

# AFRICA

## INTEREST GROUP NEWSLETTER

### ABOUT AIG AND THIS NEWSLETTER



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*to the forthcoming issue, please contact our editors Patricia Allen, Robert Fantauzzi, and Boluwatife Sadiq.*

### Looking Back on 60 Years of African Unity

Welcome to the premier issue of the Africa Interest Group's semi-annual newsletter covering developments in international law across Africa. May 2023 will mark the 60<sup>th</sup> anniversary of the founding of the Organisation of African Unity, which saw the nations and Peoples of Africa come together to create a vision for a united, fair, equal, and free Africa.<sup>1</sup> For a look back at some of the speeches and statements made in Addis Ababa in 1963 by African leaders, thinkers, dreamers, and hopefuls as the course of African destiny was reclaimed by Africa, [click here](#).

The ASIL Africa Interest Group (AIG) is committed to examining and organizing events that foster dialogue on contemporary legal and socio-political issues that directly impact the character and well being of African states and African people on the Continent and in the Diaspora. This newsletter is a place for African citizens, academics, scholars, workers, and allies to access recent developments in the field of international law, along with thought-provoking analysis and opinion pieces. *The Africa Interest Group newsletter also wants to hear from you and is inviting contribution pieces for our forthcoming newsletter in Summer/Fall 2023! If you would like to contribute*

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### Africa Interest Group

#### CO-CHAIRS

Rabiat Akande &  
Veronica Fynn Bruey

#### CO-EDITORS

Patricia Allen &  
Robert C Fantauzzi

#### MENTOR PROGRAM COORDINATOR

Thobeka Gigaba

#### SECRETARY

Boluwatife Emmanuel Sadiq

Views contained in this publication are those of the authors in their personal capacity. The American Society of International Law and this Interest Group do not generally take positions on substantive issues, including those addressed in this periodical.

## DEVELOPMENTS IN INTERNATIONAL LAW IN AFRICA

### **The Gambia and the Rohingya Genocide: Taking the Lead in International Justice:**

Since 2019, the tiny nation of The Gambia – with a population just over 2.5 million<sup>2</sup> – has taken the lead at the international level in trying to hold the Myanmar government, and later military junta, responsible under international law for its widespread human rights abuses and genocide against the Rohingya People.<sup>3</sup> In its application to the International Court of Justice, The Gambia alleges that the Myanmar state has violated provisions of the Geneva Convention via acts of rape, rapine, and murder – thus making the prevention of these acts the responsibility of signatories to the Geneva Convention.<sup>4</sup> As of July 22, 2022, objections by Myanmar representatives have been dismissed by the ICJ, and The Gambia's action against the Myanmar state continues. Read more here.

### **The African Nuclear Weapon Free Zone (NWFZ): 14 Years of Fighting Against Apocalypse:**

July 2023 will mark 14 years since the Treaty of Pelindaba entered into force in Africa, creating the African Nuclear Weapon Free Zone (NWFZ) with 43 ratified members and 51 African states as signatory members.<sup>5</sup> This effort, initially spurred by France's atmospheric testing of atomic and nuclear weapons in the sands of the Western Sahara between 1960 - 1966<sup>6</sup>, has created one of the largest areas in the world free of the scourge of nuclear weapons, and helped to lead to the development of the global Treaty on the Prohibition of Nuclear Weapons (TPNW). Most recently, Cabo Verde ratified the TPNW on June 20<sup>th</sup>, 2022, and has been legally bound by its provisions since September 18<sup>th</sup>, 2022 – welcome Cabo Verde!<sup>7</sup> Read more about the African Union Nuclear Weapon Free Zone and associated treaties to end the threat from nuclear war here.

### **Ethiopia and the Tigray: A War of Blood and Tears**

Since November 2020, the Horn of Africa has been rocked by deadly, and oft-times genocidal, conflict in the greater Tigray Region of Ethiopia, Ethiopian military and para-

military forces backed by Eritrean armed formations have battled the Tigray People's Liberation Front (TPFL) in a back-and-forth war which has seen significant victories and reversals for all warring factions.<sup>8</sup> Reports from the region indicate the widespread disregard by all sides of international laws intended to mitigate harm and abuse to civilians, and violations of internationally agreed upon rules of war and engagement, with stories of murder, rape, rapine, and famine as a weapon of war emerging.<sup>9</sup> Reports also estimate that somewhere between 385,000 and 600,000 civilians have been killed, and another 5,000,000 displaced.<sup>10</sup> A ceasefire agreement was signed in Pretoria in November 2022, with the African Union now calling for constructive political dialog to move towards peace,<sup>11</sup> and the UN noting that greater reconstruction and recovery efforts are needed in the Afar, Amhara, and Tigray regions.<sup>12</sup> Read more about the War in the Tigray here.

