

## **An Examination of the African Response to International Crimes and Extradition vis-a-vis Inter-Regional Cooperation**

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## **Abstract**

The research examines the African response to international crimes and extradition with regard to inter-regional cooperation, focusing on the legal frameworks, mechanisms, and institutions that promote or hamper this process. The number of agreements and frameworks governing extradition is insufficient, resulting in a delayed process concerning international crimes. This research aims to examine the prevailing legal framework that regulates extradition in Africa; highlight the gaps and problems of inter-regional cooperation on international crimes; and, subsequently, propose recommendations for strengthening legal cooperation among African states. The research, using doctrinal methodology and both primary and secondary sources of data, reveals significant strides in regional cooperation, exemplified by the role of the International Criminal Tribunal for Rwanda (ICTR) and the Special Court for Sierra Leone. However, gaps persist in the harmonization of laws and treaties related to extradition across African regions. The research would, therefore, be recommending a more integrated legal framework on extradition in Africa, increased capacity building for the legal institutions concerned, and more active involvement of the RECs aimed at ensuring smooth cooperation among the states.

**Keywords:** *Criminal justice, Extradition, Human rights violation, International crimes, Inter-regional cooperation*

## **1.0 Introduction**

The rate at which international crimes of genocide, war crimes, crimes against humanity, and terrorism have increased has become of great

concern to world peace and security<sup>1</sup>. These are egregious acts committed in gross violation of the very basic structure of human rights that trigger robust international legal mechanisms aimed at ending impunity. Among these, extradition is one of the most critical mechanisms involved in dealing with such cross-border nature of crimes<sup>2</sup>. Extradition is the process by which suspected or convicted persons are transferred from one jurisdiction to another. In other words, no international criminal can escape to a foreign territory and get away with a clean slate<sup>3</sup>. This underscores the significance of regional cooperation, particularly in Africa, as it plays a crucial role in enhancing efforts against international crime. International crimes are the gravest violations of international law and include genocide, war crimes, crimes against humanity, and terrorism<sup>4</sup>.

These crimes transcend national boundaries, necessitating international coordination, particularly in the areas of enforcement and prosecution. The legal regime of extradition relies on numerous bilateral and multilateral treaties, fostering state cooperation to prevent fugitives from using their territories as havens. In general, African extradition assumes the forms of international treaties such as those provided through the African Union's Convention on Extradition. Although these treaties have been ratified by several African states in varying domestic legislation, political instability, weak legal systems, and concerns over human rights more often act as barriers to effective extradition processes<sup>5</sup>. Since international crimes frequently cross national borders, regional cooperation between states is most likely to guarantee the effective enforcement of international law. The African Union (AU),

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<sup>1</sup> Charles Cherno Jalloh, *The Place of the African Criminal Court in the Prosecution of Serious Crimes in Africa*, vol. 1 (Oxford University Press, 2017), <https://doi.org/10.1093/oso/9780198810568.003.0013>.

<sup>2</sup> Michiel Luchtman, "Transnational Law Enforcement Cooperation – Fundamental Rights in European Cooperation in Criminal Matters," (2020) 20 (1) *European Journal of Crime, Criminal Law and Criminal Justice*: 14–45 <<https://doi.org/10.1163/15718174-02801002>> accessed 20 July 2024 .

<sup>3</sup> Godswill Owoche Antai, "Methods of Judicial Cooperation and the Procedure for Enforcement Under International Law; Identifying the Nexus between Theory and Practice," (2024) 4 (3) *NEWPORT INTERNATIONAL JOURNAL OF CURRENT RESEARCH IN HUMANITIES AND SOCIAL SCIENCES* <<https://doi.org/10.59298/NIJCRHSS/2024/4.3.8088>> accessed 23 August 2024

<sup>4</sup> Ademola Abass, "Prosecuting International Crimes in Africa: Rationale, Prospects and Challenges," (2013) 24 (3) *European Journal of International Law*: 933–46, <<https://doi.org/10.1093/ejil/cht042>> accessed 23 August 2024

