NETRIS internal mobility report by Jean Bosco Ngendahimana, PhD researcher from the University of Dar es Salaam (UDSM), Dar es Salaam, Tanzania

Background

According to the practice at the University of Dar es Salaam, Ph.D Students defend their research proposal before the Postgraduate Committee before the student can start the field research.

It is in this context that upon my appearance in early November 2010 that the Research and Publication Unit proposed me to apply for NETRIS Mobility Scheme because my research topic is about "Regional Integration and Human Rights."

The College of Europe (CoE)/United Nations University Institute on Comparative Regional Integration Studies (UNU-CRIS) and the NETRIS intra-mobility coordinator Prof. Joe Tesha (UDSM) approved my application some weeks later and since then I started to organize my departure to the University Cheikh Anta Diop of Dakar where I spent three weeks before I could connect to the ECOWAS Community Court of Justice in Abuja, Nigeria for a-one week research field.

At University Cheikh Anta Diop of Dakar, the schedule was organized in collaboration with Professor Saidou Nourou TALL, the Vice-dean of the Faculty of Juridical and Political Sciences in a way that every working day I had to meet with one Professor of his Faculty and discuss about issues related to regional integration and human rights with the aim of getting insights from their expertise.

Professor TALL recommended me a number of resourceful persons of his faculty whom he thought would bring special insights to my research thesis entitled: "**The Impact of Regional Integration on Human Rights Protection in Africa**." Thus, discussions held with the following professors were of a paramount importance: Prof. Alioune SALL, Head of Public Law Department, Prof. Ismaila Madior FALL, Director of Centre d'Etudes et de Recherche sur les Institutions et Législations Africaines (CREDILA), Prof. Ibrahima LY, Directeur du Laboratoire de Droit de l'Environnement et de la Santé, Prof. Mamadou BADJI, Directeur de la Filière Histoire du Droit, Relations Internationales, Prof. El Hadj MBODJ, Constitutionaliste Politologue and Professor Pape DEMBA SY, Specialized in Administrative Law.

At the ECOWAS Community Court of Justice, I conducted interviews with different professionals including Me Abdoulaye BANE, In-charge of Research, Me Borges PEREIRA, Director of the Vice-president's Office, Dr. Daouda FALL, Director of Research and Publications, Me Tony ANENE MAIDOH, the Chief Registrar and Honorable Justice Awa NANA DABOYA, The President.

Narrative Report

Section 1: The week of 31st January to February 5th 2011

Monday, 31st January 2011 I left Dar es Salaam to Dakar via Nairobi and reached the International Airport Leopord Sedar Senghor at 6:30 PM. As I had tried my best to get the Senegalese visa in vain while in Dar es Salaam, I thought I could get it once in Dakar since I had all required documents. Upon my surprise I was refused to leave the Airport until Professor TALL, the Coordinator of NETRIS at UCAD made the Rector's Office intervene. It is around 2:00 PM that I got the special authorization from the Director General of Immigration Police.

When I arrived at UCAD, I was received by Professor TALL and his Personal Assistant Mr. Gustave BITJOKA who is also a Ph.D Researcher at UCAD; the later took me immediately to the '*Résidence Yvon'* where I spent three weeks.

The meeting I was supposed to have with Mr. Eric, the Senior NETRIS Supervisor who was in a work mission at UCAD was canceled at the last moment. However, this did not prevent me from making appointments with different professors specialized in the domains I am researching on. This was made possible by Mr. Gustave BITJOKA who assisted me throughout the whole internship at UCAD. The role of Professor TALL remains immeasurable despite his tight schedule he was receiving me for guidance in his office whenever I felt a need.

Wednesday, February 2nd 2011, I made an introduction to the campus by visiting different departments, institutes, sections and centres of the Faculty of Juridical and Political Sciences. In the afternoon, I took opportunity to also visit other services like the faculty lecture room, the Library and other institutions of research and publications based in Dakar like CODESRIA, Conseil pour la Recherche en Sciences Sociales en Afrique, and RADHO, Rencontre Africaine des Droits de l'Homme.

Thursday, February 3rd 2011, I met Professor Alioune SALL. After having explained him the problematic and research questions of my thesis, he discussed me the essential elements contained in his book commenting on the case law of the ECOWAS Court of Justice and recommended me to read it. As the time I met him he had other assignments to handle, he promised me to receive me again on Monday, February 7th in morning.

