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Africa & the International Criminal Court:
Pushing Back with *New Geographies of Justice*

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In 2010, when the International Criminal Court (ICC) issued a warrant for the arrest of Sudanese President Omar al-Bashir, the African Union (AU) responded by calling on its members to not cooperate with the ICC's order. Over the subsequent three years, al-Bashir has been traveling to various African ICC-member states without the implementation of an arrest. This is not an isolated incident. We find even more recent examples in the 2012 indictments of Uhuru Kenyatta and William Ruto, the President and Vice-President of Kenya, for crimes against humanity. These indictments spurred African states to meet in November 2013 at the African Union headquarters in Addis Ababa, Ethiopia, to discuss an African mass withdrawal from the ICC, arguing that the court has fallen short of its goals to deliver justice fairly. "Far from promoting justice and reconciliation and contributing to the advancement of peace and stability on our continent, the court has transformed itself into a political instrument targeting Africa and Africans," said Ethiopian Foreign Affairs Minister Tedros Adhanom Ghebreyesus.

Why are African national leaders defying the International Criminal Court's calls for justice at a time when resolutions to global violence are so desperately needed? To answer this question, we first need to understand the context. With the signing of the Rome Statute in 1998, and its coming into force in 2002 with ratifications from sixty states, the ICC was born.² As one of many institutions engaged in the growth of the *rule of law* movement, the ICC is being shaped largely by a new institutional treaty order that enables the jurisdictional reach of international legal institutions and their associated liberalist principles, a reach that has prompted support for as well as resistance to its scope and bids for international judicial control. As an institution that seeks to implement punishment for crimes against humanity, war crimes, genocide, and the crime of aggression,³ the court's much vaunted call for an "end to

impunity”⁴ has characterized its moral discourse as working to support victims through the pursuit of those most criminally responsible, including heads of state (See Clarke, 2009).

In the first decade of its existence, the ICC had reviewed 18 cases in 8 situations, all in African countries: the Central African Republic, the Democratic Republic of the Congo, The Ivory Coast, Darfur, the Sudan, Uganda, Kenya, Libya, and now Mali. The ICC had also issued 19 warrants of arrest and 9 summonses to appear to appear before the court. So it was in this context of the court’s singular focus on the region that African Union delegates expressed concern in 2009 over the prosecutor’s intention to seek the arrest warrant for al-Bashir. The AU asked the United Nations Security Council (which referred the case to the ICC) to defer proceedings against President al-Bashir, arguing that a legal process would undermine ongoing regional peace efforts in which Mr. Bashir was actively participating. They insisted, “The search for justice should be pursued in a way that does not impede or jeopardize efforts aimed at promoting lasting peace.” They also reiterated their concern about a possible “misuse of indictments against African leaders.” In the end, the Security Council denied this request.

African leaders said they were unhappy with the “manner in which the prosecution against President al-Bashir has been conducted, the publicity-seeking approach of the ICC prosecutor,”⁵ and the Security Council’s refusal to defer the indictment against President al-Bashir. Some leaders, like Rwandan President Paul Kagame, expressed sharper anger, indicating that the ICC “has been put in place only for African countries, only for poor countries. ... Every year that passes, I am proved right. ... Rwanda cannot be part of colonialism, slavery and imperialism.”⁶ Here Kagame was referring to particular histories of exploitation and external control of Africa, as well as his sense that the ICC is

selectively pursuing what he saw as powerless African countries.

Along those lines, Jean Ping, then President of the AU Commission, added, “ICC always targets ... Africans. Does it mean that you have nothing on Gaza? Does it mean you have nothing [on the] Caucasus? Does it mean that you have nothing on the militants in Colombia? There is nothing on Iraq? We are raising this type of question because we don’t want a double standard.”⁷ Ping’s questions echoed the intense reaction that many have had to the concentration of ICC cases in Africa. Similarly, in response to the ICC’s first conviction of Congolese militia leader Thomas Lubanga for recruiting child soldiers, Zimbabwean Robert Mugabe said in front of the General Assembly, “The leaders of the powerful western states, guilty of international crime[s], like Bush and Blair, are routinely given the blind eye. Such selective justice has eroded the credibility of the ICC on the African continent.”⁸

At the same time, relevant organs of the Court, such as the Presidency and the Office of the Prosecutor (OTP), have argued consistently that they operate only within the framework of the law and that political considerations cannot be taken into account. They insist that it is “justice for victims through the application of the law that defines the court’s work.” Amidst mounting calls for ICC justice in an increasingly polarized social field, Gambian Prosecutor for the ICC, Fatou Bensouda, has publically declared, “The Rome Statute is My Bible.” As she insisted, “it’s not about politics but *the law*. I will use the law to uphold justice.” Bensouda further insisted that the cases before the ICC are about the pursuit of justice, not solely about the accused and the powerful.⁹ In asserting that the court’s mandate for justice centers on serving victims, on June 15, 2012, she argued,

We should not be guided by the words and propaganda of a few influential

individuals whose sole aim is to evade justice but – rather – we should focus on, and listen to the millions of victims who continue to suffer from massive crimes. The return on our investment for what others may today consider to be a huge cost for justice is effective deterrence and saving millions of victims' lives.

The language Bensouda uses in these statements reflects what I refer to as *legal encapsulation*, in which agents of the court use a narrative that collapses the meanings of justice with the law as the basis for their moral authority. In this case, the narrative construction of justice-as-law invokes the mission of protecting victims against powerful perpetrators who have disabused impunity for too long. The ICC's legal mission presumes that in order to protect victims, justice must be understood as the objective manifestation of law. This presentation today highlights how this moral discourse is a typical form of legal encapsulation that articulates through narrative the centrality of law in procuring justice.

In response to this legal encapsulation we find counter-discursive claims from ICC critics who charge that the indictments are poorly timed, disregard ongoing peace negotiations underway, and in most cases do not serve the interests of victims who continue to suffer from psychological and material violence. The Court's detractors also incorporate narratives of historical racism and colonialism in their critical discourse, as Kagame, Ping, and Mugabe's comments illustrate. What we see in these discursive practices is a process that I refer to as *affective re-attribution*, which serves to destabilize the hegemonic effects of *legal encapsulation*. Thus, *affective re-attribution* is a counter-discursive reconfiguration of the political terrain. It is a historically infused, sentimental contestation that publicly protests the devalued relevance of history and politics in the life of the law. In their response to the

narrow equivalence of the law with justice, particularly for victims, speech acts that employ affective re-attribution link historical injustices to technically unrelated contemporary contexts through emotional experiences of structural subordination and inequality. What we see is how affective re-attribution seeks to widen the lens of traditional understandings of “law” and “justice” to move beyond a punitive construct of individual perpetrators to redress structural and affective dimensions of justice.

