



FINAL REPORT ON THIRD AFRICAN JUDICIAL DIALOGUE

“IMPROVING JUDICIAL EFFICIENCY IN AFRICA”

9 – 11 November, 2017

Arusha, Tanzania



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INTRODUCTION

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), the European Union, and the World Bank organised the Third African Judicial Dialogue (the Dialogue) on the theme "*Improving Judicial Efficiency in Africa*", from 9 to 11 November, 2017, in Arusha, Tanzania.
2. 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. The following Member States: Algeria, Benin, Burkina Faso, Burundi, Cape Verde, Comoros, Democratic Republic of Congo, Egypt, Eritrea, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Libya, Mozambique, Rwanda, Sahrawi Arab Democratic Republic, Sao Tome and Principe, Senegal, South Sudan, Sudan, Swaziland, The Gambia, Togo, Tunisia, Uganda, United Republic of Tanzania, Zambia and Zimbabwe.
3. The following African Union organs 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, COMESA Court of Justice, 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.
4. The Dialogue was held in the working languages of the African Union, that is, Arabic, English, French and Portuguese, to allow for easy communication.

5. The overall objective of the Dialogue was to explore ways of enhancing judicial efficiency in Africa. Under this general objective, the Dialogue sought to achieve the following specific objectives: to examine the state of judicial education in Africa; explore ways and means to establish an African judicial network; brainstorm on the use of Information and Communication Technology (ICT) in the judiciary and possible opportunities and challenges to e-justice in Africa; and identify practical and normative challenges to accessing and using decisions of regional courts by national courts in Africa.

I. Opening Ceremony

6. 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.
7. Statements were also delivered at the Opening Ceremony by Honourable Justice Sylvain Oré, President of the African 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).
8. 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.

9. 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 faced by 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.

10. 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 shared the example of an 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 as the discussions with Kenya on the implementation of a decision rendered by the Committee on the Nubian Children's case.

11. In his remarks, Honourable Justice Sylvain Oré, 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 Côte d'Ivoire informed the Court of insurmountable organisational constraints it faced and that is why it could not host the Dialogue in Abidjan.

12. The President of the Court indicated that the theme of the Dialogue was 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.

13. Speaking on behalf of H. E. Mr. Moussa Faki Mahamat, 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 particular focus on the rights of women, women still suffer many challenges, and the dialogue is a forum for strengthening linkages between national and continental judiciaries to ensure the protection of women and all peoples' rights. 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 human rights protection in Africa. There is also a Policy on Transitional Justice that is to be presented to the Specialised 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.

14. 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.
15. 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 maximised?
 - 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?
16. 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.
17. He concluded by calling on the participants to savour the natural wonders of Tanzania in the form of its national parks and the highest mountain in Africa, and officially declared the dialogue open.

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

A. The Study on the State of Judicial Education in Africa

Moderator: Honourable Justice Ben Kioko, Vice-President of the African Court

I. Honourable Justice Dr Menberetsehai Tadesse, Consultant and Former Vice President, Federal Supreme Court of Ethiopia and Former Judge of COMESA Court of Justice

19. Dr Tadesse started by highlighting how Judicial Education is multi-disciplinary and practical and has the sole purpose of transmitting professional techniques and values that are complementary to Legal Education. He then proceeded to identify some of the basic characteristic of effective Judicial Education which may serve as indicia of assessing judicial education in Africa.

20. While acknowledging that judicial education will vary across legal traditions, Dr Tadesse also submitted that effective Judicial Education has a number of general principles that will be similar. He explained that the study was based on results obtained from both qualitative and quantitative research methods employed in about 46 countries on their existing continuing judicial education.

21. Despite having faced challenges that ranged *inter alia*, from: Shortage of literature in African Legal and Judicial systems; lack of updated information online; differences in terminology and lack of feedback from contacted institutions, the research did find evidence that almost all African states have training programs of some sort thus amplifying the general sentiment of the necessity and importance of Judicial Education.

