

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي African Commission on Human & Peoples' Rights		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
No. 31 Bijilo Annex Lay-out, Kombo North District, Western Region, P. O. Box 673, Banjul, The Gambia Tel: (220) 441 05 05 / 441 05 06, Fax : (220) 441 05 04 E-mail: achpr@achpr.org ; Web www.achpr.org		

Commemorative seminar on the 10th Anniversary of the Robben Island Guidelines

Enhancing Torture Prevention in Africa

Johannesburg, 21 – 23 August 2012

OUTCOME DOCUMENT

Johannesburg Declaration and Plan of Action on the Prevention and Criminalization of Torture in Africa

Preamble

We the participants at the commemorative seminar on the 10th Anniversary of the Adoption of the Robben Island Guidelines, organized by the African Commission on Human and Peoples' Rights (African Commission), in collaboration with the UN Office of the High Commissioner for Human Rights (OHCHR), the South African Human Rights Commission (SAHRC), and the Association for the Prevention of Torture (APT), in Johannesburg, South Africa from 21 - 23 August, 2012, hereby make the following declaration and platform of action;

Recognising that ten years after the adoption of the Robben Island Guidelines (RIG) in 2002, there is a need to take stock of the progress made in the prevention and criminalization of torture in Africa;

Noting the February 2012 Addis Ababa Regional Consultation for Africa on Enhancing Cooperation between the United Nations and Regional Human Rights Mechanisms on the Prevention of Torture and the Protection of Victims of Torture, especially People deprived of their Liberty;

Expressing deep concern about the continued prevalence of torture and other cruel, inhuman or degrading treatment or punishment in many states in Africa and the conviction to urgently address the challenge in all its dimensions;

Reiterating that acts of torture constitutes a horrendous infringement on human dignity and its persistence is attributable to many factors, notably the non-criminalization of acts of torture in many African States;

Further reiterating that torture and other cruel, inhuman or degrading treatment or punishment must be condemned as a denial of the purposes of the African Charter on Human and Peoples' Rights and as a violation of human rights and fundamental freedoms proclaimed in the Robben Island Guidelines, the Universal Declaration of Human Rights, the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (UNCAT) and other international human rights treaties;

Mindful of the key role played by the African Commission and its Committee for the Prevention of Torture in Africa (CPTA);

Welcoming the growing partnerships between governments, non-governmental organizations (NGOs) and civil society in the implementation of the Robben Island Guidelines;

Commending the persistent efforts and critical role of National Human Rights Institutions, the Network of African National Human Rights Institutions (NANHRI) and civil society organizations working to prevent torture and other cruel, inhuman or degrading treatment or punishment and to alleviate the suffering of victims;

Further commending the practical measures that have been taken by some States Parties to criminalize torture in their respective jurisdictions;

1. Reaffirm that freedom from torture and other forms of cruel, inhuman or degrading treatment or punishment is a non-derogable right, which protects the inherent dignity and integrity of the person, and that no-one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
2. Unreservedly condemn the use of torture and other cruel, inhuman or degrading treatment or punishment, in any context and at any time. Torture must remain prohibited at any time and in any place whatsoever and can never be justified.
3. Deplore the use of all methods of extreme intimidation such as prolonged sleep deprivation, isolation and interrogation or the use of degrading or painful procedures such as sexual abuse, electric shocks, abuse of psychotropic drugs and other means of inducing terror, and inhumane means that compromise the physical, psychosocial or sexual integrity of persons.

4. Call upon all State Parties to the African Charter on Human and Peoples' Rights (African Charter), which have not yet done so, to urgently criminalize torture.
5. Call upon all State Parties to the African Charter to adopt an official zero-tolerance policy with a view to ending impunity for perpetrators of torture and serious human rights violations as well as to actively promote a culture of respect for human rights and fundamental freedoms, including by supporting and undertaking public awareness campaigns and human rights education of all relevant actors and at all levels;
6. Call upon all State Parties to establish and maintain fully independent, adequately funded and well-functioning *NHRIs* empowered and capacitated to effectively contribute to the prevention of torture.

Plan of Action

The participants recommend the following measures as forming part of a Plan of Action to implement the Johannesburg Declaration on the Prevention and Criminalization of Torture. The document is addressed to governments, criminal justice institutions, NHRIs, the African Commission as well as to non-governmental organizations and associations working in the field of torture prevention. It is meant to be a source of inspiration for concrete actions.

