that this was significant in weakening the authority of the court and human rights issues in the region (Concepcion, 2000). After this case, in 2001, eleven Caribbean countries decided to replace the British Privy Council with a new Caribbean Court of Justice (Helfer, 2002). |
| Venezuela exits IACtHR | 2008 – exit in 2012. Chavez regime threatens and follows through on withdrawal from the IACtHR. Denunciation of the American Convention effective September 2013. Chavez described the court as antithetical to the Bolivarian revolution. (Soley & Steininger, 2018) (Ginsburg, 2013) Chavez has also called the court a US puppet amidst this threats to withdraw (Couso, Huneeus, & Sieder, 2010). |
| Peru exits IACtHR (and later returns) | July 1999. Threaten to withdraw by President Fujimori and Congress (Ginsburg, 2013). Fujimori argued that the court violated Peru’s sovereignty (Faiola, 1999). Soley & Steininger do not call it true backlash because it was short-lived and driven by the executive (Soley & Steininger, 2018). Resistance to the court was largely driven by domestic politics rather than a specific issue (Soley & Steininger, 2018). Peru returned to the jurisdiction of the court after a brief withdrawal. |
| Dominican Republic conflict with IACtHR | November 2014. A 2014 ruling regarding the status of Haitians in the DR triggered discontent among the public, related to anti-immigrant attitudes. High-ranking officials began to criticize the court for interfering in the granting of citizenship. The minister of foreign affairs threatened to denounce it, but so far has not taken this action (Soley & Steininger, 2018).  |
| Bolivia (Evo Morales) opposes IACtHR | June 2012. President Morales suggested reforming or eliminating the IACtHR (Ginsburg, 2013). Morales has also suggested, along with Chavez, creating or expanding an alternate human rights tribunal in the region (Couso et al., 2010). |
| Rwanda withdraws from ACtHPR | The controversial judgment occurred in 2017, finding that Rwanda violated the right to free speech for restricting the rights of a political figure associated with the promotion of genocide and terrorism. This elicited explicit resistance from the Rwandan government. The government announced its decision to withdraw in March 2016, claiming that the court was dominated by those associated with the genocide in 1994. Daly & Wiebusch find that this is a case of backlash, because of the implied overall lack of legitimacy of the court and the opening of an opportunity for others to follow suit (Daly & Wiebusch, 2018).  |
| US opposes renewal of WTO AB appointments | The US had opposed judges in 2011 and 2016 but those were individual cases with specific rationales. The Trump Administration has started blocking any reappointments, which potentially ends the AB system altogether in 2019 (Shaffer, Elsig, & Pollack, 2017). |
| Kenya pushes for reform of East African Court of Justice | 2006. The Court rejected Kenya’s proposed candidates for the East African Legislative Assembly. The Kenyan government viewed this as a violation of sovereignty and taking sides with their political opponents. The government tried several methods of backlash, mostly notably threatening to remove the court’s two Kenyan judges. These attempts were blocked, but instead the EAC Treaty was amended (outside of the accepted institutional processes) to change the structure and function of the court (Alter et al., 2016; Caserta & Cebulak, 2018a).  |
| UK promotes Brighton Declaration and threatens to withdraw from ECtHR | In 2014, the UK administration planned to exit the ECHR unless they were given the right to veto any decisions made in the court, citing a lack of national sovereignty and the expanding role of the court into new issue areas (Watt & Bowcott, 2014). They hoped to see the court become an advisory body without any binding authority (UK Conservative Party, 2014). Britain has been a critic of the court since around 2012, after the Court overruled domestic decisions on polarized issues. The Brighton Declaration, adopted in 2012, seeks to limit the court’s authority over national courts and narrow the criteria for selecting cases (“Down to the wire: Human rights and Europe,” 2012; Madsen, 2016). Pulling out of ECtHR is also a part of Theresa May’s 2020 campaign (Hope, 2016). |
| Russia restricts authority of ECtHR | After the 2004 reforms in Protocol No. 11 to reduce the court’s backlog of cases and continuing investigation into human rights in the country, Russia began to oppose the court and has threatened to withdraw several times. (Hillebrecht, 2014; Madsen, 2016). In 2015, Russia’s Constitutional Court, backed by the legislature, redefined the country’s relationship with the ECtHR, reinforcing previous patterns of noncompliance with and nonenforcement of ECtHR rulings (Mälksoo, 2016). The Constitutional Court ruling limits the ability of the ECtHR to rule in certain areas where the ECtHR rulings conflict with the Russian constitution (Mälksoo, 2016). This limits the authority of the court over the Russian state. |
