



Peace & Security Council Report

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Hopes guarded as another envoy heads to the Horn

President Olusegun Obasanjo's recent appointment to high representative for the Horn of Africa carries an ambitious agenda to 'promote peace, security, stability and political dialogue' across the region. African Union Commission (AUC) Chairperson Moussa Faki Mahamat announced the appointment in August 2021, tasking Obasanjo with intensifying engagements among political actors and stakeholders to entrench 'durable peace and stability'.

Amid the Horn's worsening security situation, this prioritisation of the region's stability is timely. In Somalia, a political crisis has been unfolding since the country missed two election deadlines. Al-Shabaab attacks continue. In Ethiopia, the political transition that started in 2018 has resulted in civil conflict. Sudan faces an uncertain political transition characterised by competition between military and civilian political actors following the coup that toppled former president Al-Bashir in 2019.

Instability within South Sudan's unity government, exacerbated by recent infighting in Vice President Riek Machar's party and sporadic violence, threatens to destroy the country's fragile peace deal.

Border disputes remain unresolved between Eritrea and Djibouti, Ethiopia and Sudan, Sudan and South Sudan, and Somalia and Kenya.

The appointment of President Obasanjo has, however, raised several questions. First is the absence of a clear mandate detailing the scope of his responsibilities. The second queries why the AU appointed him rather than revitalise the AU High-level Implementation Panel for Sudan and South Sudan (AUHIP) with a mandate for the Horn of Africa. Thirdly, some doubt it is possible to resolve disputes and political crises in the region through negotiation and mediation led by high representatives.

Competing mandates, rival representatives?

President Obasanjo's appointment has raised concern over the number of envoys for the region. This relates primarily to the mandate of AUHIP. In 2013, the AU Peace and Security Council (PSC) meeting of heads of state and government expanded the AUHIP mandate to include the Horn of Africa.

This was in line with the AU Assembly call for a regional, holistic approach to achieving peace, security and stability in the Horn, to support the Intergovernmental Authority on Development.

In what some commentators within the AU-structures see as an attempt to pre-empt the appointment of Obasanjo and regain relevance for AUHIP, its chairperson, former South African president Thabo Mbeki, wrote a letter to the ambassador of Cameroon to the AU, who chaired the PSC in August.

Current PSC Chairperson

HE Mahamad Ali Hassan,
ambassador of Chad to Ethiopia
and permanent representative to the
African Union.

PSC members

Algeria, Benin, Burundi, Cameroon,
Chad, Djibouti, Egypt, Ethiopia,
Ghana, Kenya, Lesotho, Malawi,
Mozambique, Nigeria, Senegal

The 20 August letter reiterated AUHIP's mandate for the Horn of Africa, but focused exclusively on Ethiopia, making a case for the role AUHIP can play in resolving the conflict in the country. Engagement in Ethiopia would help to revitalise AUHIP, whose mandate was formally renewed only until the end of 2018.

The Panel had been marginally involved in mediation and peacebuilding efforts in Sudan and South Sudan, the two countries of its primary mandate. However, its lack of recent substantive engagement in these countries does not make it an obvious choice to mediate in ongoing political negotiations in the region. This is despite the PSC reiterating its support for the body in 2020.

In addition to AUHIP, Moussa Faki appointed special representatives to head liaison offices in Sudan and South Sudan, and lead the AU Mission in Somalia (AMISOM). These individuals oversee the implementation of the AU's key decisions, rather than spearhead high-level negotiations for dispute resolution. This was evident in the appointment of a special envoy, Mohamed El Hacen Lebatt, to mediate between civilian actors and the military following the 2019 coup d'état in Sudan.

The AU also tried to appoint former Ghanaian president John Mahama high representative to Somalia in May 2021. Although the Somali government rejected Mahama, he was assigned to mediate in the election-related political crisis. This reflects the AU's propensity for appointing representatives and envoys for the Horn of Africa to engage at various levels, with differing timeframes and mandates.

Does the Horn need another envoy?

With an expected drawdown of AMISOM, the AU wants to establish a political mandate for its engagement in Somalia. Thus, it will move to replace the rejected Mahama with another high-level representative.

International pressure is mounting for the AU to engage in Ethiopia. In addition to visits by various envoys to this country and the region, this has been observed at the United Nations Security Council (UNSC), whose agenda has featured the situation in Tigray eight times in the past year. Finding a suitable mediator for the conflict has been a priority during these meetings.

