



**25** years of commitment in the Horn

# **HORN OF AFRICA BULLETIN**

**ANALYSES • CONTEXT • CONNECTIONS**

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### **Eritrea**

#### **Symptoms of a coming collapse**

Just as the Horn of Africa is witnessing the incremental restoration of one collapsed state – after more than two decades of near anarchic conditions in Somalia – it may be facing the collapse of another. The small Red Sea state of Eritrea, only 20 years after gaining independent statehood, has emerged as one of the largest refugee producing countries on the African continent as well as one of the most militarized societies in the world. It is increasingly displaying distressing signs of withering state structures and an unsustainable humanitarian situation.

Although it is often referred to as the North Korea of Africa, a more appropriate point of comparison maybe that of Somalia and its process of descent into civil war and eventual collapse. The already fragile security conditions in Eritrea's neighbouring states means, moreover, that its collapse is likely to have severe implications for regional stability in this volatile geopolitical hotspot.

Since the 1998 border-war with Ethiopia, the Eritrean state has been caught in a negative spiral of oppressive autocracy and deteriorating economic and humanitarian conditions. President Isaias Afewerki – the only leader this young nation has seen – used the threat posed by Ethiopia as a pretext to eliminate all domestic opposition and defer the implementation of the constitution and elections on an indefinite basis.<sup>1</sup> Totalitarian-like structures have since been emerging, the most precarious aspect of which is the near total militarization of Eritrean society.

The government operates with an indefinite, compulsory and universal military conscription policy that applies to most of its adult population. The national standing army has consequently emerged as one of the largest on the continent, and after North Korea, Eritrea also has the highest number of military personnel per capita in the world. President Isaias, not content with these conditions, took the additional step in 2011 of arming a large section of the civilian population as well.<sup>2</sup>

## **Crumbling state apparatus**

Substantial portions of the political, demographic and economic resources of the country have over the years come to be concentrated in the military apparatus. Nevertheless, despite its overwhelming power, the military happens to be a rather volatile institution, fractionalized by personal and group rivalry, both within the leadership but also vertically between the rank and file and the leadership. Political power is very much personalized in contemporary Eritrea, and remains largely in the hands of the president and a handful of military generals, who are rivaling and contesting each other over power, influence and control over financial resources.

The increasing number of political and military defections is another symptom of Eritrea's crumbling state apparatus. The defectors includes former Information Minister Ali Abdu – believed to be the president's right-hand man – tens of thousands of soldiers that have sought political asylum in neighbouring Sudan and Ethiopia, and the very embarrassing case of two military pilots who defected to Saudi Arabia with the president's private jet, who were also later followed by a third pilot sent by the government to retrieve the plane. About a year later, this was yet again repeated, as three more pilots from the Eritrean Air Force defected to Saudi Arabia with a military aircraft.<sup>3</sup>

The growing frustration amongst army officers manifested itself in January this year with a revolt led by a colonel and members of his brigade.<sup>4</sup> The desperate actions of the soldiers and their leader, who occupied the Information Ministry and forced the director of the national TV-station to read on air their demands for political reform, further demonstrated the emerging cracks within the authoritarian regime.

Reliable data on the size of Eritrea's population is hard to come by, but estimates range between 3 and 4 million people. Of these several hundred thousand have fled over the last decade, and the UN's Special Rapporteur on Eritrea recently reported that the number of people fleeing every month has now reached 4000.<sup>5</sup> Despite having one of the smallest populations on the African continent, Eritrea has emerged as one of its largest refugee producing countries. Whilst the regime is in denial of the deteriorating conditions inside the country, Eritreans have over the years been voting en masse with their feet.

The vast majority of the refugees also happen to be young males - a significant portion of Eritrea's productive workforce – who have either fled the country or find themselves conscripted in the military for an indefinite period of time. The immense gender and age imbalance of the migration patterns may also have long-term structural implications, such as reproductive decline. Moreover, the majority of the migrants – in particular those that are repatriated to Western countries – are very unlikely to ever return to Eritrea on a permanent basis, and thus constitute a lost generation.

Many of the refugees are being trafficked out of the country through the Sinai desert, where thousands are kidnapped, tortured and their families in the West extorted for ransom money by regional criminal networks.<sup>6</sup> This year it has even been reported that several people have been kidnapped from Asmara and taken to Sudan for further trafficking. The UN Monitoring Group on Somalia and Eritrea has identified the involvement of leading figures in the Eritrean military in these criminal networks and processes.<sup>7</sup> The participation of high-level military personnel in these practices – which also include the trafficking of weapons and forced labour – reveals the blatant role illicit economic structures and lawlessness in general have assumed in contemporary Eritrea.

## **Nationalist mythology and its political implications**

Certain political myths have shaped the way in which both many Eritreans and foreigner observers understand the current situation in Eritrea and its potential future development. The Eritrean nation and identity are intimately linked to the 30-year long liberation war from Ethiopia. One of the myths that developed during

this period is the notion of an unshakable national unity amongst Eritreans, and the political value that arose from this, is that of national unity at any price.

These ideational notions have had real and important political implications. The romanticized idea of a harmonious national unity – epitomized by the ruling PFDJ's (People's Front for Democracy and Justice) slogan *hade hizbi hade libi* (one people, one heart) – conceals real and dangerous political and economic inequalities between religious and ethnic groups in the Eritrean state. Moreover, it ignores the challenges that the Eritrean nation will face in a post-Isaias era, and downplays the probabilities for communal conflict that might turn violent.

