

NAIROBI DECLARATION ON JUSTICE AND GOOD GOVERNANCE

Nairobi, 15 May 2019

Context

We, the Ministers of Justice of the Great Lakes region gathered in Nairobi from 13 to 15 May 2019;

Welcoming the organization of the conference by the Office of the Special Envoy of the United Nations Secretary-General for the Great Lakes region (O/SESG-GL) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) together with the International Conference on the Great Lakes Region (ICGLR), in the framework of the Pact on Security, Stability and Development in the Great Lakes Region and of the related Protocols of the International Conference on the Great Lakes Region (ICGLR Pact and Protocols), as well as of the Peace, Security and Cooperation Framework for the Democratic Republic of Congo (DRC) and the region (PSC Framework);

Noting the participation of the governments of the Great Lakes region represented by their Ministers of Justice and other senior officials; representatives of regional and sub-regional organizations, notably the African Union and the ICGLR; representatives of judicial authorities and non-judicial accountability mechanisms including Truth and Reconciliation Commissions; National Human Rights Institutions; legal experts; and civil society organizations;

Commending the continued efforts of the ICGLR in the promotion and protection of human rights, the pursuit of justice and the fight against impunity for serious crimes under international law and other serious human rights violations and abuses, including through the Great Lakes Judicial Cooperation Network, the Regional Training Facility on Sexual and Gender Based Violence and the Regional Committee on the Prevention and Punishment of the crime of genocide, war crimes, crimes against humanity and all forms of discrimination;

Recalling the international, regional and sub-regional normative frameworks regarding the promotion and protection of human rights, the administration of justice, the prevention and punishment of serious crimes under international law, and the fight against impunity;

Reaffirming the principles, values, rights and obligations, contained in international, regional and sub-regional instruments on fighting against impunity good governance, democracy, elections, and human rights, including gender equality and non-discrimination;

Guided by the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity (E/CN.4/2005/102/Add.1), the Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels (A/RES/67/1, 2012), and the Guidance Note of the United Nations Secretary-General on Reparations for Conflict-Related Sexual Violence (2014) as well as the Landmark UN Security Council Resolution 2467 (2019) on strengthening justice and accountability and calls for a survivor-centered approach in the prevention and response to conflict-related sexual violence.

Welcoming the recent adoption of the African Union (AU) Policy on Transitional Justice (EX.CL/1145(XXXIV), 2019) as a continental guideline for AU Member States to develop their own context-specific comprehensive policies, strategies and programmes towards democratic and socio-economic transformation, and achieving sustainable peace, justice, reconciliation, social cohesion and healing;

Welcoming the initiatives of the African Commission on Human and Peoples' Rights in support of the fight against impunity, including its adoption of resolutions ACHPR/Res.87(XXXVIII) 2005 and ACHPR/Res. 344(LVIII) 2016 on the fight against impunity in Africa, as well as its recently published Study on Transitional Justice and Human and Peoples' Rights in Africa (2019);

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

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

Concerned that significant justice deficits and impunity for serious human rights violations and abuses continuously and significantly erode the confidence of the population in the justice system and the rule of law; and expressing concern over persistent, recurrent and specific challenges that impact on the access to justice of women and children;

Recognizing that access to justice is a fundamental human right and **convinced** that an independent, credible and efficient justice system is a fundamental component of democracy, the rule of law and good governance and cannot be dissociated from the protection and promotion of human rights;

Noting that the exchanges during the conference revealed deep concern regarding the remaining challenges to end impunity, compromising democratization efforts, the fight against all forms of crime including terrorism, corruption, illicit trafficking and organized crime, and the prevention and resolution of conflicts, putting peace and long-term stability in the region at risk;

Recognizing the regional and international dimension of the threats and human rights violations, requiring a strengthening of regional and international cooperation;

Commitments

Declare that, despite the progress achieved, still greater concerted efforts are required to uphold human rights, promote justice, and eradicate impunity for serious human rights violations in the Great Lakes region.

Reiterate their unwavering commitment to the following priorities:

- i. To take critical action required to ensure national, regional, continental, and international legal instruments are adopted and implemented;
- ii. To take the necessary action required to promote and implement appropriate and effective transitional justice legal framework policies, strategies, and programmes;
- iii. To implement priority measures to strengthen or set up effective mechanisms to promote and protect human rights at the country and regional level; and
- iv. To accelerate and enhance the implementation of measures to ensure better and greater access to justice especially for the most vulnerable groups.

Specific recommendations

To ensure concrete progress on these critical priorities, approve the following recommendations:

I. Action required to ensure national, regional, continental, and international legal instruments are adopted and implemented:

1. Sign and ratify, or strictly adhere to all international legal instruments on the protection of human rights, on combating crime and on the fight against impunity, domesticate their provisions and ensure that domestic courts have jurisdiction, disseminate these instruments within domestic institutions and among the general population and raise awareness on the avenues of redress;
2. Ratify the Protocol to the African Charter on Human and Peoples' Rights establishing the African Court for Human and Peoples' Rights; expand the competence of the Court by making the declaration under Article 34.6 of the Protocol to the African Charter to allow Non-Governmental Organizations (NGOs) with observer status before the African Commission on Human and Peoples' Rights and individuals to institute cases directly to the Court;
3. Harmonise national laws with the ICGLR Protocols and with the United Nations Convention against Transnational Organized Crime (UNTOC) and its Protocols, to

- facilitate international cooperation on criminal matters, especially in the areas of mutual legal assistance and extradition;
4. Provide the ICGLR Lusaka Centre for Democracy and Good Governance with information on the implementation of the instruments for the promotion of justice for all and for the protection of human rights, taking into account institutional best practices to enable the Centre to develop a regional assessment framework;
 5. Work towards fulfilling SDG 16 and target 16.9 by 2030 by providing legal identity for all, including free birth registrations, which is key to prevent statelessness and to ensure access to justice and the enjoyment of other fundamental rights.