<sup>5</sup> Michiel Luchtman, "Transnational Law Enforcement Cooperation – Fundamental Rights in European Cooperation in Criminal Matters." (2020) 28 (1) *European Journal of Crime, Criminal Law and Criminal Justice* 14–45

Regional Economic Communities, and other regional bodies in Africa are at the forefront of such cooperation among states. Consequently, the African Union has developed mechanisms for dealing with international crimes and extradition through various instruments like the Constitutive Act of the AU and the African Charter on Human and Peoples' Rights. Also, Regional Economic Communities (RECs) like Economic Community of West African States (ECOWAS), the Southern African Development Community (SADC), and the East African Community (EAC) have their regional mechanisms that deepen cooperation among member states in the interest of extradition and prosecution of international crimes<sup>6</sup>.

The application of the laws relating to international crimes has acquired a multi-layered texture in the engagement of Africa with the various international legal mechanisms. Of late, an international legal discourse has come to be supported by the African Union even as it itself speaks for African solutions to African problems<sup>7</sup>. This position, as the AU's relations with international legal institutions like the International Criminal Court (ICC) do show, puts into view the complex relations the continent has with global justice. The ICC's endeavor in the prosecution of international crimes has seen some African states support it, while others have reacted with concerns over what they perceive as bias and political interference, hence discussions related to setting up frameworks for legal entities focused on Africa, such as an African Court of Justice and Human Rights<sup>8</sup>. These debates reflect the increasingly evolving place of Africa within international legal frameworks in its approach to international crimes. The present study will attempt to analyze the legal frameworks for extradition in Africa, including the role of bilateral and multilateral treaties in facilitating extradition with respect to international crimes, through doctrinal research methods.

## **2.0 Historical Context of Africa's Approach to International Crimes**

Most of the efforts of criminal justice in pre-colonial Africa were based on customary law; local governance systems dealt with crimes through traditional and community-based mechanisms<sup>9</sup>. Every given African

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<sup>6</sup> Antai, G. O, Okpoko, M , Obisesan, O. O , Ismaila, H , Aidonojie, P A (2024) Legal Framework and Mechanism for Combating International Crimes: A Comparative Analysis between Nigeria and Uganda . *NIU Journal of Social Sciences* 10 (3), 37-52

<sup>7</sup> Antai (n3)

<sup>8</sup> Abass (n4)

<sup>9</sup> Antai (n3)

community developed its own peculiar method of processing disputes, placing an emphasis on reconciliation, restitution, and restoration of social harmony rather than punishment. Those were the matters of justice, usually presided over by chiefs, councils of elders, or local leaders, in tune with community values and consensus. Most of them were undermined and replaced with the conventional European justice system upon the arrival of colonialism on the scene. The colonial powers superimposed criminal justice systems according to their legal traditions and ignored African customs and traditions. It brought into being such things as codified laws and centralised judicial structures, opening the way to punitive procedures that conflicted with the local traditions of conflict resolution<sup>10</sup>. Furthermore, crimes, including international crimes, from then on came under the discretion of the colonial administrations whose actions were principally justified by the interest of the colonial state rather than that of the African populations. The result is that indigenous legal traditions relating to international crimes were hardly documented or recognised during the colonial era.

The decolonisation wave of the mid-20<sup>th</sup> century saw most of the African states attain independence. This period coincided with the formulation of the United Nations (UN) and the codification of international law that addressed crimes against humanity, genocide, war crimes, and later terrorism<sup>11</sup>. The African states, as United Nations members and parties in numerous treaties and conventions, started playing an active role in the international legal order in developing a framework to deal with international crimes. Nevertheless, for various reasons, the post-colonial African states showed a considerable degree of reluctance in the incorporation of international law in their national legal system<sup>12</sup>.

