

Selected developments in human rights and democratisation during 2015: Sub-Saharan Africa

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Abstract: *This brief overview of selected developments with regard to human rights and democratisation in sub-Saharan Africa in 2015 paints a mixed picture of progress and challenges both at the national and regional levels. The contribution discusses elections held in 2015, accountability for mass atrocities, the protection of LGBTI rights and gender equality. With regard to elections, some may be seen as reflecting the will of the electorate, while others clearly were just meant as a show to endorse a predetermined outcome. With regard to accountability for mass atrocities, heads of state do their utmost to avoid judicial scrutiny. LGBTI rights remain a controversial issue, with some states playing on homophobic sentiments to win political points, at the expense of human rights and the rule of law. In 2015, the AU Executive Council challenged the independence of the African Commission on Human and Peoples' Rights by directing the Commission to withdraw the observer states granted to the Coalition of African Lesbians. However, at the national level, there have been encouraging judgments, for example with regard to the right of freedom of association of LGBTI groups. Gender equality also remains a contested issue, as illustrated by a case of the Ugandan Supreme Court dealing with the gender equality implications of the bride price.*

Key words: *accountability; democracy; elections; gender equality; human rights; LGBTI rights; sub-Saharan Africa*

1 Introduction

Africa is a vast continent with many challenges relating to human rights and democratisation. The protection of human rights and democratic governance must be guaranteed at the national level through constitutional and legislative provisions and effective institutions to enforce this. Intergovernmental organisations, such as the African Union (AU), complement the national framework both through norm setting,

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such as the African Charter on Human and Peoples' Rights (African Charter) and the African Charter on Democracy, Elections and Governance, and through establishing institutions, such as the African Commission on Human and Peoples' Rights (African Commission) and the African Court on Human and Peoples' Rights (African Court), to urge states to comply with their international commitments.

This brief overview of regional and domestic developments relating to human rights and democratisation in sub-Saharan Africa in 2015 considers developments in relation to four themes: democracy; accountability for mass atrocities; lesbian, gay, bi-sexual, transgender and intersex (LGBTI) rights; and gender equality. This is obviously not a comprehensive overview of developments related to human rights and democratisation in sub-Saharan Africa. The focus is on legal developments, such as court cases, rather than on a description of violations that took place during the period covered. More information can be found in the reports of various national and international non-governmental organisations (NGOs), in the reports of national human rights institutions, and in the activity reports of regional institutions such as the African Commission.

2 Democracy

This section briefly explores positive and negative trends with regard to elections held in sub-Saharan Africa in 2015. Thereafter it discusses a Ugandan judgment regarding whether a parliamentarian may retain a seat in parliament after having been expelled from his party. The section further briefly highlights some constitutional developments and a judgment of the East African Court of Justice on the media law of Burundi.

Elections were held in 13 sub-Saharan African states in 2015: Benin (parliamentary); Burkina Faso (presidential and parliamentary); Burundi (presidential); Central African Republic (parliamentary and presidential); Comoros (parliamentary); Côte d'Ivoire (presidential); Ethiopia (parliamentary); Lesotho (parliamentary); Nigeria (parliamentary and presidential); Sudan (parliamentary and presidential); Tanzania (parliamentary and presidential); Togo (presidential); and Zambia (presidential).

In some of these elections there were real contestations. For example, no party won an absolute majority in the parliament in Benin, Burkina Faso, Comoros and Lesotho (AFP 2015; Eizenga 2015; Inter-Parliamentary Union 2015; BBC 2015). For the first time in Nigeria's history, an incumbent president who stood for re-election conceded defeat (Nwabughio 2016), and there was less election-related violence than in previous elections (Winsor 2015).

The AU observer mission to the general elections in Burkina Faso noted (AU 2015):

The Burkinabe people, political actors and the transition authorities deserve credit for the serene and tranquil atmosphere within which the elections were conducted. Through the use of national ingenuity, the challenges which confronted the transition were surmounted.

Similar positive accounts about many of the elections held in sub-Saharan Africa were adopted by election observer missions.

The positive outcome in Burkina Faso followed a judgment by the Community Court of Justice of the Economic Community of West African States (ECOWAS), wherein it was held that an electoral code excluding certain persons from contesting the elections violated their rights (ECOWAS Community Court of Justice 2015).

The most glaring exceptions to the positive picture of elections in Africa in 2015 painted above are the elections in Burundi, Sudan and Ethiopia.

