

Regional Conference on Impunity, access to Justice and Human Rights in the context of emerging threats to peace and security in West Africa and the Sahel

Niamey, Republic of Niger, 10-12 September 2018

Niamey Declaration

We, the Ministers of Justice, representatives of judicial institutions, transitional justice mechanisms, sub-regional organizations, regional and international organizations and civil society organizations of West Africa and the Sahel, meeting in Niamey from 10-12 September 2018 within the context of the regional conference organised by the United Nations (UN), in partnership with the Government of Niger, the Economic Community of West African States (ECOWAS), the African Union (AU) and the Permanent Secretariat of the G5 Sahel as well as in close collaboration with pan-African institutions working on the protection and promotion of human rights and access to justice, bi-lateral and multi-lateral partners, human rights defenders in West Africa and the Sahel;

Commending the organization of the second regional conference on the fight against impunity, access to justice and human rights in the context of cross border threats to peace and security, as well as intercommunal conflicts notably, between farmers and herders, following that which was held in Bamako in December 2011;

Recalling the Bamako Declaration on impunity, justice and human rights of 4 December 2011;

Recognizing the efforts made by member states and their partners in the implementation of the recommendations in the Bamako Declaration;

Taking note of the national, sub regional, regional and international initiatives aimed at preventing and addressing threats to peace and security while promoting the respect of human rights and the rule of law;

Adhering to the AU, ECOWAS and international instruments relating to governance, democracy, justice, human rights and rule of law;

Considering our shared vision on the independence of the judiciary, respect of human rights and the rule of law as contained in the African Charter on Human and Peoples' Rights, the African Charter on Governance, Democracy and Elections as well as the Additional Protocol on Democracy and Good Governance of ECOWAS;

Remaining convinced that the sustenance of democracy, political and social stability of a country, will depend on a justice system that is independent, credible, efficient and ensures equal access to all;

Conscious of the remaining challenges to end impunity and deter the recurrence of violations of human rights as part of a holistic framework to prevent and resolve conflicts and to ensure peace and long-term security in the region;

Expressing concerns over major socio-economic and security challenges facing countries in West Africa and the Sahel;

Expressing solidarity with the populations of countries in the Sahel affected by the scourge of violent extremism and terrorism, while commending the measures being taken by member states in collaboration with partners to address this scourge;

Commending the resilience of victims of human rights violations and their willingness to seek redress and end impunity;

Acknowledging that the justice system plays a very important role towards the promotion of an effective and efficient political, social and economic governance system;

Realizing that an independent justice system promotes inclusivity, credibility and peaceful political processes;

Recognizing that access to justice is a fundamental human right;

Underscoring the central role of an accessible, equitable, transparent, independent and efficient justice system, based on the respect of human rights to all initiatives aimed at conflict prevention and resolution, as well as in all post conflict reconstruction strategies;

Recalling the obligations of African states to fight against impunity for all human rights violations consistent with international, regional and national legal frameworks, to establish responsibility and ensure accountability for all crimes without being selective;

Recognizing that socio-economic challenges increase the vulnerability of many citizens in the sub region and limit their access to justice;

Highlighting the existence of national, sub regional, regional and international strategies to combat violent extremism and terrorism based on human rights and rule of law;

Underlining the challenges imposed by new threats to peace and security and the need to adapt judicial systems and procedures to protect and promote human rights, fight against impunity and ensure access to justice;

Expressing concerns over recurrent challenges that impact on the access to justice of women, children and vulnerable groups;

Welcoming the efforts undertaken by states to revitalize transitional justice processes in order to support national reconciliation and social cohesion initiatives;

Conscious that progress in addressing impunity will require sustained political will by Government;

Adopt the present declaration in order to:

