



AFRICAN COURT COALITION

Goodwill Message Delivered by The African Court Coalition on the Opening of The Judicial Year of The African Court on Human and Peoples` Rights: 12 February, 2024



Theme: Enhancing the Justiciability of Economic, Social and Cultural Rights with an emphasis on the Right to Education

We, the Coalition for an Effective African Court on Human and Peoples' Rights express our profound gratitude for the invitation to participate in this convening and we congratulate the African Court for this important initiative which challenges and reminds us of the crucial aspects of Human Rights. Indeed, the African Charter on Human and Peoples' Rights provides the basis for justiciability of Economic, Social and Cultural Rights. And if we have to ensure realization of such rights, and in particular the right to education, we must take a deeper assessment at our national legal and policy frameworks and how they are practically in harmony with regional and continental frameworks such as Agenda 2063 and the Continental Education Strategy for Africa (CESA). For Civil Society, we must assess our roles in enhancing the Justiciability of Economic, Social and Cultural Rights for the benefit of our people and Africa as a continent.

Given the short five minutes that I have, I will delve right away into the following three key points;

Point Number one; Does Africa guarantee access to free education for those who cannot afford it? The general and simple answer to this is yes, most African countries have in place legal frameworks and policies that guarantee access to free education. But the question remains; to what extent is education free? Is it only at 'school fees' part or does free education cater to other important costs? AND, at what level is free education being offered, is it only at primary levels, secondary levels or up to university levels?

ALSO, is the free education offered fit for the 21st century? Reflecting on the African Union theme for the year 2024 which says, "***Educate an Africa fit for the 21st Century: Building resilient education systems for increased access to inclusive, lifelong, quality, and relevant learning in Africa***", it is worth asking ourselves, even in our African countries where free education is offered in practice, in this Fourth Industrial Revolution we are currently in, the era of global connectivity, Artificial Intelligence and advanced technologies that are transforming the globe and the way we do things, do our educational policies and strategies take consideration of all these aspects?

Point Number two;

In our collective efforts as Human Rights Civil Society and Human Rights legal practitioners, to what extent do we place importance on the right to education for our people as an important aspect of Social, Economic and Cultural Rights? How are we fairing when it comes to amplifying our voices when this right is violated by our States and Governments? How often do we persistently engage national mechanisms and the African Human Rights mechanisms on this aspect? We do have existing jurisprudence on Social Economic and Cultural Rights in Africa, but can we do more? I do believe more is needed hence a reminder by the African Court through this theme; “***Enhancing the Justiciability of Economic, Social and Cultural Rights with an emphasis on the Right to Education***”

Final Point Number three;

To what extent are our governments prioritizing and investing on the right to education as an important tool towards a truly liberated Africa? The 2023 report developed by the African Union Commission and UNESCO titled ***Education in Africa: Placing equity at the heart of policy*** reveals that; “*Despite sizable progress in several countries, many children continue to be left behind. This is partly because equity is often not at the heart of the government’s efforts to increase access and to enhance quality and learning..... 58% of upper secondary level age children in Sub-Saharan Africa do not attend school*”.

On the implementation of decisions of judicial and quasi-judicial Human Rights mechanisms, being it at national, regional or continental level, how are our governments fairing when they are required to comply and implement decisions that emanate from violations of Social, Economic and Cultural Rights? I cannot give specific statistics on this but we know the record is not rosy at all on this one!

We all agree that the AU has a dynamic normative framework for ensuring that Economic, Social and Cultural Rights are justiciable, but to-date, how many AU States have not ratified Protocols like;

- The African Charter on the Rights and Welfare of the Child
- The Protocol to the African Charter on the Rights of Women in Africa
- The Protocol to the African Charter on the Rights of Persons with Disabilities (this Protocol is not even in force yet as it has not been ratified by 15 Member States despite the fact that it was adopted in 2018)

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What about access that we as African citizens are given to engage with the African Human Rights systems to address various concerns of human rights such as the Right to education? Yes, we can engage with the African Commission on Human and Peoples' Rights without limitations, we can engage with the African Committee of Experts on the Rights and Welfare of the Child without limitations, but why do we have to have a limited access to the African Court on Human and Peoples' Rights? To this date, only 8 States allow direct access to the African Court for NGOs and individuals, while only 34 out of 55 have ratified the African Court Protocol. We need unlimited and direct access to the African Court on Human and Peoples' Rights just like we have been given unlimited access to the Banjul Commission and the Child Rights Committee!

I would like to end this goodwill message by emphasising what the late Mwalimu Julius Kambarage Nyerere always emphasised on; the three enemies to true progress and development of a country are; illiteracy, poverty and diseases. All of these aspects fall under Social, Economic and Cultural Rights and they are justiciable, and if this is the route we have to take to remind our African States and Governments to commit to their obligations, let us use it.

I thank you for your kind attention.
Asanteni sana!