The election observation mission of the East African Community (EAC) noted, with regard to the presidential election in Burundi in April 2015, that it 'fell short of the principles and standards for holding free, fair, peaceful, transparent and credible elections as stipulated in various international, continental as well as the EAC Principles on Election Observation and Evaluation' (EAC 2015 para 31). President Nkurunziza's successful bid for a third term generated violence which continued throughout the year (Al Jazeera 2015).

In the Sudanese presidential election, President al-Bashir won 94.05 per cent of the vote. The ruling National Congress won 323 of the 426 seats in the National Assembly. The elections were 'boycotted by opposition groups and marred by low turnout and public apathy' (Kushkush 2015).

In Ethiopia, the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) won 500 of the 547 seats of the House of People's Representatives while its affiliates won the remaining 47 seats. Thus, all real opposition parties were demolished. The percentage of seats held by the EPRDF and its associated parties grew from 99.5 per cent (544 of 547 seats) following the 2010 election (EU mission report 2010: 33) to 100 per cent following the 2015 election (National Electoral Board of Ethiopia 2015). The AU election observation mission concluded that 'the parliamentary elections were calm, peaceful, and credible as it provided an opportunity for the Ethiopian people to express their choices at the polls' (AU para 74). The EU decided not to send an observer mission since its report on the 2010 election had not been accepted by the Ethiopian government (EU position on the absence of an EU Election Observation Mission (EOM) for the May 2015 National elections (26 February 2015)).

No opposition in parliament makes a mockery of the right to vote and to be elected in the Constitution. Elections should be held by universal and equal suffrage in secret ballots and they should guarantee 'the free expression of the will of the electors' (article 38 of the Ethiopian Constitution). Many factors contribute to this unfortunate state of affairs. One of the factors contributing to the current situation is the lack of an independent electoral board. Prominent opposition parties have often complained that the electoral board lacks the independence and impartiality required to enable it to freely manage elections (Abraha 2010: 53-54). This view has been reiterated in some election observation mission reports, for example by the EU observer mission (2010) and the Carter Centre (2015).

The exclusion of any opposition from the political space has a long history in Ethiopia. The Council of Representatives, which took over from the Mengistu regime in 1991 under the Transitional Charter, was not a popularly-elected body (Selassie 1992: 219). Rather, it was a body composed of the representatives of the liberation movements that had

brought down the previous regime (Transitional Charter article 7). The leading liberation movement, the Tigrayan People's Liberation Front (TPLF), ensured that the composition of the Council would not threaten its grip on power (Ottaway 1995).

The Council acted as legislature and made formative decisions on the subsequent political structure of the country that remains to this day. It established the Constitutional Commission that drafted the Constitution. The Electoral Board created under the Constitution was not designed to be independent of the executive and the legislature. For example, political parties that do not have a seat in parliament do not have a say in the nomination process. The political parties consulted by the Prime Minister about the nomination of commissioners are those parties with seats in parliament, and these parties also take part in the approval of the nominees. It seems to be a conscious exclusion of political parties without seats, to enable those parties that do have seats in parliament to play multiple roles in the nomination and approval of commissioners, while parties without seats are not allowed to play any role.

It is essential for democracy that votes cast in secret ballots are counted by an impartial body and that the results of elections should be a reflection of the votes cast in the polls. Although the clause does not expressly provide for this, the words 'to be elected' denote the result of an election, and when these words are read in conjunction with the phrase 'to guarantee the free expression of the will of electors', it clearly indicates a need for an impartial body to be set up to manage the electoral process so that electoral results will be a true reflection of the votes cast.

Democracy does not only imply free and fair elections. At the sub-regional level, the East African Court of Justice in May 2015 delivered an important judgment related to both democracy and human rights. As noted by the Court, '[there is no doubt that freedom of the press and freedom of expression are essential components of democracy' (paragraph 75). The Court held that the media law of Burundi violated the Treaty of the EAC.

In other developments linked to democratisation, the Supreme Court of Uganda held that the expulsion of a member of parliament from his or her political party did not result in that member losing his or her parliamentary seat.¹ This case raised a number of important issues related to democratisation in Africa. These issues include the role of political parties in controlling their members of parliament and the status of members of parliament who have been expelled from their parties.

