

Akech, M. & Kameri-Mbote, P. 2012. Kenyan courts and the politics of the rule of law in the post-authoritarian State. *East African Journal of Peace & Human Rights: (2012), vol.18, no.2, p.357-386.*, vol. 18, no. 2, p. 357-386.

Abstract: This article examines the performance of the judiciary as a neutral and legitimate arbiter among competing political interests in Kenyan society. It illustrates the failure of the judiciary in executing this mandate by examining the role that courts have played in the establishment of the rule of law in the post-authoritarian State by providing an account of judicial engagement with political processes since the return to multi-party democracy in 1991. It attributes this failure to a lack of institutionalization which has predisposed judicial officers to manipulation both by the executive branch and the Chief Justice (who heads the judiciary). It commends the 2010 Constitution of Kenya for setting out the principles and mechanisms that can provide the requisite institutionalization of the Judiciary, and sees a need for fortitude in the reconstituted Judicial Service Commission, and vigilance among citizens to ensure faithful and speedy implementation of the provisions of this constitution. Notes, ref., sum. [Journal abstract]

Allman, J. 2013. Kwame Nkrumah, African studies, and the politics of knowledge production in the Black Star of Africa. *International Journal of African Historical Studies: (2013), vol.46, no.2, p.181-203 : foto.*, vol. 46, no. 2, p. 181-203.

Abstract: This article turns a historical lens on postcolonial knowledge production about Africa in Ghana and two of Nkrumah's specific efforts to transform both scholarly and public understandings of African history and culture locally and globally: the Institute of African Studies and the 'Encyclopaedia Africana'. The article focusses on a moment in Nkrumah's Ghana, short-lived though it may have been, when it was at least possible to imagine forms of knowledge production about Africa that challenged colonial categories and the conventions of academic disciplines; that was Africa-centered, Africa-based, and globally engaged; that sought to transcend the politics of the Cold War and defy the hegemonic impulse of United States' racial politics. By nurturing the Pan-African aspirations of the 'Encyclopaedia Africana' and fostering the research of the Institute of African Studies, which officially opened on 25 October 1963, Nkrumah and his government were instrumental in facilitating what might have been a seismic shift in the balance of power in the production of knowledge about Africa. On February 24, 1966, however, Nkrumah was overthrown in a military coup. With the coup the 'Encyclopaedia Africana' project ended, and the Institute of African Studies was reorganized shortly afterwards. In the end, though the research and teaching missions of the Institute were largely preserved, its role in generating knowledge and shaping knowledge production on a global stage was largely circumscribed and its pedagogical and research agendas shoehorned, if not disciplined, into a narrow nation-state university system. This effectively meant the end of African centred postcolonial knowledge production about Africa, as Nkrumah had visioned it. Notes, ref. [ASC Leiden abstract]

Among, H. 2012. Challenges in prosecuting former child soldiers in Uganda's international crimes division. *East African Journal of Peace & Human Rights: (2012), vol.18, no.2, p.336-356.*, vol. 18, no. 2, p. 336-356.

Abstract: The International Crimes Division (ICD) of the High Court in Uganda explicitly limits its jurisdiction to international crimes committed by persons above the age of 18. While this clearly excludes the prosecution of International Law violations committed by children, leeway is created for the prosecution of former child soldiers who were initiated into violence before the age of 18 and evolved into adult perpetrators. However, the court further limits its mandate to those that bore 'particular responsibility'. Even then, former child soldiers above the age of 18 who allegedly held command positions within the Lord's Resistance Army/Movement and 'bore particular responsibility' in the crimes committed are still vulnerable to prosecution. From the perspective of the experiences or lived realities of former child soldiers, this article shows the challenges that the ICD may encounter if it proceeds to prosecute this category of perpetrators. This article contributes to existing deliberations on the recent creation of the International Crimes Division, and the possible prosecution of former child soldiers within this court. Notes, ref., sum. [Journal abstract]

Busingye, G. 2012. Revisiting impediments to women's land decision-making processes in Uganda. *East African Journal of Peace & Human Rights: (2012), vol.18, no.2, p.454-481.*, vol. 18, no. 2, p. 454-481.