Increasingly, these nationalist discourses are being challenged by events such as the recent Lampedusa tragedy – which shook the entire Eritrean nation; as well as the recent defections of public figures very close to the ruling circle, such as artists Yohannes Tikabo and Michael Adonai,<sup>8</sup> which constitute immense symbolic blows to the regime in Asmara.

### **State Collapse and its consequences: lessons from Somalia**

A continuation of the current political, economic, and humanitarian trajectories is unsustainable, and some form of change is inevitable in the near future – the most objective indicator of which is the demographic development. Given the absence of institutional mechanisms for managing a leadership change, and the mistrust and insecurities that the president's divide and rule strategies have generated, any future upheaval in the country may also lead to civil war and the collapse of central political authority.

A refugee crisis, high-level military defections, a fractionalizing military apparatus, ethnic tensions, and a leader increasingly displaying desperate, stubborn behaviour are some of the features that make the current state of Eritrea increasingly resemble Somalia in the years leading up to its collapse in 1991. The case of Somalia in many ways also illustrates the difficulty of rebuilding state institutions once central authority collapses and that power disperses to different armed factions.

In the event of state collapse in Eritrea, the security and humanitarian repercussions may in fact outstrip those seen in Somalia. Given the high amount of weapons in the country as well as the near total militarization of its society, the collapse of state authority may lead to conflict and fatality rates on an extraordinary scale. Making this prospect more daunting is the current deepening of ethnic cleavages both within the regime and opposition parties. These divisions are multi-dimensional and involve the politicization of religious, ethnic as well as intra-ethnic identities; and there is thus a probability that post-Isaias conflicts may assume ethnic features.

Somalia, Yemen and other failed and failing states in the surrounding region, have all demonstrated the manner in which local and international terrorist groups take strategic advantage of the absence of state authority to recruit members as well as plan and execute terrorist attacks. Groups such as Al Qaeda may find a fertile breeding-ground amongst the politically marginalized and increasingly frustrated Muslim population of Eritrea, which account for about half of the overall population.

Eritrea is a small and poor African state with no natural resources of significance. On the other hand, its more than 2,200 km long coastline (including its islands) accounts for a substantial part of Africa's coastline in the Red Sea. It shares borders with Sudan, Djibouti and Ethiopia as well as Saudi Arabia and Yemen across the Red Sea; and thus its geographic location is of immense strategic importance for global trade and security.

### **Regional implications**

The Horn of Africa is one of the most conflict prone regions in the world, and most of Eritrea's neighbours happen to be rather fragile states. Given the symbiotic nature of conflict and state fragility in this region most of these neighbours would be severely destabilized if Asmara's state apparatus collapses.

Of particular importance here are Ethiopia and Sudan, both of whom are geographic and demographic giants of immense strategic importance; and most importantly, both are also fragile states with vulnerable domestic security situations.

Khartoum has been challenged on all fronts, but of specific relevance in this context is its Eastern State (as this regional state shares a long border with Eritrea). Asmara played an important role in facilitating a fragile peace between the Eastern Front rebels and Khartoum in 2006. The implementation of the peace agreement has been slow, and grievances remain unresolved.<sup>9</sup>

The collapse of Eritrea would provide elements in this part of Sudan that have a desire to revive conflict with the centre, with the anarchy, opportunity and access to weapons that comes with such a scenario in Eritrea. The fact that ethnic groups such as the Beni Amir and Rashida reside on both sides of the borders complicates both the conflict-web as well as its management.

Ethiopian officials, for their part, have indicated that they now consider state collapse in Eritrea a more likely and pressing security threat than a direct military confrontation with its archenemy, the Eritrean People's Liberation Force/PFDJ.<sup>10</sup> Collapse of the Eritrean state would naturally entail a significant refugee bulge to a country with very limited resources of its own. As with the Sudanese-Eritrean border, the ethnic groups along this border can be found in both states.

Addis Ababa faces the additional challenges of Ethiopian rebels that are harboured, supported and armed by Eritrea.<sup>11</sup> The exact number of these groups is difficult to verify. What is, however, clear is that the collapse of Eritrea would mean that Addis Ababa will most likely have to confront a number of organised and well armed rebel groups, such as, the Tigray Peoples Democratic Movement and Ginbot 7, from its northern borders.

Whilst Eritrea's authoritarian system has so far proven itself to be surprisingly resilient, even its most ardent supporters have to come to terms with the fact that if the refugee crisis continues on its current trajectory, the regime is unlikely to survive for much longer. Eritrea's silent mass exodus will, if not stopped, lead to a humanitarian and security crisis of enormous proportions.

This scenario is moreover likely to have implications beyond Eritrea's borders, and may potentially pull the entire region into another spiral of instability.