The case concerned the expulsion of four members of the ruling party in Uganda, the National Resistance Movement (NRM). The four members were expelled from the party on the grounds that they had acted in a manner that contravened various provisions of the party's constitution. Following their expulsion, the Secretary-General of the NRM wrote to the speaker of parliament informing her of the party's decision and requesting her to direct the clerk to parliament to declare the members' seats in parliament vacant to enable the Electoral Commission to conduct by-

1 *Ssekikubo & 4 Others v Attorney-General & 4 Others* Constitutional Appeal 01 of 2015 [2015] UGSC 19 (30 October 2015).

elections in their constituencies. The speaker declined this request. This refusal was challenged in the Constitutional Court on the ground that it was contrary to the Constitution. The Constitutional Court declared the speaker's decision unconstitutional, necessitating the expelled members to appeal to the Supreme Court.

In dispensing with the issue whether the expulsion from a political party was a ground for a member of parliament to lose his or her seat in parliament, the Court found that this was not the case. The relevant article of the Ugandan Constitution, article 83(1), provides that a member of parliament shall vacate his or her seat in parliament 'if that person leaves the political party for which he or she stood as a candidate for election to parliament to join another party or to remain in parliament as an independent member'. According to the Court, on a literal interpretation this provision required that leaving the party should have been voluntary for the member of parliament's seat to be declared vacant. In the present instance, this was not the case, as the members were forced out of the party for reasons other than them joining another party or remaining in parliament as independent members.

It should also be noted that a number of sub-Saharan African states are in the process of reforming their constitutions. A referendum on a new constitution for Tanzania planned in April 2015 was cancelled. In Zambia, parliament adopted a new constitution late in 2015 with only the bill of rights and the amendment clause set to be approved through referendum in connection with the general elections in 2016 (Munalula 2016).

3 Accountability for massive violations

Accountability for massive human rights violations remains a challenge. By the end of 2015, no state had ratified the Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights (Malabo Protocol) adopted in July 2014 to provide the African Court with criminal jurisdiction to enable it to function as an African alternative to the International Criminal Court (ICC). Kenya was the first state to sign the Protocol in January 2015, and Benin, Chad, Congo, Guinea-Bissau and Mauritania followed suit with signatures in 2015.

The ICC charges against President Kenyatta of Kenya were withdrawn in March 2015 (Escritt 2015). President al-Bashir of Sudan remains indicted by the ICC. In June 2015, al-Bashir travelled to South Africa for the AU Summit. During his presence in the country, a South African NGO brought a court case to prevent him from leaving and to order South Africa to surrender him to the ICC. The government argued that the Sudanese President had immunity during his visit under the Diplomatic Immunities and Privileges Act, while the applicant argued that the obligation to surrender an indicted person to the ICC under the ICC Implementation Act took precedence. The High Court granted the order sought by the applicants. However, despite this order, President al-Bashir returned to Sudan.²

2 *Southern African Litigation Centre v The Minister of Justice and Constitutional Development & Others* Case 27740/2015. The judgment was confirmed by the South African Supreme Court of Appeal in 2016.

In other developments related to international criminal law at the domestic level, the Ugandan Supreme Court held that under Ugandan law, a former commander of the Lord's Resistance Army did not benefit from amnesty provisions.³ Justice Katureebe noted as follows:

There are no uniform standards or practices in respect of amnesty. Each country may put in place appropriate mechanisms with regard to amnesty to solve or address a particular conflict situation it is facing. But there appears to be a minimum below which amnesty provisions may not be permitted in respect of grave crimes as recognised in international law.

At the international level, the International Criminal Tribunal for Rwanda in Arusha, Tanzania, closed down at the end of 2015. The last judgment of the Appeals Chamber was delivered on 14 December 2015 (ICTR 2015). The trial of the former President of Chad, Hissène Habré, finally proceeded before the Extraordinary African Chambers in Dakar, Senegal (Human Rights Watch 2016). The accused first appeared on 20 July 2015, but proceedings were suspended to allow court-appointed lawyers to prepare themselves after the accused had dismissed his initial lawyer and refused to co-operate. During the trial, which lasted from 9 September to 16 December 2015, the Trial Chamber heard evidence from 96 witnesses, mostly survivors of the brutalities.⁴ Habré, who was tried for atrocities committed during his presidency between 1982 and 1990, is the second former head of state in Africa to be tried for international crimes following the trial of Charles Taylor of Liberia, who was convicted by the Special Court for Sierra Leone in 2012, with the Appeals Chamber rejecting his appeal in 2013 (BBC 2013).