Prior to the recent series of public declarations of non-cooperation with the ICC, the African Union had developed other responses to various extraditions. One challenge, which ended up being controversial among Africans, involved proposing a treaty to extend the criminal jurisdiction of the African Court on Human and People’s Rights. This was introduced as a strategy to manage Africa’s violence on its own soil, and to deal with economic and resource-related crimes. If adopted, the treaty to expand the criminal jurisdiction of the African court would not only produce the terms for Africans to take responsibility for transnational crimes committed on the African continent, but it would expand the punishable crimes beyond crimes against humanity, war crimes, genocide, and the crime of aggression to include crimes seen as relevant to Africa’s resource wars and various illegal economies, some of which are at the heart of the violence being adjudicated by the ICC. These include piracy, mercenarism, terrorism, corruption, illicit exploitation of natural resources, money laundering, and the trafficking of drugs and hazardous waste. This proposal to create an African court with criminal jurisdiction is an example of a counter response to legal encapsulation that relates to *affective re-attribution*.

Given the impact of *legal encapsulation* and the responses to it, what interests me today is not the measure of the ultimate effectiveness of the ICC or the African Court, but

the way that the socio-political responses to them, many of them inspired by a wide array of emotions, are mobilized through the connection of structurally unrelated but sentimentally connected phenomena.

Particular sentimental reactions understood through a politics of affect can actually be seen as co-producing subjectivities in contexts in which geographies of justice, histories of colonialism, and perceptions of global marginality are at play; it creates a dual interior and exterior scaffolding that frames the affective contours of decision-making and shapes responses to perceptions of *legal encapsulation*. This is especially the case when what is reinforced in legal structures are familiar geographical forms of marginalization, as in the West (read: Europe) in relation to the Global South (read: Africa). That is to say, the way in which the idea of an African social imaginary is conceptualized and temporally linked to the past or the present is related to various externalities—such as histories of subordination—in relation to various internalities—internal emotional responses—that make the viability of particular temporal linkages with the pasts believable. Key here is the affectively dynamic way that histories of subordination sit uncomfortably alongside hegemonic claims for ordering the law, thereby producing angry responses to practices that are seen as reproducing forms of neo-colonial rule masquerading as projects of justice.

Until recently, studies of affect have been analyzed mainly in the sphere of psychoanalysis and have focused predominantly on questions relating to the individual and his or her private relationships to the past (Kleinman & Good 1985, Lutz 1986, Molino 2004). In the fields of international law and human rights, questions concerning the role of affect have been dismissed as highly personalized and not appropriate topics for international politics (Donnelly, 2003; Guzzini, 1998; Kegley & Wittkopf, 1998). Some (Hudson, 2005; Jervis,

1988; Wendt, 2004) have presumed that sentiments emerge out of individual spaces of emotion and feeling. And still other political scientists and legal thinkers have defined African non-compliance with treaty norms as simply instrumental (See Neumayer 2005), arguing for realist assessments of decision making (Donnelly 1996; Falk 2004; Hafner-Burton, E. & Tsutsui 2005; Krasner 1993; Waltz 2008). They have insisted that forms of African resistance to various international demands are merely part of the play of lawmaking or attempts by the African elite to escape criminal accountability. In that regard many insist that it is important to focus on the law, in its strictest sense (Schabas, 2000, 2002, 2011), or on the central goal of “saving African victims” (Annan, 2010). What has been missing from human rights and international law analysis in these fields is the distribution of sentiment and its connection to the production of legal and political subjectivities, especially in relation to understanding the way that affective attachments are held and how they mobilize social action in the international legal domains seen to be hegemonic.

Among psychologists, emotional responses have been thought of in terms of internalities. They were connected to an embodied and psychological inside, and that interiority was always seen as being predominant (23). In Western philosophical traditions, “an imagination of human interiority” has been predominant in the affective realm (Navaro-Yashin, 2012, pp 22). Such approaches to psychology have presumed that an independent human being is a product of his or her own psychic mechanism, combined with environmental factors that contribute to the shaping of daily life. But the everyday--our decisions, our speech acts, our emotions--is complicated by both interiorities as well as exterior and environmental realities that shape the templates that we call on in order to produce social meaning.

Over the past thirty years, as a result of the legacy of Foucault's writing, there has been greater attention to the place of power as an external apparatus in shaping subjectivity as it relates to the environmental, spatial, and tangible material world (Navaro-Yashin, 2012). The idea of Africa as a place seen in relation to histories of European engagement is shaped by particular histories of struggle over power and empowerment. But it has also been apparent that externalities, such as Foucault's governmentality, are limited in their ability to articulate how the psychic life of subjects and meaning are produced (Butler, 1997). Subjects are brought into being through intersubjective processes that interact as structuring devices for meaning making. However, the psychic life of emotion, the psychic responses to subordination are both shaped by exteriorities as well as the sentimental attachments and subjection of the interior subject. In other words, the meaning of the extradition of black African bodies is not just shaped by discursively produced realities around which stakeholders operationalize the law. The reality is that the construction of the subject through a solely discursive framework elides how subjects are not strictly shaped by power, but can modify, shape, and individualize power to serve other ends. Importantly, this requires a more nuanced understanding of the psychic life of racial subordination that includes the way that meanings of "African subordination" get assigned to a black body. The 'ghosts of subordination' – the afterlife of subjection - live in the imaginary and draw on history, materiality, and the manifestation of those interiorities to produce templates for African meaning making. The particularities of their application and the agreed-upon meanings emerge in the psychic imagination and shape the way we understand contemporary developments (Butler, 1997). This process of psychic self-

making is part of the geo-social landscape in which internal feelings about Africa and its people merge with various exteriorities in the co-production of spatial meaning.

