Judicial and Similar Proceedings

1. Prosecutor CPCF v. Minister for Immigration and Border Protection (High Court of Australia – January 28, 2015)
<https://jade.barnet.com.au/Jade.html#article=365019>

On January 28, 2015, the High Court of Australia issued a judgment in *CPCF v. Minister for Immigration and Border Protection* holding that the detention of 157 Tamil asylum seekers at sea was legal under Australian law. A Tamil asylum seeker, known as CPCF, brought suit alleging he had been unlawfully detained and wrongfully imprisoned after an Australian border protection vessel intercepted the Indian-flagged vessel carrying him and 156 other asylum seekers and redirected them to India. After Australia was unable to reach an agreement with India about their discharge, the passengers were transferred to Australia's Cocos Islands where they were detained under the Maritime Powers Act (MPA), which permits Australia's maritime officers to detain and take a person to a place outside the migration zone. CPCF argued that in applying the MPA, Australia had breached its international law obligations under Article 33(1) of the Convention Relating to the Status of Refugees and Article 3(1) of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Court noted that "[j]udicial authority in Australia, the United Kingdom and the United States of America suggests that a state's obligations under the Convention arise only with respect to persons who are within that state's territory" and held that "Australian courts are bound to apply Australian statute law 'even if that law should violate a rule of international law.'"

2. Hicks v. United States (U.S. Court of Military Commission Review – February 18, 2014)
<http://www.mc.mil/Portals/0/pdfs/hicks13-004/Hicks%20v.%20United%20States,%2013-004%20Decision%20(Feb%2018%202015).pdf>

On February 18, 2015, the U.S. Court of Military Commission Review, a military appeals court, overturned the conviction of David Hicks, an Australian man who pled guilty in 2007 to providing material support to a terrorist organization. The Commission dismissed the finding of guilty and vacated Hicks's seven-year sentence on the ground that the charge was not a crime at the time of Hicks's plea. Citing *U.S. v. Al Bahlul*, the Commission noted that the case "was a plain ex post facto violation" and the "conviction cannot stand on the merits." Hicks, who admitted to receiving military training from and joining Al Qaeda in 2001, was the first detainee convicted through the criminal tribunal system at Guantanamo Bay, Cuba. He was transferred to the custody of the Australian government within two months of receiving his sentence in accordance with his pretrial agreement. On the same day the decision was issued, the U.S. government announced that it would not appeal the decision.

3. Prosecutor v. Mathieu Ngudjolo Chui (International Criminal Court – February 27, 2015)
<http://www.icc-cpi.int/iccdocs/doc/doc1918951.pdf>

On February 27, 2015, the Appeals Chamber of the International Criminal Court confirmed the acquittal of Mathieu Ngudjolo Chui of charges of crimes against humanity and war crimes in *Prosecutor v. Mathieu Ngudjolo Chui*. Chui, an alleged former leader of the Front for National Integration (FNI), a militia operating in the Democratic Republic of Congo (DRC), was acquitted in December 2012 of "three counts of crimes against humanity (murder, rape and sexual slavery) and seven counts of war crimes (using children under the age of 15 to take active part in the hostilities; directing an attack against a civilian population as such or against individual civilians not taking direct part in hostilities; wilful killing; destruction of property; pillaging; sexual slavery and rape)." The crimes were allegedly committed in 2003 during an attack on a village in the Ituri district of the DRC.

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RESOLUTIONS, DECLARATIONS, AND OTHER DOCUMENTS

1. Declaration on Illicit Financial Flows (African Union – January 30, 2015)
<http://summits.au.int/en/sites/default/files/Assembly%20AU%20Dec%20546%20-%20568%20%28XXIV%29%20_E.pdf>

On January 30–31, 2015, the African Union adopted, among other documents, a Special Declaration on Illicit Financial Flows, which seeks to address "the increasing scale and extent of Illicit Financial flows from Africa." The declaration resolved "to ensure that all the financial resources lost through illicit capital flight and illicit financial flows are identified and returned to Africa to finance the continent's development Agenda." Estimating that the continent loses US$150 billion annually through such flows, the declaration acknowledged the role played by corruption and poor governance in exacerbating the problem and urged the "[i]nternational community to adopt and implement the findings and recommendations of the High Level Panel on Illicit Financial Flows from Africa." The U.N. Convention Against Corruption similarly addresses the problem of illicit financial flows and notes the need to "strengthen international cooperation in asset recovery."

2. Manual on Referral of International Criminal Cases to National Courts (International Criminal Tribunal for Rwanda – February 11, 2015)
<http://www.unictr.org/sites/unictr.org/files/legal-library/150210_complementarity _in_action.pdf>

On February 11, 2015, the Prosecutor of the International Criminal Tribunal for Rwanda (ICTR) released a manual on best practices for the referral of international criminal cases to national courts. The "manual documents the ICTR Office of the Prosecutor's (OTP) experience in securing the referral of ten genocide indictments to national jurisdictions for trial." Of the ten indictments, eight were referred to Rwanda and two to France. The OTP noted that the "referral of these indictments marked an important milestone in the ICTR's completion strategy. Without the referral of these indictments, the ICTR's work would have been incomplete and a gap in impunity could have resulted." Thus, as part of a strategy "to preserve the ICTR's legacy for future use," the OTP "hope[s] this manual will assist other international and national courts to build on the ICTR's achievements and empower national authorities to discharge their primary responsibility to investigate and prosecute international crimes in a manner consistent with international standards."

3. Report on Children's Rights in Return Policy and Practice in Europe (United Nations Children's Fund – February 16, 2015)
<http://www.unicef.be/wp-content/uploads/2015/02/Childrens-rights-in-return-policy-in-Europe.pdf>

On February 16, 2015, the United Nations Children's Fund (UNICEF) released a report entitled "Children's Rights in Return Policy and Practice in Europe." The report addresses the challenges presented by the thousands of unaccompanied children who enter the European Union each year seeking asylum. To ensure that the Union meets its international obligations under the Convention on the Rights of the Child, Europe has developed various instruments in an effort to facilitate the return of children to states such as Afghanistan, from which a significant percentage of unaccompanied children come. UNICEF, however, remains "concerned that Government efforts to scale up returns of unaccompanied and separated children may lead to protection gaps for these children and give insufficient consideration to their rights and best interests."

4. Executive Order – Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela (U.S. Executive – March 9, 2015)
<https://www.whitehouse.gov/the-press-office/2015/03/09/executive-order-blocking-property-and-suspending-entry-certain-persons-c>

On March 9, 2015, President Barack Obama issued an Executive Order "Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela." In the Executive Order, President Obama stated that "Venezuela's erosion of human rights guarantees, persecution of political opponents, curtailment of press freedoms, use of violence and human rights violations and abuses in response to antigovernment protests, and arbitrary arrest and detention of antigovernment protestors, as well as the exacerbating presence

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of significant public corruption, constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States." The Executive Order declares a national emergency to deal with this threat and lays out steps for blocking property and suspending entry of individuals deemed to be contributing to these matters in Venezuela. The Executive Order imposes sanctions on seven individuals and "does not target the people or the economy of Venezuela."

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