

INTRODUCTION TO THE AFRICAN COMMISSION

OVERVIEW

The African Commission on Human and Peoples Rights is the oldest human rights mechanism in Africa and has produced important jurisprudence in respect to holding states accountable for various human rights violations. Therefore, this module will detail the background of the forum as well as the most important considerations in terms of accessing the Commission. Since the African Commission has signalled its concern for the frequent human rights violations based on SOGIE occurring in Africa, this forum may be an favourable setting for the network lawyers to bring novel cases in order to push the development of African sexual rights jurisprudence. This introduction to the African Commission forms one part of a larger study into the larger African human rights system in order to best determine which forum will most advantageous in any given circumstance.

OBJECTIVES

1. Understand the challenges and opportunities of the African Commission.
2. Build familiarity with major precedents concerning substantial and procedural issues.

LEARNING OUTCOMES

On completion of the session, participants should:

1. Demonstrate an understanding of the major admissibility criteria and how such requirements are interpreted by the Commission.
2. Identify if and which of their cases would meet the criteria for exhaustion of domestic remedies.

OUTLINE

Introduction to the African Commission

- I. History and establishment of the human rights system in Africa
- II. Mandate & functions of the African Commission.
- III. Communications procedure
 - A. three stages of a complaint procedure
 - B. Admissibility requirements of Art 56 of the African Charter
 - i. Exhaustion of domestic remedies
 - a. Available, effective, sufficient
 - b. Burden of proof
 - c. Exceptions

- ii. Reasonable time period
- iii. Principle of pending litigation

INTRODUCTION TO THE AFRICAN COURT

OVERVIEW

The African Court on Human and Peoples Rights is relatively new and limited human rights mechanism in Africa but it has the potential to develop important binding jurisprudence in respect to holding African states accountable for various human rights violations. Therefore, this module will detail the lengthy development of the Court, its challenges, as well as the most important considerations in terms of accessing the Court. Since the African Court has a complimentary relationship with the African Commission, there may be circumstances when it is more favourable for the Network lawyers to pursue cases at the African Court in order to further binding sexual rights jurisprudence. This introduction to the African Court forms one part of a larger study into the entire African human rights system in order to best determine which forum will most advantageous in any given circumstance.

OBJECTIVES

1. Understand the challenges and opportunities of the African Court.
2. Build familiarity with major precedents concerning substantial and procedural issues.

LEARNING OUTCOMES

On completion of the session, participants should:

1. Demonstrate an understanding of the major admissibility criteria and how such requirements are interpreted by the Court.
2. Identify if and which of their cases would meet the criteria for exhaustion of domestic remedies.

OUTLINE

Introduction to the African Commission

- I. History and establishment of the African Court
- II. Mandate & functions of the African Court
- III. Procedures of the Court
- IV. Applications procedure
 - A. three stages of a complaint procedure
 - B. Admissibility requirements of Art 56 of the African Charter
 - i. Exhaustion of domestic remedies
 - a. Available, effective, sufficient
 - b. Burden of proof

c. Exceptions

ii. Reasonable time period

iii. Principle of pending litigation

V. Relationship with the African Commission

INTRODUCTION TO THE AFRICAN REGIONAL ECONOMIC COMMUNITIES

OVERVIEW

The sub-regional mechanism as part of the African regional economic communities offer a potential opening for more expedient human rights litigation for the SXLN Network. This module will focus on the functioning and political context of African sub-regional bodies, namely the East African Court of Justice (EACJ), ECOWAS Community Court of Justice (ECCJ), and the former Southern African Development Community (SADC) tribunal. The module aims to equip the participants with the knowledge and skills necessary to effectively engage with these bodies and be able to assess when and why lodging a case at either the ECCJ or EACJ could be a better alternative to the African Court or African Commission. By understanding the challenges and opportunities of all the available human rights adjudicators in Africa, the Network lawyers should be better placed to strategically choose the most advantageous forum for their clients and the development of sexual rights.

OBJECTIVES

1. Understand the political and procedural challenges and opportunities of the EACJ and ECCJ.
2. Build familiarity with major precedents concerning substantial and procedural issues.

LEARNING OUTCOMES

On completion of the session, participants should:

1. Demonstrate an understanding of the unique traits of the ECCJ and EACJ
2. Identify the potential challenges their Network cases could face at either sub-regional mechanism.

OUTLINE

Introduction to the African Sub-Regional Mechanisms

- I. Background of ECCJ
- II. Mandate & functions ECCJ
- III. Procedures of the Court
- IV. Applications procedure
 - A. Unique features of ECCJ
 - i. Direct access
 - ii. Applicable law
 - iii. No need to exhaust domestic remedies

- iv. Landmark cases
- V. Background of EACJ
- VI. Jurisdiction
- VII. Access
 - i. standing
 - ii. amicus
 - iii. intervener
 - iv. admissibility
- VIII. Remedies
- IX. Enforcement
- X. Weakness of the EACJ
- XI. Landmark case extending human rights jurisdiction
- XII. Background of SADC Tribunal
 - i. History & jurisdiction
 - ii. Contentious case law
 - iii. Suspension & current status