22. The research evidenced that Judicial Education varied in terms of the duration and targeted participants with some Commonwealth countries tending to limit Judicial Education to the judicial arm of government only. However many African countries open the training to would be Judges and individuals in possession of law degrees intending to become judges.

23. In concluding his presentation, Dr Tadesse made the following suggestions:

- i. Focus should be directed towards ownership and commitment of Judicial Education;
- ii. Assistance should be given to countries currently not having judicial training institutions to have them establish their own institutions;
- iii. Focus should also be directed to the strengthening of existing judicial education institutions and increasing their autonomy;
- iv. There is a need to encourage and foster Networking among these judicial education institutions.

B. The Launch of an Online Human Rights Course for African Judiciaries

Moderator: Honourable Justice Ben Kioko, Vice-President of the African Court

I. Mr. Nouhou Diallo, Deputy Registrar of the African Court

24. Mr Diallo began by highlighting the fact that the proposal stemmed from a document prepared by Prof Rachel Murray of University of Bristol. The online courses are meant to spread awareness of the existence of the court and its jurisprudence and there by addressing the concern that national courts are not making use of the African Court's jurisprudence.

25. Mr Diallo stated that though the modalities of the proposed course were yet to be finalised, experience has proven that the following characteristics ought to be present for a course to be successful:

- i. All participants must be familiar with one another and the format of the course thus necessitating the creation of a security link wherein this information can be shared and discussions occur;
- ii. Prescribed material should be distributed before the course begins;
- iii. The course should require weekly participation that can take the form of group discussions moderated by a member of the court and Prof Murray herself;
- iv. The course should be offered in different languages in compliance with African Union policy on languages;
- v. The duration of the courses will vary depending on the intensity of the course.

26. In conclusion Mr Diallo stated that the course content will be dependent on the information the African Court needs disseminated but the course content must cover the substance on the African Charter on Human and Peoples' Rights. He concluded that the Court would work in close collaboration with Prof Murray to set up and moderate the courses.

C. The Study on the Establishment of an African Judicial Network;

Moderator: Honourable Gerald Ndika, Justice Court of Appeal of Tanzania

- I. *Dr Tom Gerald Daly, Consultant and Associate Director of the Edinburgh Centre for Constitutional Law at the Edinburgh Law School and Co-Convenor of the MLS Constitution Transformation Network*

27. Dr Daly began by noting that despite the fact that courts in the African Union are participating in Judicial Networks, there is an absence of networks that link domestic courts with Regional and Economic Courts and the African Court on Human Peoples' Rights. Furthermore there is no network that focusses on the African Charter or African Union Treaties as a common source of reference. Dr Daly also emphasised on the following points:

- i. The need to tailor the network to the specific needs of the African Union;
- ii. The need to ease judges' work by developing activities and resources that are currently not being offered by any court or existing Judicial Network;
- iii. The network should integrate and complement pre-existing networks;
- iv. The need for a clear phased approach, as he warned against trying to do too much at the same time.

D. The Establishment of an African Centre for Judicial Excellence

Moderator: Honourable Gerald Ndika, Justice Court of Appeal of Tanzania

- I. *Ms. Grace Wakio Kakai, Head of Legal Division - AFCHPR*

28. Ms Kakai first gave the background to the need for a Centre for Judicial Excellence and explaining how the centre is envisioned to offer support to judiciaries as one of arms of member state governments which have an active role to play the constitutional and socio-political developments within the African Union.

29. Ms Kakai also articulated on the proposed mandate of the centre, particularly the cooperation and coordination of existing activities within member states and at regional and continental levels. The other proposed mandates were:

- The development of standards for measuring excellence in Justice delivery in Africa;
- Provision of Continuing Judicial Education;
- Ensuring exchange and sharing of information through the development of various databases.

30. Lastly Ms Kakai noted how the proposed Centre's activities were similar with that of the Judicial Network and therefore proposed consideration of the merging of the Centre with the African Judicial Network.