### **Mercenaries in Africa: A Dangerously Unpredictable Element**

July 2023 will mark 46 years since Africa came together with the intention of ending the destabilising and dangerous presence and activities of mercenary groups and armies on the continent. Signed in 1977, the *Convention for the Elimination of Mercenarism in Africa*, along with the 1989 *International Convention Against the Recruitment, Use, Financing, and Training of Mercenaries*, aims to remove the presence and activities of mercenary formations and their use by governments and political movements. A threat to African peace and stability since the murderous coup against Patrice Lumumba in 1961, the use of mercenary forces exploded in use through the Cold War and African Independence era.<sup>13</sup> More recently, with the rise of Private Military Companies/Contractors (PMC)<sup>14</sup> and Private Security Companies (PSC),<sup>15</sup> there has been a growing sense amongst some scholars and academics that the 1977 *Convention* no longer provides a robust enough framework to regulate and prohibit the activities of these quasi-mercenary forces within Africa.<sup>16</sup> Possibly in response to some of these concerns, in November 2021, the African Union issued an invitation for bids for revising the OAU *Convention on the Elimination of Mercenaries in Africa*. Read more about efforts to eliminate mercenaries from Africa here.

## Developments in International Law in Africa

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### The African Space Agency and Programme: Reaching Towards the Stars

January 2023 marked the fifth anniversary of the African Union's adoption of the Statute of the African Space Agency (AfSA),<sup>17</sup> signaling Africa's next move into international engagement and law – that of extra-terrestrial and outer space. The AfSA, a flagship project of the Agenda 2063 campaign, is the body tasked with Africa's involvement in the exploration and development of space, offering another avenue for Africa and African voices to be heard and involved as an active and important member of the global space community on topics of international space law – commonly known as the 'five United Nations treaties on outer space.' As an area of international law almost certainly to expand in scope and detail, the AfSA offers a venue to ensure voices from the Global South, and Africa in particular, will be at the forefront of all changes to treaties and agreements involving humanities extra-terrestrial shared-space and resources. Read more about the AfSA and international space law [here](#).

### The African Phyto-Sanitary Convention: Protecting Africa's Agriculture and Food Supply

It has been nearly 56 years since the OAU came together to craft the Phyto-Sanitary Convention for Africa – a continental treaty aimed at preventing the introduction of diseases, insects, pests, and other plant enemies into the continent, the eradication or control of said pests, and efforts to control and prevent the spread of pests to other territories.<sup>18</sup> Another step along Africa's road to post-colonial independence of policy and procedure, the treaty places veto rights for imports within Africa states for items such as living organisms, plants, plant material, seeds, soil, compost, or packing materials.<sup>19</sup> At the same time, there are concerns about strict phyto-sanitary standards and procedures limiting Africa's ability to effectively trade in international markets.<sup>20</sup> With the recent outbreaks of locust swarms in East African the worst in 25 years, and upwards of 70,000 people impacted, the need for strict control and prevention of pests in Africa has never been greater.<sup>21</sup> Read more about Africa's Phyto-Sanitary Convention [here](#). ■

## REFLECTIONS

### AFRICOM: Friend and Ally of Africa or Imperialist Wolf in Sheep's Clothing?

In 2022, the Biden administration announced a new U.S. strategy towards Sub-Saharan Africa – an area it refers to as "...critical to advancing [American] global priorities."<sup>22</sup> Built upon 4 priorities, the strategy revolves around: openness and open societies, democracy and security, pandemic recovery and economic opportunity, and support for climate adaptation and green energy transition.<sup>23</sup> However, what is also of note is the phrasing used throughout, with the terms "strategic objective" used three times, "US foreign policy" once, "US interests" twice, and "US national security interests" once. By contrast, "African interest", "African sovereignty" and "African independence" do not appear in the strategy, and "African agency" is used but once.<sup>24</sup> When adding in the United States' use of extra-legal secretive proxy wars via 127e operations across Africa,<sup>25</sup> an expansive network of 'enduring' (permanent) or non-enduring (semi-permanent 'lily pads'),<sup>26</sup> and a relentless campaign of drone strikes and commando raids into nations like Somalia,<sup>27</sup> questions do seem to arise as to whether the United States is truly committed to African independence, self-rule, and respect for international law and sovereignty, or if – through the guise of military alliance and 'counter-terrorism' – the United States is positioning itself into something closer to a neocolonial role. Read more about AFRICOM's activities across Africa [here](#).

