

# Africa

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## I. Introduction

Corruption, poverty, and instability remain large impediments to Africa recognizing its full potential. Nevertheless, dedicated men and women, many in the legal profession, continue to work towards a better future for the continent. As reported by our contributors, successes are slow but tangible.<sup>1</sup>

This year, the inauguration of Ellen Johnson Sirleaf as President of Liberia marked a new chapter for that country.<sup>2</sup> The transfer of Charles Taylor to The Hague hopefully signaled the end of a period of instability and conflict in the region.<sup>3</sup> The year also saw an increased awareness of women's rights and the increased political participation of women in countries such as Rwanda. Unfortunately, gender violence as a tool of fear and intimidation remains prevalent in Sudan and elsewhere. And in contrast to the election of Ellen Johnson Sirleaf, some African strongmen continue to hold onto power.

Reforms in the African commercial sector were a significant theme for development in 2006. These efforts recognize the need to maintain economic growth by providing investors and business persons with institutions that engender confidence. Thus, the establishment of commercial courts, reduction of corruption, and promotion of regional integration were undertaken by a number of governments to improve their economies.

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1. The ABA African Law Committee recognizes the contributions of Roland Abeng, Edna Udobong, David Bamlango, Sajalieu Bah, Elizabeth Barad, and James Feroli in producing this article.

2. See President Ellen Johnson Sirleaf of Liberia, Inaugural Address on the Capitol Grounds in Monrovia (Jan. 17, 2006) (transcript available at <http://allafrica.com/stories/200601170106.html>); see generally Profile: Liberia's "Iron Lady," BBC News, Nov. 23, 2005, available at <http://news.bbc.co.uk/1/hi/world/africa/4395978.stm>.

3. See *Taylor Flies in for Hague Trial*, BBC News, June 20, 2006, available at <http://news.bbc.co.uk/1/hi/world/africa/5098070.stm>.

## II. Cameroon

In July 2005, the Parliament of the Republic of Cameroon adopted a new Criminal Procedure Code to become applicable on August 1, 2006.<sup>4</sup> The new code harmonizes the two different criminal codes previously applicable in former West and East Cameroon. The Code significantly enhances civil rights and liberties.<sup>5</sup> In July 2006, the government postponed the implementation of the Code to January 1, 2007, to educate citizens about its contents.<sup>6</sup>

In December 2005, Cameroon ratified the United Nations Convention on Corruption and deposited the instruments of ratification with the United Nations on February 6, 2006.<sup>7</sup> The ratification coincided with actions by the government to fight corruption. In 2006, the former General Manager of the National Council Support Fund, the former General Manager of the National Housing Corporation, and scores of others were arrested for mismanagement of public funds.<sup>8</sup> Linked to the Corruption Convention was the promulgation in April 2006 of the Law on the Declaration of Assets by Public Officials.<sup>9</sup>

On December 15, 2005, the National Assembly in Cameroon adopted a new law against trafficking of children.<sup>10</sup> The law reflects the definition of trafficking accepted by the international community. The government has also begun drafting a Child Protection Code and is finalizing a Family Code that will increase the minimum age for girls to marry to eighteen.<sup>11</sup>

In June 2006, the government introduced a draft bill spelling out the conditions for eligibility and elections into the Senate. The bill was adopted and promulgated into law the same month.<sup>12</sup> In December, legislation was passed to establish an independent Elections Commission.<sup>13</sup> Ten years after the creation of the Senate in 1996, it is likely the body will begin to function in the near future.

The Presidents of Nigeria and Cameroon met in June 2006 in Greentree, New York, under the auspices of the U.N Secretary General and signed the Greentree Agreement

4. Criminal Procedure Code, Law No. 007/2005 (2005) (effective Jan. 1, 2007) (Cameroon).

5. *Id.*

6. See Kini Nsom, *Gov't Postpones New Criminal Code*, POSTNEWSLINE.COM, July 3, 2006, [http://www.postnewsline.com/2006/07/govt\\_postpones\\_.html](http://www.postnewsline.com/2006/07/govt_postpones_.html); see also U.K. HOME OFFICE, IMMIGRATION AND NATIONALITY DIRECTORATE REPORTS, COUNTRY OF ORIGIN INFORMATION SERVICES REPORT ON CAMEROON (2006), available at <http://www.unhcr.org/home/RSDCOI/456576f94.pdf>.

7. Update, U.S. Dep't of State, Cameroon, Country Reports on Human Rights Practices—2005, (Mar. 8 2006), available at <http://www.state.gov/g/drl/rls/hrrpt/2005/61558.htm>.

8. See Kini Nsom, *Public Funds Embezzlement: Former SIC Manager, 22 Others Docked*, POSTNEWSLINE.COM, Nov. 20, 2006, [http://www.postnewsline.com/2006/11/former\\_sic\\_man.html](http://www.postnewsline.com/2006/11/former_sic_man.html).

9. Law on the Declaration of Assets, Law No. 003/2006 (2006) (Cameroon).

10. See *Cameroon Updates Its Law on Human Trafficking*, HUMANTRAFFICKING.ORG, Apr. 24, 2006, <http://www.humantrafficking.org/updates/335>; see also Update, U.S. Dep't of Labor, Cameroon, Government Policies and Programs to Eliminate the Worst Forms of Child Labor, <http://www.dol.gov/ilab/media/reports/iclp/tda2001/cameroon.htm>.

11. The current legal age for girls to marry is sixteen. Civil Code § 52, Ordinance No. 81-02, June 29, 1981 (Cameroon).

12. See Kini Nsom, *Senatorial, Regional Council Elections Loom*, POSTNEWSLINE.COM, June 19, 2006, [http://www.postnewsline.com/2006/06/senatorial\\_regi.html](http://www.postnewsline.com/2006/06/senatorial_regi.html).

13. Bill to Setup and Lay Down the Organization and Functioning of Elections, Cameroon (ELECAm), (2006), available at, [http://www.postnewsline.com/2006/12/bill\\_to\\_set\\_up\\_.html](http://www.postnewsline.com/2006/12/bill_to_set_up_.html).

establishing a timetable for the removal of Nigerian troops from the Bakassi peninsula.<sup>14</sup> Nigeria removed its troops and transferred the peninsula in a solemn ceremony in August 2006.<sup>15</sup> The agreement was the culmination of discussions that began after the October 2002 judgment of the International Court of Justice adjudicating the Bakassi peninsula to Cameroon.<sup>16</sup>

### III. Chad

In January 2006, the World Bank decided to block all funding and financing to the Republic of Chad.<sup>17</sup> The reason for the World Bank's decision was Chad's violation of its agreement with the World Bank to use a substantial part of the country's oil revenue for social projects and future generations.<sup>18</sup> After a series of negotiations with the World Bank, the Chadian National Assembly enacted a law to support once more World Bank standards requiring the allocation of 70 percent of oil revenue for social projects.<sup>19</sup>

The President of Chad, Idriss Derby, modified the constitution in 2005 to permit himself to run for another term of office.<sup>20</sup> The existing constitution did not permit him to run for a third term.<sup>21</sup> He won re-election in 2006 despite general opposition and protest, particularly in the northern region of the country.<sup>22</sup>

On July 2, 2006, the Presidents of the African Union decided that former Chadian President Hissene Habre should be tried for crimes against humanity in Senegal instead of being extradited to Europe.<sup>23</sup> Chad ratified the Rome Statute, thus acceding to the terms

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14. See Agreement between the Republic of Cameroon and the Federal Republic of Nigeria Concerning the Modalities of Withdrawal and Transfer of Authority in the Bakassi Peninsula, Rep. of Cameroon - Rep. of Nigeria, June 12, 2006, available at [http://www.un.org/unowa/cnmc/preleas/cn\\_agreement.pdf](http://www.un.org/unowa/cnmc/preleas/cn_agreement.pdf); see UN News Service, *Nigeria Hands Cameroon Formal Control of Bakassi Peninsula Under UN-sponsored Deal*, GLOBAL-SECURITY.ORG, Aug. 14, 2006, <http://www.globalsecurity.org/military/library/news/2006/08/mil-060814-unnews04.htm> [hereinafter Bakassi Peninsula].

