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The Use of the Judicial System to Harass Cameroonian Human Rights Defender Musa Usman Ndamba

January 9, 2017
by Mooya Nyaundi*

In January 2017, Musa Usaman Ndamba, a Cameroonian human rights defender will appear for the thirty-second time before the Court of First Instance in Bamenda, Cameroon, ready to defend himself against allegations of criminal defamation filed by wealthy businessman and politician Baba Ahmadou Danpullo.

But, as with the other thirty-one appearances before the court, the matter in this case, Case No. CFIBA/53c/PI/2014, is likely to be postponed. These postponements have been because the complainant, Baba Danpullo, has repeatedly failed to attend court or the prosecution is not ready to proceed. Musa on the other hand, with his lawyers, attends every hearing, hoping to present his case against the false allegations, and bring the matter to an end. For over two years, Musa has been forced to expend time defending himself in this case, instead of focusing on his human rights work. He has suffered damage to his reputation, the financial burden of legal fees, and the anxiety of possible criminal sanctions if he is convicted, which has also affected his family.

In this case, Baba Danpullo alleges that Musa authored an affidavit that implicated Baba Danpullo in several human rights violations. Musa denies authoring the affidavit that was signed under the name Musa Adamu, a name that Musa vehemently denies ever using. Without going into the merits of the case, Musa has been deprived of the opportunity to prove his case as the matter has been repeatedly postponed. Musa strongly believes that the case against him is one of many cases Baba Danpullo filed in retaliation for Musa's human rights work. Musa is the National Vice President of the Mbororo Social and Cultural Development Association ([MBOSCUDA](#)), and for over thirty years, he has been advocating for the rights of the indigenous Mbororo-Fulani people of North-West Cameroon. As a result of his work, Musa has come into direct conflict with Baba Danpullo, one of the richest men in Cameroon, whose ranch has increasingly encroached on the communal lands used by the Mbororo-Fulani people to sustain their pastoral way of life, which relies on their ability to use the land.

A [report](#) released by the [American Bar Association Center for Human Rights](#) in August 2016, on the case of Musa, highlighted how the current case against him strongly pointed to a case of judicial harassment. In addition to the current case, the report documented several other cases stretching back several years that Baba Danpullo has filed against Musa, and that have all been dismissed by

* Mooya Nyaundi works for the American Bar Association, Center for Human Rights where she coordinates the Center's Justice Defenders Program in Sub-Saharan Africa. Prior to joining the ABA she worked as a litigation associate for Scanlen & Holderness in Harare, Zimbabwe. Mooya has done extensive research on fair trial standards and has monitored and reported on trials of human rights defenders in countries such as Cameroon, Angola and Mozambique. She holds a Bachelor in Laws Degree from the University of Zimbabwe and a Masters in International Legal Studies from Georgetown University Law Center.

the courts as a result of the complainant's lack of prosecution. In one of the cases the court is quoted as saying "[the] claimant (Baba Danpullo) is the victim of the offense but has never graced the court with his presence despite the numerous adjournments at his instance." The report also highlighted that the repeated delays of the case were a violation of the right to a fair trial guaranteed under Cameroon's Constitution and recognized due process rights under international law. In emphasizing the importance of the right to a speedy trial, the African Commission has [stated](#) that the right to be tried within a reasonable time is one of the cardinal principles of the right to a fair trial and that the undue prolongation of a case is contrary to the spirit of the African Charter on Human and People's Rights. Although the previous cases against Musa were eventually dismissed, Musa lost time and resources defending himself as he is doing now.

