



SECOND AFRICAN JUDICIAL DIALOGUE
"CONNECTING NATIONAL AND INTERNATIONAL JUSTICE"
NGURDOTO MOUNTAIN LODGE ARUSHA, TANZANIA
4 - 6 NOVEMBER 2015



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CONCEPT NOTE

FOR THE

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ARUSHA
UNITED REPUBLIC OF TANZANIA

Introduction

1. In Africa, litigation before continental and regional human rights judicial and quasi-judicial institutions is steadily growing. There is therefore great potential for valuable cross fertilization of jurisprudence between continental and regional institutions and national ones particularly in the application and interpretation of the African Charter on Human and Peoples' Rights, other continental and regional human rights instruments and domestic constitutions. The cross fertilization is important not only for jurisprudential orientation but also for enhancing judicial administration and ensuring quality justice for Africans across the continent.
2. It is in this light therefore that a Continental Judicial Dialogue is being organised so as to advance these discussions. The dialogue will be a follow-up on the first edition organized in November 2013 in Arusha, United Republic of Tanzania. Participants at the First Dialogue included Judges of the African Court on Human and Peoples' Rights (African Court), Chief Justices, Presidents of Supreme Courts and Constitutional Courts and other representatives of national judiciaries from over thirty (30) African Union Member States, Judges of Regional Courts, and the Residual Mechanism for International Criminal Tribunals. Representatives of African Union institutions with a human rights mandate also participated as did representatives from academia.
3. The first dialogue discussed the African human rights system in general and the relationship between the African Court and the African Commission on Human and Peoples' Rights in particular. The contentious and advisory jurisdictions of these two institutions were discussed as well as the human rights jurisprudence of the Regional Courts. The Dialogue also discussed the various approaches to domestication of international human rights instruments and their application by national courts as well as the enforcement of the decisions of continental and regional courts by national institutions.
4. The need to set the stage for fruitful interactions between national and international courts inspired the Court to initiate dialogue with national Judges across the Continent to discuss ways and means to promote and protect Human Rights on the Continent while raising awareness on the role of the participating institutions in this regard. The Dialogue also discussed how practical cooperation among them can be achieved and maintained.
5. One of the conclusions of the first Judicial Dialogue was that a proposal should be tabled to the African Union (AU) policy Organs that the dialogue be institutionalized within the AU and that it be held on a biennial basis. This proposal was made to the AU Policy Organs and by decision EX.CL/Dec. 806(XXIV) Decision on the 2013 Activity Report of the African Court on Human and Peoples' Rights, the Executive Council of the African Union accepted

the proposal. It is in this regard therefore that the Second Continental Judicial Dialogue is proposed to be held from 04 to 06 November 2015 and to be hosted by the African Court on Human and Peoples' Rights.

Themes and Sub-Themes

6. The proposed overall theme of the dialogue is **“Connecting National and International Justice”**. This is in light of the objectives of the dialogue of fostering connectivity between national, regional and continental judicial mechanisms. The proposed substantive themes of the dialogue are as listed below.

Theme I: Judicial Reforms

7. With the adoption of new Constitutions in many African Union Member States, the Judiciary has taken a more prominent role in the arbitration of matters related to the implementation of these Constitutions as well as ensuring the maintenance of rule of law. This is more so with respect to enforcement of human rights. It is against this background that many Member States have undertaken judicial reforms towards ensuring that their judiciaries are well placed in undertaking their constitutional mandates. Though the exercise of judicial reform is wide, the Dialogue will focus on the following sub-themes:

Sub-Theme 1 on Procedural reforms/innovations in judicial processes that enhance access to justice and ensure protection of rights

8. Procedural economy and efficiency in the judicial process ensures that those seeking justice can do so at minimal expense and within the shortest time possible. This is determined by the rules of procedure and judicial policies in place. If these make the judicial process very drawn out and costly, people will resort to extrajudicial means of resolving disputes while the converse will inspire confidence in the judicial process and ultimately ensure that the environment for the protection and promotion of human rights thrives. It would therefore be important to obtain perspectives on procedural innovations from the continental, regional and national jurisdictions that have impacted on the effectiveness of the judicial process. Issues to be discussed here would include simplification of procedures, fast tracking processes, flexibility in choice of language to be used etc.

