**5th International workshop on enhancing cooperation between United Nations and Regional human rights mechanisms**

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**Panel: Taking stock of developments in cooperation between United Nations and regional human rights mechanisms**

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On behalf of the Community Court of Justice, ECOWAS, I express our profound gratitude to the office of the United Nations High Commissioner for Human Rights for organizing this very important workshop and affording us the opportunity to participate.

The community Court of Justice, is the sole judicial organ of the Economic

Community of West African States with its seat in Abuja, Nigeria. The court

comprises of seven (7) judges drawn from seven (7) member states of the Community. It is a court of 1st and final instance. The working languages are English, French and Portuguese.

In addition to its jurisdiction over the interpretation and application of the Treaty and laws of ECOWAS, the court has jurisdiction to determine cases of violation of human rights that occur in any part of the sub region.

Individuals and corporate bodies have direct access to the court on issues of human rights violation and without the precondition of exhaustion of domestic remedies.

ECOWAS has no human rights instrument. The court in its human rights adjudication applies the African Charter on Human and Peoples Rights and the body of laws contained in Article 38 of the Statute of the International Court of Justice. (see Articles 4(g) of the Treaty of ECOWAS and 19 (1) of the 1991 Protocol of the Court) The court is thus not limited to the African Charter but also applies International Human Rights Instruments ratified by the member states

Though the seat of the Court is in Abuja, the Court holds sessions outside its seat when the need arises.

As at date the court has received a total of two hundred and seventy one cases and has delivered 136 judgments and 100 rulings out of which 120 judgments and 79 Rulings were in respect of human rights violations.

The court has made far reaching decisions on human rights violation cases.

In Hadijatou Mani Koraou V Republic of Niger, 2004-2009 CCJELR 217 the Court found Niger liable for not raising a charge against an act prohibited as public policy and failing to adopt appropriate measures to stamp out such acts and though Niger Government did not actively participate in the act, their inaction, tolerance and passiveness made them responsible for the abuse as it did not sufficiently protect the right of the Applicant as regards the practice of slavery.

In SERAP & 10 Ors v The Federal Republic of Nigeria & 4 ors the court held that by failing to prevent the violation of the plaintiffs’ rights to peaceful assembly and carry out a thorough investigation on the violation of that right, in order to hold accountable those responsible for the unlawful disruption,the Federal Republic of Nigeria has breached its international obligation arising from the African Charter.

In Registered Trustees VS the Federal Republic of Nigeria and 1 other (2010 CCJELR) 189, the court held that it has jurisdiction over human rights enshrined in the African charter and the fact that these rights are domesticated in the municipal laws of Nigeria cannot oust its jurisdiction and though the provisions of the directive Principles of state policy contained in the constitution of the Federal Republic of Nigeria are not justiciable, the right to education recognized under article 17 of the African charter is independent of those rights contained in the directive principle and is justiciable by the court.

**Cooperation between UN , Regional and sub regional Mechanisms**

Between 2014 and now various activities have been organized and carried out by the OHCHR providing opportunities for exchange of ideas and information sharing between the UN human rights systems and regional human rights mechanisms

On 8th July this year the OHCHR with the African Union commission on Women, held a regional consultation on cooperation between UN, African Regional and sub-regional mechanisms, the Civil Society Organization and National Human rights mechanisms in Kigali, Rwanda. The discussion focused mainly on the key human rights challenges in the region, the situation of women human rights defenders and how best to enhance regional and international cooperation in the protection and promotion of human rights.

In October 2015, the OHCHR held a meeting of Regional and sub-regional human rights Courts in Strasbourg on the enforcement of judgments, access to court, deprivation of liberty and freedom of expression.

We are happy to observe that information sharing has greatly increased since 2014 not just as regards the work of the UN Treaty bodies which are received continuously from the OHCHR focal persons but also on the activities of Regional and Sub-regional Mechanisms forwarded through the focal persons.

There is also significant increase in cooperation activities and interaction between the African regional mechanisms.

In September this year a regional dialogue was organized by the African Union , in ARUSHA ,on the safety of Journalists on the theme, Strengthening Judicial Systems and African courts to protect safety of journalists and end impunity.