In its 2015 human rights [report](#), the United States State Department highlighted how the judiciary in Cameroon was "generally corrupt and subject to political influence." The report also highlighted how "individuals reportedly accused innocent persons of crimes as retribution or to solve personal disputes." Paying particular attention to how Baba Danpullo has filed criminal cases against Musa and failed to pursue them in the past, it is not difficult to see why there is overwhelming concern that Baba Danpullo has been using the judicial system to harass Musa and that this case is part of a broader pattern. Several other organizations have [raised](#) concerns over the case against Musa and how it is seemingly in retaliation for his human rights work. Even the United Nations High Commissioner for the Human Rights' 2014 Annual report raised concern regarding Musa's case, stating that human rights defenders should not be punished for approaching the United Nations. This was in response to the fact that the one of the many cases against Musa by Baba Danpullo, which was filed in May 2014, was brought shortly after Musa had contributed to the submission of a shadow report to the United Nations on human rights violations in which Baba Danpullo had been implicated. The 2014 case, like the cases before it, was also dismissed for lack of prosecution. Despite the numerous reports, articles, and letters to the Cameroonian government highlighting the judicial harassment by Baba Danpullo against Musa, the Cameroon government has remained resolutely silent, failing to investigate and bring to an end the litany of frivolous charges filed against Musa. At the very least, the government of Cameroon has failed to ensure that Musa is afforded the right to a speedy trial as guaranteed under Cameroon's Constitution and international due process rights.

Human rights defenders help promote and protect the rights respected in the various regional and international human rights treaties. They play a pivotal role in upholding economic, social, cultural and political rights. It is not uncommon for human rights defenders to be the victims of judicial harassment from non-State actors, including corporations and powerful land owners. The former Special Representative of the United Nations Secretary General on the Situation of Human Rights Defenders has noted that criminal prosecutions and judicial repression are all too often used to silence human rights defenders and to pressure them into discontinuing their activities. Not only does the court case prevent the defender from actively pursuing his human rights work, but it also serves to deter other human rights defenders. States have a duty to ensure that defenders are not subjected to judicial harassment through unwarranted legal proceedings and any other misuse of administrative or judicial authority for acts related to their work. Furthermore, laws must not be used to intimidate, harass, persecute, or retaliate against human rights defenders. By allowing the use of the judicial system as a vehicle for harassment against Musa, Cameroon has failed in its obligation to respect and effectively protect human rights defenders as they carry out their legitimate human rights work.

Is Justice Blind? A Look into Anti-African Bias Claims Against the ICC After South Africa's Withdrawal

February 6, 2017

by Stephanie Macinnes

With [South Africa, Burundi, and the Gambia](#) all having withdrawn or beginning the process of withdrawal from the International Criminal Court (ICC), the Court is now facing a crisis of sociopolitical legitimacy among other African countries. Some [journalists](#) fear South Africa's exit will prompt even more countries to leave, and [Uganda, Kenya](#), and [Namibia](#) have all threatened to leave the ICC. Interestingly, Namibia claimed it would stay in the ICC if [the United States joined](#).

The ICC was formally established in 2002, though most of the drafting and negotiation process [finished](#) in the Rome Conference in June 1998. African governments were actively involved in establishing the ICC, likely due to [collective memory](#) of the South African apartheid and Rwandan genocide. Recently, however, relations between the ICC and African government have soured.

Opponents of the ICC have noted that [all individuals](#) ever indicted by the court have been from African countries. However, the prosecutor has only initiated [two of those cases](#)—indicting individuals from Kenya and Ivory Coast. The U.N. Security Council referred another two cases—[Sudan and Libya](#)—and the rest of the cases were brought by the states themselves. Recently, ICC investigations have been initiated outside the African continent. The ICC has studied at least [five investigations](#) outside of Africa, including Afghanistan, Colombia, Georgia, Honduras, and South Korea.

The ICC has found it difficult to separate itself from the West's [legacy](#) of colonialism and oppression. The [Rome Statute](#) provides qualifications standards for judges presiding at the ICC, including representation of the principal legal systems of the world as well as geographic and gender diversity. The Court has tended to deemphasize African [customary law](#), focusing instead on civil and criminal law systems.

Richard Goldstone, the first chief prosecutor of the International Criminal Tribunals for both the Former Yugoslavia and Rwanda, [explains](#) that the ICC focuses on crimes against humanity in Africa is because there are an alarmingly high number of war crimes committed within the African continent. Additionally, he [argues](#) that many African countries lack the domestic capacity to prosecute war crimes because their parliaments have failed to enact the necessary laws. Other [human rights advocates](#) point to testimony of [citizens of African nations](#) critical of the ICC, whom advocates claim are still supportive of remaining in the ICC. George Kegoro of the Kenya Human Rights Commission, and Luis Moreno Ocampo, former ICC prosecutor, have [accused](#) African leaders of exiting or threatening to exit the ICC to avoid judicial oversight of their alleged abuse of the law.