In October 2015, months after the conclusion of its work, the report of the AU Commission of Inquiry on South Sudan was released. The report concluded that war crimes and crimes against humanity had been committed, but it remains to be seen whether any action, such as criminal trials, will be initiated against the perpetrators (Dersso 2015). Commissions of inquiry were also established at the national level, for example in Kaduna State in Nigeria, following the killing of hundreds of Shia Muslims by the Nigerian army in December 2015 (Human Rights Watch 2015).

4 LGBTI rights

A rift between the continental human rights body, the African Commission, and the political bodies of the AU dominated the human rights discourse at the regional level in 2015. In April 2015, the Coalition of African Lesbians (CAL) was granted observer status by the African Commission. Given the widespread incidence of homophobia in sub-Saharan Africa, the AU Executive Council responded by requesting the African Commission to withdraw CAL's observer status. Its decision (as part of the consideration of the Commission's Activity Report) reads as follows:

3 *Uganda v Kwoyelo* Constitutional Appeal 01 of 2012 [2015] UGSC 5 (8 April 2015).

4 Habré was convicted on 30 May 2016 of having committed crimes against humanity, a separate crime of torture, and war crimes.

REQUESTS the ACHPR to take into account the fundamental African values, identity and good traditions, and to withdraw the observer status granted to NGOs who may attempt to impose values contrary to the African values; in this regard, REQUESTS the ACHPR to review its criteria for granting observer status to NGOs and to withdraw the observer status granted to the organisation called CAL, in line with those African values.

On the issue of LGBTI rights, there have been interesting developments at the domestic level in some AU member states.

On 14 January 2015, the Persons Deprived of Liberty Act, under which intersex persons first received legal recognition in Kenya, entered into force. Before this, Kenya had for some time grappled with the recognition of intersex persons, with courts in all cases brought before them holding that their hands were tied due to the lack of legislative recognition. A prominent case on the rights of intersex persons was that of *Baby 'A' (Suing through the mother EA) & Another v Attorney-General & 5 Others*, decided on 5 December 2014. The case involved a child born with both sexes who was refused birth registration because the official birth registration documents only provided for the categories male and female. The mother of the child filed a petition at the Constitutional Court alleging that the non-recognition of the intersex category in the registration documents violated the right of the intersex child to legal recognition, dignity, and the right not to be subjected to inhuman and degrading treatment, all of which rights are protected under the Constitution and international human rights instruments.

The Court held that Baby A and intersex persons were entitled to all rights under the Bill of Rights. However, the Court refused to create intersex as a third category of sex for purposes of birth registration, arguing that this was the role of parliament. Instead, the Court upheld its earlier decision in *RM v Attorney-General & Others*,⁵ where it had directed that the dominant sex (determined by 'external genitalia and physiological features') of the child at the time of birth should be used for purposes of registration until such time that parliament introduces intersex as a third category of sex.

Of interest is the fact that the Court directed the Attorney-General to start the process of enacting legislation regulating the place of intersex persons as a sexual category and to report back on its progress within 90 days. Following on the heels of this directive, Kenya passed the Persons Deprived of Liberty Act, which entered into force on 14 January 2015. The Act became the first law in Kenya to define an intersex person. Section 2 of the Act defines an intersex person as one certified by a competent medical practitioner to have both male and female reproductive organs. Although this definition is restrictive,⁶ it offers guidance on the identification of intersex persons in Kenya. Also, while the Act only deals with the rights of a person who has been arrested, held in lawful custody, detained, or imprisoned in execution of a lawful sentence, it is a first step towards the legislative recognition of intersex persons.

5 Petition 705 of 2007.

6 Compare this with the definition in the South African Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000, where the same term is defined in sec 1 as 'a congenital sexual differentiation which is atypical, to whatever degree'.

Another Kenyan case dealing with LGBTI rights is *Eric Gitari v Non-Governmental Organisations Co-Ordination Board & 4 Others* (2015) eKLR. This case is of interest to Kenya and Africa, given the sometimes acrimonious debate on the issue of homosexual rights. In Kenya, as in many countries in Africa, the debate seems to be tilted in favour of those against homosexual rights, especially in light of the conservative approach enacted in the available legal framework. For example, the Kenyan Constitution in article 45 limits marriage to persons of opposite sexes. The Constitution also deliberately omits sexual orientation as a prohibited ground of discrimination in article 27(4). In addition, the Penal Code in sections 162, 163 and 165 criminalises ‘carnal knowledge of any person against the order of nature’.

