

**FINAL OUTCOME OF THE
THIRD AFRICAN JUDICIAL DIALOGUE**

“IMPROVING JUDICIAL EFFICIENCY IN AFRICA”

9-11 NOVEMBER 2017

ARUSHA, THE UNITED REPUBLIC OF TANZANIA

1. The African Court on Human and Peoples’ Rights (the Court), under the aegis of the African Union, in collaboration with the Government of the United Republic of Tanzania, the German Development Cooperation (GiZ), European Union, and World Bank organized the Third African Judicial Dialogue on the theme “*Improving Judicial Efficiency in Africa*”, from 9-11 November, 2017, in Arusha, Tanzania.
2. The overall objective of the Third African Judicial Dialogue was to explore ways of enhancing judicial efficiency in Africa.
3. The *specific objectives* of the Dialogue were to:
 - i. Examine the state of judicial education in Africa;
 - ii. Explore ways and means to establish a model African judicial network;
 - iii. Brainstorm on the use of IT in the judiciary and possible opportunities and challenges to e-justice in Africa; and
 - iv. Identify practical and normative challenges to accessing and using decisions of regional courts by national courts in Africa.
4. The Dialogue was attended by over 150 participants, including representatives of Member States of the African Union, current and former judges of the African Court, Chief Justices and judges of national, regional judicial institutions, academics, media personalities, human rights practitioners, civil society

organizations and resource persons.

5. The following Member States were represented: Algeria, Benin, Burkina Faso, Burundi, Cape Verde, Comoros, Democratic Republic of Congo, Egypt, Eritrea, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Libya, Mozambique, Sahrawi Republic, Sao Tome and Principe, Senegal, South Sudan, Sudan, Swaziland, The Gambia, Togo, Tunisia, Uganda, United Republic of Tanzania, Zambia and Zimbabwe.
6. The following African Union and other institutions were also represented in the Dialogue: African Union Commission, African Committee of Experts on the Rights and Welfare of the Child, African Union Administrative Tribunal, AU - Advisory Board on Corruption, ECOWAS Community Court of Justice, UN Mechanism for International Criminal Tribunals, Legal and Human Rights Centre – Tanzania, Pan African Lawyers Union, Pan African Postal Union, the **German Development Corporation**, Crimson Logic – Singapore, Synergy International Systems – USA.
7. The Dialogue was held in the working languages of the African Union, that is, Arabic, English, French and Portuguese, to allow for easy communication, active participation and constructive exchange during the discussions.
8. The Opening Ceremony of the Dialogue was graced by the presence of the Guest of Honour, Honourable Justice Ferdinand Wambali, Principal Judge of the High Court of the United Republic of Tanzania, who delivered the Keynote and Opening Speech, on behalf of the government of the United Republic of Tanzania. .
9. Statements were also delivered at the Opening Ceremony by Honourable Justice Sylvain Oré, President of the Court, Mr. Calixte Mbari, on behalf of the Chairperson of the African Union Commission H.E. Mr. Moussa Faki Mahamat and the Commissioner for Political Affairs, H.E. Minata Samate Cessouma, Honourable Justice Dr Matilde Monjane de Almeida, Representative of the Judiciary of Mozambique, Dr Clement Julius Mashamba, Member of the African Committee of Experts on the Rights and Welfare of the Child and Ms Karin Pluberg, representative of German International Cooperation, (GiZ).

10. In her statement, Ms. Karin Pluberg, stated that the different levels of judicial systems need to work hand in hand to guarantee the protection of citizens' rights and to do so in a harmonized way. She proposed that the judiciaries need to incorporate digital solutions and make use of new technologies in order not to lose the connection to, especially, the young generation. Ms Pluberg advised that the African Governance Architecture (AGA) at the African Union level, has developed policies and guidelines for a transparent communication for all governance institutions, including those with a human rights protection mandate that could serve as a basis for discussion. She concluded that there is a need to ensure that the four main factors that affect the performance of the judiciary, that is, (i) employees, (ii) efficient structures and procedures, (iii) public trust and (iv) harmonised application of the law, are adequately addressed.
11. The representative of the Chief Justice of Mozambique, Honourable Justice Dr Matilde Monjane de Almeida stated that justice must be swift, accessible and inclusive in order to meet the demands of the population. She noted that justice should be concerned with human rights, focusing on the rights of women and children, among other categories of vulnerable people. She highlighted the challenges in achieving this goal as being the lack of human resources, material, financial and judicial infrastructure; the lack of training, excessive bureaucracy; computer or technological constraints of magistrates and legal experts, and corruption in the judiciary. Honourable Justice de Almeida proffered that in order to overcome the shortcomings, it is necessary to provide more and better training for magistrates and legal experts and motivate them; construction of more court premises or creation of mobile courts and putting in place mechanisms for the evaluation of magistrates and legal experts. "
12. Dr. Clement Julius Mashamba, speaking on behalf of the Chairperson of the African Committee of Experts on the Rights and Welfare of the Child, Professor Benyam Mezmur, stated that the Judicial Dialogue is an important forum for enhancing the protection of children's rights since it provides a forum for national and international judiciaries to interact. He provided the example of the amicable settlement that the Committee engaged in with the Republic of Malawi regarding the constitutional amendment to bring the age of majority in line with the African Charter on the Rights and Welfare of the Child as well the discussions with

Kenya on implementation of a decision rendered by the Committee on the Nubian Children's case.