### The Russo-Ukraine War: Devastating Consequences and Unique Opportunities for Africa

On February 24<sup>th</sup>, 2022, Russian forces crossed the line of engagement across the Donbass Region of Ukraine and ushered in the first major European war since the breakup of Yugoslavia.<sup>28</sup> Within just a few months, prices of basic food staples across Africa such as cereals and cooking oil had risen to their highest point since records started in 1990, whilst fertiliser prices across Africa also increased to near-unaffordable levels.<sup>29</sup> In the realm of international law, the war has also put the question of competing visions of global governance and law at the forefront – will

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the concept of the United States' 'rules-based international order' be the format which is used to pick up the pieces and hold those behind the war legally responsible, or can Global South regions such as Africa use this as an opportunity to reinvigorate an approach to global governance and international law based upon a format of 'law-based international order' via bodies such as the African Institute of International Law?<sup>30</sup> Read more about the impact of the Russo-Ukraine War on Africa [here](#).

## Resolution on Business and Human Rights in Africa

On March 21, 2023, the AU's African Commission on Human and People's Rights (ACHPR) adopted ACHPR/Res.550 (LXXIV) – a measure calling upon the AU to update and finalise the AU Policy Framework on Human Rights, along with soft law instruments in the context of the African Continental Free Trade Area. Read more about it [here](#). ■

## SPOTLIGHT

### The African Legal Awards 2023

September 2023 will mark 10 years of The African Legal Awards, dedicated to recognising exceptional achievement amongst Africa's legal elite. Hosted in Johannesburg, South Africa on September 1<sup>st</sup>, 2023, the event has 21 different categories for nominations for both in-house and private practices, though the deadline for nominations of April 28<sup>th</sup>, 2023, is fast approaching. Read more about the African Legal Awards 2023 [here](#).

### Africa Law and Society Network Projects

The Africa Law and Society Network provides a space for African scholars examining the intersection of law and society, with the aim of increasing and showcasing law and society research from across the continent. Two of the ongoing projects include *Mapping the Pasts and Futures of Law and Society Scholarship in Africa* and *Comparative Perspectives on Autocratic Legalism: Brazil, India, and South Africa*. Find out more about these projects [here](#).

South African scholar, academic, and lecturer Dr Cristiano d'Orsi recently produced a new blog post reflecting on climate change-created displacement and dislocation in the Sahel region. Extremely well cited and written, the blog offers an excellent assessment of the climate situation in the Sahel region and many of the factors creating instability and uncertainty for the Peoples of the Sahel and beyond. Read Dr d'Orsi's blog [here](#).

## NEWSLETTER SUBMISSIONS

*American Society for International Law (ASIL) member and Director of the University of South California School of Law International Human Rights Clinic Professor Hannah Garry and her team have recently been involved in advocacy work focusing on Cameroon's Anglophone crisis and have produced a short piece for this newsletter. Thank you, Professor Hannah Garry, Addison Morris, Marawit Abera (2L), Jesse Eaton-Luria (2L), Harutyun Margaryan (3L), Mariem Masmoudi (2L), Addison Morris (3L), Graham Smith (2L), and Hamee Yong (2L)!*

The University of Southern California Gould School of Law, an ASIL Academic Partner School, offers law students in the International Human Rights Clinic ("IHRC") the opportunity to engage in real-life casework and projects that confront serious human rights violations locally and internationally under the supervision of Professor Hannah Garry. With respect to projects in Africa specifically, in the 2022-23 academic year, the IHRC has been seeking international justice and accountability for atrocities in Cameroon's Anglophone Crisis, conducting trial monitoring and publishing fairness reports on trials of journalists and human rights defenders in Morocco with The Clooney Foundation's TrialWatch Initiative, and planning a research trip to Malawi to interview imprisoned women affected by gender-based violence and sexual assault.

In 2022, the IHRC continued its advocacy work for Cameroon's Anglophone Crisis by co-hosting a side event at the 21<sup>st</sup> Assembly of States Parties ("ASP") in The Hague this past December, filing Global Magnitsky Targeted

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## Newsletter Submissions —continued from page 4

Sanctions requests to the UK government and European Union and submitting a Communique to the Prosecutor (“OTP”) of the International Criminal Court (“ICC”) requesting a preliminary examination into alleged crimes against humanity. Cameroon’s Anglophone Crisis has been taking place primarily in the Northwest and Southwest regions of Cameroon since November 2016, where a majority English-speaking population has protested their underrepresentation in the French-speaking centralized government. Cameroonian government officials have responded by violently repressing peaceful protests and committing mass atrocities against communities it accuses of harboring an insurgency. Soon after the crisis began, in 2017, the IHRC prepared briefing letters for the United Nations High Commissioner for Human Rights and U.N. Special Rapporteurs in partnership with other human rights organizations. Clinic members also lobbied the U.S. State and Treasury Departments and Congress to impose targeted sanctions in relation to the ongoing violence in 2018.

The IHRC’s ASP side event in December 2022 featured a prominent panel discussion addressing the lack of clarity regarding the duty to prevent genocide under international law. The panel examined this topic with reference to recent events in Ukraine, while contrasting that situation with similar pre-genocidal situations in Cameroon and Armenia. While these latter countries have also been flagged by genocide watch-dog groups as at-risk for genocide, they have been comparatively neglected by the international community.