AUHIP, which is mandated by the PSC, will find it difficult to resolve a conflict that the PSC is not actively seized of. While Prime Minister Abiy Ahmed briefed the PSC on the ongoing conflict in Ethiopia during its heads of state meeting in March 2021, the Council has never placed Ethiopia on its agenda.

Analysts, therefore, believe it no coincidence that Obasanjo's appointment was announced on 26 August 2021, the day UNSC last discussed Tigray. UNSC members, including Kenya, Niger and Tunisia, urged all regional leaders and the international community to lend Obasanjo 'every assistance, particularly as he supports a peace process in Ethiopia'.

These circumstances reinforce speculation that Obasanjo was appointed to focus primarily on Ethiopia. His Horn mandate helps AU members that



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ITS AGENDA

support intervention in Ethiopia and those that don't for national sovereignty concerns find middle ground, without placing the country formally on the PSC's agenda. With clear international support, especially for his engagement in Ethiopia, high expectation is placed on him.

Will Obasanjo grab the bull?

President Obasanjo is a seasoned politician who has made a positive impact as a peacemaker in various conflict situations and political crises across Africa. These include Liberia, São Tomé and Príncipe, Angola, Burundi, Mozambique, Namibia, Democratic Republic of Congo and Cote d'Ivoire.

Notwithstanding this, he failed to mediate a political settlement between conflicting parties in Ethiopia in November 2020. This was attributed to the lack of clarity around the mission. It was reported that neither parties nor the AU was informed of his initiative in advance.

Furthermore, South African President Cyril Ramaphosa, the AU Chairperson in 2020, had appointed three former heads of state to mediate the conflict. The Ethiopian government rejected the intervention on the grounds that its operation was that of law enforcer under sovereign jurisdiction.

Obasanjo, however, has gained the backing not only of the AU, but the UN and its permanent members to engage particularly in Ethiopia. In addition to creating a single, consolidated conflict resolution mechanism for the Ethiopian conflict, international backing gives his mandate more weight. Despite this, his success will depend on whether the parties accept his mediation.

As head of the AU's observer mission during Ethiopia's June 2020 election, he gained acceptance among government supporters, who approved the mission's declaration of the election as 'orderly, peaceful and credible'. Suspicions linger, however in some Ethiopian circles that his new role is an attempt to give an African face to what is essentially a Western intervention in Ethiopia.

Given growing anti-Western rhetoric in Ethiopia, especially against the current United States administration, Obasanjo's first official meeting, with Samantha Power, US Agency for International Development administrator, was perceived negatively by many.

Opposition armed groups have questioned his and the AU's impartiality. The Tigray People's Liberation Front (TPLF) has accused the AU, particularly AUC Chairperson Moussa Faki, of supporting the Ethiopian government's position and challenged the AU's continued silence on the conflict in Tigray. Nevertheless, recent briefings by the Ethiopian Prime Minister's office and representatives of the TPLF indicate some openness to mediation.

This will be contingent on a guarantee of impartiality and reassurance that the mediation process is a genuine African initiative to achieve peace. Obasanjo will not only need the highest political buy-in, but will have to convince the constituencies that a negotiated political settlement is possible, and that it is the best route.

26 August
2021

PRESIDENT OBASANJO
APPOINTED AS HIGH
REPRESENTATIVE FOR THE
HORN OF AFRICA

Algeria-Morocco rift another blow to regional integration

The announcement by Algeria's Minister of Foreign Affairs Ramtane Lamamra on 24 August of a new break in diplomatic relations with Morocco is another blow to the ideals of free trade and free movement on the continent. On 22 September, Algeria also banned Moroccan civilian and military planes from flying over its territory.

These developments scupper the plans of the African Union (AU), which had hoped a regional economic community (REC) in North Africa would become a reality after Morocco rejoined the organisation in 2017. At the time Morocco's King Mohamed VI committed to playing a constructive role in the AU and argued for the revival of North Africa's ailing Maghreb Arab Union.

The AU has so far been silent on the renewed tension between the two countries. Lamamra, a former AU Commissioner for peace and security, could leverage a number of mediation structures to bring his counterparts to the negotiating table, if he desired. The rift between the two countries is, however, longstanding and linked to territorial, political and economic rivalry that would be difficult for the AU to untangle.