13. In his remarks, Honourable Justice Sylvain Ore, President of the Court welcomed all participants to Arusha and thanked them for coming despite the change in the dates and venue of the Dialogue and their busy work schedules. He also thanked the Government of the United Republic of Tanzania for sending a representative to officiate the Dialogue. He highlighted that the Government of Cote d' Ivoire informed the Court of insurmountable organisational constraints it faced and that is why it could not host the Dialogue in Abidjan.
14. The President of the Court indicated that the theme is a very relevant one, given the socio-political changes happening in Africa and emphasised the need for delivering efficient justice. He stated that with the pre-eminence of the Dialogue, other regions, such as Asia are drawing inspiration from it on how to structure their Judicial Dialogues. He affirmed that this is in line with the principle that justice, by its very nature is universal and indivisible. He concluded his remarks with a call for action that the participants should ensure the implementation of the conclusions that will be adopted.
15. Speaking on behalf of H.E. the Chairperson of the African Union Commission, Mr. Calixte Mbari recalled that the Dialogue is an important forum for exploring the state of judicial education in Africa and for achieving one of the aspirations of Agenda 2063. He emphasised that despite the year 2016 being declared the year of human rights with a special focus on women's rights, women still suffer many challenges and the dialogue is a forum for strengthening linkages between national and continental judiciaries. He stated that the Department of Political Affairs of the African Union Commission, is spearheading the drafting of an action plan for the human rights decade to strengthen the protection of human rights protection in Africa. There is also a Policy on Transitional Justice that is to be presented to the Special Technical Committee on Justice and Legal Affairs for consideration. He emphasised that the judiciaries are a key component for following up on implementation of international human rights standards. He concluded by stating that the Department of Political Affairs will work with all stakeholders in Africa to ensure the protection of human rights for all.

16. Honourable Justice Ferdinand Wambali, Principal Judge of the High Court of Arusha delivered the keynote speech on behalf of the Government of the United Republic of Tanzania. He appreciated that the gathering represented the legal luminaries of the continent. He recalled Tanzania's long history of fighting oppression, injustice and discrimination, adding that the testament to this is the fact that Tanzania hosts several international judicial and human rights bodies. He stated that the landmark judgments issued by the African Court are offering renewed hope and optimism to all Africans.

17. He stated that the agenda indicates that this is a continuation of the second Judicial Dialogue and that the focus should be on improving efficiency and reforming the judiciary in a holistic manner. He highlighted a number of questions that the Dialogue should consider, including:

- i. How can performance of judicial systems be enhanced to meet the needs of citizens?
- ii. How can access to justice be maximized?
- iii. How can judiciaries be made more responsive?
- iv. How can judicial officers be enabled to keep up to date?
- v. Are judiciaries delivering as they are currently instituted?
- vi. He noted that there are two important studies to be considered during the dialogue, which seemingly offer the answers to these questions. He also stated that it is imperative that the meeting considers the effect of technology on justice and strive to catch up with the developments.

18. He concluded by calling on the participants to savour the natural wonders that Tanzania has to offer in the form of its national parks and the highest mountain in Africa and officially declared the dialogue open.

19. Following the opening ceremony, presentations were delivered on the following themes:

- i. The study on the state of judicial education in Africa;
- ii. The launch of an online human rights course for African judiciaries;
- iii. The establishment of an African Judicial Network;
- iv. The establishment of an African Centre for Judicial Excellence;
- v. Implementing ICT in judiciaries and justice delivery;
- vi. Security and Risk Factors in Judicial Information Systems; and
- vii. Practical and normative challenges to accessing and using decisions of regional courts by national courts in Africa

20. The Third African Judicial Dialogue also considered the African Union Draft 10 Year Action Plan for the promotion and protection of human rights, presented by the Consultant, the Pan African Lawyers' Union (PALU).

21. After three days of extensive, frank and constructive deliberations, the participants concluded as follows:

On the state of judicial education in Africa

22. Member States that have not yet responded to the questionnaire were urged to do so to facilitate the finalisation of the study;

23. In order to improve the existing judicial education, there should be ownership and commitment, provision of assistance in the establishment of institutions, strengthening institutionalization and autonomy of training institutions, including the already existing institutions, and enhancing networking.

24. To set up a Committee of five Judges drawn from the five African Union regions, taking into account the different legal systems on the continent, to work with the Court and the consultant to finalise the study within twelve months.