15. See, Bakassi Peninsula, *supra* note 14.

16. See Shey Peter Mabu, *Greentree Accord to Reinforce ICJ Verdict*, CAMEROON TRIBUNE, June 14, 2006, available at [http://www.cameroon-info.net/cmi\\_show\\_news.php?id=17737](http://www.cameroon-info.net/cmi_show_news.php?id=17737); see also CIA-World Factbook-Nigeria, <https://www.cia.gov/cia/publications/factbook/print/ni.html>.

17. See Paul Blustein, *Chad, World Bank Settle Dispute Over Oil Money*, THE WASHINGTON POST, July 15, 2006, at D01, available at <http://www.washingtonpost.com/wp-dyn/content/article/2006/07/14/AR2006071401409.html>.

18. Amendments to Popular Law No. 001 (Republic of Chad).

19. See Blustein, *supra* note 17.

20. CONSTITUTION OF THE REPUBLIC OF CHAD (amended 2005).

21. *Id.* § 61.

22. See U.N. Office for the Coordination of Humanitarian Affairs, *CHAD: Deby Win Confirmed, but Revised Down to 64.67 pct.*, IRIN HUMANITARIAN NEWS AND ANALYSIS, May 29, 2006, [http://www.irinnews.org/report.asp?ReportID=53580&SelectRegion=West\\_Africa](http://www.irinnews.org/report.asp?ReportID=53580&SelectRegion=West_Africa).

23. See *A Trial For Hissene Habre*, WORDPRESS.COM, July 7, 2006, <http://bringhissenehabre2justice.wordpress.com/2006/07/>; see also *Bring Hissene Habre to Justice*, WORDPRESS.COM, May 19, 2006, <http://bringhissenehabre2justice.wordpress.com/page/2/>.

of the treaty creating the International Criminal Court.<sup>24</sup> The ratification was supported by the President of Chad and made Chad the 104th State Party to the treaty.<sup>25</sup>

#### IV. The Central African Republic

The Republic of Central Africa held presidential elections in May of 2005. The incumbent President Francois Bozize, who had vowed in 2003 not to be a candidate, won.<sup>26</sup> In December 2005, President Bozize introduced a bill in Parliament to permit him to rule by decree.<sup>27</sup> On December 30, 2005, the Parliament authorized President Bozize to rule by decree per Article 24 of the Constitution.<sup>28</sup> Under Article 24, the Parliament can authorize the president to rule by decree for a specific period and for a specific purpose.<sup>29</sup> Most of the enactments of the Republic of Central Africa in 2006 were executive branch decrees.<sup>30</sup>

#### V. The Republic of the Congo

In December 2005, the Congo Parliament granted amnesty to former Prime Minister and opposition leader Bernard Kolelas.<sup>31</sup> In addition, Parliament overturned a death sentence against Bernard Kolelas, a founder of one of the groups that participated in armed conflicts during the 1990s.<sup>32</sup> Kolelas, seventy years old, had been tried and sentenced in May of 2000 by the country's criminal court while he was in exile in Mali.<sup>33</sup> He was convicted of war crimes and crimes against humanity that were committed in Congo.<sup>34</sup>

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24. The Rome Statute of the International Criminal Court, July 1, 2002, U.N. Doc. A/CONF.183/9, 2187 U.N.T.S. 3.

25. Press Release, International Criminal Court, Chad and Montenegro Become the 103rd and 169th State Parties to the Rome Statute (Nov. 7, 2006), available at <http://www.icc-cpi.int/press/pressreleases/195.html>.

26. See Country Profile: Central African Republic, BBC NEWS, Dec. 12, 2006, [http://news.bbc.co.uk/1/hi/world/africa/country\\_profiles/1067518.stm](http://news.bbc.co.uk/1/hi/world/africa/country_profiles/1067518.stm).

27. See U.N. Office for the Coordination of Humanitarian Affairs, IRIN, *Prime Minister Declares Rule by Decree a Success*, IRIN HUMANITARIAN NEWS AND ANALYSIS, June 9, 2006, <http://www.irinnews.org/report.asp?ReportID=53835>.

28. CONSTITUTION OF THE CENTRAL AFRICAN REPUBLIC art. 24 (2004).

29. *Id.*

30. U.N. Office for the Coordination of Humanitarian Affairs, *CAR: Prime Minister Declares Rule by Decree a Success*, IRIN HUMANITARIAN NEWS AND ANALYSIS, Mar. 13, 2007, [http://www.irinnews.org/report.asp?ReportID=53835&SelectRegion=Great\\_Lakes&SelectCountry=CAR](http://www.irinnews.org/report.asp?ReportID=53835&SelectRegion=Great_Lakes&SelectCountry=CAR).

31. *Amnesty Passed for Congo's ex-PM*, BBC NEWS, Nov. 24, 2005, <http://news.bbc.co.uk/2/hi/africa/4467118.stm>.

32. *Id.*

33. *Id.*

34. *Id.*

In July 2006, the Congo ratified the United Nations Convention Against Corruption,<sup>35</sup> and on January 31, 2006 ratified the African Union Convention for the Prevention and Fight Against Corruption.<sup>36</sup>

## VI. Democratic Republic of the Congo

The year 2006 was momentous for the Democratic Republic of the Congo (DRC). The organization of the first multiparty general elections in more than forty years marked the end of a political transition that began in April 1990. The most significant legal development was the promulgation of a new constitution on February 18, 2006.<sup>37</sup> The new constitution had been submitted to a referendum on December 18 and 19, 2005, when it received 84 percent of the vote.<sup>38</sup>

### A. A NEW CONSTITUTION<sup>39</sup>

The new DRC Constitution is ambitious in its guarantee of fundamental freedoms and human rights, refashioning of the political system, and allocation of powers between the central government and the decentralized provinces. It reaffirms political and civil rights, and guarantees social and economic rights contained in the various international treaties to which the DRC is a party.<sup>40</sup>

### B. GUARANTEEING FUNDAMENTAL RIGHTS

The Constitution guarantees fundamental rights and freedoms such as equal protection of the law,<sup>41</sup> right to life,<sup>42</sup> presumption of innocence,<sup>43</sup> freedom of conscience and of

35. See U.N. Office on Drugs and Crimes, U.N. Convention Against Corruption, G.A. Res. 58/4, U.N. Doc. A/Res/58/4 (Oct. 31, 2003), available at [http://www.unodc.org/unodc/en/crime\\_convention\\_corruption.html](http://www.unodc.org/unodc/en/crime_convention_corruption.html).

36. See African Union Convention for the Prevention and Fight Against Corruption, Aug. 5, 2006, 43 I.L.M. 5, available at [http://www.africa-union.org/Official\\_documents/Treaties\\_%20Conventions\\_%20Protocols/Convention%20on%20Combating%20Corruption.pdf](http://www.africa-union.org/Official_documents/Treaties_%20Conventions_%20Protocols/Convention%20on%20Combating%20Corruption.pdf).