But affect, as more than internal feelings brought into being by externalities alone, reflect structures of emotion imbricated along a zone that intersects with the past, the present, and the future (Gordon 2008) and here we see how both internalities and externalities shape subjects. *Affective re-attribution* can be seen as an example of the convergence of internalities and externalities in which particular acts of public protest reflect manifestations of both. Take for example various political statements, like Robert Mugabe's claim that the ICC should pursue President George Bush and Prime Minister Tony Blair for crimes of aggression or war crimes.¹⁰ But as neither the US nor Afghanistan are under the jurisdiction of the Rome Statute, and as Blair's engagement through NATO allied forces is classified legally as a "just war"¹¹, these claims are not based on legal logic or probable action. Rather, they depend on a particular political reordering of the basis on which justice should be re-conceptualized. This reconceptualization or re-attribution involves corrective measures for articulating the present and future through the recalibration of a process encapsulated as "legal," and thus non-political. However, it is the exteriority of the legal claim that produces the condition in which the interiority has fueled a passionate redirecting of the terms for justice.

What we see unfolding in these contexts are avenues in which the political has been taken up within and outside of the law. Another arena has involved the domestication of international law, training for judges, and the development of the proposal to extend the criminal jurisdiction of the African court in order to pursue crimes not addressed by the Rome statute. The making of provisions to attend to international legal questions has

involved the affective call for new “geographies of African justice” through which African states are disputing the power of international law to intervene and are responding with the development of regional solutions to regional problems.

I now turn to the way that legal encapsulation and the related indictments or extraditions of African leaders have become affectively re-attributed as a part of the inequalities of what they see as colonial and racist subordination, and what results from this reattribution. To elucidate this, I will first begin by discussing three examples from fieldwork as a way to ask under what conditions, using what forms of sentimental attachments, do particular speech acts gain traction in anti-ICC protests? How are they mobilized and what is the basis for their effectiveness? And ultimately, what might these speech acts tell us about the workings of *affective re-attribution* as a way to make sense of the psychic life of African marginalization. The first is the case of Hissène Habré, former president of Chad, and the response to extradition requests as examples of the re-attribution of legal encapsulation in relation to African geographies of justice; the second is Uhuru Kenyatta’s use of affective re-attribution as a way to protest the reach of the rule of law as resembling colonial law; and the third is the development of a counter response to international adjudication, which is to expand the criminal jurisdiction of the African Court in Arusha as a new way of re-conceptualizing justice managed by African stakeholders with African priorities. All three examples are instructive for thinking about the uses of the desires, fears, concerns, and anger that emerge when histories of African subordination are linked to the contemporary practices of external governance bodies like the ICC.

Hissène Habré and the Pushback from Universal Jurisdiction – Example 1

The concept of universal jurisdiction, though not new, began to operate within a larger zone of activity with the case of Augusto Pinochet. In the 1990s, Pinochet's case set a new precedent in changing the exercise of international norms when Spain issued an extradition request to the United Kingdom, with which it complied. Since then, extraditions of nationals (including heads of state and a range of other government leaders) for crimes committed elsewhere have expanded to include the universalist idea that crimes against humanity are crimes committed against all of humanity. Thus, unlike the past where the location of the alleged crime determined the jurisdictional basis upon which the case would be pursued, the contemporary exercise of universal jurisdiction provides possibilities for adjudicating cases in other locations, even if the crimes were not committed in the national territory in which the cases were being heard. In theory, the doctrine of universal jurisdiction allows national courts to pursue cases of the most serious crimes against humanity. In practice, universal jurisdiction is seen as a highly selective process in which state actors seen as coming from economically more powerful regions are able to compel those from less powerful regions to extradite their nationals.

In Africa, the extradition of former Liberian president Charles Taylor from Nigeria to the Special Court of Sierra Leone, administered in the ICC offices of The Hague, set a precedent for international law norms for a sitting president. The extradition requests for the former President of Chad, Hissène Habré, represents an ongoing issue of concern for African leaders on both sides of the debate. Human rights organizations have popularly dubbed Habré as Africa's Pinochet. He ruled Chad from 1982–1990, a period characterized by widespread human rights abuses. Under his watch, Habré's government is alleged to have engaged in ethnic cleansing that included mass arrests, torture, and execution.

Approximately 40,000 Chadians are said to have either died in detention or were executed under his government (citation). Over 200,000 are said to have been tortured. Habré was deposed as leader in 1990 and then went to Senegal, where he continues to await trial under house arrest by the Senegalese government.

The 2005 decision by a Belgian court to request Hissène Habré's extradition from Senegal to Belgium to try him for crimes against humanity led to significant controversies in African circles. The possibility that a former head of state could be tried by a domestic court in Europe sent shock waves through the state and diplomatic circles. Senegal denied the request; and in 2006, the African Union called on Senegal to prosecute Habré "in the name of Africa." This language was part of an affective geopolitics of *African solutions to Africa's problems*. In response to this call, members of the Senegalese state responded to the recommendation with political support. In 2008, its parliament voted for a constitutional amendment¹² to pave the way for hearing Habré's case before Senegal's extraordinary chambers.¹³

Fears of the misuse of universal jurisdiction, which drove the AU's response to Habré's order of extradition, were confirmed in 2009 when a French Magistrate Court issued an arrest warrant against Rose Kabuye, Chief of Protocol to the President of Rwanda. In response to these successive extradition requests of African leaders, AU member states began a dialogue among the heads of states in the European Union. One of the products of this dialogue was the *AU-EU Expert Panel on the Principle of Universal Jurisdiction*, and one of the recommendations of the African Experts on this panel was a return to the idea of empowering African States to adjudicate international crimes on African soil.

According to one of the heads of state formerly engaged in these negotiations, “If I had known then what I know now about extradition and these European courts, I would never have allowed my country to sign on to the ICC. Signing on has made us victims of these extraditions. It’s almost like allowing them to take us to the slave ship, once again.” When I asked him to talk more about the metaphor of the slave ship and the idea of external forces controlling African bodies, he likened it to other types of extractions like “the unfair pilfering of resources, age-old treaties that can’t be changed ... that resemble the realities of neocolonialism still underway.”