E. Implementing ICT in Judiciaries and Justice Delivery

Moderator: Hon. Lady Justice Chafika Bensaoula, Judge of the - AFCHPR

I. Mr. Lim Chee Boon, Senior Manager, Business Development, RHQ - Middle East and Africa Crimson Logic, Singapore.

31. Mr Lim began by stating that the start of judicial transformation requires the publication of judgments online. He then drew attention to the cost implications but buttressed the necessity of having efficient ICT solutions as a way of improving judicial administration. Mr Lim shared the experience of how Singapore has leveraged ICT solutions in Trade, resulting in the country's trade volumes growing to three times the size of its GDP. An important aspect of this process also involved implanting ICT solutions within the Judiciary so as to enhance the dispute resolution process, this being a key factor for enhancing investor confidence in a country.

32. Mr Lim gave a history background on how Crimson Logic started and shared some of the success stories of the company in the various projects they have been involved in worldwide. He shared their experience with the Supreme Court of Singapore in 1990 towards developing the world's first paperless court and how in 1997 they embarked on an e-filing system in Singapore that brought an end to the need for physical filing of cases. However he highlighted the fact that it is not an overnight process and in the case of Singapore the project was achieved through a six phased process that took almost ten years.
33. Again Mr Lim in sharing the experiences of working with Namibia, reiterated the financial implications of ICT solutions and also highlighted the need to establish service bureaus wherein people without internet access or computers can walk in and file their cases from. It is important to also provide for those who prefer to file their documents physically but incentives are usually provided to encourage court users to use the electronic filing system.
34. In conclusion Mr Lim encouraged the Judiciary to build up a certain ICT capability and not just be dependent on the government for funding. Public-private partnerships can be explored in this regard. He also emphasised the need to choose the right technology partner.

II. Honourable Justice Constant Hometowu, High Court of Ghana

35. In sharing the Ghanaian experience with ICT in the judiciary, Hon Hometowu spoke of automation in the courts. He mentioned two categories, namely automation inside the court and automation at registry level.
36. In Ghana automation in the court has evolved over four generations and they are as follows:

- First was the Analogue generation wherein proceedings were tape recorded and transcribed thereafter. However this was time-consuming since an hour recording would take at least two hours to be transcribed.
- Secondly the court shifted to Stenographic machines. The transcription of court records also proved to be time-consuming and the system was rejected.
- Thirdly they adopted the Digital Voice Recording and Transcription System (DVRTS) which also resulted in delays and was ultimately rejected.
- Currently Ghana is using the Direct Transcription System (DTS)

37. Lastly mention was made of the ultra-modern court rooms with video conferencing facilities which are sometimes used to conduct Judicial Education with facilitators living outside the country.

38. Ghana has also introduced electronic case distribution where in cases are entered into the system and distributed to the relevant Judge depending on the type of case. The system will also observe and identify the workload of a particular judge before assigning a case; it ultimately eliminates human intervention in the distribution of cases. Again there is also electronic case management which will be introduced in February 2018 wherein a judge will be able to identify the status of the cases filed before him and be able to prioritise cases depending on those close to finality etc.

39. Finally Hon Hometowu spoke about the integrated case tracking system which gives access to all actors within the criminal justice system to track the case. Their level of access varies at different levels.

III. Honourable Justice Jamil Ben Ayed, Judge of Cassation Court of Tunisia

40. In sharing the Tunisian experience, Hon Ayed spoke of how the collaboration entered into between the European Union and Tunisia has led to computerisation and training of Judges allowing them to work with ease and autonomy. There has also been the creation of a civil and criminal digitised system wherein all cases are registered and lawyers may follow up on the status of cases with ease. He concluded by highlighting the financial implications associated with digitisation and how they may serve as impediment to the whole process. Adequate and sustainable funding must be provided to ensure the success and continuity of implementing ICT solutions in judiciaries.