In this case, the petitioner had lodged with the NGO Board, for purposes of the registration of an NGO, the names Gay and Lesbian Human Rights Council; Gay and Lesbian Human Rights Observancy and Gay and Lesbian Human Rights Organisation. The purpose of the NGO was stated as the protection of the human rights of those who belong to the lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) community. The petitioner was advised by the Board that all the proposed names were unacceptable and should be reviewed. According to the Board, the use of the words ‘gay’ and ‘lesbian’ made the names unacceptable as these words were inconsistent with the law, particularly the Penal Code, which prohibited and criminalised gay and lesbian liaisons.

The petitioner challenged this decision, arguing that it violated his right to association under article 36 of the Constitution. He contended that article 36 entrenched the freedom of association for ‘every person’ and did not distinguish between different categories of people. The Court found that the NGO Board had violated the right of the petitioner to association. According to the Court, the right to associate was a right that applied to everyone and that it did not matter whether the views of certain groups were unpopular or unacceptable to persons outside those groups. According to the Court, in order to deny the registration of the NGO, the Board had to satisfy itself that the proposed NGO was intended to promote any activity that was unlawful. Reliance on the provisions of the Penal Code, which criminalised ‘carnal knowledge against the order of nature’ was untenable as these provisions did not criminalise homosexuality, or the state of being homosexual, but only certain sexual acts ‘against the order of nature’. The NGO Board was thus ordered to proceed and register the NGO.

The *Gitari* judgment is a continuation of a positive trend of national courts in Africa, in Botswana and Zambia, which in 2013 and 2014 handed down judgments asserting the rights to freedom of expression and association of LGBTI activists (SALC 2015).

5 Gender equality

The relationship between culture and human rights also remains contested with regard to equality between men and women. In *Mifumi (U) Ltd & Another v Attorney-General & Another*,⁷ the Ugandan Supreme Court

7 Constitutional Appeal 02 of 2014 [2015] UGSC 13 (6 August 2015).

upheld the cultural practice of paying a bride price as being consistent with the freedom of choice and equality of couples intending to get married under customary law, but declared the cultural practice of refund of the bride price unconstitutional for violating the right to dignity of a woman and her entitlement to equal rights with a man.

The petitioners in this case sought orders by the Constitutional Court⁸ declaring the marriage custom and practice of demanding a bride price, and its refund in case the marriage breaks down, unconstitutional. They based their prayer on the grounds that (a) the bride price promotes inequality and violence in marriage as it reduces wives to possessions contrary to article 21 of the Constitution, which provides for equality of persons; (b) the bride price fetters the free consent of persons intending to marry contrary to article 31, which provides for the right of equality in marriage; and (c) the custom of demanding a refund of the bride price violates the dignity and equality of a woman in marriage contrary to article 31 of the Constitution which provides for the right of equality in marriage.

The Constitutional Court dismissed the petition, holding that the marriage custom and practice of paying the bride price, and demanding a refund of the same, were not unconstitutional. Dissatisfied with the decision, the appellants lodged an appeal before the Supreme Court.

The payment of the bride price and refund of the price in case of dissolution of the marriage is a common practice in many African customary marriages. As noted by the Supreme Court in this case, the notoriety of the practice requires courts to take judicial notice of its existence. However, despite its notoriety, the human rights implications of the custom remain the subject of intense debate in the increasingly modernising African societies, as evidenced in this case.

The Supreme Court disagreed with the petitioner on the first two grounds and, like the Constitutional Court, upheld the constitutionality of the bride price. After having reviewed a number of research statistics presented before it, the Supreme Court found, first, that inequality and its attendant issues of violence and the abuse of women were not the result of customary marriages in which bride prices were paid. According to the Court, male domination is rooted in the culture, tradition and custom of most societies the world over and is witnessed even in marriages where the bride price is not paid. To hold that the bride price promotes inequality and violence would be to ignore the overwhelming statistics of men married under these conditions who nevertheless treat their wives with dignity and non-violence. Abuse of the custom should be seen as aberrations of the noble intentions of the bride price, and government has the responsibility to deal with such abusers without resorting to the easy route of declaring the practice unconstitutional.

Second, the Supreme Court held that the bride price arrangement did not fetter the parties' free consent to enter into marriage as they still had the option under Ugandan law to choose other forms of marriage which do not require the payment of the bride price. The Court also noted that in many cultures, not only in Uganda but also in other countries in Africa,

8 The Court of Appeal sits as the Constitutional Court on constitutional issues. Its decision can be appealed to the Supreme Court.

the bride has to give her consent before the groom or his parents pay the bride price, meaning that the issue of bride price arises after and not before consent.