Still, the ICC has focused almost exclusively on crimes committed in Africa. Some of the most powerful countries in the world have not yet joined the ICC, including China, Russia, and the United States. The ICC has yet to initiate any investigations against citizens of nations that hold significant power in international law.

Jenia Turner, professor of law at Southern Methodist University's Dedman School of Law, argues that the ICC can regain some of its [sociological legitimacy](#) by becoming a mixed court—composed of both international and national judges—explaining that “[a] less hierarchical international criminal justice system that relies significantly on national governments is likely to be better informed by diverse perspectives, more acceptable to local populations, and more effective in accomplishing its ultimate goals.” This is because local judges “are more likely to be attuned to the [interests and preference](#) of local populations.” This argument also reflects an emergent soft law norm—the principle of [fair reflection](#)—which requires that judicial selection be a fair reflection (i.e. a descriptive representation) of the society.

The accusations of anti-African bias facing the ICC can likely be attributed to both the historical wrongs of colonialism justified under international law and the inherent difficulty of applying international law equitably when international criminal jurisdiction requires a country's consent. Either way, the ICC is facing historic opposition that could gain further traction and likely shape the court's actions to come.

United States Lifts Sanctions on Sudan

February 21, 2017

by Marina Mekheil

On January 13, 2017, U.S. President Barack Obama issued an [executive order](#) revoking some economic sanctions that had been imposed on Sudan.

The U.S. Department of the Treasury cited several indications of “sustained progress” from the Sudanese government in areas such as counterterrorism and ceasing hostilities with conflicting parties within the country. Over the last two decades, [Sudan’s government](#) has committed mass killings, implemented systematic rape, bombed children and schools, starved civilians, and tortured and killed protesters and activists. The [United States Treasury Department](#), however, asserts that Sudan’s government has demonstrated “a marked reduction in offensive military activity, a pledge to maintain a cessation of hostilities in conflict areas in Sudan, [and] steps toward improving humanitarian access throughout Sudan.” President [Obama](#), in a letter to Congress, cited “Sudan’s positive actions over the past six months” as the motivating factor behind this historical reversal of U.S. foreign policy. [The State Department](#) also issued a statement describing increased cooperation with Sudan and attesting to the steps Sudan has taken to counter the Islamic State of Iraq and Syria (ISIS).

[On November 3, 1997](#), President Bill Clinton issued an executive order imposing a trade embargo against Sudan. In [April 2006](#), President Bush, in acknowledgment of [UN Security Council Resolution 1591](#), froze the assets of certain persons in connection with the conflict in Darfur. Now, for the [first time in twenty years](#), Sudan will be able to trade extensively with the United States but will still be officially labeled by the United States as a state sponsor of terrorism. However, [Sudan’s Foreign Ministry](#) is hopeful that through future cooperation, Sudan will no longer be classified as such.

The announcement of the sanctions lift has garnered significant dissent. The [Enough Project](#) called it “premature” and said “any easing of pressure on Sudan should be in exchange for resolving conflicts in Darfur and South Kordofan, and ensuring humanitarian access to those affected by military blockades.” United States House Foreign Affairs Committee Chairman [Ed Royce](#) stated, “while counterterrorism cooperation has increased, the government still abuses the fundamental human rights of the Sudanese people.” One of the few positive reactions came from [Peter Pham](#), Director of the Africa Center at the Washington-based Atlantic Council, who argued that the sanctions had predominantly affected ordinary Sudanese people, and that the lift did not “reward” Sudan’s President, Omar al-Bashir.