37. See Loi Organique n 06/020 du 10 Octobre 2006 Portant Statut des Magistrats, JOURNAL OFFICIEL DE LA RÉPUBLIQUE DÉMOCRATIQUE DU CONGO, Oct. 25, 2006, which redefines the professional status of civilian members of the judiciary so as to conform to the provisions of the new constitution; see also Loi n 06/018 du 20 Juillet 2006 Modifiant et Complétant le Décret du 30 janvier 1940 Portant Code Pénal Congolais, JOURNAL OFFICIEL DE LA RÉPUBLIQUE DÉMOCRATIQUE DU CONGO, Aug. 1, 2006, amending the penal code as it relates to sexual violence crimes so as to give effect to the new constitution's desire to toughen the punitive regime of sexual offenses; Loi n 06/019 du 20 Juillet 2006 Modifiant et Complétant le Décret du 06 aout 1959 Portant Code de Procédure Pénale Congolais, JOURNAL OFFICIEL DE LA RÉPUBLIQUE DÉMOCRATIQUE DU CONGO, Aug. 1, 2006, amending the Code of Criminal Procedure so as to provide for a prompt prosecution of sexual offenses. All three acts are available at <http://www.glin.gov/>.

38. See African Elections Database, Jan. 10, 2007, <http://www.cei-rdc.cd/>, the official website of the Congolese Independent Electoral Commission.

39. CONSTITUTION DE LA REPUBLIQUE DÉMOCRATIQUE DU CONGO, JOURNAL OFFICIEL DE LA RÉPUBLIQUE DÉMOCRATIQUE DU CONGO, Feb. 18, 2006 (hereinafter CONSTITUTION OF THE DRC), available at <http://www.glin.gov/>.

40. The preamble to the Constitution of the DRC reaffirms the country's "adherence and attachment to the Universal Declaration of Human Rights, to the African Charter on Human and People's Rights, and to the United Nations Conventions on the Rights of the Child and on the Rights of Women." See *id.* at pmb1.

41. See *id.* at art. 11.

religion,<sup>44</sup> and freedom of speech.<sup>45</sup> Under the chapter addressing civil and political rights, of note are the dispositions protecting the rights of women.<sup>46</sup> The Constitution requires the government to take measures to combat all forms of discrimination and violence against women. It also guarantees male-female parity of representation in all national, provincial, and local institutions.<sup>47</sup>

The incoming government will have to work diligently in order to make good on the constitution's promise of gender parity. In the recent parliamentary elections only forty-two women were elected to the 500-member lower chamber,<sup>48</sup> amounting to just 8 percent. The constitution also addresses the brutal cases of sexual violence against civilians that have characterized the various armed conflicts in the DRC over the past decade. It declares "all acts of sexual violence on any person, with the intent to destabilize, to dislocate a family and to cause the disappearance of a people" to be a crime against humanity.<sup>49</sup>

The new constitution addresses the rights of the criminally accused. It provides that a person arrested "must be immediately informed, in the language that he understands, of the reasons for his arrest and of any accusation proffered against him. He must be immediately informed of his rights."<sup>50</sup> In order to encourage civic participation, the constitution guarantees to DRC citizens, individually and collectively, the right to petition a public official, who must respond within three months.<sup>51</sup>

The constitution contains strong proclamations of economic, social, and cultural rights. It affirms that "private property is sacred"<sup>52</sup> and that the State should encourage and provide for the security of both national and foreign private investment.<sup>53</sup> Some of the rights recognized seem aspirational, such as the right to work,<sup>54</sup> the right to health,<sup>55</sup> "the right to a decent housing,"<sup>56</sup> and "the right to have access to clean water and to electrical power."<sup>57</sup> Freedom to marry is limited to a person of the opposite sex;<sup>58</sup> and primary education is declared free and mandatory in public schools.<sup>59</sup>

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42. *Id.* at art. 16.

43. *Id.* at art. 17.

44. *Id.* at art. 22.

45. *Id.* at art. 23.

46. *See id.* at arts. 14, 15.

47. *Id.* at art. 14.

48. *See 42 sur 500 !, LE POTENTIEL*, Sept. 14, 2006, available at [http://www.lepotentiel.com/afficher\\_article.php?id\\_edition=&id\\_article=34139](http://www.lepotentiel.com/afficher_article.php?id_edition=&id_article=34139).

49. *See* CONSTITUTION OF THE DRC art. 15.

50. *Id.* at art. 18.

51. *See id.* at art. 28.

52. *Id.* at art. 34.

53. *Id.*

54. *Id.* art. 36.

55. *Id.* at 47.

56. *Id.* at art. 48.

57. *Id.*

58. *Id.* at art. 40.

59. *Id.* at art. 43.

### C. FOUNDATIONS FOR AN INDEPENDENT JUDICIARY

The DRC Constitution is arguably most daring in its provisions pertaining to the Judiciary.<sup>60</sup> It departs from the Congolese tradition of a unified civilian court system with tribunals enjoying general subject matter jurisdiction.<sup>61</sup> It provides a dualist system of administrative courts capped by the Conseil d'État, on one hand,<sup>62</sup> and normal judicial courts crowned by the Cour de Cassation, on the other.<sup>63</sup> The constitution creates a Constitutional Court comprised of nine members who serve for a single term of nine years,<sup>64</sup> where "any person who wishes to challenge the constitutionality of any law or regulation" has standing to bring suit.<sup>65</sup>

To ensure the independence of the Judiciary as a constitutional branch of government equal to both the Executive and the Parliament, the constitution places it under the management of the *Conseil Supérieur de la Magistrature* (Superior Council of the Magistrature), constituted exclusively by members of the Judiciary.<sup>66</sup> The constitution gives broad powers to the Council, such as the power to establish the budget of the entire Judiciary in total independence<sup>67</sup> and the power to recommend to the president candidates for nomination to and promotion in the Judiciary.<sup>68</sup> The Council's effectiveness may turn out to be the key to an independent Judiciary in the DRC.

### D. A SEMI-PARLIAMENTARY REGIME IN A STRONGLY DECENTRALIZED STATE

The Constitution provides for a president elected by the people for a five-year term renewable once,<sup>69</sup> and for a prime minister who is designated by the party or coalition having the majority of seats in the parliament.<sup>70</sup> The prime minister is the head of the government,<sup>71</sup> even though the president chairs cabinet meetings.<sup>72</sup> The relationship between the two heads of the executive branch may end up being a source of instability or gridlock in the functioning of the government, especially when the leaders come from different political backgrounds.

The legislature is bicameral, with a National Assembly and a Senate.<sup>73</sup> Members of the National Assembly are elected for a five-year term with no term limits.<sup>74</sup> Senators represent their respective provinces and are elected by provincial assemblies for a renewable

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60. The judiciary is comprised of the various courts and tribunals, on one hand, and of the state prosecutors' offices attached to those courts and tribunals, on the other hand. See *id.* at art. 149.

61. See Pascal K. Kambale, *Democratic Republic of Congo (Kinshasa)*, in 1 LEGAL SYSTEMS OF THE WORLD: A POLITICAL, SOCIAL, AND CULTURAL ENCYCLOPEDIA 334 (Herbert M. Kritzer ed., 2002).

62. See CONSTITUTION OF THE DRC art. 154.

63. See *id.* at art. 153.

64. *Id.* at arts. 157, 158.

65. *Id.* at art. 162.

66. *Id.* at art. 152.

67. *Id.* at art. 149.

68. *Id.* at art. 152.

69. *Id.* at art. 69.

70. *Id.* at art. 78.

71. *Id.* at art. 92.

72. *Id.* at art. 79.

73. *Id.* at art. 100.