Abstract: Decision-making for women is a necessary condition for them to participate in various aspects of their social lives as individuals. Demand for women to participate in land decision-making processes is justifiable considering that for a long time, they have been denied that human right by the social forces which permeate their daily lives. The international human rights legal regime recognizes decision-making for women as a cornerstone for all the developmental aspects of humanity. This article identifies and revisits the main impediments to women's land decision-making processes in Uganda. The impediments identified include African customs, colonial rule, colonial education and religion, all of which are informed by the ideology of patriarchy. The ideology of patriarchy, whether embedded in African custom or Western social fabric and legal systems has a negative impact on women's right to decision-making. Notes, ref., sum. [Journal abstract]

Letsie, T.W. 2013. The 2012 general elections in Lesotho : a step towards the consolidation of democracy. *Journal of African Elections: (2013), vol.12, no.1, p.65-83 : tab.*, vol. 12, no. 1, p. 65-83.

Abstract: The May 2012 general elections in Lesotho were held in the best political climate since democracy returned to the country in 1993. Even the minor disputes that surfaced were resolved speedily before they could graduate into serious election-related conflict. The elections were historic in that the results were not disputed. In addition, for the first time in the country's history the elections failed to produce a clear winner, hence the formation of a coalition government. The elections also resulted in a change of leadership, bringing to an end Pakalitha Mosisili's 14-year rule. The article contends that the peaceful conduct of the elections was the result of the amendments made to the country's electoral laws and the preparedness of the Independent Electoral Commission. It goes further to show how the Democratic Congress, the party with a relative majority of parliamentary seats, came to be omitted from the coalition government and was relegated to the opposition. All these, the article argues, are positive developments in the country's move towards democratic consolidation. Bibliogr., sum. [Journal abstract]

Mangu, A.M. 2013. Democracy and States' compliance with regional and sub-regional election benchmarks in Africa. *Journal of African Elections: (2013), vol.12, no.1, p.1-33 : tab.*, vol. 12, no. 1, p. 1-33.

Abstract: Since the beginning of the century elections have been held regularly in several African countries. Unfortunately, these elections have generally failed to comply with regional and sub-regional electoral norms adopted to promote credible and transparent elections and contribute to democratic consolidation. The Democratic Republic of Congo (DRC) is a representative and dramatic case of the region's experience with democracy and multiparty elections. This article reflects on democracy and the 28 November 2011 presidential and parliamentary elections in the DRC. It revisits the concepts of democracy, elections and the rule of law, and the relationship among them. It examines the electoral laws and processes, the social-political and social environment as well as national and international reactions to these elections in the DRC, offering a representative but dramatic case study of Africa's experience with democracy and elections. The article then assesses the DRC's compliance with the regional and sub-regional norms and principles governing democratic elections. It concludes that the DRC unfortunately failed to comply and draws some lessons about democratic consolidation in Africa. Bibliogr., notes, ref., sum. [Journal abstract]

Mulumba, M. 2012. Facilitating disability inclusion in the national development agenda in Uganda : what role can the human rights-based approach play? *East African Journal of Peace & Human Rights: (2012), vol.18, no.2, p.482-498.*, vol. 18, no. 2, p. 482-498.

Abstract: Evidence suggesting the link between disability and poverty has been increasing in recent years. Nonetheless, there has been very little effort by various governments to ensure the inclusion of persons with disabilities in poverty reduction processes. This article argues for the need to use the human rights-based approach as an advocacy tool for disability mainstreaming in

poverty reduction strategy papers. In particular, the article explores the ways of facilitating disability inclusion in the National Development Plan in Uganda using the human rights-based approach. In so doing, the author reports part of the findings gathered from a study conducted in Uganda between April and October 2009. These findings specifically focus on the role of the human rights-based approach with the intention of ensuring the meaningful inclusion of disability issues in the national development agenda that targets poverty reduction. Notes, ref., sum. [Journal abstract]

Naluwairo, R. 2012. Guaranteeing the right to a fair trial in Uganda's military justice system : proposals for reform. *East African Journal of Peace & Human Rights: (2012), vol. 18, no.2, p.316-335.*, vol. 18, no. 2, p. 316-335.

Abstract: Following on a number of scholarly works that have analyzed the compliance of Uganda's military courts with the right to a fair trial, this article provides and discusses the measures required to ensure that the administration of military justice in the country fully complies with the basic elements of the right to a fair trial. As long as Uganda's military courts continue to exercise judicial power over criminal offences or matters that are criminal in nature, then - in line with the country's international human rights obligations - they must comply with the right to a fair trial. Key among the measures recommended to ensure compliance of Uganda's military justice system with the right to a fair trial include: minimum legal qualifications for persons appointed as judge advocates; sufficient security of tenure for the judge advocates and chairpersons of the military courts; and including civilians in the composition of some courts-martial. Also recommended is the need to establish the offices of an independent Director of Military Prosecutions and Principal Military Judge; limiting the jurisdiction of military tribunals over civilians; removing the jurisdiction of military tribunals over military personnel accused of committing gross human rights violations; and making the Supreme Court of Uganda the last court of resort in respect of matters handled by the country's military justice system. Notes, ref., sum. [Journal abstract]

Nuvunga, A. & Siteo, E. 2013. Party institutionalisation in Mozambique : 'the party of the State' vs the opposition. *Journal of African Elections: (2013), vol. 12, no.1, p.109-142 : graf., tab.*, vol. 12, no. 1, p. 109-142.