| Venezuela exits the Andean Community/ATJ | In 2006, Chavez decided to withdraw from the Andean Community, favoring instead alternatives less exposed to US interests (Alter & Helfer, 2017). The withdrawal was catalyzed by Peru and Colombia’s free trade agreements with the United States (Alter & Helfer, 2017). This meant that the AC came to a standstill because of the conflicting politics of the remaining members (Alter & Helfer, 2017; Caserta & Cebulak, 2018a).  |
| Ecuador threatens to leave AC/ATJ, but does not follow through | The court’s first cases focused on reforms by Ecuador’s president Correa since 2007. After the court ruled against Correa, Ecuador threatened to leave, but the rest of its pushback has remained within the rules of the system (Caserta & Cebulak, 2018a). Meanwhile, Ecuador has failed to comply with free trade rules, and was expected to leave the agreement facing cases challenging its policies, but did not and has pursued legal approaches instead (Alter & Helfer, 2017). |
| Central American countries oppose the CACJ  | In 2005, the court ruled on a dispute involving the separation of powers of the Nicaraguan presidency, overruling the Nicaraguan Supreme Court. Since then, several Central American countries have moved away from the court and tried to limit its resources and jurisdictions (Caserta, 2017; Caserta & Cebulak, 2018b).In 2015, Costa Rica withdrew from the Central American Integration System (SICA), which includes the CACJ, because the institution was unable to work with Costa Rica’s decisions regarding an influx of Cuban migrants (“Analysts call Costa Rica’s withdrawal from SICA ‘deadly blow’ for organization,” 2015). Belize, Guatemala, and Nicaragua would not cooperate in the solution that Costa Rica advocated, and this withdrawal significantly hindered the organization’s functioning in the region (“Costa Rica’s leaving SICA said complicating situation in region,” 2015). The country rejoined about six months later (“Costa Rica politics,” 2016).Meanwhile, since it ratified the treaty in 2008, Guatemala has refused to appoint judges to the court, hindering its participation (Caserta, 2017). |
| Venezuela withdraws from ICSID, threatens to terminate BITs, and exits BIT with the Netherlands | 2012. Venezuela withdraws from ICSID after Chavez announces intent to leave imperialist international organizations (de Córdoba, 2011; Ginsburg, 2013; Kaushal, 2009; Langford & Behn, 2016). The government has spread false press releases regarding the unfairness of the court (Ginsburg, 2013). For more on the court’s legal reaction to the denunciation see (Bastin & Lee, 2015). The denunciation did not have a large effect on existing disputes, since those that were pending are proceeding (de Córdoba, 2011; Peinhardt & Wellhausen, 2016). Venezuela also began to discuss withdrawal from other BITs, and in 2008 terminated an important BIT with the Netherlands (Kaushal, 2009; Peinhardt & Wellhausen, 2016).  |
| The Gambia challenges the Court of the Economic Community of West African States | 2009. Two of the first suits in the court were against Gambia. The government ignored them and acted against the rulings. In response, the Gambia proposed amendments to weaken the court. The other West African governments rejected Gambia’s challenge, making this what Alter and coauthors call a “failed backlash.” (Alter et al., 2016) |
| Bolivia denounces ICSID and renegotiates BITs | Bolivia denounced ICSID Convention in May 2007 after many cases being filed against it (Ginsburg, 2013; Langford & Behn, 2016). Morales blamed the ICSID for favoring MNCs over the governments of Latin America (Wick, 2011). Although some were worried that this move would destabilize the ICSID, it has not appeared to have that effect yet (Waibel, Kaushal, Chung, & Balchin, 2010). Bolivia then began to renegotiate all of its BITs after 2009 (Peinhardt & Wellhausen, 2016; Waibel et al., 2010). Bolivia has withdrawn from two BITs (United States and Italy) and threatened to renegotiate or withdraw from 22 more (“ICSID backlash will see limited impact,” 2014; Kaushal, 2009). |
| Ecuador withdraws from ICSID and renegotiates BITs | 2009-2010. Ecuador denounced ICSID (Ginsburg, 2013; Hutchinson, 2013). In 2008, under President Correa, Ecuador adopted a new constitution that forbade entering in the future into forums of international arbitration, except where these institutions contain only Latin American parties (Wick, 2011). At the same time, Ecuador terminated 26 BITs (Ahmed, 2017; Kaushal, 2009; Langford & Behn, 2016; Peinhardt & Wellhausen, 2016), including the US-Ecuador BIT (Federal Information & News Dispatch, Inc., 2018a). The rest are in the process of being terminated (“ICSID backlash will see limited impact,” 2014).  |