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- 1 Tronvoll, Kjetil, (2009), *Eritrea the Lasting Struggle for Freedom*, available on URL: [http://www.jus.uio.no/smr/forskning/publikasjoner/boker/2009/docs/Eritrea-the-lasting-struggle-for-freedom\\_2009.pdf](http://www.jus.uio.no/smr/forskning/publikasjoner/boker/2009/docs/Eritrea-the-lasting-struggle-for-freedom_2009.pdf)
  - 2 'Issayas Afeworki arms the elderly', *The Indian Ocean Newsletter*, (22.9.2012) available on URL: <http://www.africaintelligence.com/ION/politics-power/2012/09/22/issayas-afeworki-arms-the-elderly,107884087-ART>
  - 3 'Three Eritrean officers defect to Saudi Arabia', *Reuters*, (13.11.2013), <http://www.reuters.com/article/2013/11/12/us-saudi-eritrea-idUSBRE9AB0RY20131112>
  - 4 Davison, William and Hayle, Beaflyan, 'Eritrea Mutiny Shows Growing Military Discontent With Isaias', *Bloomberg*, available on URL: <http://www.bloomberg.com/news/2013-01-25/eritrean-mutiny-signals-growing-military-discontent-with-isaias.html>
  - 5 '4000 Eritreans fleeing human rights violations every month', *United Nations Radio*, available on <http://www.unmultimedia.org/radio/english/2013/06/4000-eritreans-fleeing-human-rights-violations-every-month/>
  - 6 'Eritrean tells of Sinai Torture for Ransom', *BBC*, 19.5.2013, <http://www.bbc.co.uk/news/world-africa-22575182>

- 7 'Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2002 (2011)', UNSC, available on URL: <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Somalia%20S%202012%20545.pdf>
- 8 'Former Eritrean Freedom Fighter Gets to Art of Matter', Maribynong Weekly, 9.4.2013, available on URL: <http://www.maribyrnongweekly.com.au/story/1419542/former-eritrean-freedom-fighter-gets-to-art-of-matter/>
- 9 'East Sudan insurgency' in *Reuters*, 10.7.2013, available on: <http://www.trust.org/spotlight/East-Sudan-insurgency>
- 10 Interview with informants in Ethiopian Ministry of Foreign Affairs, 5.11.2013
- 11 'Eritrea provides Ethiopian "terrorist" organisation with \$500,000', *Sudan Tribune*, 27.6.2013, available on URL: <http://www.sudantribune.com/spip.php?article47111>

## ICC and African Union – bones of contentions and way forward

In response to the campaign by the African Union and the Kenyan government, the Assembly of States Parties of the International Criminal Court (ICC) decided on 28 November to amend the rules of procedure to allow accused persons with extraordinary public duties to attend trial processes from their home through representative or technological inputs.<sup>1</sup>

It is to be recalled that on 15 November 2013, the United Nations Security Council (UNSC) voted against the African Union's (AU) request for deferral of the trials of Kenya's President Uhuru Kenyatta and Vice President William Ruto for a year.<sup>2</sup> The United States of America (USA), United Kingdom (UK), and France abstained. The very fact that the UNSC has ignored previous requests made by 53 members of the UN, the AU and 34 States Parties to the ICC is in itself condescending. Both Mr Kenyatta and Mr Ruto may benefit from this change of rules.

The AU, in its letters to the ICC dated 10 September and 8 July 2013, expressed concerns regarding the trials of the Kenyan president and vice president, and requested the court "in line with the principle of complementarity, to allow a national mechanism to investigate and prosecute the cases under a reformed [Kenyan] Judiciary provided for in the new constitutional dispensation."<sup>3</sup> The AU further argued that the ICC's demand for both the president and vice president to attend the court sessions together was adversely affecting their capacity to discharge their constitutional duties as head and deputy head of the Kenyan state. In response, the ICC president rightly responded that the right venue for addressing the AU's requests and concerns was the Assembly of States Parties (ASP), the political organ of the ICC.<sup>4</sup> The AU is now using appropriate channels to address its concerns. Constituting the first institutional response to the AU's repeated calls for deferment, this marks a sign of progress. While the recent change of the rule indicates progress, but also proves the political space within which the ICC operates. More importantly, it proves regardless of the power one may have, a person once indicted at ICC remains indicted unless the ICC says otherwise.

The increasing tension between the AU and the ICC's role in Africa emanates from the following five specific factors:<sup>5</sup> one, the politicization of the ICC's judicial role through UN referral and deferral powers, compounded by the undemocratic nature of the UNSC and longstanding demands for its reform; two, the activist prosecutorial policy and selective prosecution pursued by the former chief prosecutor, Mr Luise Ocampo; three, the failure of the UNSC to formally respond to AU requests to defer trials for a year; four, widespread misunderstanding about the work of the ICC and the political misuse of referral of cases by African states; and, five, some discrepancies in the interpretation of the Rome Statute, particular

on the rejection of impunity and application of immunity with regard to officials of non-states parties.<sup>6</sup>

These factors could be summarized into two levels of argument and reservations on ICC.

### **Arguments on a higher plane:**

*ICC as a court that is strong against weak countries and weak against powerful states.*

As per articles 12-15 of the Rome Statute, the ICC may initiate investigation either by the referral of a state party, wilful acceptance of the ICC jurisdiction by a non-state party, prosecutor's own initiative, or referral by the UNSC. The UNSC referral power enables the ICC to exercise jurisdiction when a state is not party to the Rome Statute. It can defer cases for a year continuously. While majority of the permanent UNSC members (USA, China, and Russia) are not state parties to the ICC, Articles 13 and 16 of the Rome Statute confer powers for referral and deferral of cases to the UNSC. These members of the UNSC apply rules on others that do not apply to them. For example, American citizens are shielded from prosecution by the ICC through bilateral agreements between the USA and other states, based on the American Service-Members' Protection Act. Fairness demands that for a legitimate exercise of these powers they should first submit themselves to the same institution.