Abstract: The article probes party institutionalization in Mozambique and argues that only three of the more than 50 registered political parties there are 'effective', namely Frelimo, which is highly institutionalized; Renamo, which is collapsing organizationally yet has a high level of social rootedness; and an institutionalizing MDM. The article concludes that although the opposition parties are partly to blame for their misfortunes, the nature of Frelimo's relationship with society bears the main responsibility for the impoverishment of the opposition parties because it makes it difficult for opposition parties to break in and challenge its control over the State. Bibliogr., notes, ref., sum. [Journal abstract]

Obonye, J. 2012. Human rights enforcement and the question of standing before the High Court of Botswana : a comparative analysis. *East African Journal of Peace & Human Rights: (2012), vol. 18, no.2, p.387-414.*, vol. 18, no. 2, p. 387-414.

Abstract: Egregious human rights violations mainly committed by the State and its various institutions and agents usually pass without remedy due to sterile and austere rules of standing before judicial tribunals that effectively deny victims of human rights violations access to justice. Ideally, these are bodies that should have been instrumental in the implementation and enforcement of human rights provisions guaranteed under municipal constitutions and international instruments. In light of these limitations, this article gives an insight into the legal regime governing the question of standing in enforcing constitutional rights before the High Court of Botswana. It is beyond argument that there is a direct relationship or link between the rules of standing and the right of citizens to access courts of law and achieve justice. The article proceeds to give reflections on public interest litigation and amicus curiae procedures arguing that Botswana must adopt the former in order to enable the larger sections of its society secure access to the courts of law and also relax the rules of admission in order to encourage dynamic and creative human rights litigation in the country. Notes, ref., sum. [Journal abstract]

Okwezuzu, G.E. 2012. Oil spillage in the Niger Delta Region : a complex instance of gross environmental injustice. *East African Journal of Peace & Human Rights: (2012), vol.18, no.2, p.437-453.*, vol. 18, no. 2, p. 437-453.

Abstract: This article examines the environmental tragedy that has bedeviled the Niger Delta, Nigeria, as a result of oil pollution. It also explores the different legal mechanisms, namely the traditional common law approach employed in Nigerian courts, the Alien Tort Statute in the United States, and the recent open-door for redress in the British High Court, which have been employed to secure environmental protection in the Niger Delta. It observes that the traditional common law torts of nuisance, negligence, trespass, and strict liability in the protection of the environment are largely ineffective as their application is fraught with inherent and diverse problems, while the decision in *Kiobel v. Royal Dutch Petroleum* appears to have rendered ineffective the Alien Tort Statute in the United States. However, with the recent Ogoni award granted by a High Court in London, there appears to be an open-door for redress in the British High Court. Finally, bearing in mind the magnitude of oil spillage and the deadly effects entailed, it is submitted that environmental degradation in the Niger Delta amounts to genocide in disguise and therefore calls for unilateral intervention by the United Nations (UN). In this regard, the article recommends that the United Nations Environment Program (UNEP) should be mandated to carry out an independent assessment of the Niger Delta and proffer measures that would be binding on culpable parties. Notes, ref., sum. [Journal abstract]

Olaniyan, H.A. 2012. A critical appraisal of the Nigerian law and practice on choice of jurisdiction. *East African Journal of Peace & Human Rights: (2012), vol.18, no.2, p.415-436.*, vol. 18, no. 2, p. 415-436.

Abstract: Nigeria inherited the writ rule, either by virtue of the general reception of English Common Law or by virtue of the provisions in the various high court laws, directing the courts to exercise concurrent jurisdiction with English Courts. But an appraisal of its application shows that despite over 100 years of receiving the Common Law on the subject, Nigerian courts are yet to come to terms with the implications of its reception. This article sets out to review the attitude of Nigerian courts and point out observed errors. The author analyses the way the Nigerian courts apply writ rule with case examples, showing the courts' lack of understanding of the full implication of the writ rule which is part of the received English law in this subject area, and their prejudicial construction of the rules or misunderstanding of conflict of laws. Thus correct application of writ rule is desirable so that litigants are not forced to abandon cases and the court can exercise personal jurisdiction over the defendant as well as jurisdiction over the dispute submitted to the court. Notes, ref., sum. [Journal abstract, edited]

Osei, A. 2013. Party-voter linkage in Senegal : the rise and fall of Abdoulaye Wade and the Parti Démocratique Sénégalais. *Journal of African Elections: (2013), vol.12, no.1, p.84-108 : fig., tab.*, vol. 12, no. 1, p. 84-108.

