



**THE KENYAN SECTION  
OF THE  
INTERNATIONAL COMMISSION OF JURISTS**

**THIRD ROUNDTABLE**

**STRENGTHENING THE AFRICAN HUMAN RIGHTS PROTECTION MECHANISMS**

**20 – 21 OCTOBER, MOMBASA, KENYA**

The African Court Coalition, in partnership with the Cyrus R. Vance Centre for International Justice of the New York City Bar and the Kenyan Section of the International Commission of Jurists, will be convening the Third Roundtable on strengthening the African human rights system in Mombasa, Kenya from 20 – 21 October 2011.

Significantly, this Roundtable takes place on the occasion of the 30<sup>th</sup> anniversary of the adoption of the African Charter on Human and Peoples' Rights which took place in Nairobi, Kenya. It is important to reflect the advances made by the African continent in entrenching human rights protection and promotion.

The first Roundtable, which was convened jointly with the Cyrus Vance Centre and the Kenyan Section of the International Commission of Jurists and the Foundation for Human Rights Initiative, took place in 2008. This is the African Court Coalition's annual flagship event assembling academics, human rights activists and practitioners to debate critical issues on the African human rights system.

## **Background**

The African Court, based in Arusha, Tanzania, is in its fifth year of operations. In the least two years, it has received 12 cases, one being a referral from the African Commission on Human and Peoples' Rights (African Commission).

The African Court was created to strengthen the protective mandate of the African Commission. The African Commission continues fulfilling its protective and promotional mandate as contained in the African Charter on Human and Peoples' Rights.

The African Court is binding on African Union (AU) member states that have ratified the Protocol establishing the African Court. Generally it can only consider cases from State Parties. To date, 26 African States have ratified the African Court Protocol.

Access to the African Court with respect to individuals and NGOs is limited to those State Parties that have made the Article 34 (6) declaration permitting direct petitioning. These States are: Burkina Faso, Ghana, Mali, Malawi and Tanzania.

A few NGOs including the Legal and Human Rights Centre-Tanzania and the Tanganyika Law Society have filed cases at the African Court. The African Commission referred its first case with respect to massive human rights violations in Libya in March 2011. The African Court considered the case against the government of Libya on an urgent basis and delivered an order for provisional measures.

Enforcement remains a challenge for applicants having received judgment. State Parties are obliged to make the necessary legal measures at domestic level to ensure enforcement of judgments from regional courts such as the African Court.

At the July 2009 AU Summit, Member States decided to explore the extension of the mandate of the African Court to include international crimes such as crimes against humanity and genocide.

The protocol would essentially expand the jurisdiction of the yet-to-be formed African Court of Justice and Human Rights with changes at an institutional and substantive level. That new court will be referred to as "the African Court of Justice and Human and Peoples' Rights," and will have 16 judges; a registry and an office of the prosecutor. There will be a court of first instance and an appellate division. The court of first instance will consist of three sections: general affairs; human and peoples' rights; and international criminal law.

This proposed supra-national court will have implications on the mandate of the African Court as it brings together individual responsibility for international crimes and state responsibility for human rights violations.

### **Purpose**

The purpose of the Roundtable is to build from the inaugural and second Roundtable by placing a focus on four themes:

- Access to regional courts;
- Enforcement of judgments of regional courts
- Litigation challenges at regional courts
- Prosecution of international crimes in Africa

The Roundtable will draw on experiences from sub-regional courts and from other regional courts including the Inter-American Human Rights Court in addressing these themes.

The Roundtable will also examine the litigation opportunities and challenges at the African Court and the interplay (1) between the African Court and the African Commission; and (2) between the African Court and the sub-regional courts that include the African Charter in sources of law.

Underscoring these debates will be the role of interested parties, including the Coalition, practitioners in litigation, and academics in strengthening the African human rights system and providing justice for victims of human rights abuses.

### **Outcomes**

The Roundtable seeks to devise strategies on the following:

- enhancing litigation at the African Court;
- overcoming the direct access limitation to the African Court;
- strengthening the protection of human rights mandate on the supra-national African Court with criminal jurisdiction; and
- compliance at domestic level African Court judgments.

### **Participants**

Participants will be drawn from representatives from the African Court and African Commission; practising lawyers; human rights activists and academics.

## Organisers

The **African Court Coalition ([www.africancourtcoalition.org](http://www.africancourtcoalition.org))** is a network of individuals, NGOs and national human rights institutions, formed during the first African Union conference on the establishment of the African Court in Niamey, Niger in May 2003. The Coalition has a membership of 200.

The Coalition envisages a continent where victims of human rights violations have access to justice.

The Coalition's mission is to ensure that the African Court on Human and Peoples' Rights (and the African Court of Justice and Human Rights) is effective, independent, accessible and credible through training, education, information documentation and dissemination, research, advocacy, lobbying and networking.

The Coalition believes in access to justice for all, particularly individuals and an independent judicial body.

In light of the complementary relationship between the African Commission and the African Court, the Coalition aims to ensure that the African Commission is strengthened.

The **Cyrus R. Vance Centre for International Justice at the New York City Bar ([www.vancecenter.org](http://www.vancecenter.org))** mobilises the global legal profession, including members of the private bar, to expand access to justice, advance human rights, and promote democratic values and institutions, especially in Latin America and sub-Saharan Africa. It performs all its work in partnership with private- and public-sector lawyers, members of the judiciary, law schools, and NGOs in the regions where it works. Founded in 2003, the Vance Center has access to all the resources of the City Bar and its affiliate, the City Bar Justice Center, and members of the City Bar are involved in planning and carrying out all of its activities. The Vance Center's name honours Cyrus R. Vance, past president of the City Bar and former United States of America's Secretary of State.

**The Kenyan Section of the International Commission of Jurists ([www.icj-kenya.org](http://www.icj-kenya.org))** is a national section of the International Commission of Jurists based in Nairobi, Kenya. The organisation, which is a membership based organisation for lawyers, is dedicated to the legal protection of human rights in Kenya and the Africa. Its mission is to protect human rights, and promote the rule of law and democracy in Kenya and across Africa through the application of legal expertise and international best practices, and has a Vision to be a premier organisation promoting a just, free and equitable society.

## **PART B**

### **The General Assembly**

The General Assembly will fulfil the following:

- Elect the Executive Committee to serve for a three-year term
- Elect Focal Points to serve for a three-year term'
- Consider constitutional amendments
- Propose policy direction for the Coalition in order to inform the strategic plan which is to be adopted by the assembly
- To adopt the Executive Committee manual
- To receive the 2011 financial and activity reports
- Debate the evolution of the human rights protection system in Africa

Roundtable participants, Coalition members (NGOs and individuals) and strategic partners will be entitled to participate in the General Assembly. Voting will be restricted to registered Coalition members.