



E-reporter Africa and International Justice, July 2009

The E-Reporter on Africa and International Justice provides up-to-date information on human rights and justice developments relating to Africa.

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The Paradox of International Justice: AU Protects Bashir, and Condemns Ocampo

While many African States have been key contributors to the establishment of the International Criminal Court (ICC), recent developments demonstrate a growing resistance to the ICC and, more generally, international criminal justice. At the recent AU Summit held in Sirte, Libya, the AU Assembly issued a Joint Declaration stating that AU Member States will ignore the ICC arrest warrant for Sudan's President Omar-al-Bashir, and will not take any measures to transfer him to The Hague. AU Chairman Ghadaffi fulminated that the ICC represents 'new world terrorism' and attempted to have all African State Parties to the Rome Statute withdraw from the ICC. This attempt failed, but his stance against the ICC was shared by many African countries and leaders. Only Benin and Botswana, kept their backs straight and openly dissented. Resistance against, and debates on, the North-South dimension of the emerging regime of international criminal justice is not limited to the ICC. Quite controversial too is the exercise of universal jurisdiction by national courts.

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The International Criminal Court and Africa

The significant investment made by Africa in the International Criminal Court and international justice is growing in strength as exemplified by Africa's positive engagement with the Court through, amongst others, referral of cases to the ICC by Africans themselves. In a significant development for the Court, recently, the rebel Commander Idris Abu Gadr who is alleged to have participated in attacks against African Union Peace Keepers in Haskanita, voluntarily appeared before the ICC in response to a summons to appear.



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The Debate on Contamination of Judges within the ICC

Contamination of Judges in the Appeals Division of the International Criminal Court (ICC) is an open secret and sensitive issue within international justice circles (in The Hague). Two pre-trial judges recently elevated to the Appeals Division have heard cases at the pre-trial level which will come on Appeal. In fact, just two weeks ago, the Prosecutor appealed the decision of the pre-trial chamber not to include genocide in the Bashir indictment. The two contaminated judges had to reclude themselves, and the President had to appoint two replacement judges. There was another appeal against an interlocutory decision in the Katanga case. Again, the two contaminated judges had to reclude themselves, and again, the same replacement judges were appointed by the President. The current situation allows commentators to make the point that by handpicking replacement judges, the President can influence the outcome of a case.

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The Ongoing Habre Saga: The International Court of Justice (ICJ) Rejects Request for Provisional Measures in Belgium v. Senegal

In 2009 the International Court of Justice (ICJ) rejected Belgium's request for provisional measures requiring Senegal to take all steps within its power to keep former Chadian leader Hissene Habre under the control and surveillance of the Senegalese judicial authorities, to avoid him leaving the country and escape criminal proceedings against him. Habre has resided in Senegal since 1990.

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The United Nations International Criminal Tribunal for Rwanda (UNICTR)

The International Criminal Tribunal for Rwanda was established by the UN Security Council in 1994 to prosecute persons responsible for genocide and other

serious violations of international humanitarian law committed in the territory of Rwanda, and similar violations committed by Rwandan citizens in neighbouring countries between 1 January 1994 and 31 December 1994. The ICTR has attained several remarkable and ground-breaking achievements including its contribution to the restoration and maintenance of peace in Rwanda, and progressive development of gender justice. One of the Tribunal's key achievements has been the accumulation of an indisputable historical record, including testimony of witnesses, testimony of victims, testimony of accused, documentary evidence, video recordings and audio recordings.



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Special War Crimes Division of the High Court of Uganda (WCD)

The WCD is a Court established under the Laws of Uganda to deal with those who have committed serious crimes. The WCD is intended to fulfil the “Principle of Complementarity” as stipulated under the International Criminal Court Statute. In July 2008, three High Court Judges were deployed to serve on that Division. A War crimes suspect, arrested in the DRC in November 2008 was brought before a magistrate and will soon be committed to the WCD.

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A Gender Protocol for Southern Africa

The adoption of the Southern African Development Cooperation (SADC) Protocol on Gender and Development in August 2008, marked a milestone in the journey towards gender equality in Southern Africa. The process took a full three years, and is fully captured in a short documentary produced by Gender Links.

The inclusive nature of the process towards Protocol adoption leaves the region in a good stead towards laying out the necessary steps towards implementation.

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OBAMA in GHANA

Participate in this Quiz on U.S. President Barack Obama's Motivation for choosing Ghana as his first country of visit in Sub Saharan Africa.