The most important milestone in the engagement of African states with international criminal law was the influence of the Nuremberg and Tokyo Tribunals, which tried war crimes and crimes against humanity at the end of World War II. Although these tribunals were largely confined to European and Asian actors, they nonetheless developed binding jurisprudence which echoed around the world, including in Africa<sup>13</sup>. These ad hoc tribunals, through their work, had established one

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<sup>10</sup> Antai (n3)

<sup>11</sup> Charles Cherno Jalloh, "The International Law Commission's First Draft Convention on Crimes Against Humanity," *African Journal of International Criminal Justice* 5, no. 2 (November 2019): 119–67 <<https://doi.org/10.5553/AJ/2352068X2019005002002>> accessed 23 August 2024.

<sup>12</sup> Ibid.

<sup>13</sup> Jalloh (n12)

important principle: that individuals, not just states, could be held liable for international crimes<sup>14</sup>. As Africa struggled with post-colonial violence and human rights abuses, the international community began to take cognisance of atrocities committed in the continent.

The International Criminal Court, established in 2002, was in itself a milestone in the fight against impunity for international crimes. The ICC was formed for the prosecution of individuals that commit war crimes, genocide, and crimes against humanity, when their national jurisdictions are unable or unwilling to prosecute them<sup>15</sup>. Many African states were at the forefront of ratifying the Rome Statute, an indication of a very strong initial support for the mandate of the Court. However, as soon as it started business-something considered by some as an investigation and prosecution against African leaders, the ICC began to squarely confront tensions with African states. The critics on the African continent are of the view that ICC selectively targets African countries while their counterparts from other regions are allowed to commit similar crimes with impunity. This feeling has subsequently evoked public anger towards the Court and led the AU to seek reforms while issuing threats for withdrawal from the ICC on many occasions.<sup>16</sup>

### **3.0 The Legal Framework for Extradition in Africa**

In Africa, the structure for extradition emanates from various international, regional, and domestic legal instruments regulating inter-state collaboration. Such cooperation is relevant in addressing international crimes such as terrorism, human trafficking, drug trafficking, and organised crime, and for justice to be possible across borders.

#### ***3.1 An Overview of African Extradition Agreements and Frameworks***

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<sup>14</sup> Jalloh (n12)

<sup>15</sup> Hudjolly, “The Role of International Criminal Court in Prosecuting Crimes against Humanity,” (2023) 1 (3) *West Science Law and Human Rights* 115–21  
<<https://doi.org/10.58812/wslhr.v1i03.134>> accessed 23 August 2024.

<sup>16</sup> John Mukum Mbaku, “International Justice: The International Criminal Court and Africa,” (2016) The Brookings Institution <<https://www.brookings.edu/wp-content/uploads/2016/07/03-foresight-international-criminal-court-africa-mbaku-1.pdf>> 25 August 2024

In Africa, a number of countries have signed bilateral treaties on extradition between them and other African and non-African states. For example, there is an agreement between Nigeria and the United States relating to extradition to handle crimes such as drug trafficking and money laundering which has been in effect since some decades ago. Similarly, South Africa has an extradition agreement with the United Kingdom (UK), enabling cooperation in searching and bringing to justice criminals involved in fraud, corruption, amongst others.

On the other hand, Africa has emerged with several regional frameworks that institutionalize extradition procedures. For instance, West African states adopted the Economic Community of West African States (ECOWAS) Convention on Extradition in 1994, which lays out the conditions and modalities of extraditing one another, and the Southern African Development Community (SADC) protocol of 2002<sup>17</sup>, which makes extradition easy for member states, particularly in cooperation in legal matters. In North Africa, Algeria, Libya, and Tunisia have the provision under the Arab Maghreb Union (AMU) to allow extradition for grave crimes, especially terrorism.