| Kenya opposes ICC | Kenya has begun to oppose the ICC after the investigations into the violence emerging after its 2007-2008 presidential election. The government attacked the court until the charges brought against President Kenyatta and Deputy President Ruto in 2012 were dropped in 2014 and 2016, respectively (Helfer & Showalter, 2017). The government rallied domestic and international support, delayed court proceedings, and silencing witnesses, as well as attacking the ICC as part of a campaign strategy in 2013 (Mueller, 2014). They also lobbied the UNSC for a deferral or termination of the prosecutions, and made motions to withdraw from the ICC both in 2010 and after the election in 2013 (Helfer & Showalter, 2017). Kenya also encouraged other African countries to withdraw, with Ethiopia, Ghana, Malawi, Sudan, Uganda, and Zimbabwe agreeing and Ivory Coast, Gambia, Mali, and Botswana opposing (Helfer & Showalter, 2017).(“It’s show time: Kenya and the international court,” 2013) |
| South Africa withdraws from BITs seen as hindering the national agenda | In 2012, South Africa began to withdraw from BITs with Belgium, Luxembourg, Spain, Germany, Switzerland, and the Netherlands, arguing that these arrangements were hindering the national agenda (Green, 2012; Peinhardt & Wellhausen, 2016). However, the country may turn toward renegotiation instead of continuing to withdraw from these agreements (Peinhardt & Wellhausen, 2016). |
| Indonesia plans to withdraw from or renegotiate all BITs | In 2016, two years after announcing a plan to terminate or renegotiate all BITs, Indonesia had withdrawn from 9, with plans to withdraw from 11 more by 2018 (Peinhardt & Wellhausen, 2016). Bland and Donnan argue that this decision fits into a broader global backlash against ISDS in investment treaties (Bland & Donnan, 2014). |
| South Africa plans to leave ICC | In 2016, South Africa announced plans to withdraw from the International Criminal Court, following in the footsteps of Burundi (Chan & Simons, 2016). South Africa has been opposing the court since it accused the country of noncompliance in 2015, and also supports the idea that the court is an institution of colonialism over Africans (Chan & Simons, 2016). However, there is doubt as to whether South Africa will actually withdraw, given its record of supporting the ICC under President Mandela and the potential damage to the country’s reputation (Corder, 2016; “The battle against impunity goes on,” 2015). |
| Burundi plans to leave ICC | In October 2016, Burundi became the first country to announce its intent to withdraw from the ICC after the court announced intentions to investigate political violence in the country (Chan & Simons, 2016; Sengupta, 2016).  |
| Gambia plans to leave ICC | In October 2016, Gambia announced plans to pull out of the ICC, calling it the “International Caucasian Court” and referencing the ICC’s apparent focus on convicting Africans (Corder, 2016; Sengupta, 2016). These concerns are similar to South Africa’s and Burundi’s. |
| Philippines plans to leave ICC | In November 2016, President Duterte of the Philippines announced his plans to withdraw from the ICC facing criticism for his policies of killing suspected drug dealers (Rauhala, 2016). In March 2018, he issued a statement withdrawing ratification of the Rome Statue (Federal Information & News Dispatch, Inc., 2018b). |
| India terminates/lets expire 58 BITs | In April 2017, India allowed as many as 58 of its BITs to expire or be terminated, insisting that they be renegotiated with a new draft model BIT that would require arbitration to occur in domestic Indian courts (Sen, 2017). The US has been engaging in talks with India in 2017 over a BIT, but they have not come to an agreement yet (Basu, 2017). This decision is a response to several cases brought against the country (Ahmed, 2017). |
| Poland announces plan to terminate BITs | In March 2016, Poland announced that it planned to terminate all BITs, following several cases against it (“Poland Wants to Terminate Bilateral Investment Treaties,” 2016). However, it has quickly reversed some of these statements, and it is not clear whether they intend to take any resulting action (Mondaq Business Briefing, 2016).  |
| Ecuador attempts to curtail the Inter-American Commission and replace the IACtHR | In 2012, Correa wanted to remove the IACH jurisdiction on free speech cases (among others) asserting undue US influence. Was supported by Bolivia and Venezuela.In 2016, President Correa criticized the IACHR and suggested replacing this institution with another human rights body, citing the colonialist influence of the US on the existing institution (“Correa calls for new Inter-American Human Rights System,” 2016) See also 2012 effort. |

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