Sub-Theme 2 on Creation of Special Court Divisions

9. Focusing on specific rights is a key aspect of enhancing promotion and protection of human and peoples' rights. This is evidenced by the adoption of instruments to protect specific categories of persons such as women, children, the disabled, internally displaced, refugees etc. It would follow therefore that these should be specific adjudicating mechanisms to ensure the protection of the specific rights protected. This may be the rationale for the creation of special court divisions, for instance juvenile/children's courts, family divisions as well as human rights and

constitutional divisions. The discussions on this theme will be on the effectiveness of these special courts in ensuring protection of the specified categories of persons.

Sub-Theme 3 on Incorporation of Technology in Court Processes

10. Courts are increasingly adopting information technology to ensure that proceedings are managed effectively and efficiently. For instance, some jurisdictions allow electronic filing of pleadings and submissions, some provide platforms for payment of filing fees and fines through mobile money transfer systems, use of video conferencing to take witness testimony, real time recording of proceedings etc. The opportunities for incorporation of technology are boundless but given the specialized nature of provision of judicial services, it is important that the systems adopted provide the optimal cost benefit analysis and ultimately contribute to the attainment of judicial excellence. Discussions under this theme will therefore focus on the possibilities for incorporation of technology into the judicial process as well as sharing of experiences by various jurisdictions on the same. After all, the adage justice delayed is justice denied is synonymous with ensuring that the judicial process protects rights and does not make them illusory.

Theme II: Recent Developments and Trends on Human Rights Jurisprudence

11. As a continuation of the discussions commenced during the first dialogue regarding the African Human Rights System, the second dialogue will discuss the recent trends developments and trends on human rights jurisprudence. It is proposed that continental human rights mechanisms, regional courts and national courts share their experiences on the recent developments and landmark decisions on human rights issues. These would include jurisprudence on areas such as economic, social and cultural rights, freedom of expression as well as on protection of vulnerable groups.

Theme III: Continuing Judicial Education and Management of Judicial Institutions

Sub Theme 1 on Continuing Judicial Education

12. Continuing Judicial Education is now widely accepted as an important component of capacity building for judicial officers. This could be on general areas or on the areas of specialization. Continuing judicial education also provides the judicial cadre with contemporary information in their areas of specialization and generally on trends in dispute resolution in those areas. This is particularly pertinent in the area of human rights protection and promotion, thus its inclusion as a sub-theme to be discussed. The discussions under this sub-theme will focus on the formats, methodologies and resources available for continuing judicial education.

Sub-Theme 2 on Quality Management Systems for Courts

13. Quality management entails the identification, understanding and managing all interrelated processes in an organization as a system and at all stages of the production or service delivery process in order to ensure that products or services provided are consistent. The process is, however, not only focused on product or

service quality but also the means to achieve it. Traditionally most judicial institutions have not adopted a quality management approach, viewing this as being more appropriate to the industrial production sector, those that have done so, can attest to the correlation between the approach and the increase in public confidence in the judiciary. It is perhaps high time that African judiciaries also start discussing these approaches to judicial management. The ultimate objective of this would be to ensure that the judiciary provides improved services in an accessible, fair and timely manner.

Theme IV: Experiences from other Continents

14. As part of the experience sharing, the Dialogue is proposed to have a theme to discuss the developments from other continents.

Sub Theme 1 on Compliance of decisions of regional courts/mechanisms through national courts

15. Under this Sub-Theme, the discussions will focus on how other regional courts' decisions have established linkages with national courts towards ensuring compliance with the decisions. The different approaches applied in this regard maybe instructive for the courts and institutions making up the African human rights system.