### **3.3. The African Union's (AU) extradition instruments**

The African Union has put in place legal tools and mechanisms through which cooperation is encouraged in law enforcement across the continent. The instruments involve the AU Model Law on Extradition, 2011<sup>18</sup>, which shows the various ways in which the laws of African states on extradition can be harmonised to enable cooperation at state levels out of due regards for human rights. The African Charter on Human and Peoples' Rights<sup>19</sup>, although not an extradition treaty per se, influences the extradition process to ensure respect for human rights. AU Convention on Preventing and Combating Corruption of 2003<sup>20</sup>: This convention encourages member states to take on the extradition of corruption-related offenses.

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<sup>17</sup> SADC Protocol on Extradition (adopted 3 October 2002, entered into force 1 June 2006)

<sup>18</sup> African Union, *Model Law on Extradition* (2011)

<sup>19</sup> African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217

<sup>20</sup> Convention on Preventing and Combating Corruption (adopted 11 July 2003, entered into force 5 August 2006) 43 ILM 5

## 4.0 The challenges of extradition and prosecution for international crimes in Africa

The challenges are inculcated in the main complicated political, legal, and institutional frameworks that mark African states. The effect of these challenges means that effective cooperation is hindered toward efforts of bringing perpetrators of international crimes to justice. Below is discussion of the principal obstacles<sup>21</sup>.

### 4.1. Sovereignty and Political Challenges

The principle of state sovereignty is probably one of the cornerstones on which international law was founded, and in Africa, it really is at the heart of how states interact with mechanisms of international criminal justice.<sup>22</sup> African states regularly invoke their sovereign rights in the observance or negation of an extradition request against persons accused of committing an international crime. Governments view this as an affront to their sovereignty, particularly when international bodies like the ICC or any other foreign state request extradition. However, if they perceive extradition matters as foreign interference in their domestic affairs, most African states are extremely reluctant to cooperate.

### 4.2. Legal Regimes Not Uniformly Applied in African Countries

Historical influences like colonialism, which introduced various legal frameworks such as common law, civil law, and Islamic law, have created a diverse legal landscape in Africa<sup>23</sup>. The non-uniformity of the legal system presents serious challenges in the extradition and prosecution of international crimes. Indeed, different legal systems mean divergent interpretations of international criminal law and extradition procedures; hence, cross-border cooperation becomes more complex.<sup>24</sup>.

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<sup>21</sup> Dire Tladi, "Complementarity and Cooperation in International Criminal Justice," (2014) ISS Paper277.

<sup>22</sup> Godswill Owoche Antai, "Universality versus Cultural Relativism in International Human Rights: A Case Study of the Anti-Homosexuality Act of Uganda 2023," (2024) 11 (2) *LAW JOURNAL OF MANAGEMENT* 1-14  
<<https://doi.org/10.59298/IAAJAM/2024/112.11400.00>> accessed 24 September 2024.

<sup>23</sup> Godswill Owoche Antai, "An Appraisal of the Historical Development of the African Response to Extadition." (2024) 4 (3) *Newport International Journal* 27-35

<sup>24</sup> Sandra Fullerton Joireman, "Inherited Legal Systems and Effective Rule of Law: Africa and the Colonial Legacy," (2021) 39 (4) *The Journal of Modern African Studies* 571-96,  
<<https://doi.org/10.1017/S0022278X01003755>> accessed 24 September 2024.

#### **4.3. Jurisdictional Conflicts between National and International Courts**

One of the outstanding challenges in prosecuting international crimes, perhaps the most blatant is that of jurisdictional conflict between national courts, the ICC, and even regional bodies like the AfCHPR<sup>25</sup>. Article 86 of the Rome Statute, which established the ICC, binds many African countries to cooperate with the Court. African leaders reportedly perceive the Court as bias towards African states, neglecting cases from other regions. It has sparked an increasing momentum in Africa to look more inward in international crime matters, using structures such as AfCHPR<sup>26</sup>.

