

INTERNATIONAL CONFERENCE ON THE GREAT LAKES REGION
CONFÉRENCE INTERNATIONALE SUR LA RÉGION DES GRANDS LACS

LEVY MWANAWASA REGIONAL
CENTRE FOR DEMOCRACY AND GOOD
GOVERNANCE



CENTRE RÉGIONAL LEVY MWANAWASA
POUR LA DÉMOCRATIE ET LA BONNE
GOUVERNANCE

ICGLR as a vehicle for combating impunity and promoting justice and Human Rights: Achievements and challenges

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"Think Tanking" for the Great Lakes Region



PRESENTATION LAYOUT

1. INTRODUCTION

2. LEGAL FRAMEWORK

3. ACHIEVEMENTS

4. CHALLENGES

5. CONCLUSION/RECOMMENDATIONS

1. INTRODUCTION

- The recognition of ICGLR as a mechanism for combating impunity and promoting justice and human rights requires a critical reflection and understanding of the past, present and the future of the mechanism.
- In the quest to transform the region into a cosmos of peace, security and sustainable human development, in 2000, the United Nations Security Council, as stated in its resolutions 1291 and 1304, called for an International Conference on peace, security, democracy and development in the Great Lakes Region.
- In November 2004, the eleven Heads of State and Government of the member countries unanimously adopted the **Dar-es-Salaam Declaration on Peace, Security and Development** in the Great Lakes region in Dar es Salaam, Tanzania. The Heads of State and Government convened once again in Nairobi in 2006 to sign the ***Pact on Security, Stability and Development in the Great Lakes Region***. Later the Secretariat of the International Conference on the Great Lakes Region was established in Bujumbura, Burundi.

2. LEGAL FRAMEWORK

- Briefly recalling that some countries in the region were engulfed in violent conflicts and instability during the 1990s whose consequences went beyond national borders, particularly into the neighbouring countries. More specifically, the 1994 genocide against the Tutsi in Rwanda and the chronic and recurrent civil war in the Democratic Republic of Congo (DRC). Both these conflicts exposed impunity, injustice and abuse of Human Rights.
- the existence of violent conflicts and repeated political crises hampered development and inhibited cooperation efforts in several areas between and among the countries of the Region. Therefore, the ICGLR was created as a framework for dialogue to facilitate the restoration of peace, security and create conditions conducive for development at both national and regional levels.
- In order for the ICGLR to be effective as a mechanism/vehicle to combat impunity and promote justice and human rights, it is guided in its mandate by the legal framework which is the Pact on Security, Stability and Development in the Great Lakes Region that contains 10 Protocols namely:

2. LEGAL FRAMEWORK (Cont.)

1. Protocol on Non-aggression and Mutual Defence in the Great Lakes Region;
2. Protocol on Democracy and Good Governance;
3. Protocol on Judicial Cooperation;
4. Protocol for the Prevention and Punishment of the Crime of Genocide, War Crimes and Crimes against Humanity and all forms of Discrimination;
5. Protocol Against the Illegal Exploitation of Natural Resources;
6. Protocol on the Specific Reconstruction and the Development Area;
7. Protocol on the Prevention and Punishment of Sexual Violence Against Women and Children;
8. Protocol on the Protection and Assistance to Internally Displaced Persons;
9. Protocol on Property Rights of Returning Persons;
10. Protocol on Information and Communication Management.

2. LEGAL FRAMEWORK (Cont.)

For the purpose of demonstrating ICGLR as a vehicle for combating impunity and promoting justice and human rights, the following protocols shall be briefly considered in terms of achievements and challenges.

- a) Protocol on Non-aggression and Mutual Defence
- b) Protocol on Democracy and Good Governance
- c) Protocol on Judicial Cooperation
- d) Protocol for the Prevention and Punishment of the Crime of Genocide, War Crimes and Crimes against Humanity and All Forms of Discrimination
- e) Protocol on the Prevention and Punishment of Sexual Violence Against Women and Children (SGBV)

3. ACHIEVEMENTS

a) Protocol on Non-aggression and Mutual Defence

The implementation of this Protocol is the result of the commitment of Member states to eradicate the negative forces in the region, minimize interstate conflict by forging a common destiny around security issues. The main achievements here have been

- the neutralization of FDLR and M23 that were the main actors of instability in eastern DRC and the neighbouring countries. Other ICGLR partners that were involved include Monusco and SADC
- cross-border cooperation and the creation of two institutions based in Goma, DR Congo, namely the Extended Joint Verification Mechanism (EJVM) and the Joint Information Fusion Centre (JIFC). This further resulted in the establishment of a framework for dialogue within the Regional Inter-ministerial Committee.

3. ACHIEVEMENTS(Cont..)

- The signing of the Peace, Security and Cooperation Framework for the Democratic Republic of Congo and the region by ICGLR Member States in 2013 can also be viewed as a determination to accelerate the implementation of the relevant provisions of the Pact, including Non-aggression and Mutual Defence. Indeed, the Agreement among others emphasizes the commitment of states to respect the sovereignty of others, the dismantling of armed groups, initiation of security, demobilization and reintegration reforms.

b) **Protocol on Democracy and Good Governance**

Under this Protocol, the ICGLR established the Levy Mwanawasa Centre, launched the Regional initiative on the fight against illegal exploitation of natural resources.

Article 2 is clear on the Principles of Constitutional Convergence, ranging from the “separation of powers” (2a) to “the freedom of movement and prohibition of forced exile” 2(n).

It has been observed that democratic space in the region has been shrinking for various reasons, ranging from attempted or actual changes in the law of some member states to extend or prolong the mandate of the incumbent, to the constant harassment and persecution of legitimate opposition.

Multiparty and regular elections which was a rare phenomenon in the region before the Pact has now become the norm rather than the practice.

