



BAMA KO
2 - 5 DECEMBER 2011

REGIONAL CONFERENCE
IMPUNITY, JUSTICE AND HUMAN RIGHTS IN WEST AFRICA

REGIONAL CONFERENCE ON IMPUNITY, JUSTICE AND HUMAN RIGHTS

BAMA KO DECLARATION

The participants of the Regional Conference on Impunity, Justice and Human Rights gathered in Bamako from 2 to 4 December 2011:

Noting the organization of the conference by the United Nations, in collaboration with the Government of the Republic of Mali, the Economic Community of West African States (ECOWAS) and the International Organisation of the Francophonie (IOF), in the framework of the 10th anniversary of the ECOWAS Protocol on Democracy and Good Governance;

Noting the participation of the governments of the West African sub-region represented by their Ministers of Justice and other senior officials, representatives of Supreme Courts, representatives of sub-regional and regional organizations; notably the African Union, ECOWAS and the Mano River Union, representatives of United Nations peace keeping and political missions as well as Agencies in West Africa, representatives of the International Criminal Tribunal for Rwanda, representatives of Truth and Reconciliation Commissions, national human rights institutions, civil society organizations and representatives of the media;

Commending the continued efforts of ECOWAS in the fight against impunity, the promotion of accessible, independent and effective justice system as well as in the protection of human rights, through the ECOWAS Protocol on Democracy and Good Governance and the ECOWAS Court of Justice;

Welcoming the adoption by the African Union of the African Charter on Democracy, Elections and Governance;

Conscious of the crucial need to prevent conflicts and consolidate peace, security and political stability and democracy in the West African context;

Recognizing that the fight against impunity as well as the promotion of an efficient, independent and credible justice system and ensuring the full respect of human rights, remains more than ever, as guiding principles, adopted by the international community, and preconditions for the consolidation of peace, security and political stability and democracy;

Convinced that sustainable peace and security in the sub-region can only be guaranteed if the underlying causes of conflicts, political and social instability, and lack of justice are resolved and impunity and human rights violations are eradicated;

Recalling that human rights, justice, peace, security and sustainable development are closely linked and interdependent;

Commending the ongoing efforts with regard to justice sector reforms, the promotion of human rights, democracy and the strengthening of the rule of law in several countries of the sub-region;

Referring to the principles and values contained in international, regional and sub-regional instruments on good governance, democracy, elections and human rights;

Taking into account the African Action Plan against impunity, adopted at the Ouagadougou Conference of 1996;

Conscious of the critical role of human rights defenders and of independent media in the promotion of human rights and in the fight against impunity;

Conscious of the importance of access to information in the search for truth, transparency and the protection of human rights;

Recalling the initiatives of the African Commission on Human and Peoples' Rights, in the establishment of a continental framework to strengthen freedom of expression and access to information;

Considering the United Nations Declaration on human rights defenders of 1998 and *concerned* with the repeated attacks on, intimidation of and violence against human rights defenders and journalists which limit their ability to fully play their role and to contribute to the strengthening of the rule of law;

Recalling the Political Declaration on the Prevention of Drug Abuse, Illicit Drug Trafficking and Organized Crimes in West Africa, adopted in Praia in October 2008, in which the ECOWAS member states pledged to make the fight against drug trafficking and transnational crime a priority;

Noting that the processes of security sector reform have to duly consider the reform of justice, practices related to good governance as well as strong actions to fight corruption and impunity, which are fertile grounds for the proliferation of criminal activities;

Noting that the exchanges during the conference revealed deep concern regarding impunity, which compromises democratization efforts, justice sector reforms and other initiatives in favor of good governance and the fight against terrorism, corruption, illicit trafficking and organized crime;

Concerned that impunity and lack of justice continuously and significantly erode the confidence of people in the justice system;

Recalling the basic principles on the independence of the judiciary, adopted at the 7th United Nations Congress on the Prevention of Crime and the Treatment of Offenders in September 1985 in Milan and the Principles of Bangalore of 2002 on judicial conduct;

Considering the conclusions of the World Conference on Human Rights in Vienna in 1993, focusing on, amongst others, the fight against the impunity of perpetrators of grave human rights violations.

Declare that justice is the basis of democracy, the protector of the rule of law and cannot be dissociated from the protection and promotion of human rights and the fight against impunity; and that it is imperative to reinforce it on national, sub-regional and international levels, in accordance with universal principles and standards.

And approve the following recommendations:

I. On the consolidation of the rule of law, democracy and good governance:

1. Sign and ratify or adhere to the international legal instruments on the fight against impunity, on the establishment of independent justice and on the effective protection and defense of human rights, and integrate their provisions into national legal systems;
2. Sign and ratify or adhere to the African Charter on Democracy, Elections and Governance, as well as to the ECOWAS Protocol on Democracy and Good Governance;
3. Harmonise national laws with regional and international instruments on the rule of law, democracy and good governance and implement these laws;
4. Show a stronger commitment and political will to end impunity and fight corruption, which is a major source of impunity;
5. Mobilize the necessary human and material resources enabling an efficiently functioning of the justice system;
6. Integrate a human rights-based approach in all strategies in the areas of conflict prevention and resolution , peace consolidation and the promotion of democracy;
7. Pursue and strengthen security sector reforms by integrating the principles of the rule of law and human rights in the training programmes of security and defense forces of the countries of the sub-region;
8. Provide national human rights institutions with the appropriate means and ensure their independence;
9. Integrate modules on the doctrine and regional and international jurisprudence related to human rights and humanitarian law into initial and continuous training curricula for judiciary personnel;
10. Assess the implementation of the instruments for the promotion of justice for all and for the protection of human rights, especially the ECOWAS Protocol on Democracy and Good Governance, taking into account institutional best practices.