Still, emphasising the benefits of regional trade in the African Continental Free Trade Area (AfCFTA) could convince the leaders of both countries to cooperate. The AU can leverage voices of influential individuals in both Morocco and Algeria who maintain that the development challenges are huge and resolution is impossible without greater regional cooperation.

Ties up in flames

The current breakdown of diplomatic and trade ties followed a letter sent by Morocco's ambassador to the United Nations (UN) showing Moroccan support for independence movements in Algeria's Kabylie region. The *Mouvement pour l'autodétermination de la Kabylie* is accused of perpetrating the devastating fires in Kabylie from 9 August that killed at least 69 people.

This coincided with the so-called Pegasus scandal, in which 6 000 leaked documents showed how Morocco spied on Algeria. Morocco's rekindled relations with Israel, which followed former United States president Donald Trump's recognition of Morocco's claim over Western Sahara, also irked Algeria, staunch opponents of relations with Israel.

Some interpret the current situation as Lamamra's bid to show that 'Algeria is back' on international diplomacy terrain after being relatively dormant, especially under the late former president Abdelaziz Bouteflika. Meanwhile, Morocco accuses Algeria of supporting anti-monarchy protestors in the kingdom.

Western Sahara a perpetual sticking point

Much of the ongoing tension is playing out against a backdrop of unresolved claims by Western Sahara to independence. Algeria supports the Polisario Front, an independence movement that ensures the leadership of AU member, the Sahrawi Arab Democratic Republic.

In the past year, sporadic incidents have broken out between Morocco and Sahrawi independence fighters in the buffer zones designated by the 1991 UN-brokered ceasefire. Early in 2021, serious clashes took place at Guerguerat in the Morocco-claimed far south of Western Sahara.

Morocco insists on implementing its plan for significant autonomy for Western Sahara, but this has been rejected by Algeria and its allies. The UN defines Western Sahara as a non-self-governing territory.

Calls that Morocco's return to the AU would help to resolve this and that it should be discussed within AU Peace and Security Council frameworks have fallen on deaf ears. Morocco insists that it should be handled by the UN Security Council, where little progress has been made for several years. The mandate of the UN Mission for Western Sahara is up for discussion and renewal in October 2021.

Tanking trade and plunging potential

The dispute between the two countries has plunged economic and trade relations to a new low. Tensions in the past few decades have already caused several disruptions and have sunk trade levels far below

expectations for economies of their size. Morocco's exports to Algeria, for example, amount to 0.48% of its total exports. Morocco imports most of its oil and gas from Algeria, but this is only 0.79% of its imports.

The loss in potential is enormous, notably because Morocco has ample reserves of phosphate that it could export to Algeria, one of Africa's main gas producers. Together they could produce much-needed fertiliser. This could boost agriculture on the continent and 'transform the economies of African countries', according to one insider quoted by *Jeune Afrique*.

The land borders between the two countries were closed between 1976 and 1988, then reopened following attempts at appeasement by the countries' leaders. They were reclosed in 1994, when Morocco accused Algeria of being behind the terror attacks in Marrakech. No direct maritime routes link the countries and traders. Consequently, travel is by air or via Europe. Middlemen have made ample use of these tensions and are benefitting from the extended networks to move goods between the countries.

This is where the benefits of greater intra-African trade should be emphasised. AfCFTA came into force in May 2019 and trading began in January 2021. Its potential is huge for Africa's more sophisticated markets, such as those in North Africa, since they will benefit from greater tariff-free exports to the rest of the continent.

AfCFTA Secretary-General Wamkele Mene believes that millions of Africans can be lifted out of poverty if the agreement is correctly implemented across the continent. Mene held a meeting with RECs at the end of September but North Africa wasn't present. Of the 38 ratifications to date, Algeria and Tunisia are the only two from North Africa.

Morocco is a major investor in Francophone West Africa and Central Africa, notably in banking and finance, telecommunications, air travel and agricultural products. With Nigeria and South Africa, it is among the biggest African investors on the continent, but has not joined AfCFTA, fearing competition from other African states in its economy. Efforts by Morocco to join the Economic Community of West African States, which could help its goods to move freely in that region of 15 states, have also failed.