74. *Id.* at art. 103.

five-year term.<sup>75</sup> The National Assembly alone has the power to censure the entire government or individual members of the government.<sup>76</sup> When there is persistent gridlock between the government and the National Assembly, the constitution provides that the president may dissolve the National Assembly. In that case, parliamentary elections must be held in the following sixty days.<sup>77</sup>

In an effort to calm federalist fervors in the Congolese political class and still provide for a strong central government, the constitution devises a complex scheme of power sharing between the provinces (twenty-five plus the capital city of Kinshasa),<sup>78</sup> and the national government.<sup>79</sup> It enumerates in detail the exclusive powers of the national government<sup>80</sup> and the exclusive powers of the provincial governments,<sup>81</sup> while reserving certain areas of concurrent intervention.<sup>82</sup> A critical provision in the constitution reserves 40 percent of the national revenues generated within their borders to the provinces.<sup>83</sup> This retention system means that provinces will not have to wait for revenues to trickle back to them from the central government and should be able to fund their budgets more realistically.

## VII. Egypt

### A. EXTENSION OF THE EMERGENCY LAW

On April 30, 2006, the Egyptian Parliament extended the Emergency Laws,<sup>84</sup> which have been in place since 1981 in the aftermath of the assassination of President Anwar Sadat.<sup>85</sup> The law grants broad powers to Egyptian security forces to arrest suspects and detain them without trial for long periods of time.<sup>86</sup> The law was expected to lapse in June 2006. Members of the NDP-dominated Egyptian Parliament passed the measure amid strong and vociferous opposition from the Islamic Muslim Brotherhood MPs.<sup>87</sup>

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75. *Id.* at arts. 104, 105.

76. *Id.* at art. 146.

77. *Id.* at art. 148.

78. *Id.* at art. 2.

79. *See id.* at arts. 201-04.

80. *Id.* at art. 202.

81. *Id.* at art. 204.

82. *Id.* at art. 203.

83. *Id.* at art. 175.

84. *See, e.g.,* Stefanie Presley, *Egypt Extends Emergency Law as Crackdown on Protesters Continues*, JURIST, Apr. 30, 2006, [http://jurist.law.pitt.edu/paperchase/2006\\_04\\_30\\_indexarch.php#114642801271948107](http://jurist.law.pitt.edu/paperchase/2006_04_30_indexarch.php#114642801271948107).

85. The Constitution of 1958 empowered the President to announce a state of emergency. Pursuant to this power, the current Emergency Law (No. 162 of 1958) was enacted. The Emergency Law provides that a state of emergency can be declared whenever public security or public order are endangered, whether by the threat or actuality of war, internal disturbances or by natural disasters. *See* Emergency Law No. 162, art. 3 (1958) (Egypt).

86. *Id.* at art. 3.

87. Press Release, The Muslim Brotherhood (Ikhwan), Two More Years of the Same (May 1, 2006), available at <http://www.ikhwanweb.com/Home.asp?zPage=systems&System=PressR&Press=show&Lang=e&ID=4408>.



Critics argue that the Emergency Laws provide the government with a convenient tool to silence the Judiciary and the press.<sup>88</sup>

In November, an Egyptian court acquitted Hassan al-Hawayan for the second time on charges of weapons possession and inciting violence during the 2005 elections. Al-Hawayan, a senior official of the officially banned Muslim Brotherhood opposition group, was arrested in late 2005, acquitted in June of this year and freed in September. He was arrested again in October.<sup>89</sup>

## VIII. Equatorial Guinea

Equatorial Guinean President Obiang Nguema Mbazogo and President Bongo of Gabon in 2006 agreed to settle the dispute over the Mbiame Island peacefully.<sup>90</sup>

## IX. Gabon

In December of 2005, Gabon re-elected President Omar Bongo Ondimba with a landslide victory of almost 80 percent of the vote.<sup>91</sup> His election was made possible by the modification of the constitution, which did not allow Bongo another term in office.<sup>92</sup> Later, in October 2006, the President expressed his wish to stand for re-election in 2012, when his present term expires.<sup>93</sup> It was reported that the President increased the minimum monthly wage (SMIG) from CFA 44,000 francs (about US\$83) to CFA 80,000 francs (about US\$150), effective October 1, 2006.<sup>94</sup>

## X. Gambia

In November, the Chief Justice of Gambia, Abdul Karim Savage, promised reforms of the Gambian Judiciary into an autonomous public organization at a leadership seminar.<sup>95</sup> Chief Justice Savage identified the area of general administrative management as the main challenge facing the Gambian Judiciary. He indicated that judicial reforms would significantly impact both institutional and case management. Noting that the Judiciary plays a crucial role in promoting the rule of law and good governance, he urged top judicial of-

88. See Gamal Essam El-Din, *Until Further Notice*, AL-AHRAM WEEKLY ONLINE, Issue No. 793, May 4-10, 2006, available at <http://weekly.ahram.org.eg/2006/793/frl.htm>.

89. See *Egyptian Court Acquits Cleric Again*, DAILY TRYST, Nov. 13, 2006.

90. See *Outrage as Gabon "Sells" Island to Equatorial Guinea*, AFROL NEWS, Oct. 5, 2006, <http://www.afrol.com/articles/21779>.

91. See Reuters, *Gabon's Bongo Wins Fresh Term as President*, NEW ZEALAND HERALD, Nov. 30, 2005, available at [http://www.nzherald.co.nz/location/story.cfm?l\\_id=1&ObjectID=10357761](http://www.nzherald.co.nz/location/story.cfm?l_id=1&ObjectID=10357761).

92. See *Voters Likely to Extend Gabon Leader's 37-Year Rule*, CNN.COM, Nov. 27, 2005, <http://www.cnn.com/2005/WORLD/africa/11/27/gabon.election.ap/index.html?eref=sitesearch>.

93. See *Longest Serving African Leader Says he Will Run Again in 2012*, VOICE OF AMERICA NEWS, Oct. 24, 2006, <http://www.voanews.com/english/archive/2006-10/2006-10-24-voa23.cfm?CFID=93616641&CFTOKEN=63341393>; see also *Gabon President Still Wants to Run in 2012*, AFROL NEWS, Oct. 24, 2006, [http://www.afrol.com/printable\\_article/22147](http://www.afrol.com/printable_article/22147).

94. *FCFA 80,000 Minimum Wage for Gabon on 1st October*, PANAPRESS, July 9, 2006.

95. *Chief Justice Reveals Planned Reforms*, THE GAMBIA JOURNAL, Nov. 8, 2006.

ficers and members of the Judiciary to be equitable, and committed to the application of appropriate management practices and techniques.<sup>96</sup>

## XI. Kenya

### A. ANTI-CORRUPTION LEGISLATION

In 2006, the Government of Mwai Kibaki continued efforts at fighting corruption in the country, although not without controversy.<sup>97</sup> According to reports, the Government is engineering the passage of bills through the lack of a quorum in Parliament or the use of technical jargon to confuse legislators. The bills include the Statistics Act of 2006, The Miscellaneous Amendment Bill of 2006, and The Freedom of Information Bill.<sup>98</sup>

Civil Society organizations see loopholes in the proposed legislation.<sup>99</sup> They accuse the government of limiting public access to government information.<sup>100</sup> The proposed Freedom of Information Bill includes loopholes that will enable the government to get away with corruption.<sup>101</sup> According to civil society organizations, the legislation will silence critics of government policies on anti-corruption, intimidate organizations that provide alternative sources of information, and serve to harass whistleblowers.<sup>102</sup> "The Attorney General is required by law to comment on how the law reflects people's rights and the Constitution," the group specified.<sup>103</sup> The Attorney General of Kenya continues to monitor prosecution of corrupt officials with the Anti-Graft Commission.<sup>104</sup>

## XII. Liberia

Liberia continues to receive support for its Economic Recovery Authority. With aid from the World Bank, USAID, and the international development community, the leadership of Liberia, under President Ellen Johnson Sirleaf, has a vision of Liberia as an international model of economic success by 2010.<sup>105</sup>

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96. *Id.*

97. Samuel Otieno, *Bills Will Allow State to Get Away with Graft, Lobbies Say*, STANDARD ONLINE, Oct. 13, 2006, [http://www.eastandard.net/hm\\_news/news.php?articleid=1143959567](http://www.eastandard.net/hm_news/news.php?articleid=1143959567); see also *Bills "Will Facilitate Corruption" Say Critics*, LEGALBRIEF AFRICA, Oct. 23, 2006, <http://www.legalbrief.co.za/article.php?story=2006102313234982> [hereinafter *Corruption*].

