

EDITORIAL

Editorial

First, we would like to apologize to our readers and subscribers for the publication delay between the previous and the present issues of the journal. Second, we are pleased to present a double issue of the journal. This publication covers the first two issues for 2016. We will soon move on to the preparation of the next issues for 2017, both of which we expect will be out by the end of this calendar year. We ask for your patience as we catch up with the current backlog.

Turning now to substance. In this issue, we are pleased to present four thought-provoking articles. The first, a joint piece by Brendon J. Cannon, Dominic R. Pkalya and Bosire Maragia, takes up the ongoing debate concerning the relationship between the International Criminal Court and African States – a subject that has, in the space of only a few years, moved from the periphery to the centre of academic/practitioner debates in contemporary international criminal law. Evidence of that can be found in the increasing number of articles that are being published on the subject in leading periodicals in the field, including previous issues of this journal, as well as the growing number of edited collections on the topic. Cannon, Pkalya and Maragia set out to critique the claims by some African States and commentators that the ICC is a neocolonial Western project whose docket reflects double standards and a skewed international legal order. They suggest, *inter alia*, that such arguments (1) underplay the significant role that African States played in the birth of the ICC; and (2) fail to account for the reality that many of the cases from the continent are now in The Hague because of “self-referrals” by African governments. They argue that, unless African States Parties to the ICC strengthen their national legal systems and African leaders stop using the ICC as a tool to neutralize political opponents and to circumvent meaningful localized justice, the ICC will likely continue to be the only credible forum for States from the continent seeking justice and reconciliation for core international crimes.

Continuing the ICC versus Africa theme, the second article, by Ato Onoma, examines whether the present tendency to evaluate the African Union’s proposed criminal chamber in the African Court of Justice and Human and Peoples’ Rights against the lens of “progress or retrogression” relative to advances made in the Rome Statute of the ICC shifts attention from the basic similarity of the two courts and their epochal bifurcation of the “worst” human rights abuses from “wrongs” that are more ordinary in nature. This approach, which prioritizes some human rights violations over others, compromises our understanding of how human rights abuses are related, how we should go about studying them and what we should do about them. He asserts that the consequence of this problematic logic, both ethically and ontologically, is that the framers of the African Court have now set it on the same “flawed path” as the ICC. This, in his view, will expose

it to future criticisms about bias and selectivity in the administration of justice. Indeed, considering that the legal bases of the two courts are more similar than different (including with respect to the crucial elements of the crimes covered, complementarity and cooperation), this “bifurcation” is bound to reproduce debilitations already apparent in the ICC when the future African Court is established.

Michael Kanu, in the third article contained in this issue, focuses on corruption within the context of domestic prosecutions in the national courts of one African State. He discusses the fight against corruption in Sierra Leone. He highlights the high expectations that were generated by the passage of anti-corruption legislation in Sierra Leone in 2000. He demonstrates how the limited number of offences created by the initial legislation coupled with the lack of independent prosecutorial power for the Anti-Corruption Commission dashed the hopes of many and effectively inhibited the struggle against corruption in the West African country. In contrast, he suggests that with the Sierra Leonean Parliament’s enactment of certain legislative amendments to the anti-corruption law in 2008, the prospects for greater individual accountability through prosecutions for corruption were enhanced considerably within Sierra Leone. In that spirit, he analyses the extensive jurisprudence developed by the local courts over the course of 15 years to derive several lessons on the procedural and evidentiary aspects that ought to be taken on board to ensure more effective prosecutions against corruption in Sierra Leone going forward.

In the final article, by Manuel Ventura, we shift gears from the Africa-ICC debacle and corruption prosecutions in Sierra Leone to examine the increasingly debated role of the place of corporations in international criminal law. The author analyses the significance of two important decisions from the Appeals Chamber of the Special Tribunal for Lebanon (STL), which determined that two Lebanese companies accused of contempt fall within that tribunal’s personal jurisdiction for the purposes of prosecution for alleged contemptuous behavior. The two decisions, though not for substantive international crimes within the jurisdiction of the STL, may in his view well have opened the door that much wider for legal persons to be held liable for certain kinds of crimes under international criminal law.

The last part of this double issue contains several legal documents. We explained the rationale for including such materials in the editorial to the maiden issue of this journal in 2014. Essentially, we seek to reflect African State and organizational practice in international criminal justice by doing our part to make more accessible to a wider global audience of readers, scholars and practitioners legal materials from Africa that are often difficult to obtain. In that spirit, the first two documents contained in this book are the summaries of the judgments rendered by, respectively, the trial (30 May 2016) and appeals judges (27 April 2017) of the Extraordinary African Chambers in the Courts of Senegal in the seminal case concerning former Chadian president Hissène Habré – who became the first former African leader to be charged and convicted in the domestic courts of another African State (in this case, Senegal) on the basis of universal jurisdiction. The summaries of the judgments, as rendered by the relevant president judges on behalf of the court, are reproduced in French only. The full text of the complete judgments running to hundreds of pages, which could not be reprinted

in the journal owing to space limitations, may be found on our website at <https://www.elevenjournals.com/tijdschrift/AJ/detail>. Interested readers may also wish to access the bilateral agreement between the African Union and the Government of Senegal as well as the statute that established the Extraordinary African Chambers in the legal documents section of issue 1 of this journal from 2015.

The third document contained in this issue, which also relates to the Habré case, was prepared by the African Union Commission in June 2017 for the benefit of the Executive Council of the African Union. We have included both the original French and English translations of the report, which summarizes the processes relating to the establishment of the Extraordinary African Chambers as well as the outcome of the trial and appeals in the Habré trial. The report also considers the next steps of the judicial process, including the recommendation of the adoption of a statute for the trust fund for the victims of the crimes for which the former Chadian president was convicted as well as a draft decision acknowledging completion of the case. We plan to reprint all African Union decisions concerning the Habré case, including the final version of the decision in the annex to this June 2017 report, in a future issue of the journal.

Lastly, by way of reminder, we always welcome comments and reactions from our readers and subscribers to the articles, legal documents and other materials selected for inclusion in the journal. We are always also looking for volunteer peer reviewers for inclusion in our database of manuscript reviewers. All correspondence, and expressions of interest, should be directed to the editor, Professor Charles C. Jalloh, at africanjicj@gmail.com.

The Editorial Board