Concern for the well-being of ordinary Sudanese people is not the only reason the Obama administration decided to revoke the sanctions. The administration felt that although Sudan has a long road ahead, a better relationship between the two countries can garner some clout in the region for the United States. Sudan is one of the poorest and most afflicted countries in Africa. The United States and Sudan are emerging from two decades of bitter relations, in which the latter has consistently expressed the desire to have sanctions and restrictions lifted. While sanctions are considered one of the most effective tools used by states to ensure compliance with international

law, many consider Sudan as having made very little progress in the 20 years since sanctions were implemented.

[Omar al-Bashir](#), President of Sudan, is wanted by the International Criminal Court (ICC) for “charges of genocide, war crimes, and crimes against humanity in Darfur.” Furthermore, [Human Rights Watch](#) has documented, as recently as September 2015, “new, horrifying patterns of mass rape and other attacks” by Sudanese special forces in West Darfur. [Amnesty International](#) alleged in September 2016 that the government has used chemical weapons against civilians in the Jebel Marra region of Darfur, causing between 200-250 deaths and more injuries. This evidence arose only four months before lifting of sanctions by the Obama administration.

Sudan has signed many UN Human Rights Conventions, including the Convention on the Rights of the Child, the Convention against Torture, the Convention on the Elimination of Racial Discrimination, and the Convention on the Elimination of Discrimination against Women. However, these Conventions may easily be violated by actions perpetrated by the Sudanese government, such as mass rape, the use of chemical weapons, and targeting specific ethnic groups in Darfur and South Kordofan. The Obama Administration decided to alleviate pressure on a country that is allegedly responsible for an [attack](#) on civilians in the Nertiti town of Central Darfur on January 1, 2017. The Sudanese government should protect its people and adhere to international law. Regardless of how friendly the United States and Sudan get, Sudan will never adhere to international law if the U.S. continues to secede to a government whose leader is charged by the ICC with ten counts of crimes. However, the administration could agree to permanently lift the sanctions if Sudan agreed to more oversight from the U.S. This hands on role could result in actual improvements from the Sudanese government.

The sanctions will lift in [five months](#), after the Trump Administration assesses whether Sudan has continued to improve its human rights record and takes steps to resolve political and military conflicts. Sudan was one of the seven countries included in Trump’s immigration ban.

Ethiopia: In a State of Emergency

March 7, 2017

by Matthew Reiter

Since nation-wide protests commenced in Ethiopia in late 2015 due to outrage over investment projects aimed at repurposing land for industrial use, government-sanctioned mass arrests, detentions, enforced disappearances, and indiscriminate killings have [plagued the country](#).

This culminated in a State of Emergency declared by Prime Minister Hailemariam Desalegn on [October 8, 2016](#). Media sources estimate that 24,000 people have been detained since the State of Emergency began; while more than 9,000 people were recently released, the fact remains that “silencing...voices is self-defeating and will lead to [greater polarization](#).”

There are rampant reports of maltreatment of detainees, including denying them access to legal counsel or visits from family members. In addition, the rape of female protestors violates various international laws and treaties, including its obligations under the International Covenant on Civil and Political Rights ([ICCPR](#)), and the UN Standard Minimum Rules for the Treatment of Prisoners ([Mandela Rules](#)). Ratified by Ethiopia in 1993, the ICCPR forbids “arbitrary arrest or detention,” and guarantees the “right of peaceful assembly,” without the fear of being subjected to “cruel, inhuman, or [degrading treatment](#).” The Mandela Rules lay out specific provisions for the humane treatment of prisoners. Beyond the prohibition of excessive force in disciplinary actions and the call for accommodation of basic needs, the Mandela Rules contain clear guidelines meant to protect the most vulnerable prisoners, especially women, from male security personnel. In Ethiopia’s State of Emergency, these guidelines are being fundamentally disregarded.

Ethiopia’s government praised the apprehension of roughly 1,200 people described as “ringleaders” or “suspects and bandits,” declaring that security forces successfully “[restored peace nationwide](#).” In reality, the government’s six-month State of Emergency effectively “bans nearly all speech that the government disagrees with anywhere in the country,” in violation of international law, which only permits a suspension of rights proportionate to the “[exigencies of the situation](#).” At its least destructive, the government crackdown has banned the use of social media to contact “outside forces,” or communicate with “anti-peace groups;” has forbidden organized demonstrations that are likely to “cause disturbances, violence, hatred, and distrust among the people;” and has banned the display of political gestures, such as crossing one’s arms above one’s head, the main symbol of the [protests](#).