Friday, February 4th 2011 was a good occasion to discuss with Professor Ismaila Madior FALL about my thesis. Thanks to the interesting discussion with him I came out with another idea of my thesis in the sense of making it broader since the problematic had to be more inclusive. From there my problematic reads as follows: What added value did integration initiatives that Africa has so far known bring to the protection of human rights in Africa. With this problematic, I will be able to analyze in a measurable way some concrete measures taken against recalcitrant states, different speeches of Heads of State and Government, different normative and institutional frameworks enacted in the context of regional integration initiatives, judgments and other rulings rendered by Community Courts of Justice and lobbyings exercised in this regard. Professor FALL took also this opportunity to recommend me some further readings like the book of Mutoy MUBIALA, *Le système régional africain de protection des droits de l'homme*, Bruxelles: Bruylant, 2005.

After integrating these observations, my thesis will have the specificity of highlighting limitations at the national level overcome at the regional level and efforts used or to be used with aim of rectifying lacuna at the national level, he concluded. It is after this fruitful discussion that I realized that my problematic was too restrictive because elaborating only on the lack of conditionality in the Regional Economic Communities for entering member states is a limitation within many others.

Talking of lack of sanctions against recalcitrant states, he advised me to remain neutral in my analysis and sometimes I should nuance my statements because much has been done in the context of ECOWAS, SADC and EAC to bring pariah states to the right truck. This is highlighted in different judgments and rulings rendered by the Courts of these respective Regional Economic Communities. Professor FALL, as for him remains optimistic in terms of human rights protection in Africa after having observed that we are in the era where none can do whatever he/she wants.

Before we could fix another appointment on the following Friday, 11th February 2011, he taught me the right way of asking questions during interviews. Thus, one should ask qualitative questions while avoiding cognitive ones, because it is up to the researcher to master the content not the interviewee.

The same Friday, 4th February 2011, I paid a courtesy visit to Professor Ibrahima LY. He advised me to address many practical questions in human rights procedural law that have remained unanswered for quite a long time which have a negative impact in these days on the access of Community Courts. According to him, if individual complainants keep to lose interest in Community Courts, their existence risks to be compromised.

Saturday, 5th February, 2011 in the afternoon, I met Professor El Hadj MBODJ, during our brief discussion; he first of all congratulated me for the choice of the update topic since it addresses initiatives of regional communities in terms of human rights protection as an alternative way against the inertia of the African Union. At this occasion, he encouraged me to look for internal documents and strategies set up in each Community Court under study and during my field research to prioritize interactive methodology. For the sake of preparing his contribution, he gave me his email address so that I could send him my research proposal. We ended our discussion by fixing an appointment on Saturday, 12th February 2011 at noon.

Considering his academical connection with RADHA, a local NGO dealing with human rights issues, he recommended me to use their well equipped library.

Section 2: The week of February, 7th to 13th, 2011

Appointments fixed the previous week were accomplished as there were planned. Thus, Monday, 7th February, 2011 at noon I was received by Professor Allioune SALL in his office. Our discussions focused on the problematic of my thesis and related research questions. My research questions are as follows:

1. How are human rights issues addressed in the African RECs Treaties?
2. What is the status of the norms of the REC Human Rights Systems in case member states belong to different legal traditions?
3. How does one ensure the compliance with the RECs' Courts Judgments at the national level?
4. What is the relationship between the RECs Mechanisms of Human Rights Protection and those at the continental level?

Regarding the first question, Professor SALL urged me to use his book to be published in a near future where he developed thoroughly the material jurisdiction in human rights of the ECOWAS Community Court of Justice. Concerning the question of knowing whether the status of the norms of the REC Human Rights Systems do not risk to be compromised by the differentiation of juridical families applied in Member States, Professor SALL revealed me that the problem Monism vs Dualism is not an issue that the

only worry is about the differentiation in legal reasoning, risibility and drafting of judgments due to civil and common law systems in which both lawyers and judges of the court grew up.

In his humble views, it would be wise if among judges there were academicians as provided for in the Court's statutes. There is a need of community law development. As a constitutional judge, judges of Community Courts need to render well documented judgments, which task requires to be acquainted with enough theories that sometimes professionals lack.

When elaborating on the European Union, Inter-American and African Systems of Human Rights Protection, the Professor remembered one of his supervisees, Mr. Sylla SOW, working on the case law of the African Commission on Human and Peoples' Rights and gave me his contacts for further discussions and insights.