Choose one or more of the following options:

- Ghana has made two peaceful transitions in bi-partisan democratic elections, in 2001 and 2009;
- Ghana has found OIL;
- Ghana has structures for ensuring good governance and accountability;
- The President and his wife wanted to visit Ghana's Cape Coast Castle.



Click [here](#) to send us your answer

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Country Alert

Gambia

On 10th December, 2006, The Commonwealth Human Rights Initiative Africa Office held a press conference on the extra-judicial killing and or disappearance of 44 young Ghanaian men in the Gambia. The Ghanaian public reacted with shock to the news. Africa legal Aid and CHRI subsequently created The Gambia Task Force. In December 2007, the taskforce officially filed a complaint with the African Commission on Human and People's Rights. That case is still pending. Without any consultation with interested civil society groups or the families of the

victims, the government of Ghana, acting by its President John Evans Atta Mills, issued a statement on a Report of a fact finding mission on the missing Ghanaians in Sirte, Libya, on 2nd July, 2009. A Memorandum of Understanding was signed by Ghana and Gambia acknowledging that the Gambian government is not directly or indirectly implicit in the deaths or disappearances of the Ghanaians, but that Gambia has, nevertheless, agreed to make contributions to the families of the Ghanaians found dead in its territory in conformity with African traditional values.

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Senegal; The Hissène Habré Saga: Can Africa try one of its own Dictators?

The case of Hissène Habré has become the test for African justice. Habré ruled Chad from 1982 until he was deposed in 1990. His one-party regime was marked by widespread atrocities. Files of Habré's tightly-controlled political police, reveal the names of 1,208 persons who were killed or died in detention. A total of 12,321 victims of torture and arbitrary detention were mentioned in the files. Habré was first indicted in Senegal on charges of torture and crimes against humanity in 2000 but courts ruled that he could not be tried there. His victims then turned to Belgium and, after a four-year investigation, a Belgian judge indicted Habré and sought his extradition. In July 2006, the African Union, called on Senegal to prosecute Habré "in the name of Africa," and Senegalese President Abdoulaye Wade declared that Dakar would do so. It has now been over 3 years since the AU decision– and 18 years since Mr. Habré sought refuge in Senegal.

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Sudan- The Bashir Arrest Warrant

In March 2009, the International Criminal Court did the unthinkable and issued

an arrest warrant against President Omar-Al-Bashir of Sudan. ICC Prosecutor, Luis Moreno Ocampo has brought war crimes charges against several individuals in Northern Uganda, the Democratic Republic of Congo, the Central African Republic and Sudan. His action against Bashir is the most controversial thus far. The issues of whether peace is paramount over justice or whether both can be attained through accountability will be fiercely scrutinized by legal scholars for some time to come. While this debate will continue to dominate the legal and diplomatic arenas, the question of whether the people of Darfur will find both peace and justice can only be answered when the fate of president Bashir is decided.

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Uganda; The Domestic Violence Act of Uganda: Woman forced by Husband to Breastfeed Puppies

An incident that occurred involving a young woman who was forced by her husband to breastfeed his five puppies has sparked a lot of disdain and furore and has intensified calls for the passing of the Domestic Violence Bill in Uganda.

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The Proposed Convention on the Prevention and Punishment of Crimes against Humanity

CRIMES AGAINST HUMANITY INITIATIVE
Whitney R. Harris World Law Institute
Washington University School of Law



AFLA's Executive Director, Evelyn A. Ankumah at the Experts' Meeting in St. Louis



Leila Sadat with other members of the Steering Committee, from left to rights: Cheriff Bassouni, Richard Goldstone, Christine van den Wyngaert, and Jose Mendez

In Spring 2008, the Whitney R. Harris World Law Institute of Washington University School of Law embarked upon a project to study the need for a comprehensive convention on crimes against humanity, analyze the necessary elements of such a convention, and draft a proposed treaty.

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African Network of International Justice

The Africa Network on International Criminal Justice (ANICJ) is a newly established network comprising of civil society organizations and law societies from eastern, western, central and southern Africa. The purpose of the network is to strengthen civil society's ability to help end impunity and protect human rights by promoting accountability for international crimes (genocide, war crimes and crimes against humanity) at national, regional and international levels. The network will be formally launched in September 2009, and it is currently open to interested members. For more information, contact jnjeri@issafrika.org.

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