At its most damaging, the State of Emergency in Ethiopia resulted in hundreds of deaths, with thousands more imprisoned indefinitely or in “rehabilitation” programs – detention that often involves [physical punishment](#). Iftu, a sixteen-year-old from Haraghe, reported to Human Rights Watch (HRW) how her father was shot and killed during a protest, that her two brothers were arrested days after his funeral, and how her mother and other siblings have gone missing after the military went door to door “arresting every [young person they could find](#).” Most egregiously, the mass detentions have resulted in severe maltreatment towards female detainees, in sharp violation of the Mandela Rules. There are reports of women being raped or sexually assaulted while in detention at military camps. One twenty-two-year-old reported to HRW that she was held in

solitary confinement in total darkness, that she was raped three times by unidentified men during her two weeks in detention, “[two men involved each time](#).” Another woman reported being brought outside and beaten with whips, forced to remove her clothing and “parade in front of the officers while [being [questioned](#)].” The Mandela Rules provide that female detainees will be “attended and supervised only by women,” that male officers shall not enter women’s facilities unless accompanied by a female officer, and that “cruel, inhuman or degrading punishment” is [completely forbidden](#).

There is a dire need for the international community to take a firmer stance towards the crackdown on Ethiopian civilians. It is not enough that the United States has “taken note” of the State of Emergency and is “troubled by the [potential impact](#).” Leading international actors must push the government to abide by its obligations under the ICCPR. Transparent investigations led by independent officials must be initiated within the country to generate a more accurate portrayal of Ethiopia’s brutality. For now, Ethiopians are left with the Prime Minister’s promise to take “merciless action against any force bent on [destabilizing the area](#),” a promise that appears to be fulfilled on a daily basis. Without real, consistent pressure, there is nothing to stop these killings and detentions from continuing in perpetuity, in violation of international law.

Crisis in the Lake Chad Basin

March 14, 2017

by Marina Mekheil

[Reuters](#) has described the displacement of [2.3 million](#) in the Lake Chad Basin as “[the most neglected crisis of 2016.](#)” [Simon Brooks](#), head of International Committee of the Red Cross (ICRC)’s delegation in Cameroon, states that the region “has suffered from decades of chronic neglect” and that if left in the current condition the lives of many may get increasingly worse.

The principal cause of this situation is the Boko Haram militant group, which over the last [seven years](#) has wreaked havoc in the Lake Chad region. The group mostly targets and resides in northeastern Nigeria, but nearby parts of Niger, Chad, and Cameroon are also affected. [Mohammed Yusuf](#), the late founder of the group, established the organization to overthrow the government and create an Islamic state. Boko Haram promulgates an abstract interpretation of Islam that prohibits Muslims from taking part in any political or social activity associated with Western society. Boko Haram, which means, “western education is forbidden” in the region’s Hausa language, is responsible for the bombing of mosques, churches, military barracks, and the UN headquarters in the Nigerian capital of Abuja, as well as assassinations, the burning and looting of schools, forceful recruitment, and the mass abduction of children.

The Nigerian government claimed to have defeated [Boko Haram](#) in 2009, when it seized the group’s headquarters and killed Mohammad Yusuf. However, Boko Haram subsequently regrouped under a new leader, Abubakar Shekau and intensified its insurgency. The US designated the group as a terrorist group in 2013, and in May of that year, Nigeria declared a state of emergency in three states directly affected by the group: Borno, Yobe, and Adamawa. In April 2014, the group abducted 200 schoolgirls in Borno, and began holding onto territory rather than merely attacking and then retreating. However, by March 2015, Boko Haram had lost all the towns under its control and was forced by the Nigerian military to retreat in the Sambisa forest.