Talking of the enforceability of Courts' Judgments by Member States, Professor TALL insisted on the fact that before the ECOWAS Community Court of Justice complainants need not to exhaust local remedies, what in his views present a serious problem of unserious petitions without forgetting the lack of compliance by Member States citing the recent case of the Gambia. In his answer, he came back also on the background of human rights jurisdiction of the ECOWAS Community Court of Justice which was principally of economic nature.

Answering to the question of functional relationship between the RECs Courts of Justice and the African Court of Human and Peoples'Rights, which is the continental court, Professor SALL did not hide his dissatisfaction against the jurisdictionalization of international law which ends up by overlapping jurisdictions and vexatious inter-court decisions, which would jeopardize the unity of law and in turn fail to offer sufficient assurance to decision makers.

To conclude our discussion, I asked the Professor what African leaders should learn from what was taking place in Tunisia and Egypt. His humble answer was that political leaders should know that peoples are tired of dictatorial regimes that they should take their responsibilities in introducing positive changes in their governmental strategies.

Tuesday, 8th February 2011 in morning, I met Mr. Sylla SOW. After brief presentations of our respective research topics and related problematics and research questions, each of us found in what he can help the other. It is in this context that he gave me two documents, one written by Alain Didier OLONGA on strategies of human rights in Africa and the other one by Ms. Helene TIGROUDJA is an article in Annuaire Française de droit

international, where she discusses recent judgments and opinions of the Inter-American Court on Human Rights, in which she thinks that the Court is at the service of humanization of Public International Law.

Mr. Sylla SOW with a great experience in an English NGO, Article 19 with Observer status before the African Commission explained me the role played by NGOs in the daily activities of the African Commission ranging from technical up to financial supports. Talking of the role of NGOs in the protection of Human Rights in Africa, we asked ourselves their contribution in the process of recruiting and nomination of Community Court Judges.

We ended up our meeting with a promise to connect me with another Ph.D Researcher working on the efficacy of decisions of the African Commission on Human and Peoples' Rights.

Wednesday, 9th February 2011, I went to CODESRIA (Conseil pour le Développement de la Recherche en Sciences Sociales en Afrique) for documentation. Upon my arrival, the librarian looked for different books and journals related to my thesis. On the basis of the bibliography available on the "Regional Integration and Human Rights Protection", I identified the following four documents that the librarian gave me for photocopy:

1. Human Rights and Integration in West Africa, Dakar: IDRC, Janvier 1993. Conference: International Conference on West African integration, Dakar, Senegal, 11-15 January 1993.
2. BOAFO – ARTHUR, Kwame, *Democracy and the Prospects for Integration in West Africa,* Africa Insight, Vol.24, No.4, 1994.
3. LAVERGNE, Real (ed.), *Regional Integration and Cooperation in West Africa: A Multidimensional Perspective*, Trenton: Africa World Press, 1997.
4. OBASANJO, Olusegun, "Towards the New Age of Economic and Political Democratization in Africa", in *Journal of the Society for International Development*, 1991, pp.42-45.

The afternoon of this Wednesday was devoted to the participation of directed works *(travaux Dirigés*) by Mr. Sylla SOW who is the Assistant lecturer at the Faculty of Juridical and Political Sciences. I learnt in these *Travaux Dirigés* the active role played by students in preparing them. I also appreciated the methodology used by highlighting throughout the drafting the problematic and its answers.

Thursday, 10th February 2011, it was an occasion to me to visit the documentation room of Centre des Droits de l'Homme et de la Paix (IDHP) of the Faculty of Juridical and

Political Sciences where I was warmly received by Mr. GOMIS Gérard, the librarian. I managed to photocopy two dissertation papers, one on 'le contrôle des engagements internationaux par les comités des Nations Unies' and the other on 'la protection des Droits humains par la Cour de justice de la CEDEAO.'

Friday, 11th February 2011, I visited the Nigerian High Commission in Senegal for visa issues.

Saturday, 12th February 2011, after the postponement of the meeting with Professor El Hadj MBODJ, I went at Gorée Island to complete the two study tours done respectively in November 2010 and January 2011 at Bagamoyo and Zanzibar/ United Republic of Tanzania on Slavery and Triangular Trade in Sub-saharan Africa.

Section 3: The week of 14th to 20th February 2011

Monday, 14th February 2011, I met Professor Mamadou BADJI on the basis of the appointment fixed the previous two weeks.