#### **4.4. Impact of Corruption and Poorly Administered Judicial Institutions upon Extradition Procedures**

Another critical challenge is corruption, which hinders extradition and prosecution of international crimes in Africa. Judicial institutions are very weak, underfunded, or even subject to political influence in many states; hence, they seriously hamper the conduct of fair extradition procedures. Corruption within law enforcement agencies and judiciaries can lead to manipulation in legal processes for protection from international crimes.

### **5.0 Regional Inter-Cooperation in Combating International Crimes in Africa**

RECs are fast becoming the vital platforms for developing legal cooperation in addressing international crimes in the African continent. Some of the significant regional communities in this respect include ECOWAS, SADC, EAC, and Arab Maghreb Union (AMU)<sup>27</sup>. These RECs advance inter-regional cooperation by harmonising laws and regional integration, using mechanisms for judicial cooperation to ensure

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<sup>25</sup>Antai (n3)

<sup>26</sup>Gavan Griffith and Claire Harris, “ReCent Developments in the Law of Extradition” (2005 ) 6 (1) Melbourne Journal of Law 33-54

<sup>27</sup>Hudjolly (n20)

states collaborate in the fight against transnational organised crime, human trafficking, terrorism, drug smuggling, and war crimes<sup>28</sup>.

The ECOWAS Community has been in the foreground of ensuring legal and security cooperation between states in West Africa. The SADC has equally produced various legal frameworks aimed at addressing cross-border criminal activities and those on human rights violation. The EAC has shown leadership in fighting cross-border crime through initiatives such as Eastern Africa Police Chiefs Cooperation (EAPCCO), which facilitates cooperation in combating crimes related to terrorism, wildlife trafficking, and organised crime.

## **5.1 Regional Criminal Tribunals and their Contribution to Accountability for International Crimes**

The various regional criminal courts in Africa have played vital roles in the prosecution of international crimes and ensuring justice is done when domestic legal systems are unable or unwilling to act<sup>29</sup>. This is a tribunal that was established in 1994 to prosecute persons responsible for genocide and other serious violations of international humanitarian law committed in Rwanda. It thus set a precedent for international justice to be undertaken on the African continent and opened the door to future regional tribunals<sup>30</sup>.

Also, the Special Court for the Sierra Leone was established to prosecute those who are mostly responsible for the crimes committed during the civil war of Sierra Leone, a war crime, and crimes against humanity. The Special Court obtained the strength of regional criminal tribunals by persecuting Charles Taylor, a former Liberian president, on suspicion of supporting rebels in Sierra Leone<sup>31</sup>.

## **5.4 Case Studies of Successful Regional Cooperation**

A classic example of regional cooperation is regarding interventions that ECOWAS led in Liberia and Sierra Leone during their civil wars. The

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<sup>28</sup> Channing May, “Transnational Crime and the Developing World,” (2017) Global Financial Integrity <<https://gfinintegrity.org/report/transnational-crime-and-the-developing-world/>> accessed 26 September 2024

<sup>29</sup> Ibid

<sup>30</sup> Salvatore. Zappala, “The Rights of Victims v. the Rights of the Accused,” 2010 8 (1) *Journal of International Criminal Justice* 137–64 <<https://doi.org/10.1093/jicj/mqq001>> accessed 27 September 2024.

<sup>31</sup> Jalloh (n16)

latter contributed to the stabilization in the region through the ECOWAS Monitoring Group (ECOMOG) peacekeeping force formed, which, in turn, allowed the prosecution of war criminals. Concerted law enforcement has also played its role in countering terrorism and cross-border crimes in the Sahel region. The International Conference on the Great Lakes Region, through the Great Lakes region, has encouraged cooperation in addressing ways of illegal exploitation of natural resources responsible for conflict and international crimes in the Democratic Republic of Congo. Through its Regional Certification Mechanism, the International Conference on the Great Lakes Region (ICGLR) has attempted to reduce illegal mining activities, which in turn has reduced war crimes by reducing the flow of money to armed groups<sup>32</sup>.