ECOWAS Court has also been invited and will be participating in the upcoming 10th anniversary of the African Court coming up in Banjul.

**Cooperation with civil society organizations**

The court recognizes the importance of civil society organizations in the life of regional courts and has had a long standing relationship with them. Civil society organizations have in fact played crucial roles in the life of ECOWAS Court and are fully engaged in its affairs.

The Court allows NGOs access to maintain actions before it in representing victims of abuse by giving the notion of agents contained in its Protocol a very wide meaning

While attempting to amend its Protocol and grant individuals direct access to it, Civil Society groups campaigned and submitted memoranda in support of the Court.

Most importantly when a Member State petitioned the Council of Ministers to introduce in the courts protocol the requirement for exhaustion of local remedies and restrict individuals’ access to the court, the Civil Society groups again advocated in favor of the Court and the petition was thrown out.

Recently, Civil Society Organizations have in two instances intervened to ensure Member States compliance with the decisions of the Court.

**Good practices**

In a bid to create a forum for interaction and exchange of ideas among jurists of the sub-region, the Court initiated the formation of the West African Jurists Association and this was officially inaugurated in Abidjan, in April 2016.

The court organizes various workshops and conferences on human rights and the competence of ECOWAS Court for judicial officers and legal practitioners in the sub-region. Resource persons are drawn from Civil Society Organizations and the academia. We will like to widen the scope of participants but the logistics (financial) is a constraint.

The Court interacts with and taps into the expertise of some Civil Society Organizations which it accepts as amicus curia when considering certain complex human rights cases as was done in Linda Gomez V. Republic of Gambia among others

Recognizing that access to justice is key to the protection of human rights, the Court holds external court sessions in Member States so as to make it accessible to the people.

The Court is working on establishing legal aid for the indigent and marginalized victims of human Rights violation to enable them access the Court. In addition it is urging the West African Bar Associations to encourage pro bono practice by its members for human right abuse cases.

The Court organizes seminars and conferences in Member States for the bar association, law faculties and civil society organization on the mandate and jurisprudence of the Court as well as its rules of procedure.

ECOWAS Court is currently working on creating an online data base of its decisions so as to make them easily accessible.

In considering cases before it, the court examines the jurisprudence of other regional and international courts as well relevant resolutions adopted by international and other regional organizations.In Linda Gomez V. Republic of Gambia for instance, the court placed reliance on Resolution 1253 adopted by the Parliamentary Assembly of council of Europe to the effect that death penalty constitutes torture and inhuman and degrading treatment and while recognizing that death penalty was not specifically condemned under the African Charter, held that the death penalty is inconsistent with the right to life and is a cruel and inhuman punishment.

**Challenges and suggestions**

The major problem threatening the confidence of the people in the Court is the lack of enforcement of its decisions. Implementation of decisions of Regional and sub regional courts still pose a great challenge as it depends solely on the political will of the States who are mostly very reluctant and or slow to implement judicial decisions.

In July 2016, ECOWAS Court received an application from a judgment creditor in respect of a decision given by the Court two years earlier and which the Member State has refused/neglected to implement on the grounds that it has not domesticated the courts protocol.

We may consider Joint activities (eg. through sensitization and signing of petitions) to get States to ratify international and regional human rights instruments, promote access to judicial and quasi-judicial bodies and implement decisions of regional and sub regional courts**.**

It is important to ensure harmony in the interpretation and application of human rights norms both by judicial and quasi- judicial bodies applying the basic international human rights instruments and those regional and sub regional bodies that apply the same regional instruments .In this regard, quarterly exchange of jurisprudence and information among the judicial bodies should be encouraged. This may be done through the OHCHR focal persons

In addition to exchange of jurisprudence it may be necessary to organize regular human rights refresher training for judicial officers within the ambit of this cooperation arrangement.

The ECOWAS Court is very interested in continuing this cooperation workshop with UN and Regional mechanisms the value of which cannot be over emphasized. Once again we thank OHCHR for affording us the opportunity to be here

Thank you