As I did with other Professors I met during my stay at UCAD, I exposed him my research topic, its problematic and research questions. He took his time to give me observations, comments at the same time indicating me how and where to get insights and inspirations. It is in this context that he revealed me some Discussions Networks like www.hnet.org. He also proposed me other links for documentation such as the Centre for Human Rights of the University of Pretoria with its well equipped library in Human Rights and decisions of the African Commission on Human and Peoples' Rights, Centre de Recherche sur les Droits de l'Homme (CREDHO). Finally, the Professor offered to connect me with some other personalities among others, the President of the African Commission on Human and Peoples' Rights, former lecturer at UCAD and Dr. Daouda FALL who is the Director of Research and Publication at the ECOWAS Court of Justice , who was also his colleague.

Due to his timetable which is always busy, Professor Mamadou BADJI urged me to come back in his office on Tuesday, 15th February 2011 for a book entitled "Les mécanismes procéduraux de protection des droits humains en Afrique." On that date, we resumed our discussions and finally released his book for photocopy. Indeed, the book is very interesting in the sense that it is of 2008 and highlights the multidimensional character of human rights; it indicates how justice is a real and efficient protection of human rights without forgetting democracy and the rule of law. National and international justice remains the cornerstone of this book.

Wednesday, 16th February 2011 was off, I took this occasion to visit '*le Monument de la Renaissance Africaine'.* I appreciated the idea behind the construction of the Monument, in clear words of His Excellency the President of the Republic of Senegal, Maître Abdoulaye WADE, we should honour all those who sacrificed either their liberty or life for the rebirth of Africa

Thursday, 17th February 2011, I visited the Library of The International Committee of the Red Cross (ICRC), where I photocopied Acts of the Seminar which took place in Dakar from 23 th to 14th 2001 on Democracy, human Rights and Development in West Africa.

The seminar developed many themes interesting my thesis such as civil society and democracy in West Africa by Issa NDIAYE (Forum Civique, Mali), Transitional Democracies in West Africa, necessity of co-responsibility and accountability Aminata Dramane TRAORE (Centre Amadou Hampathé BA, Mali).

Friday, 18th February 2011, I paid a courtesy visit to Professor Pape DEMBA SY. He appreciated my research topic and gave me a Ph.D Thesis he evaluated in 1998. The idea developed by Marcelin Obou ABIE on the African Charter on Human and Peoples' Rights and Regional Integration is of a paramount inspiration to my thesis. The afternoon was devoted to farewell sessions after three weeks of internship where I had exchanged views with different professors and resourceful persons with a particular expertise in the domain I am researching on.

Saturday, 19th February 2011 was an opportunity for excursion to Saint Louis, the former Senegalese capital, where I visited among other institutions, University Georges Gastorn.

My three-week internship at the University Cheikh Anta Diop of Dakar was beneficial to my field research. It helped me not only to gather materials from different institutions' libraries but also allowed me to discuss my Ph.D research proposal with diverse academicians, which ended up by ameliorating both my research questions and techniques I had to use in collecting information from professionals at the ECOWAS Court of Justice.

Concluding Remarks

One- month NETRIS Mobility I did from 31st January to 3rd March 2011 helped me to gather materials and conduct interviews with professionals and academics specialized in the domain of regional integration and human rights.

Materials I gathered are of different categories: specialized books available in libraries of the hosting institutions, internal documents and especially certified copies of judgments that I would not have accessed to if I were not given opportunity to go on the field.

The way my internship was organized allowed me to discuss first with academics who gave me insights on how to ameliorate my research questions and how to focus on the problematic of my study. When time came to conduct interviews at the ECOWAS Court of Justice the techniques learnt during the first three weeks helped me in a satisfactory manner to ask qualitative questions to professionals I met.

Considering the achievements the ECOWAS Court of Justice has realized throughout its 10 years of existence, I am confident that its experience if at all followed by East African Court of Justice and SADC Tribunal my efforts in writing on the impact of regional integration on human rights protection in Africa with these three case studies would not be vain.

Given the fact that what I found depend in a large scale on the combination of different efforts, I would like to convey my sincere gratitude to the University of Dar es Salaam to have recommended me for NETRIS Internship Scheme; to the NETRIS Project Leadership to have granted me the opportunity; to the University Cheikh Anta Diop of Dakar to have hosted me and last but not least, to the ECOWAS Court of Justice to have allowed me to match theories to the practice.

As a way of recommendations, it would be more beneficial if this program could be extended to many researchers in the domain of regional integration because it is by going on the field that the researcher gets more insights from different practical sources.

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