This invocation of unknowing consent was echoed in the other responses I gleaned from leaders engaged in extradition discussions. But what is really at the heart of this push back? The imagery of the slave ship speaks to the histories of the removal of the black body from Africa to elsewhere and provides a template through which to renarrativize the present. For, extradition conjures up histories of African and European collaborations in historical removals and control of black bodies, as was done during the trans-Atlantic slave trade, as well as histories of the imperial control of Africans through European colonialism. These histories that dehumanized and classified African bodies as subhuman are part of what appears to structure some of these responses. They are also based on frustrations with other forms of extraction: resource extraction, economic extraction, and the general history of external control of Africa’s interior. There is a recognition that these histories are tied to institutional realities that shape daily life and how engagements with Africa unfold, but that remain outside the orbit of the law—especially the ICC’s jurisdiction. These histories inflect the responses to international indictments and shape the forms of affective reattributions that take place. We can see an example of this in the way Uhuru Kenyatta

has very publicly compared his ICC indictment in 2012 to the arrest and political conviction of his father, Jomo Kenyatta some fifty years earlier, though legally they are very different.

Affective Re-Attribution: Linking the Colonial State in Kenya to the ICC – Example 2

Historically, British colonialism in Kenya (which lasted from 1895–1963) involved varying degrees of profoundly overt violence perpetrated by the colonial state. Problems caused by the imposition of taxes, unlivable wages, and the threat of new settlers claiming previously indigenous land, led to social movements such as the Mau Mau resistance. During the twentieth century, over 30,000 British settlers forcibly displaced over a million members of the Gikuyu tribe from their land. In the absence of British-owned land titles they lived as itinerant farmers without rights. Known as a radical mobilization to reclaim the land taken from Kenyans, the Mau Mau movement was outlawed by the British for its violent tactics.

In 1953 Jomo Kenyatta, the father of independent Kenya and of Uhuru Kenyatta, was arrested; he had been indicted in 1952 with five others—Achieng' Oneko, Bildad Kaggia, Fred Kubai, Kung'u Karumba and Paul Ngei—known as the Kapenguria Six. They were sentenced to prison for their membership in and organization of the Mau Mau freedom fighters. Kenyatta had served six years in prison when Kenyans gathered in 1960 to demand his release. Once released, he petitioned for Kenya's independence, and when elections were held in May 1963, Jomo Kenyatta was elected prime minister of the Kenyan African National Union (KANU). He negotiated the terms for Kenya's independence on December 12, 1963.

Some fifty years later Jomo Kenyatta's son, Uhuru Kenyatta, became the President of the Republic of Kenya (with his vice-presidential partner William Ruto) through a landmark consolidation of two historically competing ethnic groups. He, along with Ruto, and like his father, was also an indictee of an external judicial system, the ICC. On October 20, 2013 Uhuru Kenyatta presided over his first Heroes' Day (known as "mashujaa" day in Swahili), a national public holiday to collectively honor all those who contributed to the struggle for Kenya's independence.¹⁴ That day he opened his speech by highlighting the importance of celebrating the past:

*Fellow Kenyans,
This year, we mark the Golden Jubilee of our Republic. We intend to commemorate 50 years of independence, by celebrating our triumphs and reflecting upon our future progress. We want to remember where we have come from, and envision our journey forward. Starting today, we will have diverse activities by people in all sectors of our public life and all parts of the country to mark "Kenya at 50". I encourage all Kenyans to join in this festival and celebrate our country.*

Kenyatta's speech begins with an attempt to reinforce the realities of colonialism and the effects of the social and economic inequality it produced. He makes explicit the material and psychological consequences of the colonial project and its impact on Kenya's forefathers:

We are here to commemorate the sacrifice and heroism of many Kenyans whose vision and conviction won us freedom and sovereignty. Colonialism had stripped all Kenyans of their fundamental rights. They had no land, and were considered inferior in their own home. There was neither dignity nor freedom for Kenyans then. Our forefathers waged a struggle of conviction and principle, supported with no resources except the burning fire of humiliation and the indefeasible yearning for independence and respect.

They were brave and noble.

Many took up armed struggle in the forests, as others formed and led movements for the civil agitation for independence. The colonial reaction

was repressive and brutal. Heroes were killed and imprisoned, while the rest were stigmatised and hunted down like animals. The cost of the struggle was painful, because the settlers did not consider Africans equal human beings worthy of rights.

He goes on to articulate how Africans suffered at the hands of imperial colonizers and emerged victorious in their fight against those forces. It is a story about the colonial humiliation of Africans and the freedom struggles that ultimately led to Kenyan independence and the contemporary predicament.

This day marks the official beginning of the worst phase of colonialism, and the most harrowing period of our struggle for independence. The brutality our independence heroes underwent from 20th October 1952 until the attainment of self-government ten years later defies imagination. It is the reason that we have reverently emblazoned our national flag with the red of their sacred blood. That is why our constitution states that We the People honour those who heroically struggled to bring freedom and justice to our land. In history, Mashujaa Day is a day written in blood by the hand of our heroes.

After discussing the “brutality” that their “independence heroes” endured, Kenyatta’s speech enacts a form of affective reattribution when it connects the brutality of the colonial past—as justified through the law—to the contemporary period of international law. In his move to connect his indictment to the historical template, he states:

Our forefathers rejected colonialism and imperial domination in their time. We must honour their legacy, and stay true to our heritage, by rejecting all forms of domination and manipulation in our time. Let us confront without flinching those external forces seeking to thwart our collective aspirations. They may be powerful and rich, but so were the colonialists. They may disrespect and even hate us; we have defeated their ilk before.¹⁵

In this section, Kenyatta’s narration of the political domination of the colonial regime crystalizes the link between the history of colonial domination and the realities of the new international order. The reference to “external forces seeking to thwart our collective

aspirations” speaks to the political reality of colonial adjudication and its parallel with his indictment by the ICC. The key moment of linkage with the contemporary ICC indictment happens in his reference to those who attempt to thwart Kenya’s collective aspirations today. As he says, “They may be powerful and rich, but so were the colonialists.” Here Kenyatta considers the ICC to be part of the same colonial armature of power. This point is further clarified with the profound declaration that “we have defeated their ilk before.”

The way Kenyatta attempts to equate the continuity of judicial struggles with the ability of postcolonial subjects to prevail—despite the similar forces of imperial inequality—is key to his message. The statement, “we have defeated their *ilk* before” suggests that resistance to the ICC indictments is similar to the resistance of the Mau Mau independence fighters and the independence struggles against colonial violence. And as evidenced by the audience’s applause and shouting, the crowd seemed to accept the rhetorical link between his fight against the ICC and the larger anti-imperial struggles that have characterized Kenya’s colonial relationships for the past century.