Some American, European and Middle Eastern officials have also been exempted from ICC investigation. Consequently, the ICC has been accused of being a tool of powerful states. Either due to the undemocratic nature of the UNSC or failure by the prosecutor to investigate cases outside Africa, many Africans regard this as a mockery of international justice.

Of the seven African cases before the ICC, only three were referred by African state parties to the Rome Statute. Two were initiated by the Prosecutor and two, Sudan and Libya, were referred by the UNSC. The president of Sudan and the former Libyan leader, Muammar Gadhafi, became well-known for their political rows with the UNSC veto powers. By not investigating alleged crimes committed by non-African leaders and focusing only on leaders of countries such as Sudan, Libya, and Cote D'Ivoire, the ICC prosecutor and the UNSC have jeopardized the ICC project. Moreover, the ICC prosecutor failed to seriously follow-up the prosecution of many rebel groups for possible indictments.

The referral and deferral powers of the UNSC have brought the quintessential problem of international politics to the ICC. Africans and non-African alike argue that the referral and deferral power of the UNSC undermines the credibility and independence of the ICC by placing the court under the influence of those dominant global powers who will not submit to its jurisdiction. Ultimately, power-politics determine the decision to indict. ICC relations with the UNSC have reduced international justice to the selective justice of the powerful imposed upon the weak.

There are two solutions to the 'arguments on a higher plane'. The first is to speedily reform the UN as requested by the AU and other emerging regional powers. The other option is to amend the referral and deferral powers in the Rome Statute. The Assembly of the States Parties (ASP) or the UN General Assembly, not the UNSC, should exercise the power of referral and deferral to the ICC. Clearly, these solutions to 'the arguments on a higher plane' are desirable, but improbable as states with veto powers are unwilling to relinquish their privileges.

### **Arguments on a Lower Plane:**

*The peace-justice primacy dilemma: prosecutorial policy and interpretation discrepancies*

'Arguments on a lower plane' relate to the old peace-justice primacy dilemma, the limits of discretionary prosecutorial powers, and discrepancies in the interpretation of some provisions of the Rome Statute. Without qualms, justice is essential for

Africa. So is peace. Which one should be given primacy if circumstances dictate that we should prioritise one over the other—peace or justice? In this regard, we should ask: “is there a place for transitional justice?”

Advocating justice is one thing; understanding the regional dynamics of peace and local priorities is another. There is no peace without justice, and justice cannot be served without peace or at the expense of peace. In less favourable circumstances, and in the case of Africa, one has to settle for less-ideal but also less unsatisfactory options. In some places such as Sudan, peace with some delay in the delivery of justice is preferable. In war, violations multiply and injustice breeds grievances, leading to more cycles of violence and injustice. In peace, however, there is a chance to pursue justice. In this regard a counterfactual question is:<sup>7</sup> what if in 1994 South Africa under the leadership of Mandela had sought at all costs justice for the victimization that occurred during the Apartheid era? Would the UNSC have supported the persecution of Apartheid leaders?

Timing is vital for delivery of justice. In this way, time consistence policy reinforces John Rawls’s principle of *reflective equilibrium*.<sup>8</sup> This principle dictate that normative principles need to be adjusted through deliberative processes and specific decisions in order to ensure that these guiding principles are stable and sustainable when implemented on the ground. This helps to bridge the *norm-practice gap*. In this regard, the ICC prosecutor needs to ask, when is the optimal time for justice?

In the absence of the capacity to predict developments in places such as Darfur or in countries where the Lord’s Resistance Army operates, any decision that prioritises justice over peace would fail because it would lack the equilibrium between peace and justice in specific contexts.<sup>9</sup>

The 2013 extraordinary AU Summit, the July 2010 Kampala Summit, and even the Kenyan election results, could be construed as a total rejection of Mr Ocampo’s prosecutorial policy and approach. In a futile attempt to change national politics in Sudan and Kenya and applying a very activist prosecutorial approach without limit, he was determined to make use of any means to achieve his end including controversial alliances with those opposed ICC, sources of information and media smearing campaign.<sup>10</sup>

Several international law experts and institutions such as Human Rights Watch have openly and secretly questioned, complained and criticized the neutrality and the legal and managerial competence of Mr Ocampo.<sup>11</sup> Those implicated in violations of human rights tried to exacerbate on-going conflicts or use the anti-ICC rhetoric to avoid arrest. Since 2008, some actually requested for the resignation of the prosecutor.<sup>12</sup> Indeed in the case of Al Bashir, many Sudanese citizens argued that the ICC arrest warrant actually increased his popularity, at least in the short-term. Even Mr Ocampo himself privately admitted that the arrest warrant has increased the popularity of Mr Bashir as ‘crusader’.<sup>13</sup> In Kenya, the last election in which Kenyatta and Ruto won, was considered as protest vote against the ICC.

The ICC indictments and arrest warrants may deter new leaders, politicians and military officials from committing massive human rights violations. Nonetheless, those who are already indicted and against whom the ICC has issued arrest warrants may not be deterred from committing more violations if that is the only way to stay in power and delay arrest. Many convincingly argued that this arrest warrant enabled Al Bashir to consolidate his power and effectively purge any potential drivers of change from his government. Additional arrest warrants against the defence minister only cemented the determination of the anti-ICC group in Sudan.

On the other hand, the arguments at lower level could be addressed by improving the ICC’s prosecutorial discretionary powers. This would require amending the Rome Statute or the 2007 prosecutorial policy. Under Article 53 of the Rome Statute, the prosecutor has discretionary power regarding what and when to investigate and prosecute. An ICC prosecutorial policy that disregards the interests of peace for the sake of justice would undermine the ultimate goal of addressing victimization.