On October 16, 2015, The African Union ([AU](#)) and member countries of the Lake Chad Basin Commission (LCBC) signed a Memorandum of Understanding (MoU) on the operationalization and sustenance of a [Multinational Joint Task Force \(MNJTF\)](#) established by the LCBC Member States and Benin to neutralize Boko Haram. Despite several victories for the Nigerian government, [some analysts](#) warn against underestimating the strength of Boko Haram. While many of the group’s members have been killed and their weapons seized, they have existed longer than other militant groups, and the region’s chronic poverty and poor education systems leave it susceptible to Boko Haram’s recruitment strategies.

The conflict has left [seven million](#) people struggling for food security; the destruction of hundreds of schools has left three million children without education. Young girls are forced into “early marriages” and many women are forced to resort to prostitution to provide for their children. Amidst these dire circumstances, Boko Haram has geographically cut off one million people from access to humanitarian aid.

Nigeria has sought foreign assistance, calling for [1.5 billion](#) US dollars for food, medicine, homes, and schools in 2017. Of the forty countries gathered at the [Oslo Humanitarian Conference on Nigeria and the Lake Chad Basin](#) in February 2017, fourteen pledged funds for relief efforts: \$458 million for 2017 and an additional \$214 million for 2018. However, Ertharin Cousin, Executive Director of the World Food Program, voiced that the “protracted crisis plaguing the Lake Chad region countries of Nigeria, Niger, Chad, and Cameroon can no longer be addressed with emergency funding alone.” The U.N. Secretary General Antonio Guterres announced that humanitarian and development groups would work closely to alleviate short term suffering while looking for long-term stability. The emergency director for World Vision’s West Africa region, [Yves Habumugisha](#) stated, “Only ‘integrated and quick impact implementation’ of these funds can promote social cohesion as well as recovery and violence prevention, which will enable people to resettle and also reduce further overuse of scarce natural resources”.

[Nigeria’s constitution](#) prescribes the right of citizens to life, dignity, personal liberty, and freedom from torture, degrading treatment, slavery and forced labor. Nigeria has also [ratified The Convention on the Elimination of All forms of Discrimination against Women](#) (CEDAW), and [the Convention on the Rights of the Child](#) (CRC). Nigeria under article 28 of the CRC, must make education available to all children. Under article 16 of the CEDAW, Nigeria must ensure that women have “the same right freely to choose a spouse and to enter into marriage only with their free and full consent”. The country’s president, [Muhammadu Buhari](#), has stated several times that one of his top priorities is defeating Boko Haram. Furthermore, Nigeria is obligated under the above international conventions to protect its people from the range of human rights violations committed by Boko Haram.

Sexual Abuse at the Hands of UN Peacekeepers in Central African Republic

April 10, 2017

by Alice Browning

In 2016, new reports of United Nations (UN) Peacekeeper exploitation of children in the Central African Republic (CAR) emerged in the media. The UN Independent Review on Sexual Exploitation and Abuse issued its [Report of an Independent Review on Sexual Exploitation and Abuse by International Peacekeeping Forces in the Central African Republic](#), concerning predatory peacekeepers in CAR, revealing nearly 100 incidents of peacekeepers sexually exploiting children. The [report](#) also included evidence that Peacekeepers traded food and ration boxes for sex from minors in CAR. One child “who initially reported to the [Human Rights Officer] HRO that he was a witness to the oral and anal rape of his friends, reported that he himself had been orally and anally raped.” In another [report](#), children as young as seven were forced to engage in bestiality. [Amnesty International](#) also reported the rape of a twelve-year-old girl, and the indiscriminate killing of a sixteen-year-old boy and his father in August 2015 by UN Personnel in CAR.

CAR has been in an ongoing civil war for several years. Bangui, the capital of CAR, was captured in 2013 by rebel groups in an attempt to overthrow the government. In [2014](#), the UN peacekeeping mission, [MINUSCA](#), deployed about 10,050 Peacekeepers and 2,000 police officers to help end the conflict between the rebel groups and the unstable government. The mission has struggled to provide security in key areas and adequately protect civilians. Unfortunately, in many cases, the UN Peacekeepers and police officers have perpetrated violence.