A few months later, on December 12, 2013, at the celebration of Kenya’s 50th Anniversary of independence, Kenyatta emphasized themes of sovereignty and the will of the people to exercise their freedom as citizens (hard earned and fought for by their freedom fighters). While drawing the link between the historical struggles to end colonial domination and the contemporary struggles to do so, Kenyatta dedicated a significant part of his speech to the nation’s commitment to regional and continental unity:

Africa has always stood by Kenya as we seek integration and growth and we in return will always stand by Africa, which is now the center of our nation’s economic policy. As I stated in my inauguration earlier this year and again when I addressed the African Union in my maiden speech, Kenya’s national interests is anchored on regional and continental

integration... In building our nation and taking it to the next step in development from where we are today, I cannot forget to appreciate the support that we have received from our development partners. We are particularly grateful for the support that has gone into building our infrastructure that is critical in enhancing the competitiveness of our economy. We do believe that we...[can] cooperate with our international friends for the betterment of not only Kenya alone but the world as a whole. However, we have a message for them. It is important to recognize that Africa has come of age. Africa seeks constructive partnerships. We will embrace partnerships based on mutual respect and win-win scenarios. We will not accept partnerships that do not recognize that we also have the intellectual capacity to engage on equal terms. Africa has a voice and 50 years after independence, Africa demands that its voice must be heard.

The theme of sovereignty and African voices being heard not only speaks to the reality that it was the Kenyan electorate that chose to put Kenyatta and Ruto in power—despite their ICC indictments—but asserts a counter claim in which *African solutions and worldviews* must be taken seriously. Both passages illustrate a form of counter encapsulation with particular affective resonances and they connect Kenya’s independence struggles with their sovereign right to assert themselves—politically, economically, and judicially. The exercise of re-attribution here is pregnant with a particular emotive template that is carried from particular histories of colonial struggle to contemporary understandings of the international landscape. And in that light, struggle, independence, and the political right to sovereign entitlement and equality are used to fuel a discursive shift that asserts the need for “new geographies of justice” that shape Africa’s political claims to its judicial decision-making and its relationship to the West. It is this call for *African geographies of justice* that is central to workings of affective reattribution, for it allows leaders to respond to particular historical inequalities through an expressive mechanism that asserts African empowerment. Thus, inspired by earlier extradition requests for African heads of state and then the ICC indictments, the geopolitical fervor for new “geographies of justice” has

propelled a new process unfolding in African human-rights circles: the development of a proposal to expand the criminal jurisdiction of the African Court.

Fueled by the emotive call for *African solutions for African Problems* in which *African geographies of justice* could be implemented, the African Union's Assembly of Heads of State and the Government embraced the idea. It commissioned a group of African legal experts who were part of the Pan African Lawyer's Union (PALU) to construct a draft proposal to merge the African Court on Human and Peoples' Rights with the African Court of Justice (in Arusha, Tanzania) and expand the jurisdiction of the African court to include criminal matters. This attempt to spearhead an African court represents another example of *affective re-attribution* in which the emotional work of anger and resistance against the reach of the ICC is part of the politics of protest at play. This idea of the development of the African Court with criminal jurisdiction as a counter legal project has both instrumental and expressive uses in its attempt to redefine the nature of the political.

African Geographies of Justice: The Psychic Life of Protest - Example 3

In the past ten years the International Court has issued one guilty verdict. The trial of *The Prosecutor v. Thomas Lubanga Dyilo*, leader of a Congolese militia responsible for ethnic massacres, torture, and rapes in the eastern part of the country, resulted in the first conviction. He was convicted of recruiting child soldiers to commit acts of murder in the DRC and was sentenced to 14 years of imprisonment. A second case, though still underway, involves crimes also committed in the DRC, that of *The Prosecutor v. Germain Katanga and Matthieu Ngudjolo Chui*. The Ngudjolo Chui case was dismissed and the Katanga verdict is expected to be delivered soon. The third trial, also underway, concerns *The Prosecutor v. Jean-Pierre*

Bemba Gombo for crimes against humanity and war crimes committed in the Central African Republic, and the fourth case underway involves that of the Prosecutor v. William Ruto and Joshua Sang.¹⁶

In relation to unfolding cases before the ICC, on June 1, 2005, lead Prosecutor Luis Moreno-Ocampo “decided to initiate an investigation in relation to the crimes committed in Darfur.” He hoped to engage the ICC in prosecuting a small number of top officials for the genocide, systematic torture, enforced disappearance, rape, destruction of villages, and pillaging of households—actions that appeared to have led to the forced “displacement of approximately 1.9 million civilians.” In May 2007, the Prosecutor issued arrest warrants against two Sudanese men, but state officials in Sudan conceded that though they signed the Rome Statute of the ICC, its governing bodies have not yet ratified it through their executives so the court does not have jurisdiction to act. The Sudanese government has insisted that it will not engage in the extradition of its citizens to be adjudicated in “foreign” courts.

During the first week of December 2011, the former president of the Ivory Coast, Laurent Gbagbo, was extradited to the International Criminal Court in The Hague and will be tried for four counts of crimes against humanity, allegedly committed in the context of post-electoral violence in the territory of Côte d'Ivoire between December 16, 2010 and April 12, 2011. An arrest warrant for his wife and former first lady Simone Gbagbo was just released in November 2012. And most recently, the Pre-Trial Chamber of ICC judges decided to move to trial two cases against six individuals allegedly responsible for the commission of crimes against humanity during post-election violence in 2007 and 2008 in Kenya, in which over 1,000 people were killed, thousands displaced, and property burned. Later the ICC only confirmed the charges of crimes against four: William Ruto, Joshua Sang, Francis Kirimi

Muthaura, and Uhuru Kenyatta. They later dropped charges against Muthaura, and the Kenyatta charges have been suspended.

The indictments of Ruto and Kenyatta, unlike that of Sudan's President al-Bashir, were not served in the midst of a civil war. Rather, Kenya has not only been celebrated as a stable democracy on the East African coast, but as a strategic partner for various Western states in the War on Terror. So, after the long list of African indictments grew by two more, on the 11th and 12th of October 2013, the African Union held an Extraordinary Summit for African states to discuss a mass withdrawal from the ICC. This was followed by two additional events in 2013: a failed attempt to garner United Nations Security Council support to lobby for a temporary suspension of the case, and an extraordinary session in The Hague at the annual ICC Assembly of States Party (ASP), at which a special summit was organized to discuss a proposed Amendment to reinstate immunities to heads of state.¹⁷ The negotiations at the special summit culminated in an amendment to the rule 134 of the ICC Rules of Procedure and Evidence. The newly adopted Rule 134*quater* states that an accused 'mandated to fulfill extraordinary public duties at the highest level' may submit a request to be excused from continuous physical presence at trial.

