

# National Conference of Black Lawyers

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August 31, 2009

Attorney General Eric Holder  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001

Re: Africom

Dear Attorney General Holder:

The National Conference of Black Lawyers (NCBL) takes this opportunity to speak frankly to you about Africa Command (Africom), a U.S. military operation that has been almost universally rejected throughout the African continent. Likewise, criticism of Africom has been sharp in Africa's diaspora. It is this widespread concern that prompts us to communicate with you in an open letter.

We believe that President Obama, as Commander-in-Chief, should dismantle Africa Command and permanently retire the Africom concept. As one who has the President's ear, particularly with respect to matters of law, we feel it is important that we share with you some of the legal and policy concerns that lead us to that conclusion.

Africom says its mission is "...to promote a stable and secure African environment in support of U.S. foreign policy." According to Africom's public statements, the mission is built upon the proposition that Al-Qaeda and other terrorist forces are operating in Africa and presenting military challenges to African governments that they are unable to meet without U.S. assistance.<sup>1</sup> President Obama's embrace of a faulty mission to fight terrorists who are probably not even in Africa leads us to fear that he has been very badly advised on this issue. To all appearances, he has been persuaded to adopt as his own the idea that Africa needs U.S. military support. In our opinion, the rationale for Africom's existence was manufactured by the Bush Administration for the purpose of giving the U.S. an excuse to use military means to achieve dominance over African oil resources and at the same time stem the growing influence of China

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<sup>1</sup> See transcript of April 17, 2009 interview by Al-Jazeera with General William E. Ward, commander of U.S. Africa Command.

and other countries on the African continent.

For their part, the people of Africa are being asked to embrace a U.S. military command for reasons that are illogical, and perhaps even nonsensical. In addition, Africom appears against a historical backdrop of the U.S. government having repeatedly intervened in Africa's affairs in ways that have caused severe destabilization and underdevelopment. This history includes U.S. complicity in a series of unsavory operations that include: the overthrow of Ghana's President Kwame Nkrumah; plans to assassinate Congo's Prime Minister Patrice Lumumba; support for counter-revolutionary forces in Angola and Mozambique<sup>2</sup>, and much more.

Africans' suspicions about Africom's plans to provide military "advisors" are compounded by the fact that the U.S. has a history of using military advisors to guide and direct troops in other countries to no good end. In some cases U.S. advisors have directed foreign government troops. In other cases they have supported insurgents and mercenaries trying to overthrow foreign governments. In all cases, the consequences for everyday people in affected countries have been devastating. Over the years, a number of respected public servants have made known their objections to the use of military advisors. Members of Congress sued President Reagan because of his administration's use of military advisors to support a brutal regime in El Salvador and counter-revolutionaries in Nicaragua.<sup>3</sup> Although for technical reasons the courts were not inclined to inject themselves into those controversies, Africom's agenda makes it possible for more lawsuits to be filed in the future, this time challenging U.S. involvement in Africa's conflicts. For its part, the National Conference of Black Lawyers will not hesitate to speak in defense of any Africans who may be harmed by illegal acts committed by Africom.

We urge that you not wait until the Administration receives threats of viable legal challenges to Africom's activities, but that you instead affirmatively counsel the President to immediately and continually comply with the law and uphold its principles. With that in mind we note that certain core international law principles that have been incorporated into the United Nations Charter have significant implications for Africom, and should be considered. Specifically:

**Article 1(2)** of the U.N. Charter affirms the right of countries to exercise rights to self-determination. Sovereign countries must be allowed to govern their own affairs and make their own decisions about their national destiny. The very concept of Africom offends the most basic notions of self-determination. To appreciate how offensive Africom can be to governments attempting to shake off the lasting effects of colonialism and establish true independence,

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<sup>2</sup> The Assassination of Lumumba, Ludo De Witte (Verso 2001) p. 78; In Search of Enemies, John Stockwell (W.W. Norton 1978).