98. See *Corruption*, *supra* note 97.

99. See *id.*; see also Otieno, *supra* note 97.

100. See *Corruption*, *supra* note 97.

101. *Id.*

102. *Id.*

103. *Id.*

104. Joyce Muluma, *Inter Press Agency News Service: Corruption-Kenya: An Amnesty Perhaps Not Worth Its Weight in Gold*, INTER PRESS SERVICE NEWS AGENCY, Oct. 4, 2006, <http://ipsnews.net/news.asp?idnews=34997>.

105. See Republic of Liberia, *Outline of Liberia's Economic Recovery Authority*, <http://www.if.cx/liblera.html>; see also Republic of Liberia, *The Liberia Agenda File*, <http://www.if.cx/libagenda.html>.

### A. LIBERIA TRUTH AND RECONCILIATION COMMISSION

The chairperson of Liberia's Truth and Reconciliation Commission (TRC), Jerome Verdier, has indicated that the Commission is determined to accomplish its mandate on time.<sup>106</sup> It is committed to investigating wrongs and abuses, including economic crimes committed against the Liberian people from 1979 to 2003, despite the serious challenges of a limited two-year lifespan, limited funding, and logistical problems.<sup>107</sup>

The Commission's work is expected to provide the foundation for the advancement of democracy and promotion of the rule of law in Liberia. The Commission expects to complete its mandate on time and successfully. Former Liberian President Charles Taylor, has been moved from the UN-backed Sierra Leone Special Tribunal to The Hague for trial for human rights abuses and other crimes against the people of Liberia.<sup>108</sup>

An anti-corruption autonomous agency focusing on the investigation and prosecution of all forms of corruption has been established in Liberia. The National Anti-Corruption program, organized and facilitated by the Governance Reform Commission, has held working sessions to commence its work.<sup>109</sup>

For most African countries, strengthening institutions of democracy remains a challenge to new democratic governments. Liberia's democracy will be strengthened by the participation of civil society and grassroots organizations in development policies that enhance the welfare of Liberian citizens.

### B. RETIREMENT BENEFITS

In November, a Writ of Prohibition filed by the so-called Prospective Retirees of the Ministry of Finance was denied by the Supreme Court Justice in Chambers.<sup>110</sup> Chamber Justice Korpor ruled that the petitioners had not fully exhausted remedies with the Civil Service Agency's appeals process and subordinate courts. Three hundred and fifty employees of the Ministry were recently retired in accordance with the Civil Service Act of 1973. The writ sought to compel the Ministry of Finance to pay retirement benefits to its retirees in U.S. dollars as opposed to Liberian dollars. The court found it improper to issue such an extraordinary writ as a prohibition under the circumstances.<sup>111</sup>

## XIII. Nigeria

Since the emergence of a democratic government in May 1999, the Nigerian Federal Government has instituted several reform agendas. Revamping the economic sector is at

106. See *Liberia: A brief guide to the Truth and Reconciliation Commission*, AMNESTY INTERNATIONAL, Nov. 1, 2006, <http://web.amnesty.org/library/Index/ENGAFR340072006?open&of=ENG-317>.

107. See *TRC Determined to Complete Its Mandate on Time*, LEGALBRIEF AFRICA, Sept. 11, 2006, <http://www.legalbrief.co.za/article.php?story=20060911153514350>.

108. *Taylor Flies in for Hague trial article*, BBC NEWS, June 20, 2006, available at <http://news.bbc.co.uk/2/hi/africa/5098070.stm>; see also *Taylor Tries to Block TRC*, AFRICA: NEWS24, Oct. 23, 2006, available at [http://www.news24.com/News24/Africa/News/0,,2-11-1447\\_2019215,00.html](http://www.news24.com/News24/Africa/News/0,,2-11-1447_2019215,00.html).

109. *Anti-graft agency established in Liberia*, LEGALBRIEF FORENSIC, June 15, 2006, <http://www.legalbrief.co.za/article.php?story=20060615082837170>.

110. *Justice in Chambers Quashes Writ of Prohibition*, THE ANALYST, Nov. 9, 2006.

111. *Id.*

the forefront of these reforms. The government entered into negotiations with its foreign debtors to pay off approximately \$32 billion of long-standing debt, believed to be contributing to the country's poverty.

In April 2006, Nigeria fulfilled its agreement with the Paris Club that allowed the country "to obtain a debt cancellation estimated at US\$18 billion (including moratorium interest)."<sup>112</sup> This represented an overall cancellation of about 60 percent of Nigeria's debt to the Paris Club. Paris Club creditors will be paid an amount of US\$12.4 billion, representing regularization of arrears of US\$6.3 billion, plus a balance of US\$6.1 billion to complete the exit strategy.<sup>113</sup> With the payment of the majority of its foreign debt, Nigeria has moved forward to reform its financial and investment sectors.

#### A. ECONOMIC REFORMS AND RECAPITALIZATION OF BANKS

Nigeria's economic reforms are further driven by the federal government initiative known as the National Economic Empowerment Development Strategy (NEEDS).<sup>114</sup> NEEDS is designed to focus on institutional and macroeconomic reforms that strengthen privatization, liberalization, governance, transparency and anti-corruption, and public delivery of services.<sup>115</sup> The states of Nigeria have similar economic reform programs known as SEEDS (States Economic Empowerment Development Strategy).<sup>116</sup> The objectives of the reform agenda are to reduce poverty, achieve social justice through the creation of wealth and generate employment.<sup>117</sup> The World Bank has scored the reform agenda of the current administration high while also stressing the need for good governance to ensure that the benefits of the reforms are equitably distributed to the citizens.<sup>118</sup> Generally, NEEDS implementation is focused on achieving the Millennium Development Goals (MDGs) but reducing poverty remains a huge challenge to the Federation.<sup>119</sup>

In 2005, the governor of the Central Bank of Nigeria,<sup>120</sup> ordered banks to raise their minimum capital base twelve-fold, to 25 billion naira (U.S.\$190 million), within eighteen

112. *Nigeria Settles Paris Club Debt*, BBC NEWS, Apr. 21, 2006, available at <http://news.bbc.co.uk/2/hi/business/4926966.stm>.

113. Press Release, Paris Club, Nigeria: Paris Club Agrees on a Comprehensive Treatment of Nigeria's Debt (Oct. 20, 2005), available at [http://www.clubdeparis.org/en/press\\_release/page\\_detail\\_communepresse.php?FICHIER=com11297988840](http://www.clubdeparis.org/en/press_release/page_detail_communepresse.php?FICHIER=com11297988840).

114. Federal Ministry of Information and National Orientation, *The National Economic Empowerment Development Strategy*, NIGERIA DIRECT, Mar. 18, 2007, [http://www.nigeria.gov.ng/reforms\\_economic\\_NEEDS.aspx](http://www.nigeria.gov.ng/reforms_economic_NEEDS.aspx).