II. Action required to promote and implement appropriate and effective transitional justice legal framework policies, strategies, and programmes:

1. Promote and implement context-specific, gender-sensitive, and comprehensive transitional justice legal framework policies, strategies, and programmes that seek to close the justice gap in the aftermath of massive or systematic human rights violations and abuses, and to address the root causes of human rights violations, including by transforming gender-based discrimination and biases in societies that hinder women and girls from claiming their rights;
2. Develop and implement context specific reparations programmes that seek to remedy including by addressing the immediate needs of survivors, and acknowledge the harm caused in a non-discriminatory, gender-sensitive and victim-centered manner;
3. Ensure that transitional justice processes are designed to support, acknowledge and empower survivors, including by facilitating their participation especially of most marginalized populations, and ensuring their security at all stages of such processes;
4. Maximize the national ownership of and support for transitional justice processes, including by involving all relevant stakeholders, paying particular attention to those at risk of being left behind and marginalized;
5. Where appropriate, integrate traditional justice mechanisms in transitional justice strategies and processes in line with international human rights norms and standards;
6. Support the process of developing the ICGLR manual of principles and guidelines based on good practices for truth and reconciliation commissions.

III. Priority measures to strengthen or set up effective mechanisms to promote and protect human rights at the country and regional levels :

1. Strengthen and ensure that national human rights institutions established are compliant with the Principles relating to the Status of National Institutions for the promotion and protection of human rights (The Paris Principles); in particular ensure that they are given as broad a mandate as possible; that the mandate is based on universal human rights norms and standards; that is clearly set forth in a constitutional or legislative text that guarantees their autonomy from government and their independence; and provide these institutions with the appropriate resources required for them to effectively implement their mandates;

2. Substantively and financially support, including with the assistance of technical partners, the ICGLR Regional Committee on the Prevention and Punishment of the crime of genocide, war crimes, crimes against humanity and all forms of discrimination and approve as a matter of priority the ICGLR Regional Committee's Regional Action Plan for 2020–2022. For those countries, that have not yet established a national committee, expedite their establishment and support the work of those national committees already established;
3. Take all appropriate measures to enable the Great Lakes Judicial Cooperation Network (GLJCN) to effectively fulfill its mandate as a key vehicle for prosecutors in the region to co-operate in the fight against cross-border crime;
4. Promote women's rights, including by adopting, ratifying and incorporating into national legislations the international and regional instruments aimed at ending discrimination and violence against women; by implementing the ICGLR Protocol on the Prevention and Suppression of Sexual Violence Against Women and Children and by allocating adequate budgets to fight violence against women;
5. Legally recognize, support the work of, and protect human rights defenders (HRDs) and civil society organizations (CSOs) in line with the Declaration on Human Rights defenders, A/RES/53/144 of 8 March 1999;
6. Promote awareness of human rights, including measures to prevent genocide and its ideology and other mass atrocities in the education systems of the Member States, in particular through the related ICGLR initiatives.

IV. Accelerate and enhance the implementation of measures to ensure better and greater access to justice especially for the most vulnerable groups:

1. Substantially and progressively increase the overall budget allocated to the justice sector and provide the justice system with the necessary human and material resources enabling its efficient and independent functioning;
2. Take political responsibility, including acknowledging the severity of sexual and gender-based violence, but not limited to, issuing a public apology to the victims and survivors;
3. Put in place robust data collection, monitoring and evaluation mechanisms to identify shortcomings by the state and focus on preventive measures to ensure non-recurrence;
4. Ensure and/or improve provisions to timely, accessible, comprehensive and appropriate justice and reparations particularly for victims and survivors of sexual and gender-based violence;
5. Take strong measures in consultation with victims and survivors of sexual and gender-based violence to reduce stigma including by adopting a survivor-centered approach;
6. Commit to comply with Article 14 (2) (c) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women (the Maputo Protocol); call on those countries who have entered a reservation to withdraw it;
7. Implement specific capacity building programmes to strengthen the technical capacity and knowledge of judicial and other relevant actors to enable them to better implement

- national, regional and international instruments relating to human rights, the fight against impunity and combating harmful gender stereotypes;
8. Pursue and strengthen justice sector reforms, including by enhancing judicial oversight and the functioning of the justice system, at national and regional level; increasing representation in the justice system to include women, minorities, persons with disabilities etc; adopting codes of conduct and ethics for the judiciary where they do not exist; ensuring the transparency of court decisions emanating from national, regional and international jurisdictions, and their effective execution; providing open access to justice data and legal documents where possible; and creating specialized units of investigators and prosecutors (civilian and/or military), to investigate and prosecute serious international crimes.

V. Implementation of the Declaration

1. Strengthen the ICGLR Great Lakes Judicial Cooperation Network and mandate it to monitor the implementation of this Declaration;
2. Enhance regional and international cooperation in all the areas addressed by the recommendations set out in this Declaration.

Adopted in Nairobi, Kenya on 15 May 2019