### **5.5. Gaps and Opportunities to Enhance Inter-Regional Cooperation**

Gaps still remain in place, including weak legal frameworks, as much as African regional and inter-regional cooperation goes. Most of the RECs have weak legal frameworks that facilitate extradition and prosecution of international crimes. For example, the Malabo Protocol has not been fully ratified by AU member states and thus cannot prosecute international crimes effectively<sup>33</sup>. Lack of political will to cooperate in the sensitive areas of law, such as extradition of political or military leaders, makes any reaction to combat international crimes weak. Regional treaties often do not have mechanisms of enforcement at the state level. There is certainly a leeway for the trial and prosecution of international crimes by expanding the jurisdiction of regional courts that already exist, like the AfCHPR<sup>34</sup>.

### **6.0 The International Bodies in Shaping Africa's Extradition Practices**

In fact, global legal standards, institutions, and international bodies have greatly influenced how Africa approaches international crimes and extradition. African states, especially through regimes that facilitate legal cooperation within the continent, have become increasingly receptive to these standards; yet, such reception remains a product of pressures external to the continent itself from the UN, the ICC, and even more

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<sup>32</sup> George (n25)

<sup>33</sup> Antai (n27)

<sup>34</sup> Hudjolly (n20)

general international justice mechanisms. This section of the research deals with the dependence on the international bodies, especially the UN and ICC, and ever-changing relations of African states with these institutions<sup>35</sup>.

## **6.1. The Influence of the United Nations and ICC on African Extradition Arrangements**

It follows that for a long period, the UN has played a main role in the shaping of the international legal landscape on extradition issues. Through its organs like the United Nations Office on Drugs and Crime and its Model Extradition Treaty of 1990, it has called for member states to adopt common principles which govern extradition<sup>36</sup>. It involves safeguarding human rights, adhering to the principle of double criminality, and preventing the return of individuals to countries where they face a high risk of torture or execution. African countries have integrated these principles into their national legal frameworks, albeit with varying degrees of success and commitment. Another strong force that has influenced African practice on the subject of extradition, especially of persons wanted by their governments for international crimes, including genocide, war crimes, and crimes against humanity, is the ICC, established through the Rome Statute in 2002. Signatory states under the Rome Statute are obligated to cooperate with the ICC by arresting and surrendering persons wanted by the court.

## **6.2. Frictions between African States and ICC**

During the last decade, African states and the ICC have increasingly come into a tense relationship<sup>37</sup>. Many African leaders increasingly perceive the ICC as an institution serving the interests of the Western world, despite many having invested hope in it to provide justice and accountability, particularly for conflict- and atrocity-torn parts of the world. Many African countries feel that the court has a tendency to pursue cases against only African leaders, without considering similar atrocities committed elsewhere in the world. In this context, the case of

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<sup>35</sup> Abass (n3)

<sup>36</sup> International Law Commission, 'The Obligation to Extradite or Prosecute (Aut Dedere Aut Judicare) - Final Report' (2014) UN Doc A/69/10

<sup>37</sup> Leon Trampe, "Conference Report: Current International and Transnational Criminal Law in Africa – Practice, Challenges and Prospects," 2023 6 (1) *East African Journal of Law and Ethics* 42–48 <<https://doi.org/10.37284/eajle.6.1.1608>> accessed 27 September 2024

Omar al-Bashir of Sudan exacerbates tensions. In 2009, the ICC issued an arrest warrant against Al Bashir for war crimes, crimes against humanity, and genocide in Darfur. However, in 2013, several African states, including South Africa, Kenya, and Chad, declined to arrest Al Bashir during his visit to their territories, citing concerns that the ICC was undermining African sovereignty and leadership<sup>38</sup>.