Abstract: In March 2012 Abdoulaye Wade was defeated by Macky Sall in the hotly contested presidential elections in Senegal. This article uses the concept of party-voter linkage to examine how and why Wade and his party, the Parti Démocratique Sénégalais (PDS), lost touch with the electorate. It is argued that this failure must be viewed within the context of a complex process of social change that challenged traditional, often clientelistic, forms of linkage. As an alternative strategy, the PDS emphasised the personal charisma of its leader. Charismatic linkage, however, is naturally unstable, and the PDS began to lose public support. These findings suggest that political parties in Senegal cannot build their strategies on clientelism and charisma alone, they will have to begin to compete over issues and develop programmatic visions. If this challenge is not taken up, the long-term prospects for democratic representation and effective linkage are uncertain. Bibliogr., notes, ref., sum. [Journal abstract]

Reid, T.B. 2013. Congolese elections 2011 : mostly a problem of global governance and negative 'soft power', not resources. *Journal of African Elections: (2013), vol.12, no.1, p.34-64.*, vol. 12, no. 1, p. 34-64.

Abstract: When Congolese President Joseph Kabila was inaugurated for a second term on 20 December 2011 the fallout from the 28 November elections in the Democratic Republic of the

Congo (DRC) was 'situation normal: continued instability'. After Kabila's main opponent, Etienne Tshisekedi, 'swore himself in' on 23 December (Tshisekedi website), there were two men claiming to be president and several other candidates demanding a new ballot. The 2006 elections, the DRC's first since the Global and Inclusive Agreement (Dialogue Inter-Congolais 2002), were shambolic, but clearly legitimate. This was partly due to the fact that the United Nations Organization Mission in the Democratic Republic of the Congo (Monuc) had a stronger presence than its successor, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (Monusco). There was also more international attention in 2006, including an EU rapid reaction force. However, many of the issues in the 2011 election violence, logistical problems and irregularities were present in the previous one. There was possibly as much international financial and logistical support as there had been in 2006. There were fewer international observers but more local ones. The main differences relate to context, the structure of international assistance and the lack of a second presidential round. The crisis had been years in the making. More important than diminished engagement in the mechanics of the election was the international community's sham attention to governance in sub-Saharan Africa and the culture of impunity it has encouraged. The West, unlike China, has failed to appreciate the strategic importance of the DRC. By encouraging regional dictators instead of enthusiastically supporting the rule of law early and often, it tacitly encouraged bad behaviour. Bibliogr., notes, ref., sum. [Journal abstract]

Wolf, T.P. 2013. International justice vs public opinion? : the ICC and ethnic polarisation in the 2013 Kenyan election. *Journal of African Elections: (2013), vol. 12, no. 1, p. 143-177 : graf., tab., vol. 12, no. 1, p. 143-177.*

Abstract: This article examines a perennial factor in Kenyan politics, that of communal identity, and how it was mobilized in the context of the March 2013 elections. Using survey data it tracks attitudes regarding a unique feature of these elections: the (still-expected, if bitterly challenged) International Criminal Court (ICC) cases of Uhuru Kenyatta and William Ruto, of the Kikuyu and Kalenjin communities, respectively, for their alleged roles in the widespread violence that followed the disputed 2007 election. Remarkably, notwithstanding this ethnic divide at the time, their 'defendant' status provided, first, the personal, and subsequently, the communal foundation for their political union and ultimate triumph over then prime minister Raila Odinga, becoming Kenya's new president and deputy-president, respectively. In exploring this success, the paper uses nationally-random survey data which also reveal the degree to which Kenyans became increasingly polarized as the elections drew nearer. In addition, qualitative material from media coverage and personal interviews suggests just how such polarization occurred. The conclusion raises several questions about the way various possible scenarios involving the ICC issue could yet reconfigure the ethnic alliances evidenced in this recent and controversial election, and about the salience of ethnic identity in Kenya's electoral politics more generally. Bibliogr., notes, ref., sum. [Journal abstract]