With regard to the third ground, the Supreme Court agreed with the petitioner, noting that the customary practice of the husband demanding a refund of the bride price in the event of dissolution of the marriage demeans and undermines the dignity of a woman and violates her entitlement to equal rights with the man in marriage, during marriage and at its dissolution. According to the Court, a demand for a refund fails to honour the wife's unique and valuable contribution to a marriage, which is a violation of a woman's constitutional right to be a partner equal to the man. The Court further noted that the bride price constituted gifts to the parents of the girl for nurturing and taking good care of her up to her marriage, and being gifts, it should not be refundable.

In another case dealing with gender equality, *Mary Mwaki Masinde v County Government of Vihiga & Another* (2015) eKLR, the Kenyan Constitutional Court recognised the right of a married woman who has relocated to the husband's home to vie for elective or nominative positions in her original place of birth.

This case illustrates the frustration a married woman faces when she attempts to vie for elective or nominative positions in her original place of birth. The petitioner applied for the position of member of the County Management Board with respect to Vihiga County Land Management Board advertised by the National Land Commission. She passed the interview and was selected among six other candidates for final approval by the Vihiga County Assembly. Despite noting that she was properly vested with the knowledge and expertise for the position, the Vihiga County Assembly decided against her appointment on the grounds that, although born in Vihiga, she had married and stayed in Mumias (a town in a different county) and, as such, was not able to represent the interests of the people of Vihiga. The same consideration was, however, not brought to bear on her male counterparts who were born in Vihiga but lived in areas outside Vihiga. The petitioner challenged the court process on the grounds that the decision was based entirely on her marital status and was, therefore, discriminatory. The Court found the decision discriminatory and ordered the county government to pay the petitioner Kshs 3 million for a breach of her right not only against discrimination, but also to dignity. According to the Court, the purpose of the right against discrimination on the grounds of, among others, marital status or sex, was to preserve human dignity that, in itself, was a right recognised under article 28 of the Constitution. The Court further held that women and men had the right to equal treatment (provided in article 27 of the Constitution), which included the right to equal opportunities in political, economic, cultural and social spheres.

An important case decided at the regional level is the decision of the African Commission in the case of *Equality Now and Ethiopian Women Lawyers Association v Ethiopia*.⁹ The case deals with the rape and abduction of a 13 year-old girl as part of a traditional practice in Ethiopia and the lack of response by the Ethiopian authorities. The perpetrator was

9 Communication 341/2007, adopted by the African Commission in November 2015.

initially convicted by a court, but this conviction was overturned on appeal. The Commission held that violators must be pursued with diligence and that the decisions of the national appeal courts had been ‘manifestly arbitrary and affront the most elementary conception of the judicial function’ (paragraph 137). In addition to prosecution, the state had an obligation to adopt preventive measures. However, the Commission noted that it would not dictate what these measures were, given the state’s ‘unique knowledge of the local realities’ (paragraph 128). This decision is the first in which the Commission has ordered the state to pay a specific amount of non-material damages.

6 Conclusion

This brief overview of selected developments with regard to human rights and democratisation in sub-Saharan Africa paints a mixed picture. On the one hand, democracy is taking hold, albeit with imperfections, in many African states. On the other hand, in a few states, ruling elites are attempting to hold onto power by all possible means. Developments in 2015 in Ethiopia, Sudan and Burundi illustrate this challenge. With regard to accountability for mass atrocities, the picture is also mixed. Current heads of state do their utmost to avoid judicial scrutiny and have the full backing of African heads of state in avoiding accountability. Selected prosecutions of former heads of state, such as those of Charles Taylor and Hissène Habré, are exceptions to the rule. The mixed picture extends to LGBTI rights. The AU Executive Council’s reaction to the African Commission granting observer status to CAL could have serious consequences for the functioning of the African regional human rights system. However, at the national level, there have been encouraging judgments, for example with regard to freedom of association of LGBTI groups, which is the question at the heart of CAL’s contested observer status. Much has in recent years been achieved in relation to gender equality, but sub-Saharan Africa remains highly patriarchal. There is no simple answer to dealing with issues such as the bride price, as illustrated by the judgment of the Ugandan Supreme Court in *Mifumi*. The case against Ethiopia, which was pending before the African Commission for eight years before finally being decided, is hopefully not the last to explore gender-based violence and other issues related to gender equality in Africa.

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