#### **6.4. African Solutions to African Problems: Is a Pan-African Legal Response to International Crimes Possible?**

The question of whether there could be a Pan-African legal response to international crimes underlines an ongoing debate on justice and sovereignty in Africa. In the raging discourse on international crimes, the principle of “African solutions to African problems” has gained increasing traction, especially within the context of Africa’s tight-spot relationship with the ICC. Proponents of this philosophy argue that rather than relying on external bodies like the ICC, Africa should take the lead in addressing conflicts, crimes, and human rights abuses that occur within its borders<sup>39</sup>. The Malabo Protocol and the ACJHR are thus significant steps in the building of a pan-African approach to international crimes. The full realization of the ACJHR will present it as more locally relevant and culturally sensitive than any other way of attempting international crimes. It would also deepen interregional cooperation within Africa by increasing legal harmonization among African states—in particular, through the RECs such as ECOWAS, SADC, and EAC. In reality, numerous African states struggle to establish functional legal mechanisms due to a lack of political will, finances, and capacity. The fragmentation of legal systems among African states and the complex political dynamics between states further complicate the development of a coherent set of methods pertaining to international crimes.

#### **7.0 Case Studies of African Extradition Cases**

The following case studies highlight some of the most salient African responses to international crimes and the challenges of extradition. These

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<sup>38</sup> Gerhard Kemp, “Horizontal and Vertical International Co-Operation in Criminal Matters: An African Regional and Sub-Regional Perspective,” in *Contemporary International Criminal Law Issues*, ed. Takeh B. K. Sendze et al. (The Hague: T.M.C. Asser Press, 2023), 177–211 <[https://doi.org/10.1007/978-94-6265-555-3\\_6](https://doi.org/10.1007/978-94-6265-555-3_6)> accessed 27 September 2024.

<sup>39</sup> May (n43)

cases will illustrate successes and challenges faced by African states in ensuring accountability for international crimes.

## 7.1. The Hissène Habré Trial and Its Extradition Implications

Hissène Habré, the former president of Chad, is a milestone in the context of international crimes and extradition within Africa. From 1982 to 1990, Habré's regime faced accusations of extensive human rights abuses, including political killings, torture, and mass arrests. Habré fled to Senegal in 1990, remaining in exile for more than two decades amidst growing demands for accountability. The African Union's role in creating the Extraordinary African Chambers in 2013 has enormous implications for his trial. Chad had called for the extradition of Habré to face trial, but Senegal, in whose country Habré had sought refuge, delayed it for years, citing the lack of any legal frameworks or resources. This was then taken to the International Court of Justice (ICJ), which, in its decision, stated that Senegal should either prosecute Habré or extradite him to Belgium, where a universal jurisdiction case had been filed<sup>40</sup>. Habré's trial marked a milestone in African-led justice, one that sent an unmistakable message that leaders could no longer hide behind their status to avoid accountability for grave crimes on African soil.

## 7.2. Coopération of Uganda with the ICC

Uganda's cooperation with the ICC, perhaps more than any other African state, exemplifies the mixed response of the continent toward international criminal accountability. In 2004, Uganda became the first state to refer a situation to the ICC, which launched investigations into atrocities committed during two decades of conflict between the Lord's Resistance Army (LRA) and the Government of Uganda. The ICC issued arrest warrants for five LRA leaders, including Joseph Kony, as a result of that referral<sup>41</sup>. Both praise and criticism simultaneously surround Uganda's cooperation with the ICC. On one hand, the ICC interpreted the referral as a commitment to accountability for grave crimes, and Uganda has actively cooperated with the ICC throughout the investigation. NDA has cooperated inconsistently in pursuing Kony and

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<sup>40</sup> M. Rafiqul Islam, *National Trials of International Crimes in Bangladesh: Transitional Justice as Reflected in Judgments* (Brill | Nijhoff, 2019), <https://doi.org/10.1163/9789004389380>.

<sup>41</sup> Alexander K A Greenawalt, "Complementarity in Crisis: Uganda, Alternative Justice, and the International Criminal Court," (2009) Pace Law Faculty Publications n.d.

other LRA leaders. Accusations have surfaced that Uganda's cooperation is politically motivated, aiming to remove rebel leaders from the battlefield without holding government forces accountable for abuses they committed<sup>42</sup>.