However, the same elections have turned out to be the source of another problem – violence and contestation of results. Some scholars are now even questioning whether liberal democracy is the answer given the context of the mosaic nature of our societies.

3. ACHIEVEMENTS(Cont..)

c) Protocol on Judicial Cooperation

- A meeting of the Ministers of Justice of the ICGLR Member States convened in Livingstone, Zambia, in August 2015 and made strong commitments to accelerate the domestication of the Protocols, including the one on Judicial Cooperation.
- On the one hand, the meeting pledged to ensure the domestication of four priority Protocols in 2015 and 2016, namely the Protocol for Non-Aggression and Mutual Defence, the Protocol on Judicial Cooperation, the Protocol against Illegal Exploitation of Natural Resources and the Protocol on the Prevention and Eradication of Sexual Violence against Women and Children. On the other hand, they committed to complete the domestication of the other six remaining Protocols by 2018.

3. ACHIEVEMENTS(Cont..)

- The Network for Judicial Cooperation of the Central Judicial Authorities and Prosecutors of the Great Lakes Region of Africa, commonly referred to as "the Great Lakes Judicial Cooperation Network" or "GLJC Network" was set up during a meeting organised by ICGLR and the Office of the Special Envoy of the Secretary-General of the UN in the Great Lakes Region on 10th and 11th August 2016 in Nairobi, Kenya.
- According to Article 2 of the Statute of the said Network, its mission is to strengthen the capacity of central judicial authorities, prosecutors and other actors in the region to combat all forms of cross-border crime and impunity. It is supposed to facilitate investigations within member countries, the extradition of suspects and arrested persons and letters rogatory when investigations are to be held in a country.

ACHIEVEMENTS(Cont..)

d) Protocol for the Prevention and Punishment of the Crime of Genocide, War Crimes and Crimes against Humanity and All Forms of Discrimination

- For the implementation of this Protocol, it is worth noting the establishment of a **Regional Committee of Experts on Genocide, Crimes against Humanity and War Crimes**. At the national level, committees for the prevention and repression of genocide have been established in Rwanda, Tanzania, the Republic of Congo, CAR, Burundi, DRC, Uganda, Kenya and South Sudan.
- It should also be noted that member countries have put in place legislation for the repression of genocide and related crimes, as is the case in Rwanda. Burundi is setting up an Observatory for preventing genocide and its 2009 Criminal Code has provisions prohibiting genocide. In Kenya and Uganda, specific laws or provisions to eradicate these international crimes have been promulgated and / or adopted.

ACHIEVEMENTS(Cont..)

e) Protocol on the Prevention and Punishment of Sexual Violence against Women and Children (SGBV)

- Significant progress has been made in the implementation of this Protocol, including the Declaration on Sexual and Gender-Based Violence (SGBV) adopted by the Special Session of the Summit of Heads of State and Government in Kampala (Kampala Declaration on SGBV) in December 2011. This Declaration is being implemented in countries. A zero tolerance campaign has been successfully launched. A genre magazine is published regularly.
- In addition, countries have established national coordination structures and national plans for the implementation of UNSCR 1325 which incorporates important aspects of the Kampala Declaration and have been developed in ten ICGLR Member States.

ACHIEVEMENTS(Cont..)

- Countries have adopted specific laws for the repression of SGBV whereas Rwanda and Burundi were still in the process of adopting it. Other countries, such as Kenya and the DRC, have increased penalties for sexual crimes and offences.
- Finally, the ICGLR Regional Training Facility on the Prevention and Suppression of SGBV in Kampala supports the capacity-building through training and sharing of best practice of judicial, and security personnel to deal with the management of victims' cases.

4. CHALLENGE

Despite this progress, the challenge that ICGLR is facing to enable effectiveness in combating impunity, injustices and abuse of human rights in the region is the slow pace of domestication of the Protocols despite the repeated strong commitments made to accelerate the process by 2018. However, it is worth noting that some Member States have ratified the pact through omnibus laws as a pointer to full domestication.

5.RECOMMENDATIONS

1. Need to accelerate domestication of the Protocols
2. Need to establish a Great Lakes Region Democracy and Governance Index (GLRDGI) not for ranking but for tracking and sharing good practice). This would also serve as an early warning system. Lusaka Centre has already developed a draft framework

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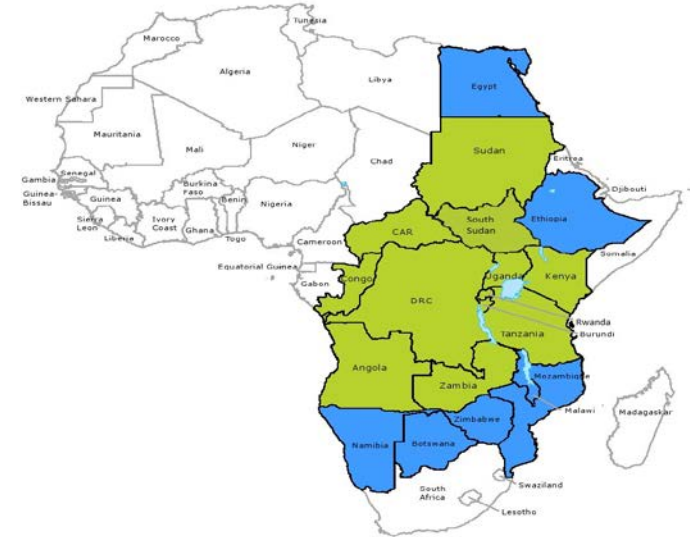


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END

THANK
YOU!!!

ICGLR Member and Co-opted States



Legend
Member States
Co-opted States

*boundaries and names shown on this map do not represent the official position of the ICGLR

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