Roundtable on the African Court on Human and People’s Rights
Dakar, Senegal, 29 March 2011

Summary

On 29 March 2011, the African Court Coalition in partnership with the Rencontre Africaine des Droits de l’Homme (RADDHO) held a roundtable on the African Court on Human and Peoples’ Rights (African Court) in Dakar, Senegal. The following organisations were in attendance:
• The Dakar Bar association,
• The Ministry of Human Rights,
• The Judiciary of the Regional Court of Dakar
• The Association of Young Lawyers of Senegal
• The ICRC
• The Senegalese Committee for Human Rights,
• The press, and
• Human rights organisations

Opening Ceremony:

Mr. Alassane Seck, Vice President of RADDHO opened the meeting by welcoming the participants. He used the occasion to congratulate the African Court Coalition for this wonderful initiative which contributes to the resolution of the situation of lethargy in which lies the African Court since its creation. He invited the defenders of human rights and especially the lawyers and magistrates to actively participate in the development of the African Court.

Given that most participants were lawyers, Mr. Yare Fall, a barrister representing Lawyers without Borders in Senegal, first conveyed the gratitude of the Bar to the Coalition and RADDHO for the invitation. He said that the establishment of an African Court is an important step in the promotion and protection of human rights in Africa. He also affirmed the availability of its institution to work closely with the African Court Coalition for the effectiveness of the Court.
The Panel (from left to right) : Mabassa Fall, Alassane Seck, Amadou A. Kane, Assane Dioma Ndiaye and Aboubacry Mbodj
Mr. Amadou Aly Kane gave an overview of the African Court Coalition emphasising that its main objective is to advocate for the ratification of the protocol establishing the African Court by African States. Thus he explained the Coalition members shared the tasks by dividing the continent into areas with a focal point in each area. With regard to Francophone West Africa is the focal point in Dakar and run by the ONDH. He invited Senegalese NGOs to join the Coalition for a make advocacy more efficient and to enable Africa to have an effective mechanism for defending victims of human rights.

Mr. Assane Ndiaye Dioma, president of the League of the Senegalese Human Rights Lawyer, discussed the situation of human rights in Africa. He made the following observations:

- Existence of several conflicts with massive violations of human rights, in particular in Côte d’Ivoire and Libya.
- An inefficient justice system in most countries.
- The fundamental freedoms are constantly being infringed by African leaders.
• The social, economic and cultural rights are violated leading to the extreme poverty of the people since they cannot enjoy the wealth of the continent.
• Numerous cases of rape perpetrated on women and children in various conflicts.

According to him, the paradox is that Africa has an effective mechanism for promoting human rights and he included the African Charter on Human and Peoples' Rights which makes provision for rights and duties but also speaks of collective rights. He said this is a true evolution. According to him the commission plays an advocacy role but also a protection one. However he said that the clause of exhaustion of remedies given the nature of the jurisdictions in Africa is a real problem.

Regarding the African Court, he underlined the important mechanism in the defence of victims, but he deplored the fact that the Court is not accessible to citizens or NGOs directly. The Coalition has a role to play in advocating for greater access. He recommended:
• Encourage citizens approach the Court by referral from the African Commission on Human and Peoples' Rights (African Commission) which can file cases before the African Court;
• Encourage States to make the declaration allowing individuals and NGOs direct access to the African Courts;

Mr Mabassa Fall spoke of impunity in Africa. He believed that African leaders have always wanted to resolve problems through dialogue. He also noted that since Africa had established a Court, States have delayed its effectiveness as the Court had only ruled on one case. In reality, African leaders are dragging their feet because they do not want it to be effective. Of the 53 countries only the citizens of Burkina Faso, Ghana, Malawi and Tanzania can apply to the Court and he will say that this constitutes an aberration.

Mr. Fall spoke of the importance of an independence and impartial judiciary in Africa. Faced with numerous cases of human rights violations, he invited human rights activists to seize the African Court through the African Commission and for individuals and NGOs from the five States to have made the declaration to file cases before the Court.

Mr. Aboubacry Mbojd said the African Court Coalition was not very active in Senegal. He urged it to take steps to persuade the authorities of Senegal to make the declaration. He urged the importance of ensuring that States at continental level make the declaration allowing individuals and NGOs direct access to the African Court. Mr. Mbojd said that the newly created Ministry of Human Rights in Senegal was ready to work with NGOs to strengthen the powers of the African Court. He also said that the African Charter on Human and Peoples' Rights is applicable in Senegal and invited judges and lawyers to refer to it in court decisions.

The participants made several recommendations and these include:

• Organise feedback sessions for lawyers because they are not supposed to monitor issues relating to human rights violations in the field and in international institutions;
• Post newsletters to members and interested persons to better educate people about the African Court;
• Increase efforts to encourage countries to ratify the Protocol establishing the African Court;
• Participate actively in the work of the African Commission given the large presence of NGOs;
• Advocate for the revision of texts in line to allow individuals to appeal to the Court;
• Build capacity among officials in order to understand the benefits of an African Court.

Conclusion

The African Court Coalition has generated true interest from the participants. It revealed that many lawyers do not know much about the African Court. Also many of them do not know much about the existence of the Coalition. The African Court Coalition must strengthen its efforts to undertake promotion of the Coalition within civil society.

The Coalition was urged to participate in the work of the African Commission.