<sup>3</sup> *Crockett v. Reagan*, 558 F.Supp. 893 (1982).; and *Sanchez-Espinoza v. Reagan*, 568 F. Supp. 596 (1983).

imagine how the U.S. government would react if the African Union were to announce that it had plans to gratuitously send military advisors into U.S. urban centers to instruct the U.S. National Guard on how to maintain order on those occasions when there are civil disturbances. Such “assistance” would be unsolicited, unneeded, and highly insulting. It is no less so when Africom intrudes into matters that are the province of sovereign African states.

**Articles 1(1) and 2(3)** of the U.N. Charter call for the settlement of international disputes by peaceful means. Regardless of how much officials may insist that Africom is a force for peace, it is not perceived as a diplomatic delegation or a Peace Corps-type operation. It is perceived as a military command that is designed to facilitate warfare. In the context of African politics, the mere presence of Africom will be perceived as an act of aggression that will decrease, not increase, the likelihood of peaceful resolution of conflicts.

**Article 2(4)** of the U.N. Charter requires that member states refrain from the threat or use of force against the territorial integrity or political independence of any country. Africom’s mere existence is a continuing threat of force. Whether intended or not, Africom effectively communicates to African countries that they risk military consequences if they stray from the political, military or economic path that the U.S. prefers that they follow. Even a few U.S. military advisors in Africa are representatives of a super state that has the capacity to attack - with proxy African troops - whenever necessary to protect its interests.

As Africom attempts to carve out for itself an advisor role, it does so at great risk. Africa has an unfortunate history of foreign private and public interests instigating for their own benefit bloody internecine conflicts that have taken the lives of countless innocents. As Africom advisors train and equip individuals who may have pre-existing personal scores to settle; or who wish to reignite old hostilities, the U.S. must bear morally, if not legally, the weight of any resulting war crimes, crimes against humanity or serious human rights violations.

The Rome Statute (which guides the work of the International Criminal Court) reflects generally accepted international law principles related to war crimes, genocide and crimes against humanity. It speaks directly to the types of atrocities that Africom may very well facilitate, and it contemplates the culpability of aiders, abettors, conspirators and others who are not direct participants in crimes. Even though the U.S. has unfortunately declined to submit to the court’s jurisdiction, and the U.S. cannot be prosecuted in the International Criminal Court, it obviously would not reflect well on the Administration for admitted terrorists to be able to effectively deflect condemnation of their own crimes by credibly demonstrating that Africom aided and abetted war crimes and crimes against humanity, and that prosecutions would be warranted if only the court had jurisdiction over U.S. military personnel.

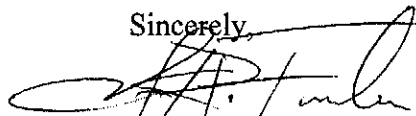
We note in closing that through our work, we are in touch with the mood and the thoughts of the black community. We know that there are many in our community who believe that care must be taken to avoid public statements and actions that appear critical, and as a consequence, compound the Administration’s political challenges. However, at the same time, we also know

that the plight of Africa and her children, born and living in practically every country in the world, is too desperate for us to be anything but forthright.

With that in mind we remind you that because neither you nor President Obama would have your positions had it not been for the sacrifices of our ancestors you are heavily indebted to them. In fact, the debt is so great that this Administration is compelled to honor obligations to the ancestors even if it means departing from the Presidency's institutional custom of ignoring what is owed to those who were enslaved and their descendants and to first and foremost protect corporate power. Africom is offensive to everything our ancestors fought and in some cases died for. Contrary to President Obama's recent plea for Africa to become self-reliant, Africom perpetuates a state of dependency. It perpetuates not only a state of dependency, but a military dependency that is potentially destructive in its own right, and which facilitates foreign theft and exploitation of the very resources that are the source of Africa's potential for political and economic redemption. For these and many other reasons, we believe Africom must be dismantled, and the Africom concept permanently retired.

Thank you for considering our thoughts on these matters. We certainly welcome the opportunity to speak with you or members of your staff about any questions, concerns or views that you might wish to convey.

Sincerely,



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Jeffrey L. Edison  
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cc: Secretary of State Hillary Clinton  
Her Excellency Susan E. Rice