At the ASP, large numbers of African leaders insisted on the need for an Article 27 amendment because of their perception that the ICC was abusing its powers and selectively pursuing indictments of African leaders. Article 27 of the Rome Statute states that it applies to all persons regardless of their official capacity, and that any immunities attached to a person's official capacity do not bar the Court from exercising jurisdiction. Because of the fear of unjust targeting of African leaders, the representative from Namibia insisted at the ASP special session that, "Justice should be fair, steady, and impartial. ... Justice

should not be based on selective application. Justice should apply to all continents, to all perpetrators, to all races and to all sexes. Any selective application ceases to be justice and is likely to undermine the objective of the international community in preserving international humanitarian law.”

The then-acting legal counsel of the African Union, Ms. Djenna Diarra, spoke of the concern that the AU member states had about the ICC’s selective approaches to justice in the way it targets some places, like Africa, and not others. Diarra assured the ASP that these concerns were genuine and that in the interest of peace, stability, and reconciliation, Africa needed to be able to trust the international community. As she argued, “given the ICC’s track record this was not possible and necessitated the importance of an amendment to reinstating immunity to heads of state.”

Said the representative from Namibia at the ASP special session, “ Justice should not be based on selective application. Justice should apply to all continents, to all perpetrators, to all races and to all sexes. Any selective application ceases to be justice and is likely to undermine the objective of the international community in preserving international humanitarian law.

Given the over-representation of African cases on the ICC docket and the appearance of the selective pursuit of African leaders, The African Court of Justice, formed by the African Union and intended to be the central judicial organ for Africa with the power to rule on disputes over AU treaties¹⁸, was replaced by the development of a new protocol for the African Court of Justice and Human Rights. This new court, which will be based in Arusha, Tanzania, was established through the merger protocol adopted in 2008 and has been conceptualized as having two chambers – one with criminal and civil jurisdiction to

address legal questions involving individuals and corporations and the other with jurisdiction over human rights treaties involving states. With this new mission, the African Union contracted the Pan African Lawyer's Union (PALU) in 2011 to draft the treaty for what was referred to as "an African court with an African mission." To answer the call, PALU lawyers selected a range of crimes that highlighted what they saw as core challenges of Africa's violence, and therefore as responsive to African social realities. According to one of the key drafters:

Frankly, this was simply about developing an African legal strategy. We wanted to figure out how to return to some of the basic principals agreed to already in treaties and agreements previously signed by African States. This involved figuring out how to capture all of the relevant crimes. We asked ourselves, what are the various modalities on the continent? And the answer we kept on coming up with was that there should be many enforcement mechanisms operative. We need an African governance architecture just as we need other international provisions, or various annual democracy assessments.

When asked whether this was a revolutionary intervention, he answered,

It's not about 16th to 18th century colonialism. No. But, yes, I guess you can say that this is a PanAfricanist vision. I see it as creating possibilities in modern Africa... We did have the sense of how we are going to contribute to creating an Africa that can build itself and take care of itself. I know about the international system and it has a role. But if you look strictly at the constitutional issues in Africa and the need to rebuild state and juridical capacities, the mission connected to this work is all the more important. We

saw ourselves as enabling Africa and Africans with a strong legal instrument relevant to the continent.

When asked whether he felt it was an opportunity for leaders to evade impunity, he responded emphatically.

Various heads of state may have been motivated by other incentives and I cannot speak for them. But what I know is that this will take years to be operationalized. So if al-Bashir wants to use it to avoid the ICC, he'll have to use another route. If the Gbagbos want to use it to save their situation, they'll have to look for another route. If Habré is hoping it will be used for his case, he'll have to continue looking.... Just the fact that this was adopted in principle signals something and will force African leaders, international corporations, and others to change the way they do business in Africa.

As an idea, here we see the new court as both a response to the exteriorities of African inequalities and to the psychic angst of making a difference within the African continent. But what is explicit are the ways the draft instrument is seen as being a mechanism to facilitate the end of violence in Africa. Some PALU drafters indicated that they saw this as an opportunity for African states to contribute to the making of a legally binding instrument. They saw their job as groundbreaking in the same way that the African Charter on Human and Peoples' Rights (1981) was seen as a space for the incorporation of concepts such as "the right to development, peoples' rights, [and] the duties of individuals" to distinguish issues of relevance to African peoples from other European legal principles.

Even as they heralded Africa's potential role as a leader in this domain, the PALU lawyers constantly reiterated that there was nothing revolutionary about the request to

include crimes relevant to Africa's violence. They indicated that the crimes in the proposed statute were already codified in the Treaties and Protocols of the African Union and of the Regional Economic Communities (RECs), and were similarly central to basic crimes in international law. If there was anything radical, it was the recuperative move to include African-specific crimes that were omitted from the Rome Statute for the ICC because they were seen as too controversial to form the basis for widespread agreement among states. In this sense, the PALU's draft to expand criminal jurisdiction can be seen as an affective project to rectify concessions that were made during the negotiations of the Rome Statute for the ICC, thereby leading to the production of a Statute that included crimes deemed political and excluded those seen as economic yet central to African violence (see Clarke 2009).

Though it seems that there is something substantively different about the African court, the reality is that it operates within an ideological prism in which the substantive legal realm is similar to other courts elsewhere--including the structure and logic of the International Criminal Court. For, despite the talk of African justice on African soil, the characteristic features of the proposed protocol for including criminal jurisdiction includes a range of provisions, such as the standard definitions of the crimes and elements contained in the Rome Statute. The logic and organization remains the same structurally: the proposed court is to be complementary to national courts; it is imagined as co-existing with other international courts; and rather than having similar mandates and jurisdictions, it will take effect if states are unable and unwilling to act. The drafters saw the maintenance of the corpus of the current structure of international law as a way to ease any problems that may

emerge; thus it is the encapsulation of a judicial form in which the law is still seen as both the answer and the problem of a range of Africa's contemporary challenges.