F. Security and Risk Factors in Judicial Information Systems

Moderator: Honourable Justice Jerome Traore, President of the ECOWAS Court of Justice

I. Mr. Khachatur Matevosyan, Project Manager and System Analyst, Synergy International Systems Incorporated

41. Mr Matevosyan began by giving an overview of the work that his company has done with emphasis on the recent project they have implemented in providing an integrated electronic case management system (ICMS) in Rwanda. He shed light on the different types of risks attached with implementing such systems and categorised into three.

42. Firstly he drew attention to the risk related to implementation and broke it down into the following sub-categories:

- *Lack of Needs Assessment:* Mr Matevosyan warned against a poorly defined needs assessment; he stressed the imperative of fully understanding the scope of what the system should cover before embarking on implementing a case management system. In Rwanda, despite having a 500 paged document detailing the status quo of Rwanda's judicial system,

he personally had to visit each site and in turn compiled a 600 page document outlining his proposed solutions.

- *Lack of Training:* A system is only as good as the employees operating it thus Mr Matevosyan warned against not conducting adequate training of the staff that are meant to operate the system.
- *Capacity Considerations:* The implementing agency must ensure it has the support of all high level officials as was in the case of Rwanda wherein the Chief Justice, the Minister of Justice and most high ranking officials were committed to the success of the project otherwise a project may fail due to low commitment.
- *Retention of Qualified Staff:* If staff who are trained to operate the system especially where some were computer illiterate, there must be an obligation on the trained staff to remain attached to the ministry for certain period in order for them to share their expertise.
- *Staff Availability During Training:* Training sessions should be planned in a manner that will not conflict with prior commitments of staff.
- *Allocation of Clear Responsibilities:* There should be an action plan clearly defining the various actor's role.
- *Delays:* Although delays are expected in any project, Mr Matevosyan advised that staff should take responsibility and try deliver documentation on time as failure to do so will constitute an impediment to progress.

43. The Second category of risk that ought to be guarded against is the Risk relating to Change. Mr Matevosyan warned against resistance to change and a good way in which this can be overcome is through organising sensitisation activities on the system's advantages and achievements.

44. The third risk is categorised as indirect risk and this encompasses the following:

- *Compatibility Issues:* the new the system should ideally integrate with existing ones. Mr Matevosyan also alluded to the possibility of third parties from outside the judiciary simply being unwilling to integrate thus it is imperative that one establishes commitment from such third parties.
- *The Lack of public awareness:* constitutes a great risk to the success of the project and in Rwanda this was done through the dissemination of information on the new system through the press and media.
- *The Lack of access to e-justice platforms:* Mr Matevosyan concluded the presentation on risks by conceding that not every citizen will have access to computers nor will they be computer literate and in order to overcome this impasse service centres must be created wherein people can walk in and receive help on accessing and using the system.
- Lastly there should also be a smooth transition from the software provider to local administrators and practically speaking the need for technical support should be factored in.

45. With regards to security, Mr Matevosyan pointed out the following:

- There is need for creation of firewalls in order to prevent unauthorised access to one's network.
- There should be intrusion detection systems to alert you when an intruder has bypassed your firewall.

- Establishment of User management systems for the sake of defining different roles with varying permissions (The Judge President may have access to all cases but the other judges may be limited to cases assigned to them only)

46. Finally Mr Matevosyan concluded the presentation by pointing out the key factors of success as follows:

- Country Ownership;
- Inter-agency cooperation;
- Practice business processing engineering (the ability to update obsolete practices);
- Development of an IT system that is all-inclusive process (from the police to the prisons and all actors in the justice system);
- Training for Trainers.

G. Practical and Normative Challenges to Accessing and Using Decisions of Regional Courts by National Courts in Africa

Moderator: Hon. Justice Constant Hometowu, High Court of Ghana

I. Professor Laurence Burgorgue-Larsen, Professor of Public Law at the Sorbonne Law School, Member of the Constitutional Tribunal of Andorra, University of Paris

47. Prof Burgorge-Larsen noted how African states' structures already give cognisance to International Law, Constitutional Law and Human Rights Law; a conclusion drawn by the preambles and constitutional provisions of various African countries such as Mali, Burkina Faso, Gabon, South Africa and Zimbabwe. In answering the question pertaining to the value that must be attached to the preamble of a constitution, Prof Burgorge-Larsen cited how Senegal attaches the same weight to the preamble as

any provision within the constitution and how constitutional judges such as those in Gabon include the preamble in the structure of the constitution.