Much to gain from regional integration

For now, arguments about the economic benefits of regional integration have not created enough impetus to override the deep-seated tensions and rifts between Morocco and Algeria. There is, however, a fresh opportunity for civil society and regional organisations to emphasise the need for talks and visionary leadership on both sides. The abovementioned letter – signed by 140 intellectuals from both countries and the wider North African region – calls for mediation to restore links between countries with much to gain from cooperating.

In the absence of a functioning REC, the AU and the AfCFTA secretariat must play this role. Getting Morocco and Algeria around the table to discuss economic cooperation – if not diplomatic and political ties – will be a huge step for the continent and regional economic integration.

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38

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Renewed calls for action against forced disappearances

Enforced disappearances continue across Africa, notably in conflict situations. The 2006 International Convention for the Protection of all Persons from Enforced Disappearance (ICPPED) defines them as ‘the arrest, detention, abduction or any other form of deprivation of liberty by agents of the state or by persons or groups’.

They are characterised by ‘concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law’. In Africa, enforced disappearance is a tool of oppression to silence opposition leaders, human rights activists and minority groups, among others. People also go missing when they are forced to use dangerous and irregular migration routes.

The Institute of Security Studies hosted a webinar on 30 August to mark International Day of the Disappeared. Maya Sahli-Fadel, ACHPR Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa, called on member states to ratify protocols and conventions dealing with the issue. ACHPR is the African Commission on Human and People’s Rights.

Sahli-Fadel said the first step was for more African countries to ratify ICPPED. Currently only 64 countries have done so, only 18 of which are African, with very few countries having incorporated it into their domestic laws that criminalise enforced disappearances.

Legislation lacking on enforced disappearances

The African Union (AU) does not have legal frameworks on enforced disappearances. Enforced disappearances can be referenced only to rights enshrined in the African Charter on Human and Peoples’ Rights or in domestic legislations. The lack of a legal framework on the continent hinders prevention and effective remedies for the victims and families of involuntary disappearances.

Only in 2018 did the AU, through ACHPR, adopt a resolution to expand the mandate of the working group on extra-judicial and arbitrary killings to include enforced disappearance. In 2020, the AU Commission passed another resolution that provides guiding principles and identifies member states’ obligations in responding to enforced disappearances. These resolutions are an

indication that attention to enforced disappearance is gaining some ground. However, they are still not binding.

The AU has made significant strides to provide legal frameworks to protect vulnerable groups. These include the 1969 Convention Governing the Specific aspects of Refugee Problems in Africa and 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons (Kampala Convention).

The 2015 Draft Protocol on the Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa is yet to be adopted. However, there is no African-specific legal instrument on protection against enforced disappearance, leaving victims with very limited redress. Recognition through legal and policy frameworks is key in the fight against enforced disappearance.

The armed conflict connection

In many African countries, enforced disappearances occur in armed conflict contexts, with increasing numbers of people reported missing. In South Africa, for example, from 1985 to 1994, more than 2 000 people disappeared during apartheid political unrest. In Ethiopia from 1974 to 1991, thousands of people disappeared during war, while more than 8 000 disappeared in the 1990s Algerian civil war.

Disappearances today reflect a new trend of violent extremism, which has led to counter measures. The 2014 to 2018 schoolgirl kidnappings by Boko Haram and those of students and clergy by Cameroonian separatists in 2019 reflect the involvement of both state and non-state actors.

Journalists continue to be a target, particularly in dictatorial regimes. Several have disappeared in Zimbabwe, including Itai Dzamara, missing since 2015, and in Mozambique, where radio journalist Ibrahima Abu Mbaruco went missing in April 2020.

In Mali, abductions of civilians by unidentified armed groups are a worrying and underreported phenomenon of the war. Since 2017, 935 such incidents have been recorded. Most of these are believed to be linked to conflict and violence. Thus, with the increasing number of crises on the continent, the number of missing and disappeared persons is expected to increase, requiring early intervention and national, regional and continental responses.

Migration has also been increasingly securitised and this has pushed people towards irregular and dangerous methods, which has increased the number of 'missing persons' on the continent. Some disappear without trace when crossing borders.