115. *Id.*

116. See *id.*; see also WORLD BANK, COUNTRY BRIEF (2006), <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/NIGERIAEXTN/0,,menuPK:368906~pagePK:141132~piPK:141107~theSitePK:368896,00.html>.

117. See Akwe Amosu, *Economic Reform is on Course, Says Obasanjo*, NIGERIA DIRECT, Sept. 29, 2003, <http://allafrica.com/stories/200309290072.html>; see also *Federal Government Economic Reform and Governance Project (Nigeria)*, WORLD BANK, <http://web.worldbank.org/external/projects/main?menuPK=228424&theSitePK=40941&pagePK=64283627&piPK=73230&Projectid=P088150>.

118. See *World Bank Scores Nigeria High on Economic Reform*, INDEPENDENTNGONLINE, Oct. 31, 2006, <http://www.independentngonline.com/print.php?a=14252>.

119. See *An Overview by the World Bank*, Nov. 10, 2006, <http://siteresources.worldbank.org/CDFINTRANET/Overview/21145882/NigeriaFINALNovember102006.doc>.

120. The Central Bank is also responsible for the deposit of oil royalties and other direct taxes, as well as providing relevant information on the collection of taxes on other revenues. See generally Ayodele Odusola,

months or face being banned from holding public-sector deposits and participating in the foreign-exchange markets.<sup>121</sup> The directive was intended to spur consolidation of Nigeria's fragile and overcrowded banking sector, mainly through mergers.

The initiative succeeded in reducing the number of banks from eighty-nine to about twelve. Prior to the consolidation efforts of the Central Bank, many banks were family-owned and existed only through their close connections to the political elite.<sup>122</sup> Mergers in the banking sector have increased the confidence of investors banking in Nigeria.

Oil-rich Nigeria is Africa's most populous country, with 130 million people. Its economy is still largely cash-driven. The goal of the Central Bank is to encourage more banks to offer the right services to ordinary depositors, and in turn help stabilize the lending environment in one of the continent's biggest economies.<sup>123</sup>

According to the Central Bank Governor, Mr. Charles Soludo, "some of our banks are not engaged in strict banking business in terms of savings intermediation. They are traders—trading in foreign exchange, in government treasury bills, and sometimes in direct importation of goods through phony companies. This is not healthy for the economy."<sup>124</sup>

## B. LEGAL REFORMS: FIGHTING ECONOMIC AND FINANCIAL CRIMES

The government took steps in 2002 to strengthen economic sector reforms by establishing the Economic and Financial Crimes Commission (EFCC),<sup>125</sup> an anti-corruption agency, to investigate and prosecute public officers and anyone found in violation of the law.<sup>126</sup> The Act establishing the EFCC empowers the Commission to prevent, investigate, prosecute, and penalize economic and financial crimes.<sup>127</sup> The Commission is charged with the responsibility of enforcing the provisions of other laws and regulations relating to economic and financial crimes, including the Money Laundering Act (1995), the Money Laundering (Prohibition) Act (2004), the Advanced Fee Fraud and Other Related Offences Act (1995), the Failed Banks (Recovery of Debts), the Financial Malpractices in Banks Act (1994), and the Banks and Other Financial Institutions Act (1991).<sup>128</sup> The EFCC is also the key government agency responsible for fighting terrorism.<sup>129</sup> The EFCC has arrested and prosecuted several public officers including state governors in the

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*Tax Policy Reforms in Nigeria* (U.N. University Research, Paper No. 2006/03, 2006), available at <http://www.wider.unu.edu/publications/rps/rps2006/rp2006-03.pdf>.

121. See *Recapitalisation of Banks*, NIGERIA DIRECT, Feb. 21, 2007, available at [http://www.nigeria.gov.ng/industry\\_banking.aspx](http://www.nigeria.gov.ng/industry_banking.aspx); see also Press Release, Central Bank of Nigeria, Banking Sector Consolidation: Special Incentives to Encourage Weaker Banks (Apr. 11, 2005), available at <http://www.cenbank.org/OUT/PUBLICATIONS/PRESSRELEASE/GOV/2005/GOVPR%2011-4-05.PDF>.

122. *Id.*

123. *Id.*

124. *Id.*

125. See EFCC, *Detailed Reports and Activities of the Economic and Financial Crimes Commission*, Feb. 21, 2007, <http://www.efccnigeria.org/>.

126. Articles on EFCC and challenges in fighting corruption can be found at [http://www.efccnigeria.org/index.php?option=com\\_docman&task=cat\\_view&gid=67&Itemid=76](http://www.efccnigeria.org/index.php?option=com_docman&task=cat_view&gid=67&Itemid=76).

127. The Economic and Financial Crimes Commission (Establishment) Act 2002, available at <http://www.efccnigeria.org/>.

128. *Id.*

129. *Id.*

current administration.<sup>130</sup> Though some efforts of the commission have been criticized as politically motivated, there is a general sense of achievement in the fight against corruption by public officers.<sup>131</sup>

### C. CIVIL SOCIETY AND THE MEDIA

In November of 2006, the Senate of the Nigerian National Assembly passed the Freedom of Information Bill,<sup>132</sup> which had been pending for over five years. The Bill awaits the signature of the President to make it law within thirty days of passage.<sup>133</sup> The Freedom of Information Bill is expected to support fundamental principles of democratic values in the Nigerian Constitution, such as freedom of speech, freedom of assembly, and freedom of association.

### D. DEMOCRACY, GOVERNANCE, AND HUMAN RIGHTS

Democracy in Nigeria has benefited from seven years of political stability. The upcoming 2007 general elections<sup>134</sup> will lead to the first civilian-to-civilian transfer of power in Nigeria. The recent Electoral Law Reform was designed to prepare for a free, fair, and credible election in 2007.<sup>135</sup> Nigerians hope for a smooth and safe election that will lead to a peaceful transition. The on-going crisis in the oil rich regions of the country presents a challenge to this process. Resource control has been at the roots of Nigeria's economic and social problems.

The resource problem is most acute in the oil-rich but desperately poor Niger Delta.<sup>136</sup> Since January 2006, the Movement for the Emancipation of the Niger Delta (MEND) and other armed groups, have waged an increasingly violent campaign against the federal government and foreign oil companies.<sup>137</sup> MEND demands local control of the Delta's oil wealth and rejects the "Marshall Plan" President Olusegun Obasanjo has proposed for the region.<sup>138</sup> It recently shifted from high-profile kidnappings of foreign oil workers to more deadly activities, including car bombings. MEND says it wants to cripple the oil

130. See, e.g., Press Release, EFCC, Anajemba Pleads Guilty, Convicted and Sentenced (July 12, 2005), available at [http://www.efccnigeria.org/index.php?option=com\\_docman&task=doc\\_download&gid=48&Itemid=77](http://www.efccnigeria.org/index.php?option=com_docman&task=doc_download&gid=48&Itemid=77).

131. See Alfred Obiora Uzokwe, *Senators Killing the Fight Against Corruption in Nigeria*, NIGERIAWORLD, Mar. 6, 2003, <http://nigeriaworld.com/columnist/uzokwe/030603.html>.

132. See *Senate Passes Freedom of Information Bill*, MEDIA RIGHTS AGENDA, <http://mediarightsagenda.org/index.html>.

133. See *Nigeria—Freedom of Information Bill Passed*, IJCSL NEWSLETTER (International Center for Civil Society Law), Dec. 2006, available at <http://www.iccsl.org/pubs/06-12-IJCSL-N.pdf>.

134. See the Independent National Electoral Commission articles at <http://www.inecnigeria.org/newsview.php?news=19&newsid=195>.