But not all Africans agree with the draft proposal for an African court. When news of it circulated, over 30 civil-society organizations from close to 20 African countries wrote a joint letter to urge the African member states of the ICC to renew their support for the ICC's efforts to combat grave international crimes. Some critics argue that the draft protocol is simply advancing the ideals of the ICC to ensure that justice is rendered for international crimes peculiar to Africa. Others argue that the draft protocol simply represents a protest treaty that incorporates a "laundry basket" of crimes and it cannot be effectively implemented unless re-conceptualized structurally. And while some scholars of international law have insisted that the AU response is simply a matter of African fraternity and only represents Africa's elite, protecting their own in the midst of mass violence and lack of accountability, others argue that these concerns are purely strategic and serve to derail the Kenyan cases involving Kenyatta and Ruto - in particular.

In reflecting on the workings of international law and the feelings of structural inequality experienced by various AU personalities, I argue that in order to make sense of contemporary AU protests against the ICC and the extradition requests against Africans it is important to take seriously the proposal to extend the criminal jurisdiction of the African court as an example of affective re-attribution. For while the workings of patronage, fraternity and power exist in some of the most blatant ways among the elite in Africa and beyond, it is important to make sense of the success of the sentimental effectiveness of ICC protest. For despite the reality that the proposal to create an African court with criminal jurisdiction for transnational crimes is a proposal for yet another African institution that is likely to struggle to

survive in the face of Africa's marginal place in the world, its aspiration to establish "African geographies of justice" is key here. Its significance is in what Ademola Abass refers to as the African criminal court treaty as a "protest treaty" – a treaty introduced for expressive reasons – and as I have shown is being mobilized to affectively re-attribute *geographies of justice* in African terms. The significance of *new African geographies of justice* as a counter discourse helps to clarify the way that legal encapsulation works and how *affective re-attribution* can be mobilized as a response to feelings of anger and insubordination. An indictment of Africans alone by an international court cannot be understood in isolation without an assessment of the a priori influences that shaped the conditions of possibility or the afterlife of those cumulative occurrences that have had an impact on resulting relationships. What we see is that various externalities such as colonialism and imperialism, or internalities such as personal experiences of racism, though possibly divergent historically, come together to produce a template that is used to explain contemporary events. Through a consolidation of personal emotional responses and the availability of particular templates on which to assign meanings, desires, fears, concerns, and experiences with African encounters and subordination to the West are shaped by a dual set of processes: that of legal encapsulation that restricts the space within which justice unfolds, and that of affective reattribution in which people protest particular hegemonies of encapsulation and redirect the nature of justice through an expansion of that which is legal.

Conclusion

While taking stock of the existence of dueling claims—the ICC Prosecutor's presumption that justice is routed through law, which seeks to protect victims through

deterrence, and the AU member state's accusation of ICC law as unfair, selective justice—I have been interested in the dueling tensions through which notions of justice compete. The African Union's Extraordinary Summit to discuss the proposal to withdraw from the International Criminal Court was a meeting that both had the effect of protesting against different forms of imperial subordination and repatriating power through which to re-narrativize the relevance of other ontologies of justice—especially the place of politics in the articulation of justice. In this regard, the existence of a treaty to erect an African court with criminal jurisdiction represents a counter-judicial narrative that encompasses political concerns at the heart of African inequalities. Thus, the affective work related to extending the criminal jurisdiction of the African court highlights the way that African political decision-makers engage strategies that account for both the presence and seeming absence of power. As shown, the presence is in its sovereign possibility—the potential to mobilize power and affectively reattribute it in particular ways; its absence is only in the perception of its absence, the psychic ghosts of perception—the feelings of inequality and racial oppression that cannot conjure action and remain illegible before the law. The former Rwandan President Paul Kagame's anger, in which he insisted that the ICC “has been put in place only for African countries, only for poor countries” and that “Rwanda cannot be part of colonialism, slavery and imperialism” points to the manifestation of this duality. But Kagame's response was inspired by a perception that the ICC was transforming its power into African powerlessness, which resulted in his reattribution of ICC action.

The play of power operating in particular *geographies of justice* is also not benign. Central to the meaning of social geographies are the ways that particular structures of emotion are tied to particular social locations. These locations operate within particular affective realms, rooted in

histories, memories, and experiences, in which whether various stakeholders or audiences experienced those histories or not, the meaning of those histories are relevant in so far as the historical templates available make meaning making relevant. The reality is that although structurally the basis for the ICC jurisdiction of these cases are based on legal possibilities, the conditions of judicial possibility can be rationalized alongside shadows of the past--memories of colonialism, realities of economic disparity, complexities of violence—to shape the relation between African decision-makers and their social imaginaries. In relation to various African encounters with the ICC, it makes a difference that the geographical spaces and persons under scrutiny by the court are African, from the continent of Africa. In the case of the AU it is about the politics of determining which crimes, committed when and why, by whom, and under what conditions are deemed relevant to the African continent, to African geography. It is also about the power to submit to the jurisdiction of one's own courts as well as to create new spaces in which the psychic life of possibility and change are forged. By focusing on these affectivities, especially in relation to the complex politics of protest in response to law's hegemony, nowhere is this more accentuated than in various parts of postcolonial Africa, in which both the law and its constituting political order are at play.

For what we are seeing today through the ICC-AU pushback is actually the playing out of a politics of recognition in which the legitimacy of Africans managing Africa's violence is negotiated in contemporary terms using the tools of contemporary global membership in the twenty-first century. The key analytic challenge in making sense of the ICC, the AU, or the logic of an African Court of the twenty-first century is to understand the ways in which its multiply inspired commitments to an African social imaginary relates to other institutions, treaties, or international justice institutions. This involves making

sense of the ways that relationships and emotional responses structure affectivities, and the way that narratives have the power to command particular social relations. In these social relations there are a range of ways that people engage with the reality of the internationalization of daily life. Thus, my goal here has been to examine the multiplicities of contestation at the heart of the intertwined spaces between legal power and social displacement, and the challenges brought to bear on the modernity of legibility—that is, the way that certain things are encapsulated by the law as legal, and thus legible, while other things are seen as unrelated. The reality is that in post-colonial Africa, as in other parts of the world, the judicial is one of many domains for ordering and performing power. But of particular interest here is the way that the judicialization of African politics is increasingly occupying a space in the international imagination as a site of international control. Interestingly, the production of the image of the African victim, the male perpetrator, and a notion of a “global community” are part of the forging of an international justice imaginary whose work is being propelled through the social life of the law. This social life of the law is dynamic. Its greatest power is in its commanding of order and objectivity. But this production is also part of the discursive power of its encapsulation through which certainty, fairness, procedural regularity, and an over-riding sense of objectivity are produced. Its greatest effects are in its ability to produce a totalizing ideological order through which other logics are displaced—rendered marginal or irrelevant to the juridical order. Yet the effects of rendering other competing logics irrelevant takes shape through a process that exists alongside, and in relation to, other ways of engaging with the life of the law.