Dodgy disappearance data

It is difficult to measure the magnitude of enforced disappearances on the continent due to the lack of official data and significant underreporting. According to the report of the United Nations Working Group on Enforced and Involuntary Disappearances, in 2020, 46 271 cases were reported, only 4 783 (10.3%) of which were from African countries.

The highest numbers of reported cases were in Algeria (3 253), Egypt (308), Burundi (238), Sudan (177), Morocco (153) and Ethiopia (113). Despite the huge number of armed conflicts on the continent, it recorded the fewest number of enforced disappearances.

Amid the conflict and political turmoil in Sudan, for example, the working group recorded only 394 cases from families and victims in the last four decades. The reasons for underreporting and low records in most African states include refusal to acknowledge enforced disappearances involving the state and the reluctance of victims to report due to fear. Restrictions on the work of civil society and a culture of silence exacerbate the situation.

Although ratification is low, ICPPED provides a foundation for and outlines the legal obligations of states to protect, prevent, prosecute and reparate victims of enforced disappearance. The AU needs to establish legal frameworks that guide its member states in finding appropriate responses to enforced disappearances and encourage states that have not yet ratified ICPPED to do so.

Adapting to new conflict dynamics

The problems of missing persons and enforced disappearances should no longer be tolerated, as these practices continue to evolve unabated through new contexts and dynamics. Given the physical and psychological impact of disappearances, member states' actions should focus on families and victims, who have a right to learn the truth, access justice and obtain redress.

Member states also have an obligation to investigate cases of disappeared persons, identify and prosecute those responsible and provide reparation to families. The legal, policy and operational factors constraining protection against enforced disappearance need urgent attention.

935

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Deadly cost of South Sudan's delayed security reforms

South Sudan has failed to unify the country's armed groups into a single force with a central goal of ensuring national security. The task of security sector reform has been frustrated by a militarised political culture that could see political tensions boiling over into armed conflict.

The most recent illustration is the fallout between Vice President Riek Machar and senior figures in his opposition party. In August, the leadership tried ousting Machar as party head, with First Lieutenant General Simon Gatwech Dual emerging as leader of the rival faction.

Reports that armed forces loyal to the two camps exchanged gunfire were reminiscent of the December 2013 shootout between members of the presidential guard at the start of the civil war. Although Machar maintained his hold over the party, the fallout shows how rapidly political infighting can escalate into armed violence.

Blurred lines

Both the ruling party and opposition in South Sudan are founded on military movements with weak political wings. As a result, the lines are blurred between the leadership and the armed forces. This tendency has also reinforced ethnic divisions that impede unification of troops in the Sudan People's Liberation Army (SPLA) and the SPLA In Opposition.

The armed forces have become a powerful instrument aligned mainly to individual leaders rather than the state or central party structures. Combining these groups under a national system would dilute the leverage that opposition generals have gained from commanding their own militias. Unless the role of party military wings is changed, political tensions in the opposition will probably escalate into armed confrontations that could trigger widespread instability.

The lack of security sector reform has affected not only the armed forces but also the police and other security institutions. Changes that started in 2005 were halted by the outbreak of the 2013 civil war. Current reforms were launched in 2018 under the Revitalised Agreement for the Resolution of Conflict in South Sudan (R-ARCSS) – and is proving to be a vital step for securing peace. Unfortunately, the country's political and institutional terrain complicates the process.

After several failed peace agreements, the R-ARCSS led to cautious optimism that the country could be stabilised, allowing the reforms that had stopped during the civil war to continue. The United Nations Mission in South Sudan has been at the forefront of supporting these renewed efforts.



CURRENT REFORMS IN SOUTH SUDAN WERE LAUNCHED IN 2018 UNDER THE R-ARCSS

Mechanisms to oversee reforms

The R-ARCSS provides for security mechanisms to oversee the reforms during the 18-month transitional period. These include: the Joint Transitional Security Committee responsible for the training and redeployment of unified forces; the Joint Military Ceasefire Commission; and Area Joint Military Ceasefire Committees that monitor the cantonment areas and train opposition forces.

These structures were supposed to be established within two weeks of the R-ARCSS. Nearly three years later they are still not fully functional, with armed groups remaining outside their cantonment camps. These camps were established to register, screen and disarm soldiers and facilitate the selection of members for recruitment into the police, army and other security institutions.

