Conclusion of the Sensitization and Consultative Seminar for African National Human Rights Institutions

Arusha, Tanzania

16-18 November, 2011
1. The African Court on Human and Peoples’ Rights (the Court), in collaboration with the Network of African National Human Rights Institutions (NANHRIs), and with the financial support of the German International Cooperation (GIZ), organised a Sensitization and Consultative Seminar for African National Human Rights Institutions from 16 to 18 November, 2011 in Arusha, United Republic of Tanzania. This was the first-ever meeting between the Court and African National Human Rights Institutions, organized within the framework of exploring ways of means of enhancing their relationship.

2. The Seminar was attended by amongst others, the President and five Judges of the Court, the Vice President of the Network of African National Human Rights Institutions, and the Presidents and members of National Human Rights Institutions from 30 African countries. The Countries represented were: Burundi, Cameroon, Madagascar, Rwanda, Togo, Ghana, Zambia, Zimbabwe, Gabon, Niger, Uganda, Tanzania, Nigeria, Swaziland, Sierra Leone, Cote d’Ivoire, Kenya, Djibouti, Senegal, Mauritius, Malawi, Mali, Namibia, Liberia, Guinea Conakry, South Africa, Burkina Faso, Benin and Ethiopia.
3. The overall purpose of the Seminar was to raise awareness about the Court amongst National Human Rights Institutions in Africa, with a view to exploring ways and means of working together to engage both their governments and civil society organizations in the effective utilization of the Court.

4. The objectives of the seminar were:

- To establish a relationship between the Court and national human rights institutions;
- To encourage national human rights institutions to engage their governments, for those that have not already done so, to ratify the Protocol and/or make the declaration allowing direct access to individuals and NGOs to the Court; and
- To facilitate future cooperation between the Court and other local

5. The opening ceremony of the Seminar was marked by three speeches from Justice Augustino S.L. Ramadhani, Chairperson of the opening ceremony and Judge of the African Court, Ms. Lauretta Vivian Lamptey, Vice President of the Network of African Human Rights Institutions and Justice Gerard Niyungeko, President of the Court.
6. In his welcoming remarks, Justice Ramadhani welcomed participants to the seminar, and noted that this was the first-ever meeting between the Court and African National Human Rights Institutions, and expressed the hope that at the end of the seminar concrete proposals would emanate to enhance relationship and the course of human rights on the continent.

7. In her speech, Ms. Lamptey expressed gratitude to all the participants for finding time to take part in the seminar and appreciation to the government and to the Court for the 'spirited efforts to ensure' the seminar came to fruition. She observed that the seminar comes at an appropriate time, when the Court needs serious engagement with NHRI, adding that NHRI play a very important role in the promotion and protection of human rights at national, regional and continental level. She emphasized that NHRI have a role to play in encouraging ratifications of the Protocol establishing the Court, and the deposit of the declaration required under Article 34 (6) of the Protocol, and to make information on the Court available to all levels of society. She concluded by saying that a collective approach was essential for the effective protection of human rights and for building a culture of human rights in Africa, since the protection of human rights requires complimentary and multi-layered enforcement mechanisms.
8. In his opening speech, Justice Niyungeko thanked the participants for having honoured the invitation to attend the seminar, adding that the presence of the participants was a proof of their commitment in fostering the protection and promotion of human rights.

9. He indicated that in spite the progress made over the past few years, the Court faces a number of challenges, including inadequate ratification where only 26 of the 54 Member States of the African Union have ratified the Protocol; inadequate deposit of declaration whereby only five States Parties have made the declaration; lack of awareness of the Court by the African people; and the low rate of utilization of the Court by potential users.

10. The President indicated that if the Court took upon itself to organize the seminar, it was precisely because it was convinced that NHRIs can effectively complement the work of the Court and contribute significantly in overcoming the challenges faced by the Court. The President noted that in their double capacity as State sponsored and independent institutions, NHRIs have the attentive ears of national governments and Parliaments, and more than anyone else, are better placed to convey to governments and Parliaments a message as the one that will emanate from the seminar.
11. He said it is hoped that the seminar will culminate in the establishment of a strategic partnership between the Court and NHRIs and the adoption of a plan of action.