25. The Committee should make concrete recommendations on the promotion and consolidation of judicial education in Africa, taking into account existing initiatives in Africa.

26. The Committee to transmit its report to all national judiciaries within twelve (12) months, indicating the steps that need to be taken by expected national judiciaries and the deadline therein.

On the proposal to launch an online human rights course for African judiciaries

27. Participants welcomed the initiative and proposed that the content of the course be expanded to include African human rights law and jurisprudence, and public international law, and that consideration be given as to whether to include the judgments of Supreme and Constitutional Courts relating to human rights.
28. Set up a Committee of three Judges to work with the Court to operationalize the course within 12 months.
29. The moderators of the course should include former Members of African Union Human Rights Organs and Regional Courts as well as other recognised experts.
30. Participants were encouraged to apply for the course being offered by UNESCO in conjunction with the University of Pretoria on the international and regional standards on freedom of expression and the safety of journalists.

On the proposed African Judicial Network and the African Centre for Judicial Excellence

31. Participants welcomed the initiative of establishing an African Judicial Network and expressed the hope that the network will assist to disseminate not only human rights law but also international criminal law and international humanitarian law.
32. It was agreed that in order to avoid duplication and in cognisance of the budgetary constraints, the African Judicial Network and the African Centre for Judicial Excellence should be merged and the structure developed should be lean and have a modest governance structure.

33. It was noted that these initiatives differ from the Pan African Human Rights Institute whose focus is on the African Union human rights organs whereas, the proposed African Judicial Network and the African Centre for Judicial Excellence will provide a platform for coordination, networking and capacity-building for judiciaries in their administrative and judicial function. It is therefore important that these initiatives be maintained separately

34. It was agreed to set up a Committee of 5 Judges to work with the Court and the consultant to finalize the studies.

On implementing ICT in judiciaries and justice delivery

35. It was observed that information technology has provided many opportunities for the judiciary around the world to streamline their work and improve their efficiency. In Africa, some countries are also taking advantage of IT and have already begun to use it in their judicial institutions. However, many countries still do not have basic IT facilities and they are yet to benefit from the technology.

36. It was noted that implementing ICT strategies require law reform, adequate technical infrastructure, sustainable funding, effective change management, continuing awareness raising and training. All these factors need to be taken into account when designing an ICT strategy for judiciaries.

37. Considering that undertaking ICT reforms is a long-term process, they should be implemented in phases which accommodate changing technologies and operating frameworks and involving all actors in the justice and law and order sector.

On Security and Risk Factors in Judicial Information systems

38. It was acknowledged that security of data is a main concern for many institutions implementing ICT strategies, including judiciaries. All measures should be put in place to ensure that the systems used are secured.

39. Other risk factors to consider and mitigate are:

- i. Low commitment to project implementation- there is need to have champions with an active interest in implementing the project, preferably at the highest leadership level;
- ii. Lack of retention of qualified staff;
- iii. Unclear responsibilities – there should be a clear action plan with clearly defined roles and functions of all actors
- iv. Delays in the review and approval of deliverables
- v. Delays in providing data and documentation
- vi. Continually changing technologies and procedural rules
- vii. Resistance to change
- viii. Legal conflicts arising from obsolete procedural laws

On the Practical and normative challenges to accessing and using decisions of regional courts by national courts in Africa

40. It was acknowledged that many judicial officials do not reference or use the jurisprudence of regional courts due to many factors:

- i. Lack of awareness and lack of access to the decisions
- ii. The legal system – the monist and dualist influence
- iii. Lack of academic courses tailored to regional and continental law and jurisprudence
- iv. Interpretation approaches applied tend to limit the application of these standards.

41. In order to address these challenges, it was proposed that:

- i. Enhance access to databases on relevant regional jurisprudence through better designed websites and regular law reports
- ii. Publish pleadings on all matters filed, similar to the approach of the International Court of Justice

- iii. Have a more purposive approach to interpretation of human rights provisions in the national constitutions particularly referencing applicable international standards and jurisprudence, while taking in account, the local context.

42. In addition to the above presentations, the meeting considered the draft **10 Year Action and Implementation Plan on the promotion and protection of human rights in Africa 2017- 2026** presented by the consultant, the Pan-African Lawyers' Union (PALU).

Closing Ceremony

43. The participants expressed their appreciation to the Government and people of the United Republic of Tanzania for their hospitality and the facilities placed at their disposal to ensure the success of the Third African Judicial Dialogue.

44. The participants thanked the African Court as host and convener of the Third African Judicial Dialogue.

45. Participants expressed their appreciation for the support received from GIZ, World Bank, European Union and the African Union Commission through the African Union Leadership Academy and the Department of Political Affairs in the organization and hosting of the Third African Judicial Dialogue.

46. The Dialogue was officially closed by Honourable Justice Ben Kioko, the Vice-President of the African Court.