Tensions between Machar and the SPLA In Opposition's military wing could have violent repercussions

But troops have continued to desert cantonment camps due to poor living conditions and food shortages. So delays and missed deadlines have hindered the process of creating a unified South Sudan People's Defence Forces, which will replace the Sudan People's Liberation Army.

There is also some confusion on the unification ratios of the army command, with Machar denying that he agreed to the SPLA In Opposition receiving only 40% of the positions. This stance echoes his pattern of reversals of commitments under the transitional government.

A precarious political context

These challenges show just how precarious the political context and institutional frameworks are that underpin the reforms. The recent attempted overthrow of Machar as opposition party head is evidence of this. The disagreements within the SPLA In Opposition also led to the resignation of the party's deputy Henry Odwar from the transitional government. Odwar has issued a scathing criticism of Machar that mentioned his negligence of opposition forces in cantonment areas.

Machar's spokesperson accused Dual's rival faction of leading the attempted ouster in a bid to prevent the unification of the armed forces. Tensions between Machar and the SPLA In Opposition's military wing could have violent repercussions that further disrupt the country's reform process.

Resolving these tensions and getting the unification of the armed forces back on track won't be easy. A vital step is ensuring that the Joint Military Ceasefire Commission and Area Joint Military Ceasefire Committees are fully functional to enable the creation of a single defence force for the country. Ultimately though, reviving South Sudan's reforms will depend on the political commitment of the country's leaders, particularly the opposition, to the 2018 peace agreement.

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Why has Sudan decided to hand over al-Bashir to the ICC?

In August, Sudan's Minister of Foreign Affairs Mariam al-Sadiq al-Mahdi announced that the country would hand over all suspects charged by the International Criminal Court (ICC) for crimes committed in Darfur from 2003 to 2004.

Former president Omar al-Bashir is among the ICC accused and has a long list of domestic and international charges to account for. He is currently serving a two-year sentence for corruption and faces criminal indictments for the 1989 coup in which he took power. Given the plethora of justice demands the transitional government must deal with, surrendering al-Bashir to the ICC may be its best option.

Although the authorities didn't announce a timeline for the handover, this is the strongest commitment shown for the transfer of al-Bashir and other Darfur accused to the ICC's seat in The Hague. To be enforced, the cabinet decision now requires approval from the ruling sovereign council made up of military and civilian members.

Pivotal and high-ranking military officials seem to be on board, with General Mohamed Hamdan Dagalo, Sudan's first vice-president, stating that Sudan is prepared to cooperate with the ICC.

Given the plethora of justice demands Sudan's transitional government must deal with, surrendering al-Bashir to the ICC may be its best option

While al-Bashir was president, there was little to no chance of his surrender to the court. This was partly because some countries that had joined the ICC's Rome Statute refused to arrest him when he was in their territories. Another reason was that in Sudan, the president was immune from prosecution.

A new transitional constitution

Now the tables have turned. Since al-Bashir's ousting in 2019 and with a new transitional constitution, there is cautious optimism that the interim government will make good on its promise to hand him over to the ICC. But the critical question is why Sudan has now decided to hand al-Bashir over rather than prosecuting him at home for his alleged crimes in Darfur?

The first likely reason is that although Sudan has legislation to try al-Bashir and others for war crimes, Article 18 of the country's penal code has never been used in any prosecution. A capacity gap in handling this offence

Article 18

OF SUDAN'S PENAL CODE
HAS NEVER BEEN USED IN
ANY PROSECUTION

Map 1: Sudan and neighbouring countries



and the political heft of the accused could lead to judicial missteps and compromise the prosecution's case.

The principle of complementarity in international criminal law requires that states first prosecute international crimes and that international courts are used as a 'last resort'. But there must be a genuine willingness on the part of states to try such cases. Are Sudanese judicial authorities willing and able to try al-Bashir for the crimes committed in Darfur?

Even if Sudan was prepared to prosecute international crimes, the country might not have the resources to do so

Second and closely linked to this is the issue of funding a trial in Sudan. Even if it was prepared to prosecute international crimes, the country might not have the resources to do so. These prosecutions are expensive. The ICC, for example, budgeted approximately €2 500 000 for the Darfur situation in 2021 alone. Hence it may be more pragmatic for the ICC to handle these cases.