My concluding thoughts dwell in a “middle” space, between African leaders’ concerned recognition of the many harsh and contradictory realities on the continent, and

the realities of international demands to create a world in which we can hold perpetrators of violence accountable. Yet, it means that we need to come to terms with the reality that those engaged in African political decision-making live in a space where feelings, reactions, and histories all come together to explain practice. It is where contemporary history is being forged, where cultural institutions and interior motives shape outward practices that are as dynamic and transforming in Africa as they are elsewhere. Making sense of this in relation to the presence and absence of power and the affective responses to it—in Africa and elsewhere—is a key analytic challenge for twenty-first century social thought. For, once we take on the core problem of justice—the reality that justice is not necessarily about the absence of injustice but the politics of mobilization—we see that as long as various stakeholders continue to encapsulate political histories and social problems and replace them with the rule of law, then a central part of justice processes will involve affective re-attribution.

¹ Thank you goes to various interlocutors and readers who offered input for this chapter at various stages of development: Sara Kendall, Sarah-Jane Koulen, Ronald Jennings, Mariane Ferme, Faye Harrison, Siba Grovogui, Maureen Anderson, Sean Brotherton, Brenda Chalfin, Makau Matua, and Anitra Grisales.

² In the last decade of the twentieth century, more than twenty-five quasi-judicial truth and reconciliation commissions and a range of ad hoc criminal tribunals were set up worldwide; notions of truth reconciliation and forgiveness became the mechanism for addressing systemic violence and the transition of societies into nonviolent democracies. But the current trend reflects developments in which international bodies are engaged in restricting the viability of national amnesties and nonjudicial processes (Laplante 2007). These relatively new justice-making bodies included United Nations Security Council tribunals, such as the International Criminal Tribunal for the former Yugoslavia (ICTY), which led to the 1999 indictment of Slobodan Milošević; and the International Criminal Tribunal for Rwanda (ICTR), which established crimes of the Rwandan genocide. Other international courts have included the Special Court for Sierra Leone (SCSL, known as a hybrid court that functions independently using international treaty provisions); the Iraqi Special Tribunal for crimes against humanity; and the recently established Extraordinary Chambers in the Courts of Cambodia (ECCC, 2006). The formation of the ICC, then, should be understood within this 1990s moment.

³ United Nations, Rome Statute of the International Criminal Court, UN Doc. A/CONF.183/9, July 17, 1998 [hereinafter Rome Statute], art. 5; [online at <http://untreaty.un.org/cod/icc/statute/rome.htm> and http://www.icc-cpi.int/about/Official_Journal.html].

⁴ Ibid., Preamble.

⁵ Kimani, Mary. 2009. "Pursuit of Justice or Western Plot?" *African Renewal online*. October 2009. <http://www.un.org/africarenewal/magazine/october-2009/pursuit-justice-or-western-plot>

⁶ Ibid

⁷ Kimani, Mary. 2009. "International Criminal Court: Justice or Racial Double Standards?" *Global Policy Forum*. December 16, 2009. <http://www.globalpolicy.org/international-justice/the-international-criminal-court/general-documents-analysis-and-articles-on-the-icc/48775.html>

⁸ Full text of a speech by Zimbabwean Dictator President Robert Gabriel Mugabe on the occasion of the General Debate of the 66th session of the United Nations General Assembly, delivered in New York on September 22, 2011 <http://nehandaradio.com/2011/09/24/full-text-of-robert-mugabe-speech-at-un-assembly/>

⁹ http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr908.aspx

¹⁰ "Mugabe takes aim at ICC." 2011. IOL: Independent Online. <http://www.iol.co.za/news/africa/mugabe-takes-aim-at-icc-1.1143175?showComments=true#.U5rqtv2qoxg>

¹¹ In Chicago, IL, on 22nd April 1999, in a speech before NATO, Tony Blair defined the 'new doctrine of international community' in reference to the British involvement in the conflict in Kosovo. At this time he described NATO's involvement in the bombing of Yugoslavia as a 'just war'. See Prime Minister's speech: Doctrine of International community at the Economic Club, Chicago 24 April 1999 available at: <<http://www.number-10.gov.uk/output/Page1297.asp>>.

¹² Once this was executed, financial considerations proved challenging. Senegal argued that it was financially strapped and unable to come up with the estimated USD \$40 million for the trial. With the aid of multilateral donors, the AU worked with Senegal to set up a hybrid tribunal to adjudicate the trial against Habré.

¹³ The temporal jurisdiction will begin as of June 7, 1982 and will extend to December 1, 1990. The judges will review evidence for crimes committed in Chad during that period.

¹⁴ Previously known as Kenyatta Day, celebrated to commemorate the detention of the Kapenguria Six. However, following the establishment of the new Kenyan Constitution in August 2010, Kenyatta Day was renamed "Mashujaa Day."

¹⁵ See <http://www.capitalfm.co.ke/eblog/2013/10/20/mashujaa-day-speech-by-uhuru-kenyatta/> (Accessed December 2013)

¹⁶ As of January 23, 2012, The Pre-Trial Chamber II (PTC II) of the International Criminal Court (ICC) decided to move cases against William Samoei Ruto, Joshua Arap Sang, Francis Muthaura, and Uhuru Muigai Kenyatta to trial for crimes against humanity during post-election violence in 2007-2008 in Kenya. Judges declined to confirm charges against Henry Kiprono Kosgey and Mohammed Hussein Ali. The recent decision to move the majority of the Kenyan cases to trial is bound to provide a window into another set of international juridical processes on the world stage and assessments on the extent to which the ICC has the potential to produce justice.

¹⁷ In the end, a range of smaller amendments were achieved, such as an amendment to rule 134 of the ICC Rules of Procedure and Evidence. One of the amendments (Rule 134^{quater}) indicated that an accused person who is "mandated to fulfill extraordinary public duties at the highest level" may submit a request to be excused from continuous physical presence at trial.

¹⁸ It was adopted in 2003 and in force in 2009-Protocol of the court of the Justice of the African Union, Article 2.2

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