These are not the first incidents of sexual abuse by UN Peacekeepers in states they were entrusted to protect. UN Peacekeepers have been accused of sexual abuse since the early 1990s with [cases](#) reported in Bosnia and Herzegovina, Kosovo, Cambodia, East Timor, West Africa, the Democratic Republic of the Congo, Haiti, Liberia, and South Sudan.

The fact that [MINUSCA](#) was deployed to CAR to protect civilians, support the transition process, facilitate humanitarian assistance, promote and protect human rights, and support justice and the rule of law, makes these abuses so much more heinous. UN Peacekeepers have taken their power to protect and used it to exploit, thereby transgressing the very human rights conventions they were meant to model. MINUSCA is a multidimensional United Nations Peacekeeping operation staffed by volunteers from various Nation-States. These volunteers are accountable to their sending States and those States are bound by the UN Conventions they have signed and ratified. For example, the [Convention on the Rights of the Child](#) Article 34 requires that “States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: [(a)-(c) forcing a child to engage in any form of sexual activity].” The Convention on the Rights of the Child has been ratified by [196](#) countries and signed by the United States. It is a broadly accepted convention that most States are obligated to uphold.

CAR [ratified](#) the Convention on the Rights of the Child in 1992. It was the CAR government's duty to protect the children of the Central African Republic, even from UN peacekeepers. More importantly, this convention was adopted by the UN General Assembly in 1989, and as an extension of the UN, Moreover, the UN is bound to enforce its own conventions and protocols. It is incumbent upon the UN to ensure that the provisions of their treaties are effectively implemented t abuse, albeit without much success. In 2005, the UN established the [Conduct and Discipline Unit](#) to monitor peacekeeping operations as a part of a series of reforms "designed to strengthen accountability and uphold the highest standards of conduct" for peacekeepers abroad. The UN defined Troop Contributing Countries' (TCCs') obligations in peacekeeping missions in [A Memorandum of Understanding between Troop Contributing Countries](#) (MOU), regarding conduct and discipline of their troops. It developed mandatory pre-deployment training on [Sexual Exploitation and Abuse](#) for all peacekeepers. The UN also uses the [Misconduct Tracking System](#) to vet UN international staff applying to work in field missions against records of misconduct in prior assignment to field missions. The UN similarly vets individually recruited military, police, corrections officers, and UN Volunteers.

The UN's prevention programming is commendable, but the MOU has been shown to be insufficient for holding individuals and TCCs accountable for abuses such as child molestation. In other words, the UN has created protocols insufficient to rectify the abuse, for they lack the ability to enforce systematic disciplinary measures against peacekeepers. At most, the UN has been transparent about the misconduct perpetrated by Peacekeepers by investigating and recording complaints. The TCCs must be empowered to, and be held responsible for, disciplining their own peacekeepers. To date, there are few, if any, cases of TCCs punishing peacekeepers for misconduct abroad.

The UN Security Council recently adopted [Resolution](#) 2272 (2016) to crack down on Peacekeeper predators. The resolution requires TCCs to investigate complaints of misconduct and turn in reports to UN Secretary Ban Ki Moon within six months. The resolution seeks to replace all military or police units from any contributing country that had failed to hold perpetrators accountable for their misconduct. Prior to Resolution 2272, Ban Ki Moon [pledged](#) to hold UN Peacekeeper predators accountable by "first – ending impunity, second – helping, and supporting victims; and third – strengthening accountability through action by Member States."

If the Secretary-General's zero tolerance policy is to become a reality, the UN as a whole—including TCCs—must recognize that sexual abuse by Peacekeepers is not a mere disciplinary matter. Rather, it is a violation of the victims' fundamental human rights. Victims' rights must be made the priority. In particular, the UN must recognize that sexual violence by Peacekeepers triggers its human rights mandate to protect victims. As such, it must investigate, report, and follow up on human rights violations, and take measures to hold perpetrators accountable. In the absence of concerted action to address wrongdoing by the very persons sent to protect vulnerable populations, the credibility of the UN and the future of peacekeeping operations are in jeopardy. UN Peacekeeper predators must be held accountable. TCCs must create and enforce domestic laws to prevent and punish such misconduct.