II. On strengthening measures for independent, accessible and efficient justice

1. Build the capacity of judicial actors at national and regional level;
2. Improve the statutory and material working conditions of magistrates and court officers;
3. Adopt codes of conduct and ethics for the judiciary where they do not exist;
4. Fully guarantee the separation of powers by ensuring the non interference of the executive power and the absence of all other forms of influence, particularly through corruption, on the course of judicial action;
5. Improve access to justice for people , by promoting the establishment of a fund for legal aid at national and regional level;
6. Pursue and strengthen justice sector reforms in order to make justice more accessible, effective and independent;

7. Strengthen the mechanisms guaranteeing the rights of victims of human rights violations;
8. Ensure the transparency of court decisions and their effective execution;
Strengthen traditional mechanisms for dispute resolution and protection of human rights, amongst others through mediation and conciliation and promote research on traditional justice.

III. On transitional justice:

1. Promote transitional justice mechanisms such as the truth and reconciliation commissions while ensuring that justice is a part of reconciliation;
2. Develop measures of restorative justice for a better treatment of the past by involving traditional authorities, civil society organization and the different protagonists (victim, perpetrator, community);
3. Provide technical, material and human assistance to truth and reconciliation commission.

IV. On the ECOWAS Court of Justice and international justice:

1. Sensitize ECOWAS citizens on the Court's mandate and on the procedures of invoking the Court;
2. Promote the access to community justice for the majority of the population, in particular by creating a regional fund for legal aid;
3. Create a regional fund for victims of human rights violations to respond to their needs in conformity with international standards;
4. Urge member states to execute decisions of the ECOWAS Court and other regional and international jurisdictions, to foresee mechanisms for follow-up of the implementation of these decisions and envision sanction mechanisms for States who do not execute the decisions of the ECOWAS Court of Justice;
5. Extend the competence of the Court to grave and massive human rights violations;
6. Establish an appeal instance at the ECOWAS Court of Justice that conforms with international norms on fair trial;
7. Build the capacity of national judiciary systems so that they can fully assume their responsibilities in the prosecution of alleged perpetrators of grave crimes and guarantee the successful implementation of the principle of complementarity in regard to international criminal justice;
8. Improve harmonization of legislation in the West African sub-region.

V. On measures to strengthen mechanisms on the promotion, defense and protection of human rights:

1. Strengthen the protection of the freedom of the press, of expression, of association and of assembly, while underlining the right to information and keeping in mind the particular responsibilities of the media;
2. Prohibit the use of torture and other cruel, inhuman and degrading treatments;
3. Adopt operational measures to fight arbitrary or long-term preventive detention and to fight summary and extrajudicial executions;
4. Adopt protective measures for the rights of detainees and prisoners in accordance with international standards;
5. Adopt protective measures for promoters of the fight against impunity, amongst others human rights defenders and journalists;
6. Promote women's rights by :
 - a) Adopting, ratifying and integrating into national legislation the international instruments against discrimination and violence against women, children and persons with disabilities;
 - b) Implementing the regional action plan for the application in West Africa of UN Security Council Resolutions 1325 and 1820;
 - c) Allocating adequate budgets to fight violence against women, children and persons with disabilities as well as against trafficking in children and child labor more effectively.
7. Ensure that legal and constitutional texts establishing National Human Rights Institutions are in compliance with the Paris Principles;
8. Improve the operational capacity of the African Court for Human and Peoples' Rights by:
 - a) Ratifying the Protocol to the African Charter on Human and Peoples' Rights establishing the Court;
 - b) Making the declaration laid down in Article 34.6 of the Protocol to the African Charter on Human and Peoples' Rights that establishes the possibility of direct invocation of the said Court by non-governmental organisations and nationals of the states in which human rights violations occur.

VI. On the measures to fight organized crime, illicit trafficking, terrorism and piracy:

1. Promote the ratification of the United Nations Conventions on the fight against transnational organized crime, in particular the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) and the United Nations Convention against Transnational Organized Crime (2000), and the integration of these conventions into national legislation;

2. Proceed with the harmonization of national legislations of West African states with international norms in order to provide an adequate framework for international cooperation in criminal matters, especially in the areas of mutual legal assistance and extradition;
3. under the auspices of ECOWAS and the United Nations, promote the development of a regional strategy aimed at facilitating the prosecution of persons involved in transnational organized crime by using the possibilities offered by the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 with regards to jurisdiction of a Member State for acts committed outside its territory and for international cooperation;
4. Improve the legal framework of the fight against terrorism and piracy in conformity with regional and international instruments.

VII. Cooperation for implementation and follow-up on the Bamako Declaration

1. Taking into account the regional and international dimension of the threats and violations of rights, the participants call for the significant strengthening of regional and international cooperation in all the areas addressed by the recommendations of the present Declaration.
2. Encourage governments, representatives of supreme courts, regional and international organisations, civil society as well as national human rights institutions to combine their efforts for the implementation of the recommendations of the present Declaration by developing specific roadmaps for each member state inspired by the strategic framework adopted by the Conference.

Adopted in Bamako, Mali, on 4 December 2011