Sub-Theme 2 on the Creation of Continental Judicial Networks

16. The discussions under this sub-theme will focus on the experiences of other continents in establishing judicial networks along different thematic lines. The experiences of Latin America, Europe and South East Asia, in this regard may also provide inspiration to the African judiciaries in the setting up and coordination of its own network.

General Objective

17. The general objective of the dialogue is to provide participants with a forum to discuss issues indicated under the general and specific themes discussed above. This is with a view to contributing to the enhanced capacities of participating institutions.

Specific Objectives

18. The specific objectives of the Dialogue are to discuss:

- i. Promote procedural reforms and innovations that enhance access to justice and ensure protection of human and peoples' rights
- ii. Whether and how the establishment of special court divisions contribute to enhancing access to justice and the protection of human and peoples' rights
- iii. The approaches to incorporating technology in court processes to enhance access to justice and protection of human rights
- iv. Recent trends and developments in human rights jurisprudence on the continent

- v. Formats, methodologies and resources for continuing judicial education.
- vi. The adoption of quality management systems for courts as a means to ensure quality of justice
- vii. Formats, methodologies and resources for continuing judicial education.
- viii. The approaches of regional courts in South East Asia, Latin America and Europe, to compliance of their decisions through national courts
- ix. The approaches of Europe, Latin America and South East Asia, in setting up continental judicial networks. This is with a view to adopting the best methodology of the establishment of a judicial network in Africa.

Venue

19. The dialogue is proposed to take place in Arusha, The United Republic of Tanzania from 4 to 6 November 2015.

Methodology

20. The dialogue will be consultative as well as participatory to facilitate exchange of information and sharing of experiences. There will be expert presentations on some of the sub-themes as well as sharing of experiences from different jurisdictions at national, regional and continental level encompassing the various African Union regions and legal systems. This will be followed by discussions both in Plenary and in groups. The Dialogue will conclude with the adoption of an outcome document.

Participation

21. It is proposed that the dialogue will bring together the continental and regional institutions of the African human rights system and representatives of national jurisdictions from the AU political and linguistic regions as well as the different legal systems as listed below:

- i. African Committee of Experts on the Rights and Welfare of the Child (African Child Committee);
- ii. African Court on Human and Peoples' Rights (African Court);
- iii. African Commission on Human and Peoples' Rights (African Commission);
- iv. African Union Advisory Board on Corruption ;
- v. African Union Commission;
- vi. African Union Commission on International Law;
- vii. Arab Maghreb Union Judicial Authority;
- viii. Central African Economic and Monetary Community Court of Justice;
- ix. Community Court of Justice of the Economic Community of West African States (ECOWAS Court);
- x. COMESA Court of Justice;
- xi. The East African Court of Justice;
- xii. Representatives from the highest national courts of the 54 Member States of the African Union; and
- xiii. Other institutions thought relevant depending on the themes under discussion

22. In view of the sharing of experiences on the themes under discussion, it is proposed that the following will also participate in the dialogue:

- i. The Association of East Asian Nations' Judicial mechanism and/or network;
- ii. The European Judicial Network;
- iii. The Latin American Judicial Network (Cumbre Judicial Ibero-Americana);
- iv. The European Court of Human Rights; and
- v. The Inter-American Court of Human Rights

Dialogue Languages

23. The dialogue will be conducted in Arabic, English, French, Portuguese and Spanish with simultaneous interpretation.

Documents

24. The following documents/instruments, among others, will be distributed to participants:

- i. Relevant legal texts of participating institutions
- ii. Presentations on the various themes
- iii. General and specific articles and commentaries on the themes under discussion

Funding

25. The dialogue is funded by the European Union, German Cooperation and the World Bank.

Further Information

26. Should you require further information regarding the dialogue, kindly contact:

Grace Wakio Kakai
Principal Legal Officer
African Court on Human and
Peoples' Rights
Tel: +255732979745 /+255783057533
Email: grace.wakio@african-court.org

Kenneth Mwaine Kimbui
Transport and Travel Assistant
African Court on Human and
Peoples' Rights
Tel: +255732979745 /+255758953226
Email: Kenneth.Kimbui@african-court.org