Kenya's Dadaab Refugee Camp: Perpetual Uncertainty

April 11, 2017

by Matthew Reiter

For the hundreds of thousands of people living in Kenya's Dadaab Refugee Camp, the largest refugee [camp in the world](#), life is in a never-ending state of flux. To the majority-Somali population at the camps, the Kenyan government has made very clear its intent to close the camp and force the refugees to return to Somalia, where they face devastating droughts and violence by [Islamist extremists](#). Some reason to hope came in November 2016 when the government announced that the camp closures would be delayed for six months. Kenyan courts went even further, in February 2017, to say that closing the camps would be a violation of [Kenya's Constitution](#); however, there are fears that the Kenyan government will challenge or simply ignore this holding. Regardless of this potential constitutional violation, Kenya's treatment of Somali refugees violates the [African Charter on Human and People's Rights](#) (ACHPR), as well as the [1951 Refugee Convention](#).

Since opening in 1991, Dadaab has grown to an estimated 350,000 refugees, a "sprawling tent city," comprised largely of people fleeing civil war and drought in neighboring [Somalia](#). Violence within Dadaab has grown since Kenya sent troops to fight terrorism in Somalia in 2011, and the government is using this violence as an excuse to shut down the camp, which Nairobi deemed to be a "terrorist training ground" for [al-Shabab fighters](#). A "voluntary" repatriation program was established with the assistance of the United Nations High Commissioner for Refugees (UNHCR), whereby \$400 is offered as a "returns assistance" [package](#). For [reference](#), a small water bottle in Somalia costs roughly \$0.40, while rent for a one bedroom apartment averages \$60 per month. This program sparked a real dilemma for thousands of vulnerable residents of the camp: "Somali refugees are likely to believe they still have little choice but to return to Somalia armed with UN cash handouts, instead of risking deportation [empty-handed](#)."

Human rights groups have been quick to point out that this practice is a clear violation of Kenya's obligations both domestically and [internationally](#). Kenya is a party to the 1951 Refugee Convention (and its 1967 Protocol), and Article 33 lays out the "prohibition of expulsion or return (*refoulement*)." It states: "No Contracting State shall expel or return (*refouler*) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his [race, religion, nationality](#)." Kenya is clouding this prohibition through "voluntary" cash handouts to coerce Somali refugees to leave the camps, and the UNHCR must take a hard look at this practice and pressure Kenyan officials to keep Dadaab open. Within the African Union, Kenya's closure of Dadaab and attempts to induce refugees to return to Somalia violates its obligations under the [ACHPR](#), which the state ratified in 1992. As stated in Article 12, "every individual shall have the right, when persecuted, to seek and obtain asylum in other countries," and "mass expulsion of non-nationals shall be [prohibited](#)." Countless stories abound of refugees who took the UNHCR's money and attempted to return to Somalia, only to face almost-instantaneous violence. One case involved teenage brothers who were repatriated back to Somalia; just five days after repatriation, their father was slaughtered by al-Shabab, forcing them back to [Dadaab](#).

It was a major victory for those in Dadaab and for refugees in general when Kenya's High Court deemed attempts by the Kenyan government to repatriate Somali refugees, close Dadaab, and disband the Department of Refugee Affairs unconstitutional. Judge Mativo declared that repatriations were "arbitrary, discriminatory and undignifying and hence a violation of Articles 27 and 28 of the [\[Kenyan\] constitution](#) and consequently the same is [null and void](#)."

The unfortunate reality is that the Kenyan government has yet to commit to abide by this ruling. In fact, the government has already vowed to appeal the ruling, claiming that it has the "cardinal responsibility of providing security for [all Kenyans](#)." It is left to regional and international bodies to remind the government that not only is Kenya prohibited from expelling refugees back to Somalia under the Refugee Convention, but that its own domestic judiciary deemed that practice unconstitutional. Putting hundreds and thousands of lives at risk by closing Dadaab would undoubtedly result in the dire consequences the Kenyan government seeks to prevent.