Thus, through the African States Parties, the AU needs to push for the revision of the prosecutorial policy to ensure that the collective interest of justice and peace is given sufficient consideration.

Despite perceptions that the strongest opposition to the ICC emanates from the AU, its most formidable challenge comes from the ICC's relationship with the UNSC and its former prosecutor, Mr Ocampo. Africa needs the ICC, and the ICC needs African States Parties. That is why 34 of the 122 states parties to the Rome Statute are African Union member states. That is also the reason why the AU Summit and the African states parties did not withdraw *en masse*. The AU has not totally rejected the ICC's work in Africa.

The AU non-cooperation decision on the ICC applies only to a few cases, particularly the case of Sudan's Al Bashir, and that of Kenya's Kenyatta. In the case of Sudan's president, the AU might first wish to exhaust the peace mediation efforts by the High Level Panel led by former South African president, Thabo Mbeki. In the case of Kenya, in line with the principle of complementarity, the AU would like to exhaust the local judicial process given the new constitutional and judicial dispensation prevailing in Kenya.

In the same vein, the AU is not seeking to exempt individuals from the court's jurisdiction. The AU requests and pleas to the UNSC were only for a deferral of the ICC's Rome Statute.

A positive impact of the AU's campaign is forging a unified African voice on the issue. Until the Kenyan case, a unified African voice appeared rather elusive. The current AU campaign will certainly have an impact on the overall standing of the ICC in Africa. The most important message from the AU's recent Summit on the ICC and the UNSC vote will be AU's solidarity in its determination to oppose the ICC's and UNSC's relations with Africa. For many African countries, the recent UNSC decision will be seen as a continuation of the struggle against the unequal treatment of Africa in the international order.<sup>14</sup>

The far reaching consequential impact for the ICC's future in Africa will be that countries that are signatories to the Rome Statute, but have not yet ratified it, may abandon the statute altogether. Like the USA, they may even "un-sign" the statute. Moreover, countries like Equatorial Guinea, Ethiopia, Libya, Mauritania, Rwanda, Somalia South Sudan and Togo will consolidate their determination not to sign the statute. Thus, the only avenue left now is the ASP and its decision of non-cooperation.

African states are currently at the heart of all the debate about the ICC. While international justice aims at capacitating states to become 'human rights protective regimes', this can be achieved only through the accountability of violators of human rights. While we may have serious grievances and reservations about the nature and decisions of the UNSC and misgivings about the work of the ICC, African governments and Africans themselves have the long-term solutions to these crimes.

To keep the ICC at bay and address concerns about the misuse of the ICC by dominant powers, African states must first totally reject impunity and establish national and regional mechanisms that will ensure accountability even at the highest level of political office.

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1 "International court changes trial attendance rule", Washington Post, Thursday November 28, 5:08 AM, available from [http://www.washingtonpost.com/world/africa/international-court-changes-trial-attendance-rule/2013/11/27/fbd11924-57d1-11e3-bdbf-097ab2a3dc2b\\_story.html](http://www.washingtonpost.com/world/africa/international-court-changes-trial-attendance-rule/2013/11/27/fbd11924-57d1-11e3-bdbf-097ab2a3dc2b_story.html) (accessed 28 November 2013).

- 2 UN News Centre, “Security Council: bid to defer International Criminal Court cases of Kenyan leaders fails”, available from <http://www.un.org/apps/news/story.asp?NewsID=46499&Cr=criminal+court&Cr1=#.UouewBYwaL8> (accessed 19 November 2013).
- 3 Letters of the Current Chairperson of the AU and the chairwomen of the AU Commission to the President of the ICC Court, BC/U/1106.09.13 and BC/U/1096.07.13.
- 4 Ibid.
- 5 Mehari Taddele Maru, The Future of the ICC and Africa: the good, the bad, and the ugly, Al Jazeera Net, 11 October 2013, 15:03; available from <http://www.aljazeera.com/indepth/opinion/2013/10/future-icc-africa-good-bad-ugly-20131011143130881924.html> (accessed 19 November 2013).
- 6 See Articles 27, 97, and 98 of the Rome Statute, available from [http://www.icc-cpi.int/nr/rdonlyres/ea9aef77-5752-4f84-be94-0a655eb30e16/0/rome\\_statute\\_english.pdf](http://www.icc-cpi.int/nr/rdonlyres/ea9aef77-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf) (accessed 19 November 2013).
- 7 Mehari Taddele Maru, Interview with Ethiopian Reporter, 01 August 20, Ethiopian Reporter, Addis Ababa.
- 8 John Rawls, 2001, *Justice as Fairness: A Restatement*, Cambridge MA: Harvard University Press.
- 9 Allen, Tim (2006) *Trial Justice, The International Criminal Court and the Lord's Resistance Army*, Zed Books, London, Pp. 2-3.
- 10 WikiLeaks cables: Sudanese president ‘stashed \$9bn in UK banks’, The Guardian, Friday 17 December 2010 21.30 GMT, available from <http://www.theguardian.com/world/2010/dec/17/wikileaks-sudanese-president-cash-london>(accessed 19 November 2013).
- 11 See Richard Dicker, Secrete Letter from Human Rights Watch to the ICC OPT, dated 15 September 2008; available from <http://www.innercitypress.com/hrw091508iccotp.pdf> (accessed 25 November 2013); Kevin Heller, Appeals Chamber says goodbye to Mr Moreno-Ocampo, available from <http://opiniojuris.org/2012/06/17/the-appeals-chamber-says-goodbye-to-moreno-ocampo/> accessed 25 November 2013).
- 12 Joshua Rozenberg, “Why the World’s Most Powerful Prosecutor Should Resign: Part 1-2”, The Telegraph (London), 14 Sept. 2008, <http://www.telegraph.co.uk/news/newstoppers/lawreports/joshuarozenberg/2446064/Why-the-worlds-most-powerful-prosecutor-should-resign-Part-2.html> accessed 25 November 2013).
- 13 WikiLeaks cables: Sudanese president ‘stashed \$9bn in UK banks’, The Guardian, Friday 17 December 2010 21.30 GMT, available from <http://www.theguardian.com/world/2010/dec/17/wikileaks-sudanese-president-cash-london> (accessed 25 November 2013).
- 14 Sherwin Bryce-Pease, ‘AU to plot a way forward on ICC trials’, 16 November 2013, available from SABCh<http://www.sabc.co.za/news/a/3564280041d83d8f85fead1c2eddf908/AU-to-plot-way-forward-on-ICC-trials> (accessed 20 November 2013).

