INTERNATIONAL FORUM HELD FROM 28-29 OCTOBER 2019, AT KAMPALA UGANDA

ON THE THEME:

“Operationalising the International Human Rights Forum and Enhancing Jurisprudential Dialogue”.

Commentary by African Court on experience sharing on human rights adjudication through judicial dialogue and networking

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Talking Points

Introduction

- The African Charter on Human and Peoples’ Rights (the Charter), the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, the Rules of Court together with other human rights instruments ratified by State Parties to these instruments are the basic documents on which the Court bases its deliberations on matters presented before it and in reaching a decision.
• The Court complements the protective mandate of the African Commission on Human and Peoples’ Rights, determines allegations of human rights violations that have been submitted to it and give its opinion on legal, human rights and related matters presented before it through contentious and advisory proceedings.

African Judicial Dialogues and African Judicial Network

• To promote the work of the Court and encourage experience sharing and dissemination of knowledge on human rights issues, the Court invites national judiciaries, African Union (AU) quasi-judicial organs and institutions and other relevant stakeholders of AU Member States, to participate in the biennial African Judicial Dialogues. The first, second and third African Judicial Dialogues took place in 2013, 2015 and 2017 respectively, all in Arusha, Tanzania. The Dialogues have become a forum for in-depth exchanges on developments and topical concerns on human rights from the national, regional and international level. Each Dialogue has a specific theme and focus. While the first discussed the African human rights system in general and the relationship between the African Court and the African Commission for Human and Peoples’ Rights in particular, as well as the domestication application of international human rights instruments and implementation of decisions of continental and regional courts by national courts and institutions, the second had as its theme “Connecting National and International Justice” and theme of the past immediate one, the third Dialogue, was ‘Improving Judicial Efficiency in Africa’

• The third African Judicial Dialogue concluded inter-alia with propositions for establishment and strengthening of judicial institutions in Africa, the launch of an online human rights course for African judiciaries, the establishment of an African Judicial Network which subsumes the African Centre for Judicial Excellence as well as advocating for the implementation of Information and Communication Strategies for judiciaries in Africa.

• The proposed African Judicial Network will provide a platform for coordination, networking and capacity-building for judiciaries in their administrative and judicial function. It is designed as a continent-spanning network, which will aim to strengthen links and help to foster a meaningful sense of community between
judges and courts across the continent, to facilitate communication and increase understanding between courts of different legal traditions and across multiple legal frameworks, and to assist in the achievement of efficient and effective justice systems for all individuals across Africa. It is aimed that the African Judicial Network will not only provide a central resource and forum for regional and domestic courts across the African Union, but will also serve as a model of cutting-edge best practices for other world regions.

- It has been recommended that the Network’s activities should center around the African Judicial Dialogue which should be re-named the African Judicial Network Dialogue. The African Judicial Network is inspired by the practice of other regional Judicial Networks, particularly in Europe and the Americas. It is aimed that it will borrow a leaf from the Ibero-American Judicial Summit which provides a useful model for a judicial network that is highly focused and that uses a biennial Summit as a Centre of gravity for its activities: a theme is selected for each 18-24 month period between Summits; thematic working groups engage in significant preparation before each Summit; and detailed follow-up is decided at each Summit. Presently, there is a Statute for the Centre that has been prepared and which is awaiting endorsement by the African Union Policy Organs.

- The next African Judicial Forum, (will be held immediately after this Forum. It will have in attendance continental and regional judicial institutions of the African human rights system, representatives of national jurisdictions from all AU regions and regional courts, as well as other continental human rights bodies. The Inter-American Court of Human Rights will also participate. The Forum has as its theme ‘Tackling Contemporary Human Rights Issues: the Role of the Judiciary’.

**Memoranda of Understanding (with UNESCO)**

- Other than organizing the African Judicial Dialogues, the Court has entered into Memoranda of Understanding which enable it to disseminate information about its activities and jurisprudence. One such collaboration has been with UNESCO. The Court and UNESCO have engaged with the Centre for Human Rights of the
University of Pretoria to offer Massive Open Online Courses (MOOC) on international and regional standards on freedom of expression, including jurisprudence on this issue from the African Court, ECOWAS Court of Justice and national courts. The Course has been offered in English and French. In fact, there is currently a concurrent judicial exchange that has been organised by UNESCO and drawing from participants attending the Fourth African Judicial Dialogue to discuss these very issues. This illustrates how various institutions can pool their resources together (whether financial or informational) to disseminate information about human rights standards and coordinate activities.

- Similar courses are envisaged to be developed as part of continuing judicial education focusing on human rights law, international law and other relevant specializations, either in MOOC Format open to all interested persons or open only to judicial officers from across Africa. The latter option would ensure that the judicial officers undertake regular online studies and thereafter attain a specified certification in the area of specialization chosen.

**Sensitization Visits, Publication of Law Report and Links with the Africa Legal Information Institute**

- The Court organizes sensitization visits to African Union Member States on advocacy for the ratification of the Protocol Establishing the Court and depositing of the Declaration allowing individuals and NGOs to file applications before the Court. In the course of these visits, it meets with the leadership of the Judiciary and where possible, other judicial officials to engage in exchanges on various issues, in particular, the role of national judiciaries in implementation of decisions of international human rights courts and quasi-judicial human rights adjudication, access to justice and other relevant issues. The Court also takes this opportunity to appraise the national judiciaries on the developments on programmes that it is undertaking which may be of interest to them.

- The Court is disseminating its decisions through the publication of Law Reports in order to make its decisions widely available to judicial officers and researchers in Africa and beyond.
The Court also collaborates with the Africa Legal Information Institute (AFLII), a research think tank based at the University of Cape Town which works with National Institutions responsible for Law Reporting to build capacity on Law Reporting. AFLII also develops searchable databases of law reports from across the continent. The Court regularly shares its judgments for inclusion in the AFLII database which makes them available to judicial officials across Africa. AFLII has reported that as a result of its collaboration with the African Court and the East African Court of Justice, it is planning to develop a specific database on decisions of continental and regional courts, starting with the human rights jurisprudence.

The Court also takes opportunities to send its decisions to specialized publications. Some decisions of the Court have been featured in thematic publications e.g. *Konate* and *Zongo* Cases in documents published by UNESCO and the Tanganyika Law Society and Legal and Human Rights Centre and Rev. Christopher Mtikila v Tanzania in the Africa Electoral Jurisprudence Network.

Conclusion

It is clear from the above that the Court continues to strive in creating meaningful and lasting networks aimed at increasing the promotion of human rights and increasing knowledge on its works. Through this Forum and following the adoption of the Memorandum of Understanding, it is hoped that this process will be taking a notch higher.

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1 See Application No. 004/2013. Judgment of 5/12/2014 (Merits), Lohe Issa Konate v Burkina Faso.
2 See Application No. 013/2011 Judgment of 5/06/2015 (Reparations), Beneficiaries of Late Nobert Zongo, Abdoulaye Nikiema alias Ablasse, Ernest Zongo and Blaise Ilboudo and the Burkinabe Human and People’s Rights Movement v Burkina Faso.