1. Ensure the full implementation of the Bamako Declaration of 4 December 2011.

2. Improve Judicial Governance

- a. Accelerate the ratification and implementation of international and regional legal instruments;
- b. Disseminate these instruments and raise awareness on opportunities of redress therein contained;
- c. Reinforce the technical capacity of judicial actors to support ownership of national, regional and international instruments relating to the fight against impunity and human rights;
- d. Enhance capacity building of all judicial actors, judicial oversight and the functioning of the justice system;
- e. Ensure the full implementation of court decisions emanating from national, regional and international jurisdictions;
- f. Extend the presence of courts, improve infrastructure and facilitate mobility of judicial personnel in to order bring justice closer to the population especially in rural areas;
- g. Strengthen the role of lawyers in facilitating access to justice and prevent the politicization of the Bar Association;
- h. Encourage closer ties between Bar Associations to share experiences;
- i. Ensure an effective application and implementation of legal aid and assistance;
- j. Improve access to justice by establishing a Fund for Legal Assistance at the national level;

- k. Ensure access to justice and reparations, particularly for women and children, victims of sexual and gender-based violence;
- l. Establish practical mechanisms that would protect and address the specificities of women and children with regards to crimes committed within the context of violent extremism and terrorism;
- m. Take appropriate measures to address sexual violence particularly against women and children within the context of violent extremism and terrorism;
- n. Integrate a human rights-based approach in the security and judicial response to violent extremism and terrorism;
- o. Improve and accelerate victims and witness protection measures, particularly in judicial proceedings in relation to gross human rights violations within the context of addressing violent extremism and terrorism;
- p. Ensure the mutual enhancement of capacities between national, regional and international legal systems on the basis of complementarity and subsidiarity;
- q. Where applicable, review military justice codes;
- r. Reinforce the independence of the judiciary including the military justice system;
- s. Substantially increase the overall budget allocated to the justice sector;
- t. Improve the working conditions of Magistrates;
- u. Improve oversight mechanisms of Magistrates to promote their impartiality;
- v. Reinforce the capacity of Magistrates and auxiliary staff (Lawyers, Registrars, Bailiffs);
- w. Strengthen the capacity of civil society organizations on the procedure to petition regional and sub regional courts.

3. Improve the effectiveness of Transitional Justice Processes:

- a. Ensure that national reconciliation and social cohesion initiatives contribute to the respect of human rights and rule of law;
- b. Strengthen Transitional Justice mechanisms by integrating traditional justice mechanisms consistent with human rights standards;
- c. Ensure that Transitional Justice processes provide reparations to the victims and contribute to peace.

4. Improve Governance of the Penitentiary Sector

- a. Avoid prolonged pre-trial detention by accelerating the processing of backlog of cases;
- b. Improve detention conditions in penitentiary institutions and other places of detention in conformity with international standards and to take into account the situation arising from violent extremism and migration;
- c. Decongest prisons by building new penitentiary institutions and the use of alternative forms of punishment; Encourage partners to provide support in this regard.

5. Enhance the promotion and protection of human rights

- a. Strengthen engagement between states with regional and international human rights mechanisms;
- b. Ratify and implement international and regional human rights instruments including those allowing for individual compliant procedures;
- c. Establish, strengthen and provide resources to National Human Rights Institutions in compliance with the Paris Principles.

6. Develop and reinforce judicial cooperation between States

- a. Increase the exchange of best practices in order to reinforce judicial cooperation (in cases of extradition and the protection of victims and witnesses) between states, notably in the context of violent extremism, terrorism and cross border crimes;
- b. Increase bi-lateral and multi-lateral cooperation to enhance judicial governance particularly on the fight against impunity, access to justice and respect of human rights;
- c. Within the context of judicial cooperation, systematize cooperation on criminal and law enforcement matters;
- d. Collectively share experience and best practices on judicial procedures in relation to gross human rights violations.

7. Ensure the implementation of the Niamey Declaration:

- a. Establish a Platform to evaluate, facilitate exchanges and consultations between Ministers of Justice and judicial experts in the region which

will be in charge of following up the implementation of the Niamey Declaration;

- b. Encourage partners to provide support towards the operationalization of this Platform.

Done in Niamey, on 12 September 2018