## The East Africa Community crisis – beginning of the end or a self-evaluation?

With the African Union (AU) still in the euphoric celebration of its 50th anniversary, some of the region’s institutions are also in a natural re-assessment process. Among those is the East African Community (EAC), which brings together Burundi, Kenya, Rwanda, Tanzania, and Uganda. This year, the regional community has been rocked by disagreement and diplomatic disputes among member states over the future of the community, threatening to undermine -or, at least, stall -the progress made thus far.

This article provides an overview of the EAC and analyses current problems facing the block. The article also spells out some policy options for the sub-region and other policymakers in the region.

### Historical overview

The EAC was first founded in 1967 as a regional economic block aiming for economic integration. The first EAC failed in 1977 due to protectionist tendencies by some of its members.

The EAC was revived in 1999 and the second initiative aimed for more than economic integration.

The treaty for the establishment of the EAC was signed on 30 November 1999 and it entered into force on 7 July 2000 following its ratification by the original

partner states: Kenya, Tanzania and Uganda. The Republic of Rwanda and the Republic of Burundi acceded to the EAC Treaty on 18 June 2007 and they became full members of the bloc with effect from 1 July 2007.<sup>1</sup> In line with the late Qaddafi's ambitious plan for an European Union-type AU model, the new EAC envisaged to ultimately have one leader, one currency, and have its citizens move freely, do business and other professional activities. However, these ambitious plans have not been without problems. There are accusations that some countries are protectionists by *nature*; some are quite dominating, while others have some other 'hidden' agenda.

The EAC bloc envisions a prosperous, competitive, secure, stable and politically united East Africa; and its mission is to widen and deepen socio-economic, political, and cultural integration in order to improve the quality of life of its peoples through increased competitiveness, value added production, trade and investment. The bloc has six core values: i) professionalism, ii) accountability, iii) transparency, iv) teamwork, v) unity in diversity and vi) allegiance to the EAC ideals.

In line with its vision and mission, the regional bloc aims to widen and deepen cooperation among its partner states, mainly in the socio-economic and political fields. As a result, they established a Customs Union in 2005 and a Common Market in 2010. The next phase of the EAC integration, would, however, see the bloc enter into a Monetary Union and, ultimately, become a political federation of its own - one of strong building blocks for the AU to realise its pan-Africanist dreams. So far, in terms of progress towards its goals, the EAC has been one of the most efficient regional blocs in the east and Horn of Africa sub-region and is considered a suitable model for regional integration.

### What the crisis means

In order to define the future and pace of the EAC integration agenda, the five presidents were expected, before the end of the year 2013, to pass some major resolutions. For example, at least, five sectoral ministerial meetings were scheduled to take place before November, which should have made key recommendations to the Heads of State, but have been postponed or cancelled. In public, officials insist that there are no divisions or problems but in private they express concerns over the unity among the EAC members. But it is the recent 'coalition of the willing' - which has brought together Kenya, Uganda and Rwanda - that has sparked a public spat among the member states with Tanzania and Burundi on the other side of the fence. These tripartite meetings involving Kenya, Uganda and Rwanda led to the postponement of most sectoral meetings due to Tanzania, and sometimes Burundi, not committing to attend the meetings.

At some point, Kigali argued that the EAC partner states willing to fast track the integration process could not wait for others who were dragging their feet. However, the Tanzanian leadership argues that they are 'aggrieved' by the 'coalition of the willing' going ahead with a political federation without Tanzanian input.<sup>2</sup> Tanzanian Deputy Minister for EAC Co-operation Abdulla Juma Abdulla Saadalla wondered which treaty or protocol these three countries - Kenya, Rwanda and Uganda - are using to forge ahead without Tanzania since the EAC Treaty does not give permission to a trilateral group or quartet to forge ahead without the rest.<sup>3</sup>

These concerns are growing particularly over the recent cancellation of key meetings ahead of the EAC Heads of State and Government in November 2013 and among issues top on the agenda were the signing of the EAC monetary union protocol, which has already been approved at the ministerial level, and the approval of the political federation protocol.

