

WEEK OF MOURNING: THE DEMISE OF THE SADC TRIBUNAL

Coalition for an Effective
SADC Tribunal 

CALL TO JOIN WEEK OF MOURNING FOR THE DEMISE OF THE SADC TRIBUNAL

On 18 November 2005, the **Southern African Development Community Tribunal (SADC Tribunal)** was **inaugurated**. It was established to hear disputes of not only Southern African states but also of their citizens. This was a momentous occasion given that a regional court with the power to hear human rights cases is a critical mechanism in the pathway to justice after exhaustion of local remedies. However, instead of this week celebrating the 11th anniversary of this progressive mechanism, we mourn its demise.

In the week of 14 to 18 November we call on all SADC citizens to join us in mourning the SADC Tribunal's demise. In spite of advice to the contrary from their own legal advisors and attorney generals, the leaders of Southern Africa suspended the SADC Tribunal in 2010. They then came up with a new tribunal with a mandate limited to the adjudication of disputes between member states only.. Individual access has sadly been removed. Through a new Protocol, adopted in August 2014, the leaders effectively buried the SADC Tribunal which used to operate under the 2000 SADC Protocol. In doing so, they **took away the power of the SADC Tribunal to hear human rights cases**. **As it now stands**, the 2014 SADC Protocol deprives SADC citizens of their right to refer a dispute between themselves and their government to the SADC Tribunal. Without a meaningful tribunal, justice and redress will remain elusive for people of the region.

The Tribunal was suspended at a time when it had started establishing itself as a well-respected international tribunal which was evolving remedies and jurisprudence appropriate to the needs of SADC nationals. By dismantling the court, SADC heads of state have betrayed any claim of their commitment to fighting impunity and in the process have exposed themselves as proponents of human right violations and impunity of international crimes. This is tragic, given that we are in an era where some African states are vocal in their dissatisfaction with the International Criminal Court (ICC), and two states, namely South Africa and Burundi, have indicated their intention to withdraw from the ICC. . With such discontent it is only logical, one would think that they should instead direct their focus toward strengthening African institutions, legal frameworks and mechanisms to effectively promote the rule of law, human rights, access to justice and the peaceful resolution of conflicts.

As SADC citizens, we nonetheless remain resolute in our own discontent with the devastating whims of our leaders, that heighten our vulnerability and expose us to state sanctioned violations among other human rights violation. We affirm our concerted and unequivocal demand for justice from those we have entrusted to lead us, to hear and act on our human rights demands. This week, 14 to 18 November 2016, we were supposed to celebrate the anniversary of the operationalisation of the SADC Tribunal. Instead we mourn the onslaught on the rule of law, curtailment of our access to justice and a determined effort by SADC States to avoid accountability of rights violations and encourage impunity.

The Coalition for an Effective SADC Tribunal calls on all concerned SADC citizens to join us in this week of mourning.

Signed by Members of the Coalition for an Effective SADC Tribunal:

- Associação Justiça, Paz e Democracia (Angola)
- Auwal Socio-Economic Research Institute (South Africa)
- Centre For Human Rights, University of Pretoria (South Africa)

- Centro de Estudos Moçambicanos e Internacionais (Mozambique)
- Centre for Human Rights and Rehabilitation (Malawi)
- Crisis in Zimbabwe Coalition (South Africa)
- Citizen Engagement Platform Seychelles (Seychelles)
- CIVICUS (South Africa)
- Human Rights Institute of South Africa (South Africa)
- Institute For Democracy and Leadership (Swaziland)
- Lawyers for Human Rights-Swaziland (Swaziland)
- Malawi Law Society (Malawi)
- Paralegal Alliance Network (Zambia)
- SADC-CNGO (Botswana)
- Southern African Christian Initiative (Namibia)
- Southern African Development Community Lawyers Association (SADC LA)
- Southern African Litigation Centre (South Africa)
- Zimbabwe Human Rights NGO Forum (Zimbabwe)

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For more information on the Coalition for an Effective SADC Tribunal, please visit:

www.sadctribunalcoalition.org