12. He concluded by expressing the hope that in the near future, the Court will truly become, for all NHRIs, a new partner in fostering human rights protection in Africa.

13. The President of the Court then declared the Sensitization and Consultative Seminar for African National Human Rights Institutions officially open.

14. After the opening ceremony, presentations were made on a number of topics, including:

- An overview of the African human rights system
- General Presentation of the African Court
- The role of the African Court in contentious matters
- The role of the African Court in Advisory matters
- The execution of the decisions of the African Court
- Overview of the role of National Human Rights Institutions
- The role of National Human Rights Institutions in the promotion of the Court
- The role of National Human Rights Institutions in the protection of human rights
- The practical relationship between the African Court and National Human Rights Institutions

15. During the deliberations, several questions were raised, views expressed and commitments made on a wide range of issues, including the extension of the jurisdiction of the Court to deal with criminal matters, why NHRIs do not have access to the Court, the problem of exhaustion of local remedies, the relationship between the Court and other regional Courts, the inadequate commitment by African States to human rights issues, the possibility of amending Article 34 (6) of the Protocol, and the legal status of the advisory opinion of the Court.

16. From the presentations made and the constructive discussions that followed, participants concluded that:

- There was a general lack of knowledge and understanding the public, among of the public, of the African human rights system as a whole, and the Court in particular;
- There was lack of synergy among the African human rights protection mechanisms at national, sub-regional and continental level;
• Both the Court and ANHRIs must work together, to the extent possible, to promote direct access to the Court by African National Human Rights Institutions;
• Article 34(6) of the Protocol requires States that have ratified the protocol to also make a declaration allowing access to the Court to individuals and NGOs, but the lack of these declarations is a hindrance to direct access to the Court by individuals and NGOs, and if the protection of human rights and the effectiveness of the Court were to be enhanced, there was need for more ratifications of the Protocol and the deposit of more declarations;
• the promotion and protection of human rights requires a concerted effort and that the co-existence of human rights bodies at national, sub-regional and continental level was critical and a condition *sine qua non* for a coordinated and enhanced promotion and protection of human and peoples' rights on the continent.
• NHRIs commit to work individually and collectively to promotion the Court through, among other means, encouraging more ratifications and the deposit of the declaration, constant engagement with national institutions such as Parliaments, and organizing national sensitization programs specifically on the Court.
• African leaders have not always demonstrated sufficient commitment and political will on matters relating to human rights on the continent.
17. Drawing from the above conclusions, participants made the following recommendations:

- That a concerted approach involving human rights bodies at national, sub-regional and continental level, including the Network of African National Human Rights Institutions (NANHRI), to create awareness about the Court and human rights in general;
- That NHRI should establish good relations with national parliaments and similar bodies, as well as the national judiciaries and the Bar Associations, to help in the promotion of human rights and of the Court;
- That NHRI should include in their national programmes, a sub-programme on the promotion of the Court;
- That there should be establish a channel of communication between the Court and NHRI to facilitate collaboration;
- That NHRI have the responsibility to convince their governments that the Court can only enhance the protection of human rights on the continent, only if states honour their human rights obligations, including ratifying the Protocol establishing the Court and making the declaration under Article 34 (6) thereof;
- That the Court may consider involving NHRI, to the extent possible, in its promotion activities, and NHRI may also involve the Court in their activities;
• That the Court may consider NHRIs as amicus curia, especially on cases emanating from their countries;
• That a platform, coordinated by NANHRI, should be established to ensure implementation of these recommendations;
• That there should be established an MOU between the Court and NANHRI;
• States and other relevant entities should be encouraged to use the Court for Advisory Opinion; and
• NHRIs should advise victims of human rights violations on how to access and utilize the Court.

18. Participants expressed satisfaction with the fact that the seminar had provided a useful forum for understanding the role, mandate and potential areas of collaboration for both the Court and NHRIs.

19. Participants invited the Court to explore the possibility of organizing a similar seminar in two years time to assess implementation of the recommendations.

20. Participants expressed appreciation to the African Court for the initiative to organize the Seminar, to GIZ for the financial support and to the people and government of Tanzania for their hospitality.
Done this 18th day of November, 2011, Arusha, Tanzania