Other issues on the agenda include the handover of the EAC leadership from Uganda to Rwanda, the approval of a final verification report on the admission of the new Republic of South Sudan into the bloc and the approval of the extension of the jurisdiction of the East Africa Court of Justice.

At present, Kenya, Uganda and Rwanda stand accused of agreeing to fast track the political federation, technically overlooking the consensus approach in reaching decisions as required by the regional treaty. And, Tanzania and Burundi, on their part, vowed they would neither recognise whatever decisions reached nor support the projects undertaken by the ‘coalition of the willing.’

The current EAC crisis means that the region faces a litmus test in its quest to become a political federation; a borrowable model for other regions as well as a strong building bloc for the AU in its quest for pan-Africanism. It also means that the division may not necessarily be over the pace of integration only. There have been a perception that Tanzania has always been ‘protectionist’ by nature; that Kenya was too ‘dominating’; Uganda a bit ‘bullying’ and that Rwanda wants to play a more proactive role and that differences on the engagement of the Democratic Republic of Congo (DRC) between Rwanda and Uganda, and Tanzania’s support for a hands-off and peaceful settlement for the same, are also partly to blame.<sup>4</sup>

There are also allegations that Tanzania’s close relationship with the West – and more so with the United States – and Kenya’s recent ‘*Look East*’ policy are also part of the political differences between regional leaders.

While the ‘coalition of the willing’ prefers to fast track the political federation, Tanzania and Burundi think otherwise. And although this may have to do with the slow-paced way of thinking by Tanzanian policymakers, Burundi, on the other hand, stands accused of looking up to Tanzania and not wanting to vote against it.

The silence by the region’s Secretary General, Richard Sezibera, does not also help the situation. Together with other diplo-technocrats, he believes that the proposed political federation as a model will define the roles of the executive, legislative, judiciary and the EAC citizens; a model which will then be presented to the EAC Council of Ministers, who will in turn forward it to the Heads of States Summit later this year. Dr Sezibera argues that the bloc’s member states had already reached some level of consensus on the building blocks needed for a political federation such as an agreement on peace, security, defence, good governance and corruption. He, however, remains silent over the consequences of member states pulling in different directions.

### Conclusion

Although Kenya’s former Prime Minister Raila Odinga called for dialogue and has been involved in some kind of shuttle diplomacy to contain the situation, serious damage seems to have been done already. So far, three Tanzanian nationals, allegedly with official support, have filed petitions in the East African Court of Justice against the EAC Secretary General, Uganda, Rwanda and Kenya with the aim to stop the ‘coalition of the willing’ from holding meetings without Tanzania and Burundi. The court has pushed the case to be heard in February 2014 so that the trio can file more documents and serve all the respondents.<sup>5</sup>

This rift, and at its current level, can also send the wrong signal to countries with plans to join the EAC or even to those who advocated for merging the EAC and the Inter-Governmental Authority on Development (IGAD). Although not scientific, public opinion in South Sudan and in Somalia is divided over the joining of the EAC. For example, there are already concerns by many South Sudanese on whether there is a need to join the bloc now or whether South Sudan needs some more time to think rather than jump into an already politically-fragile entity. These arguments and counter-arguments aside, one can conclude that it is not the end of the EAC as a bloc but a process of self-evaluation with which the bloc and its leaders will have to draw some lessons.

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- 1 The enlarged EAC economic bloc has a combined population of over 130 million people, an estimated land area of 1.82 million sq kilometres and a combined GDP of US\$74.5 billion. This, according to EAC officials, bears great strategic and geopolitical significance and prospects of a renewed and reinvigorated EAC regional block.
- 2 Adam Ihucha, 'Join Kenya, Uganda and Rwanda? Not us, says Dar,' *The East African*. Saturday, September 21, 2013.
- 3 Ibid.
- 4 This is based on an informal round-table discussion with a group of post-graduate students at the University of Nairobi's Institute of Diplomacy and International Studies (IDIS); See also AFP, 'Tanzania, Rwanda spat threatens to worsen Great Lakes crisis.' August 27, 2013.
- 5 Zephania Ubwani, 'Case against Uganda, Rwanda, Kenya to be heard on Feb 14,' *The East African*. Wednesday, November 20, 2013.

## NEWS

### **AU's international partners renew peace and security financial support**

On 5 November, the Commission of the African Union and its international partners signed two Memoranda of Understanding at the AU headquarters in Addis Ababa. The memoranda renews two Joint Financing Agreements, providing support to the salary costs of the AU Peace and Security Programme for 2013-15 and to sustain the AU liaison offices in conflict and post-conflict countries for the 2013-14 period.

The international partners contributing to these costs include the European Union, Denmark, Germany, Norway, Sweden, the Netherlands and the United Kingdom. Financial support from these European partners will help the AU Commission to fulfil its mandate in the area of peace and security on the continent.

*Source: African Union*

### **World Council of Churches elects first woman moderator**

Dr Agnes Abuom, from the Anglican Church of Kenya, was elected unanimously by the WCC 10th Assembly on 8 November 2013 to serve as moderator of the WCC Central Committee. She is the first woman and the first African in the position in the history of the World Council of Churches.

Abuom has served on the WCC Executive Committee, representing the Anglican Church of Kenya. She is also a development consultant serving both Kenyan and international organizations coordinating social action programmes for religious and civil society across Africa. Abuom's areas of work particularly include economic justice, peace and reconciliation.