135. See World of Parliaments, Quarterly Review, Parliamentary Developments (Nigeria), Oct. 2006, <http://www.ipu.org/news-e/23-9.htm>.

136. See *Nigeria's Faltering Federal Experiment*, INTERNATIONAL CRISIS GROUP, Oct. 25, 2006, <http://www.crisisgroup.org/home/index.cfm?id=4464&l=1>.

137. See *Nigeria's Shadowy Oil Rebels*, BBC NEWS, Apr. 20, 2006, available at <http://news.bbc.co.uk/1/hi/world/africa/4732210.stm>.

138. See Daniel Balint Kurti, *New Militia Is Potent Force in Nigeria's Oil Rich Delta Region*, CHRISTIAN SCIENCE MONITOR, Mar. 7, 2006, available at <http://www.csmonitor.com/2006/0307/p04s01-woaf.html>.

industry, and it has reduced output by 25 percent this year.<sup>139</sup> The International Crisis Group reports that ongoing crisis in the Nigeria Delta Region of Nigeria threatens Nigeria's federal system, its democratic progress, and violates human rights law.<sup>140</sup>

Nigeria's human rights violations remain a concern within the international human rights community. In August 2006, the Director of Human Rights Commission in Nigeria was fired without cause, and without regard to concerns raised by international human rights organizations.<sup>141</sup> The removal of the executive secretary of the national human rights commission was viewed as an assault on the independence of the Human Rights Commission by human rights organizations.<sup>142</sup> In addition, the government continued to arrest journalists who reported unfavorably.<sup>143</sup> The role of the judiciary remains critical to sustaining democracy in Nigeria. The independence of the judiciary continues to generate intense discussion and is affected by the wave of political impeachments in the State Houses.<sup>144</sup> The new leadership of the Nigerian Bar Association continues to advocate total independence of the judiciary and the strengthening of the legal system to enhance democratic principles.<sup>145</sup>

#### XIV. Rwanda

In a significant development in 2006, Rwandan President Paul Kagame announced his support for the abolition of the death penalty.<sup>146</sup> The President has stated that the proposed abolition would extend to persons found guilty of genocide. Abolition of the death penalty has been a condition for the transfer of genocide suspects to Rwandan jurisdiction. Some survivors of the 1994 genocide are strongly opposed to the decision.<sup>147</sup>

The Rwandan cabinet has adopted a law updating the commercial court system.<sup>148</sup> The organic law Concerning the Establishment, Organisation, Functioning and Jurisdiction of the Commercial Court is awaiting final approval before implementation.<sup>149</sup> The proposed law establishes a commercial court with jurisdiction over commercial, financial, and tax matters. Article 4 of the law extends jurisdiction to commercial matters including non monetary litigation and recognizes the appellate function of the Court.<sup>150</sup> Article 5 re-

139. See *Nigeria's Faltering Federal Experiment*, *supra* note 136.

140. *Id.*

141. See *Nigeria: Do Not Fire Rights Chief Without Cause*, HUMAN RIGHTS WATCH, June 29, 2006, <http://hrw.org/english/docs/2006/06/29/nigeri13667.htm>.

142. *Id.*

143. See, e.g., *Journalist arrested in Nigeria*, IOL, June 26, 2006, [http://www.iol.co.za/index.php?set\\_id=1&click\\_id=68&art\\_id=qw1151332381403B252](http://www.iol.co.za/index.php?set_id=1&click_id=68&art_id=qw1151332381403B252).

144. See Jeannie Shawl, *Nigeria High Court Rules Governor's Impeachment Unconstitutional*, JURIST, Dec. 8, 2006, available at <http://jurist.law.pitt.edu/paperchase/2006/12/nigeria-high-court-rules-governors.php>; see also Dolapo Okunniga, *Impeachments: The Judiciary and Its Integrity*, DAWODU.COM, Oct. 16, 2006, <http://www.dawodu.com/okunniga1.htm>.

145. *Id.*

146. See International Criminal Tribunal for Rwanda Press Monitor, *Rwanda: No Death Penalty for Indictees of UN Court, President Says*, NO PEACE WITHOUT JUSTICE, Sept. 4, 2004, available at [www.npwj.org/?q=node/1803](http://www.npwj.org/?q=node/1803).

147. See *Rwanda Moves to Ban Death Penalty*, BBC NEWS, Oct. 13, 2006, available at [www.news.bbc.co.uk/2/hi/africa/6047856.stm](http://www.news.bbc.co.uk/2/hi/africa/6047856.stm).

148. See NEWTIMES ONLINE, [www.newtimes.co.rw](http://www.newtimes.co.rw).

149. See Rwanda Ministry of Justice Home Page, [www.minijust.gov.rw](http://www.minijust.gov.rw).

150. *Id.* at art. 4.

quires that the Court be comprised of not less than five judges.<sup>151</sup> Under Article 7 of the proposed law, the Court's Chief Justice has discretionary authority to establish committees for the expeditious review of commercial matters.<sup>152</sup>

The Federation of Women Parliamentarians has introduced an innovative gender-based violence bill in Parliament.<sup>153</sup> The bill extends to the protection, prevention, and punishment of any gender-based violence. It defines rape as any forcible sexual relations with any person against that person's will and recognizes conjugal rape—the coercion of a spouse into sexual relations.<sup>154</sup> The proposal is expansive and extends to harassment and denotes factors that incite gender based violence.<sup>155</sup> The Bill prohibits marital rape and seeks to protect marital property rights.<sup>156</sup> Article 12 of the bill puts a monetary value on the domestic chores of a spouse to be considered in the distribution of marital property in the event of divorce. The proposed law establishes maternity leave for women with guarantees of full salary.<sup>157</sup> The bill also extends the rights of children, establishing punishment for child marriage, sexual abuse, and child abandonment.<sup>158</sup> Sexual harassment by persons in a position of authority, human trafficking, intentional inflictions of AIDS, and family abandonment are also addressed in the draft law.<sup>159</sup>

Rwanda is inaugurating a postgraduate school for practicing lawyers, judges, and prosecutors to improve the quality of Rwandan jurists through interactive training. The Institute of Legal Practice and Development (ILPD)<sup>160</sup> plans to open in March 2007, when it will offer a twelve-week program in English, French, and Kinyarwanda, including participation in moot court debates. It will promote the case law method of legal reasoning and work in three legal traditions (common law, civil law, and African law). ILPD's aim is to teach skills, not substantive law, and to develop the law through its Research and Development Center, which will produce books and other media for Rwandans. There will also be a three-month internship program that places interns in the justice sector, government, corporations, and law firms nationally and internationally.

## XV. Senegal

In March 2006, Presidential Decree No. 2006-267 was enacted to facilitate the division of responsibilities among the Presidency, the Premiership, and the Ministries for state services and the regulation of public establishments, national societies, and societies of public participation.<sup>161</sup> Article 1 of the decree, which provides for the division of respon-

151. *Id.* at art. 5.

152. *Id.* at art. 7.

153. See *Gender-based Violence Bill Passes in Rwandan Parliament*, RELIEFWEB, Aug. 7, 2006 (discussing the Law for the Protection, Prevention, and Punishment of any Gender Based Violence) (on file with the author).

154. *Id.* at art. 2.

155. *Id.* at arts. 3-4.

156. *Id.* at art. 9.

157. *Id.* at art. 18.

158. *Id.* at arts. 31-35.

159. *Id.* at arts. 41-42, 45-46.

160. See Official Gazette of the Republic of Rwanda, Law No. 22/2006, Apr. 28, 2006, available at <http://129.194.252.80/catfiles/4089.pdf>.