The Communique to the ICC’s OTP was originally submitted in March 2022 and will be updated in 2023 detailing ongoing atrocities perpetrated in 2022, calling upon the Prosecutor to immediately investigate and prosecute individuals responsible for international crimes in Anglophone Cameroon. It alleges that high-level govern-

ment officials have committed numerous crimes against humanity, based upon extensive research into various human rights organizations’ reports and news accounts, as well as dozens of interviews conducted by the IHRC with Cameroonian refugees. The IHRC is currently inviting signatories to the Communique. Interested individuals can email [hgarry@law.usc.edu](mailto:hgarry@law.usc.edu) for more information.

In Morocco, the IHRC has monitored two criminal cases brought by the government against investigative journalist Omar Radi in an effort to silence him. The IHRC’s latest report published in 2022 details how these have been riddled with fair trial rights violations and, as TrialWatch expert Professor Garry notes, are part of a deeply concerning trend in Morocco of using shame inducing charges to stifle critical reporting and political dissent. The Clinic has also been monitoring criminal proceedings against academic and activist Maâti Monjib.

Lastly, the IHRC is planning a research trip to Malawi in 2023 to address gender equality by reporting on a pattern of criminal charges brought against imprisoned women and girls, especially those affected by gender-based violence, and identifying potential fair trial rights violations in their cases. The Clinic is again partnering with The Clooney Foundation’s TrialWatch initiative, as well as Malawi’s Centre for Human Rights Education, Advice and Assistance.

In addition to the above, the IHRC has engaged in other work in Africa in the past, including providing legal advice for international criminal trials regarding genocide, war crimes, and crimes against humanity in Rwanda and the Democratic Republic of the Congo before the International Criminal Tribunal for Rwanda and the ICC. The IHRC has also developed training materials and a report on human trafficking in Uganda. Read more about the IHRC’s work [here](#). ■

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## FORTHCOMING EVENTS

### AIG Event Series

On May 26<sup>th</sup>, 2023, from 11:00 to 12:30 EST the Africa Interest Group will hold the third event in its AIG Discussion Series, this time with the theme of **Maternal, Sexual and Reproductive Health Rights in Africa**. With recent

juridical changes around abortion in the United States since the overturning of *Roe v. Wade*, this event will examine what impact, if any, these changes have on maternal, sexual, and reproductive rights of girls and women across Africa. More information can be found [here](#).

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### African Society of International Law (AfSIL) 12th Annual Conference

From October 27th and 28th, 2023 AfSIL will be holding its 12th annual conference in Addis Ababa, with this year's theme ***Africa and the Governance of the Global Commons***, and six Global Commons subthemes of international law-making, international co-operation, international economic systems and trade, international justice, health and rights, and an option to explore an in-depth analysis of a particular Global Commons (high seas, ocean bed, near-Earth and outer space, global water system, etc.) If you are interested in submitting an abstract proposal, time is running out with the deadline set for May 1, 2023. More information can be found [here](#).

### AUCIL Forum 2023

This May 16th, 2023, the 9<sup>th</sup> African Union Commission on International Law (AUCIL) Forum will be held in Addis Ababa, and AIG newsletter organiser Dr Veronica Fynn Bruey will be attending to discuss the subject of ***Energy Disaster and Accountability for Human Rights Abuses – The Case of Liberia***.

We wish Dr Fynn Bruey all the best on her trip to, and presentation at, the African Union headquarters!

### Second Session of the Permanent Forum on People of Africa Descent

From May 30th to June 2nd, 2023, the United Nations is inviting all stakeholders advancing the rights of peoples of African descent to attend the Second Session of the Permanent Forum. Please note that those wishing to attend must register in advance. More information about the forthcoming event and registration can be [here](#).

## VOLUNTEERS NEEDED

### Treasurer Position (Vacant)

The treasurer position is still vacant. To apply for this non-elected position, kindly submit a brief statement of interest and a short biography to Veronica Fynn Bruey and Rabiya Akande.

### AIG Mentoring Program

We are in the process of developing our mentor program. If you are interested in being a mentor or a mentee, kindly contact Thobeka Gigaba.

### AIG Advisory Board

We are in the process of developing our Advisory Board. If you are interested or you know some who will be interested, kindly contact Veronica Fynn Bruey and Rabiya Akande.

## PLEASE SEND US YOUR NEWS AND EVENTS

The AIG newsletter is published twice a year. The Summer-Fall volume will be released in November 2023. The newsletter is a venue for sharing information regarding Africa in International Law. Your contribution to the newsletter is crucial to its sustenance, success and quality. To contribute to the newsletter, please If you would like to contribute to the forthcoming issue, please contact our editors Patricia Allen, Robert Fantauzzi, and Boluwatife Sadiq.

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