Abuom was the Africa president for the WCC from 1999 to 2006. She has been associated with the All Africa Conference of Churches and WCC member churches in Africa. She is a co-president of the Religions for Peace and the National Council of Churches of Kenya and a former member of Life & Peace Institute's board of directors.

### **Kenyan Catholic bishops' statement on the security situation**

The Kenya Conference of Catholic Bishops, which met at Ukweli Pastoral Centre in the Archdiocese of Kisumu, expressed deep concern about the general state of insecurity across the country. The statement made particular mention of the insecurity in the coast and northern Kenya regions, the burning of churches and killing of religious leaders in cold blood.

"We are greatly troubled by increasing cases of kidnappings, carjacking and terrorist attacks in our country... We still remind the government that more needs to be

done,” the statement said. The bishops further appreciated “efforts by our Muslim brothers and sisters to disassociate themselves from violence.”

The conference also disassociated itself from demands by some religious leaders for arms to defend themselves and their flock. “Religious extremism will only brew more conflicts and create more division and strife among communities. We believe in peace and insist that it is the duty of the government to provide security for its citizens.”

*Source: Radio Vatican. The full statement can be read at [http://en.radiovaticana.va/news/2013/11/10/kenyan\\_bishops\\_issue\\_a\\_pastoral\\_statement\\_on\\_the\\_current\\_situation\\_in/en3-745401](http://en.radiovaticana.va/news/2013/11/10/kenyan_bishops_issue_a_pastoral_statement_on_the_current_situation_in/en3-745401)*

## RESOURCES

### **Ethiopia and its Sudanese neighbours**

This paper by Volkert Mathijs Doop reviews the evolving history of relations between Ethiopia and Sudan over the last two decades. Published by Complutense University of Madrid’s Unit on International Security and Cooperation, the author takes into account the history which ultimately led to the secession of South Sudan. The article focuses on the relationship between Ethiopia’s leadership with the governing elites in Khartoum and in Juba.

Titles How to Handle your neighbours ‘conflict: Ethiopia’s Relationship with Sudan and South Sudan, the paper’s analysis of Ethiopia’s policies is centred around two main questions: What are the major challenges to Ethiopian security, growth and development emanating from the conflict between Sudan and South Sudan and how Ethiopia can further strengthen its regional position, in terms of diplomatic capital, economic performance and security promotion around the region through its engagement with the two Sudans?

*Read the full paper at <http://pendientedemigracion.ucm.es/info/unisci/revistas/UNISCIDP33-7DOOP.pdf>*

### **“Rising Powers and the Future of Peacekeeping and Peacebuilding”**

The growing role and influence of rising powers in the international system, such as India, Brazil, Turkey and others, has already had implications for the global peace and security architecture.

This November 2013 report by the Norwegian Peacebuilding Resource Centre argues that these powers are “committed to the reform of the global order, and that they are pursuing a multilateral rules-based global architecture that can provide the legal and political framework necessary to ensure a more equitable, enforceable and stable global order, in which it would be impossible for any one country, or bloc of countries, to dominate the system.”

*Available at [http://www.peacebuilding.no/var/ezflow\\_site/storage/original/application/f194e6326ee12f80c3705117b151ef78.pdf](http://www.peacebuilding.no/var/ezflow_site/storage/original/application/f194e6326ee12f80c3705117b151ef78.pdf)*

### **Preserving peace in East Sudan**

Released on 26 November, this new report by International Crisis Group analyses the “situation in the forgotten East” Sudan.

“Unless the marginalisation of Sudan’s East is addressed, renewed war and further fragmentation of the country is a growing possibility,” says the report. It notes that East Sudan, in contrast to the fighting besetting the country’s other peripheries, has been without deadly conflict since the 2006 Eastern Sudan Peace Agreement

(ESPA). But this quiet is increasingly fragile, as the conflict's root causes remain and in some respects are more acute, due to the failure to implement many of the agreement's core provisions.

See the report at <http://www.crisisgroup.org/~media/Files/africa/horn-of-africa/sudan/209-sudan-preserving-peace-in-the-east.pdf>

### **New Deal and organised crime in fragile states**

The New Deal for Engagement in Fragile States was presented at the 4th High Level Forum on Aid Effectiveness at the end of 2011, and was endorsed by donor and fragile states, as well as by key development organisations. Central to the New Deal are the five "Peacebuilding and Statebuilding Goals" (PSGs): legitimate politics; security; justice; economic foundations; and revenues and services.

In this report for International Alert, Sara Batmanglich and Katrine Høyer examines the evolving and amorphous nature of organised violence in fragile and unstable states.

The report is available at [http://www.international-alert.org/sites/default/files/publications/DVC\\_PSGsOrganisedCrime\\_EN\\_2013\\_0.pdf](http://www.international-alert.org/sites/default/files/publications/DVC_PSGsOrganisedCrime_EN_2013_0.pdf)

## **Horn of Africa Bulletin, Volume 25, No. 6, November-December 2013**

### **Editorial information**

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### **Editorial principles**

The Horn of Africa Bulletin (HAB) is an international newsletter, compiling analyses, news and resources primarily in the Horn of Africa region. The material published in HAB represents a variety of sources and does not necessarily represent the views of the Life & Peace Institute (LPI) or the cooperating partners, the All Africa Conference of Churches (AACC) and the Fellowship of Christian Councils and Churches in the Great Lakes and the Horn of Africa (FECCLAHA). Writers and sources are normally referred to, although in exceptional cases, the editors of the HAB may choose not to reveal the real identity of a writer or publish the source.