48. After concluding how modern African constitutionalism is open to International Law and International Human Rights Law, Prof Burgorge-Larsen stressed that constitutional principles should be guarded not only by Constitutional courts but by all Courts when dealing with cases. Finally she concluded by encouraging the adaptation of the conventionality control principle applied in Latin America wherein a domestic must analyse decisions of the Inter-American Court of Human Rights and set aside domestic laws and decisions that are contrary to the standard set aside by the Inter-American court.

II. Honourable Justice Gatembu Kairu, Court of Appeal, Kenya

49. In sharing the Kenyan experience, Justice Kairu reiterated how Article 2 of the Constitution of Kenya integrates general rules of international law as forming part of the Kenyan law and how the Bill of Rights largely incorporates International Law. He also noted with dismay how in the vast litigation brought before the Kenyan courts with regards to the Bill of Rights, there is barely any reference made to the African Charter on Human and Peoples' Rights and the Court's jurisprudence. In concluding he concurred with notion of spreading awareness of the African Court's Jurisprudence through academic institutions.

III. Honourable Hon. Justice Bourouina Mohamed, representative from Algeria

50. The *Hon. Justice Bourouina Mohamed* elaborated on how the Algerian Supreme Court disseminates its Jurisprudence amongst the national courts. Mention was made of the publication of a judicial review that is done periodically and also the use of online publications to ensure that all judicial officers are up to date on relevant jurisprudential developments.

IV. Dr Duga Titanji, Barrister & Solicitor of the Supreme Court, Cameroon

51. Dr Titanji began by drawing attention to the problem of Article 38 of the Statute of the International Court of Justice that classifies international case law as subsidiary to treaties and hence submitting that practicing lawyers in Cameroon are reluctant to solely rely on international jurisprudence. He further drew attention to the failure of states to explicitly express that decisions from regional and international organs flowing from ratified instruments will be directly applicable as their applicability will depend on whether a state is dualist or monist. However, he highlighted that issue of whether a state is dualist or monist relates to the applicability of international instruments and it does not address whether international case law will constitute primary or secondary sources of law.
52. Finally Dr Titanji elaborated on the effects of states not implementing judgments of international human rights courts that are passed against them as this might negatively impact the weight a judge will attach to international cases. He therefore ended with an exhortation for judges not be shy in exercising their prerogative of applying international jurisprudence in the national courts.

V. Dr Ibrahima Kane, Director, African Union Advocacy – Open Society Initiative for Eastern Africa

53. Dr Kane began by noting how the African Charter is the basis of the African Human Rights System. He further noted how it is vague and necessitates the use of jurisprudence flowing from it in order for one to fully comprehend it. Consequently, he is a bit concerned that there are two bodies that have been empowered to interpret the provisions of the African Charter, and that despite the fact that so far there has been no divergence in how these two bodies interpret the charter, this is a potential problem worth noting.

54. Dr Kane went on to attribute the lack of application of African human rights jurisprudence to universities not teaching about the African Charter and other African human rights instruments. He also linked the lack of application of African human rights jurisprudence to the lack of focus on this issue in judicial training centres. He therefore encouraged the African Commission to be proactive in promoting accessibility of its works with national courts. He also called for judicial focal points which may be established through Memoranda of Understanding between the African Commission and the national Courts. These would serve as mediums of dissemination of the Commission's jurisprudence and also portals for the Commission to receive feedback from the states.