### **7.3. Kenyan Response to the ICC Indictments following the 2007-08 Violence**

The violence following the presidential election in Kenya in 2007-08 left more than 1,200 people dead and hundreds of thousands displaced. The ICC subsequently initiated investigations and issued a number of indictments against high-ranking Kenyans, including President Uhuru Kenyatta and Deputy President William Ruto. The attitude of Kenya toward the ICC's indictment was very ambivalent, both defiant and partially cooperative<sup>43</sup>. While Kenya initially cooperated, granting access to investigators, this cooperation wore off as the cases progressed. The government launched an energetic campaign against the ICC, saying it was biased against the leaders of Africa and now threatened the sovereignty of the country. Kenya, with support from the African Union, called for an exemption of sitting heads of state from prosecution by international courts. The collapse of the case against Kenyatta, largely due to a lack of evidence, partly blamed on non-cooperation from Kenyan authorities, threw aspersions on the efficacy of international justice mechanisms in the face of state resistance.

### **7.4 Success of Rwanda and the ICTR in Bringing the Genocide Perpetrators to Book**

The International Criminal Tribunal for Rwanda (ICTR) is in some ways a UN success story in Africa's responses to international crimes, most notably the 1994 genocide. The ICTR has prosecuted high-ranking officials responsible for orchestrating the genocide—a salient moment in international criminal justice on the continent.

In effect, Rwanda's cooperation with the ICTR significantly contributed to its success, as it actively facilitated investigations and arrests, ensuring the transfer of suspects to the tribunal's jurisdiction. Furthermore, its cooperation with other African countries with regard to extradition had

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<sup>42</sup> Ibid

<sup>43</sup> Fabrice Tambe Endoh and MI Melvin Mbao, "Political Dynamics in Kenya's Post-Electoral Violence: Justice without Peace or Political Compromise?", (2016) 25 (3) *African Security Review* 275-87 <<https://doi.org/10.1080/10246029.2016.1188834>> accessed 27 September 2024.

been fundamental to bringing those who had fled to justice. For example, Kenya, Uganda, and the Democratic Republic of Congo extradited different genocide suspects to Rwanda or the ICTR. Despite some friction between Rwanda and the ICTR, particularly in cases involving members of the Rwandan Patriotic Front, this cooperation demonstrated the potential for pursuing international criminal prosecutions when regional and international cooperation was strong.

## **8.0 Findings and Recommendations**

The response of Africa to international crimes, especially concerning inter-regional cooperation and extradition, is not only complex but dynamic in terms of legal and institutional frameworks. The key findings from the research indicated that Africa's approach to international crimes and extradition is a function of the sum of various bilateral and multilateral treaties and regional and sub-regional legal instruments. Accordingly, the extradition agreements between the various African states vary in many ways, including in their scope, procedures, and obligations for the parties involved. This further complicates a single uniform approach. Indeed, the African Union is making efforts in this regard, but no single binding continental framework aims to harmonise the various legal regimes across Africa.

The research findings suggest key recommendations to enhance Africa's ability to respond effectively to international crimes, particularly through improved extradition mechanisms and inter-regional cooperation. Concretely, the focus is on legal frameworks, political will, institutional capacity, and a bottom-up approach to international criminal justice.

## **9.0 Conclusion**

Interregional cooperation is thus essential in making Africa capable of fighting against international crimes. In that respect, interregional cooperation cements legal frameworks, extradition, and accountability across the continent. Looking ahead, Africa can further build on its achievements with the development of the legal frameworks of the AU and RECs through the establishment of regional courts and by increasing its political will toward legal cooperation. These, combined with closer coordination with international organizations and the adoption of

modern technology, could place Africa at the forefront of international crime prevention and justice.

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