Mobilising funds for the trial

A domestic trial in Khartoum or Darfur is likely to cost less than one in The Hague. However, a cash-strapped transitional government will need to mobilise substantial funds to try a case of this magnitude and scale. Besides al-Bashir, Sudan would have to consider prosecuting other suspects wanted

THE ICC BUDGETED

±€2 500 000

FOR THE DARFUR
SITUATION IN 2021 ALONE

by the ICC for Darfur crimes, such as Ahmed Haroun and Abdel Raheem Hussein, currently detained in Khartoum, as well as Abdallah Banda Abaker Nourain, who is missing.

Sudan's government would also have to negotiate a complex transfer of Ali Kushayb, currently detained by the ICC in The Hague, back to Sudan – an outcome that is highly unlikely.

The third possible reason for handing al-Bashir to the ICC is that there is no national consensus around the Sudanese people's justice and accountability needs. This is solely due to the sheer volume and scale of human rights abuses and violations committed by the former ruling government.

Balancing the various demands for justice without causing further marginalisation is a Herculean task for the transitional government

As it stands, different regions arguably have different justice needs. For example, the focus in Khartoum is on accountability for the 3 June 2019 massacre in which more than 128 people died during protests. In Darfur, the priorities are understandably different. The war in the country's western region from 2003 to 2004 resulted in approximately 500 000 deaths and the displacement of over two million people.

Managing perceptions

Perceptions within Sudan are key, so balancing the various demands for justice without causing further marginalisation is a Herculean task for the transitional government. Already several states have called for secession. Dealing with this, along with the job of decentring politics and providing justice in Khartoum will have a major impact on the course of Sudan's political transition.

The last reason is that the decision to surrender ICC suspects would improve Sudan's standing with the international community. The removal of the country from the US State Sponsors of Terrorism list and Sudan's recent decision to join the Rome Statute show progress in this regard.

Khartoum's decision to surrender those wanted by the ICC is a smart move as the transitional government positions itself as a defender of human rights. It signals the Sudanese authorities' commitment to ensuring accountability for atrocity crimes and will have a deterrent effect on incumbent leaders.

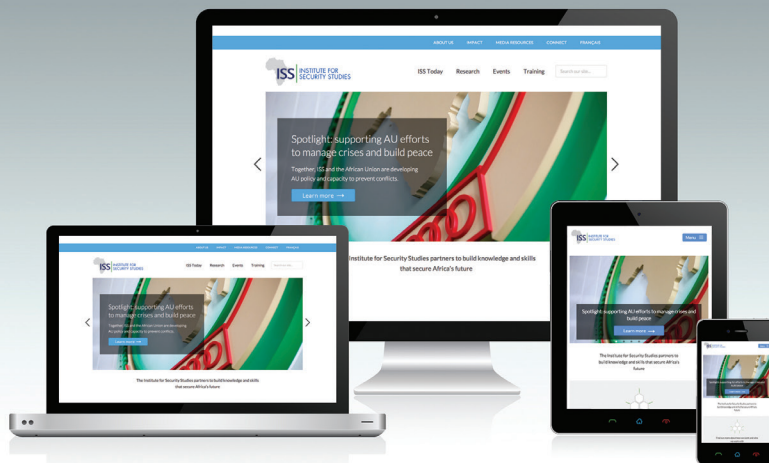
The technicalities around when and where the Darfur crime suspects will stand trial are yet to be determined. There is still talk of a special court for Darfur. For now, Sudan's decision serves as a reminder to those in power that impunity is never lasting. A change in domestic politics is all it takes to tip the scales in favour of justice and accountability.



THE DECISION TO SURRENDER ICC SUSPECTS WOULD IMPROVE SUDAN'S STANDING WITH THE INTERNATIONAL COMMUNITY

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The *Peace and Security Council Report* analyses developments and decisions at the African Union Peace and Security Council (PSC). The monthly publication is the only one of its kind dedicated to providing current analysis of the PSC's work. It is written by a team of ISS analysts in Addis Ababa.

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The publication of the *PSC Report* is made possible through support from the Government of the Netherlands, the Government of Denmark and the Hanns Seidel Foundation. The ISS is also grateful for the support of the following members of the ISS Partnership Forum: the Hanns Seidel Foundation, the Open Society Foundations, the European Union and the governments of Canada, Denmark, Ireland, the Netherlands, Norway, Sweden and the USA.

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