55. He also alluded to what he considered to be the roles that African judges ought to play:

- *Domestication and appropriation of Jurisprudence:* Dr Kane submitted that when Judges find a State in violation of human rights, he or she must address the issue of non-repetition of the violation by making relevant orders in this regard. He noted that the success of this is better achieved through focal points and reference was made to how ECOWAS and the UN High Commissioner for refugees is effectively eradicating statelessness of persons.
- *Development of relations with local bar associations:* It was proposed that focal points maybe established to ensure the spread of local jurisprudence.
- *Fostering and developing cooperation between the Court and parliamentarians:* law reform commissions charged with dealing with draft bills and laws should ensure compatibility of laws with decisions of international courts.

56. In concluding his presentation he called for websites with judgments on African human rights jurisprudence to be "user friendly" in order to foster easy access to

information. He also called for the publication of all documentation pertaining to a case and gave the example of the International Court of Justice which after the conclusion of a matter not only publishes the judgment and its summary but even publishes the submissions of parties.

57. 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), in collaboration with the African Union Commission (AUC).

II. Recommendations

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

i. On the State of Judicial Education in Africa

59. Member States that have not yet responded to the questionnaire were urged to do so to facilitate the finalisation of the study;
60. In order to improve the existing judicial education, there should be ownership and commitment, provision of assistance in the establishment of institutions, strengthening institutionalisation and autonomy of training institutions, including the already existing institutions, and enhancing networking.
61. 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.

62. The Committee should make concrete recommendations on the promotion and consolidation of judicial education in Africa, taking into account existing initiatives in Africa.
63. 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.

ii. On the Proposal to Launch an Online Human Rights Course for African Judiciaries

64. 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.
65. Set up a Committee of five Judges and lawyers to work with the Court to operationalise the course within 12 months.
66. The moderators of the course should include current and former Members of African Union Human Rights Organs and Regional Courts as well as other recognised experts.
67. 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.

iii. On the Proposed African Judicial Network and the African Centre for Judicial Excellence

68. 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.
69. 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.
70. 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.
71. It was agreed to set up a Committee of five Judges to work with the Court and the consultants to finalize the studies.

iv. On Implementing ICT in Judiciaries and Justice Delivery

72. 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 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.
73. 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.

74. 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.

v. On Security and Risk Factors in Judicial Information Systems

75. 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.

76. 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; and
- viii. Legal conflicts arising from obsolete procedural laws.

vi. On the Practical and Normative Challenges to Accessing and Using Decisions of Regional Courts by National Courts in Africa.

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

- 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; and
- iv. Interpretation approaches applied tend to limit the application of these standards.

78. 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; and
- 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.

vii. On the 10 Year Action Plan on the Promotion and Protection of Human Rights in Africa

79. 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 and the African Union Commission was noted and participants and all judiciaries were encouraged to continue sending their recommendations towards its finalisation.

III. Closing Ceremony

80. The Chief Justices and Judges were informed that a venue for the Fourth African Judicial Dialogue, which will be held in 2019, has not been decided and any country willing to host it should express its willingness to do so. The Registry would provide more information in this regard.

81. 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.

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

83. 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 organisation and hosting of the Third African Judicial Dialogue.

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

Annexes

THIRD CONTINENTAL JUDICIAL DIALOGUE

“IMPROVING JUDICIAL EFFICIENCY IN AFRICA”

9 – 11 November, 2017

Arusha, Tanzania

Programme

DAY ONE, 9 November 2017

08:30 – 09:00 am

09:00 – 10:00 am

Registration of Participants

Opening Ceremony

Chair and Moderator: Hon. Justice Gérard Niyungeko, Judge and former President of the African Court on Human and Peoples' Rights (African Court)

African Union Anthem

National Anthem of the United Republic of Tanzania

Statements by:

- *Representative of GiZ*
- *Representative of National Judiciary, Chief Justice of the Republic of Mozambique*
- *Chief Justice of the United Republic of Tanzania*
- *Representative of the African Committee of Experts on the Rights and Welfare of the Child*
- *President of the African Court on Human and People`s Rights*
- *H. E. the Commissioner for Political Affairs, representing the Chairperson of African Union Commission (AUC) (TBC)*
- *Official Opening Speech by a High Representative of the Government of the United Republic of Tanzania*