161. Republique du Senegal, Decrete No. 2006-267, available at [http://www.gouv.sn/textes/txt\\_detail.cfm?num=2006-267](http://www.gouv.sn/textes/txt_detail.cfm?num=2006-267) (last visited Feb. 18, 2007).



sibilities over state services, charges the Ministry of Justice with the management of the Seal, grant of the pardon, civil and criminal affairs, judiciary services, judicial training, penitentiary administration, and social protection, among other functions.<sup>162</sup> Article 2 provides for the Order of Barristers, the Order of Experts and Approved Assessors, the Order of Bailiffs, and the Chamber of Notaries to operate under the auspices of the Ministry of Justice.<sup>163</sup>

## XVI. Sierra Leone

### A. CHARLES TAYLOR TO BE TRIED BY THE SPECIAL COURT FOR SIERRA LEONE IN THE HAGUE

In March 2006, Charles Taylor, former President of Liberia, was taken into custody by the Special Court for Sierra Leone. The Special Court was established in 2000 pursuant to United Nations Security Council Resolution 1315.<sup>164</sup> The Court's mandate is to prosecute persons who bear the greatest responsibility for the serious violations of humanitarian laws in Sierra Leone after November 30, 1996, the date of the failed Abidjan Peace Accords between the AFRC-RUF and the Government of Sierra Leone.<sup>165</sup> Taylor had been in exile in Nigeria since 2003. He had agreed to leave war-torn Liberia in exchange for asylum.<sup>166</sup>

The Special Court amended the indictment of against Taylor to eleven counts of war crimes, crimes against humanity, and other serious violations of international humanitarian law. The eleven counts include unlawful killings, sexual violence, physical violence, use of child soldiers, looting, abduction, forced labor, terrorizing the civilian population, and collective punishments.<sup>167</sup>

The Special Court ordered a change in venue following U.N. Security Council Resolution 1688, establishing a U.N. Chapter VII basis for the detention and prosecution of Taylor in The Netherlands.<sup>168</sup> On June 20, 2006 Taylor was transferred to the ICC Detention Center in The Hague to await trial.<sup>169</sup> Trial is expected to begin in April 2007.<sup>170</sup>

162. *Id.* at art. 1.

163. *Id.* at art. 2.

164. S.C. Res. 1315, U.N. Doc. S/RES/1315 (Aug. 14, 2000).

165. Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court For Sierra Leone, U.N.-Sierra Leone, art. 1, Jan. 16, 2002, available at <http://www.sierraleone.org/specialcourtagreement.html>.

166. Clarence Roy-Macaulay, Associated Press, *Liberia's Charles Taylor Behind Bars*, BOSTON.COM NEWS, Mar. 29, 2006, [http://www.boston.com/news/world/africa/articles/2006/03/29/liberias\\_charles\\_taylor\\_behind\\_bars/](http://www.boston.com/news/world/africa/articles/2006/03/29/liberias_charles_taylor_behind_bars/).

167. Amended Indictment, The Prosecutor Against Charles Ghankay Taylor, Case No. SCSL-2003-01-I (Mar. 17, 2003), available at <http://www.sc-sl.org/Documents/SCSL-03-01-I-75.pdf>; see also Special Court for Sierra Leone, Summary of Charges Against Charles Taylor, available at <http://www.sc-sl.org/Taylorcasesummary.html> (last visited Nov. 15, 2006).

168. S.C. Res. 1688, U.N. Doc. S/RES/1688 (June 16, 2006).

169. Prosecutor Against Charles Ghankay Taylor, Case No. SCSL-03-1-PT, Decision on Defence Oral Application for Orders Pertaining to the Transfer of the Accused to the Hague (Jun. 23, 2006), available at <http://www.sc-sl.org/Documents/SCSL-03-01-PT-110.pdf> (last visited Nov. 15, 2006).

170. Alpha Kargbo, *Sierra Leone: War Crimes Trial*, THE INDEPENDENT, Nov. 10, 2006, available at <http://www.allafrica.com/sierraleone> (last visited Nov. 15, 2006).

## B. OTHER SPECIAL COURT MATTERS

In June, the defense team for three indicted former leaders of the Armed Forces Ruling Council (AFRC), Tamba Brima, Brima Bazzy Kamara, and Santigie Borbor Kanu, rested its case after presenting several witnesses and other evidence to the Special Court. Each of the defendants faces a fourteen-count indictment alleging war crimes, crimes against humanity, and other serious violations of international humanitarian law. The trial of the AFRC-accused began in March 2005 and the prosecution rested its case in November 2005. The court has tentatively scheduled closing arguments for December 7, 2006.<sup>171</sup>

## C. THE FINANCE ACT

In May, President Ahmed Tejan Kabba signed into law, the Finance Act of 2006, which provides for the imposition and alteration of taxation and other related matters.<sup>172</sup> Specifically, the Act provides for substantive amendments to the Income Tax Act of 2000, the Sales Tax Act of 2005, and the Government Budgeting and Accountability Act of 2005.<sup>173</sup>

The Income Tax Act was amended by (i) transferring the responsibility for duty waiver administration to the National Revenue Authority; (ii) altering the payment schedule of royalties for both residents and nonresidents; and (iii) making government ministries and departments liable for import duties on their respective imports.<sup>174</sup> The Sales Tax Act of 1995 was amended by the levying of taxes on goods subject to custom and excise laws, goods listed on the First Schedule, as well as local telephone calls and professional services.<sup>175</sup> The Government Budgeting and Accountability Act of 2005 was amended by increasing the total unallocated emergency expenditure from 2 percent to 3 percent of total revenues in any fiscal year.<sup>176</sup>

## D. SUPREME COURT APPOINTMENT

The induction of two long-term public service lawyers as Supreme Court Justices marked a significant legal event in Sierra Leone. On March 3, 2006, two newly appointed justices were sworn in by President Ahmed Tejan Kabba to the Supreme Court of Sierra Leone—the country's highest court. Both Justices Virginia Wright and Emile Thompson-Davis came out of retirement to serve as Supreme Court judges.<sup>177</sup>

171. Press Release, Special Court for Sierra Leone, Defence Testimony Ends in AFRC Accused Trial (Oct. 27, 2006), available at <http://www.sc-sl.org/Press/pressrelease-102706.pdf>; see also Kargbo, *supra* note 170.

172. The Finance Act, Act No. 7 (2006) (Supp. to the Sierra Leone Gazette vol. CXXXVII, No. 24), available at <http://www.sierra-leone.org/Laws/2006-7s.pdf> (last visited Nov. 15, 2006).

173. *Id.*

174. See *id.* § 2 (amending The Income Tax Act of 2000).

175. See *id.* § 5 (amending The Sales Tax Act of 2005).

176. See *id.* § 8 (amending The Government Budgeting and Accountability Act of 2005).

177. The State House of Sierra Leone, available at <http://www.statehouse-sl.org/archives/mar-2006.html> (last visited Nov. 15, 2006).

#### E. THE ANTI-HUMAN TRAFFICKING ACT OF 2005

Sierra Leone marked the first anniversary of the Anti-Human Trafficking Act. Signed into law on August 12, 2005,<sup>178</sup> Sierra Leone joined the growing international legal consensus on the prohibition and interdiction of human trafficking, a norm that has arguably crystallized into *jus cogens* in international jurisprudence.<sup>179</sup>

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178. See Anti-Human Trafficking Act (2005), available at <http://www.sierra-leone.org/Laws/2005-7p.pdf>.

179. Press Release, UNICEF, Sierra Leone Signs Anti-Human Trafficking Act (Aug. 18, 2005), available at [http://www.unicef.org/media/media\\_28011.html](http://www.unicef.org/media/media_28011.html).