Group Photo

<p>Session One 10:00 – 10:40 am</p>	<p>Moderator – Honourable Justice Ben Kioko, Vice President of the African Court</p> <p>Consideration of the study on the state of Judicial Education in Africa- Consultant</p> <p>Consideration of the concept note for Online Human Rights Course for National Judiciaries – the Court</p>
<p>10:40-11:00 am</p>	<p>Tea/Coffee break</p>
<p>11:00- 13:00 pm</p>	<p>Discussion on the state of Judicial Education in Africa and the Concept Note for Online Human Rights Course</p>
<p>13:00- 14:00 pm</p>	<p>Lunch</p>
<p>Session Two 14:00- 14:40 pm</p>	<p>Moderator – Honourable Dr Gerald Ndika-Justice, Court of Appeal of Tanzania</p> <p>Consideration of the Model for the Development of an African Judicial Network – Consultant</p> <p>Consideration of the Concept Note for African Centre for Judicial Excellence – the Court</p>
<p>14:40 – 16:00 pm</p>	<p>Discussion on the Development of a Model African Judicial Network and the Concept Note for the African Centre for Judicial Excellence</p>
	<p>DAY TWO: November 10, 2017</p>

<p>Session Three 9:00- 10:40 am</p>	<p>Moderator: Representative of AU Advisory Board on Corruption</p> <p>Implementing ICT in Judiciaries- ICT Specialist from Crimson Logic- Singapore</p> <p>Sharing of experiences on the use of technology in Courts (7 minutes each)</p> <p>A representative of Cameroon A representative of Rwanda A representative of Namibia A representative of Ghana A representative of Tunisia</p>
<p>10:40- 11:00</p>	<p>Tea Break</p>
<p>11:00- 13:00</p>	<p>Discussion on ICT and Justice Delivery</p>
<p>13:00 – 14:30 pm</p>	<p>Lunch</p>
<p>Session Four 14:30 – 15: 00 pm</p>	<p>Moderator: President of the ECOWAS Court of Justice</p> <p>Security and Risk Factors in Judicial Information systems –ICT Specialist from Synergy International Systems-USA</p>
<p>15:00 – 16:00</p>	<p>Discussion on Implementing ICT in Judiciaries and IT Security</p>
	<p>DAY THREE: 11 November 2017</p>

<p>Session Five 9:00-10:30 pm</p>	<p>Moderator: Representative of the Ghanaian Judiciary</p> <p>Normative and Institutional Challenges of accessing and using the jurisprudence of supra national and regional courts by domestic courts – Barrister Femi Falana (15 Minutes)</p> <ul style="list-style-type: none"> • Sharing of experiences from national courts (10 minutes each) <ul style="list-style-type: none"> ➤ Representative of Kenya ➤ Representative of Nigeria ➤ Representative of Algeria • Practitioner before national courts (10 minutes)- Dr Duga Titanji • Practitioner before a regional or an international court (10 minutes) - Dr. Ibrahima Kane and Professor Chidi Odinkalu
<p>10:30 – 11:00</p>	<p>Tea Break</p>
<p>11:00 – 13:00</p>	<p>Discussion on Normative and Institutional Challenges</p>
<p>13:00 –14:00</p>	<p>Lunch</p>
<p>Session Six 14:00 –14:45</p>	<p>Moderator: Representative of The Gambian Judiciary</p> <p>African Human Rights Action and Implementation Plan 2017- 2026 - Commissioner, Department of Political Affairs, African Union (Presentation by Pan-African Lawyers’ Union (PALU) – the Consultant)</p>
<p>14:45- 15:45</p>	<p>Discussion on African Human Rights Action Plan</p>

15:45 – 16:30	Consideration and Adoption of the Final Communiqué
16:30 – 17:00	Closing Ceremony
	<ul style="list-style-type: none"> i. Vote of thanks: Representative of Participants ii. Representative of the AU Leadership Academy iii. Representative of the Government of Tanzania iv. Closing statement by the President of the Court