State Parties

- State Parties to the African Charter on Human and Peoples' Rights (State Parties), should take urgent steps to ratify and implement the Optional Protocol to the United Nations Convention against Torture, and other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT).
- State Parties should develop and implement National Action Plans against torture and secure sufficient funding to support these plans;
- State Parties should ensure that there is coherence between international obligations and national legislation and practice, including enacting comprehensive anti-torture legislation that addresses the prohibition and prevention of torture, the needs of victims, and the protection of witnesses. This law should provide that individual perpetrators have personal responsibility to compensate victims, though this should not detract from the responsibility of the State to provide compensation to torture victims.
- State Parties should identify and support champions to lead on the criminalization of torture from amongst members of the legislature and

executive arms of government and other stakeholders, such that anti-torture bills can be presented as either private member submissions or executive bills.

- State Parties should take concrete steps to ensure the full implementation of anti-torture legislation where this exists.
- State Parties to the OPCAT should establish and maintain National Preventive Mechanisms (NPMs) within their respective jurisdictions. The NPM must be effective and independent, and the State should ensure it receives sufficient funding to enable it to function effectively.
- The NPM may be established either as an independent body or as a separate unit within an existing or newly established NHRI. The NPM must comply with all the OPCAT requirements.
- Sustainability of NPMs must be guaranteed through the allocation of adequate resources, capacity building of NPM members of staff, and coordination and partnership with other stakeholders.
- All States should conduct effective, independent, prompt, transparent and impartial investigations into all allegations of torture in order to bring perpetrators to justice and to end impunity, as well as to ensure that public authorities are held accountable for their actions, in order to build public confidence in the rule of law.
- When defining acts of torture State Parties should adopt a definition that at a minimum complies with Art 1 of the UNCAT. States should consider broadening this definition to accommodate their local context which may include extending the definition to include non-state actors.
- States should review existing laws to ensure compliance with the principles and obligations enshrined in RIG, UNCAT, and OPCAT.
- The process of advocating for criminalization of torture should involve various stakeholders including torture survivors, health workers, civil society organizations, media practitioners, professional organizations. Credible and effective coalitions should be built for the purpose of mobilizing public support for the passage of anti-torture bills.
- State Parties should ensure the effective dissemination of the anti-torture legislation to all stakeholders and the general public.

National Human Rights Institutions

- National Human Rights Institutions (NHRIs) should designate focal points to address issues of torture who should liaise with the CPTA and other national, regional and international mechanisms relevant to the prevention of torture and rehabilitation of torture victims.

- NHRIs should develop and keep an updated database/inventory of all places of detention within their respective jurisdictions including their locations, and names of inmates where possible.
- NHRIs should undertake unannounced visits to all places where people are deprived of their liberty.
- NHRIs should build their capacity to enhance their information acquisition, retention (institutional memory) and exchange. This should also encourage mentorship and exchange visits amongst NHRIs.
- NHRIs should provide reports on progress made in the promotion and implementation of the RIG and this Declaration and Plan of Action (**The Johannesburg Declaration and Plan of Action on the Prevention and Criminalization of Torture in Africa**) in their Periodic reports to the African Commission.

National Preventive Mechanisms

- Synergies and joint actions should be developed between various oversight and monitoring mechanisms at national, regional and international levels to enhance effectiveness amongst institutions such as the State Parties, the African Commission, NPMs, NHRIs and SPT.

Role of Civil Society Organizations

- Civil Society Organizations should assist State Parties to ensure the wider accessibility of the Robben Island Guidelines to communities and stakeholders including to different tiers of government, educational institutions, law enforcement agents, and other professional bodies. This should include the translation, simplification and the use of all creative strategies to increase the coverage and reach of the document.
- CSOs should provide technical support, research, advocacy, direct support services, and should mobilize communities to prevent torture and rehabilitate torture victims.
- CSOs should take appropriate measures to support the work of the CPTA NHRIs, NPMs, SPT and other relevant mechanisms aimed at the prevention of torture and rehabilitation of torture victims.

African Commission/CPTA

- The CPTA, in collaboration with its partners, should develop model legislation on criminalization of torture that may be adapted by various jurisdictions to their respective contexts.

- The African Commission should request State Parties to report in their Periodic Reports on steps they have taken to guarantee the independence of NHRIs in accordance with the *Paris Principles*, as this will enhance the NHRI's capacity to effectively promote the implementation of the RIG in their respective jurisdictions.
- The CPTA should provide advice and technical support to national actors on the implementation of the Robben Island Guidelines including on criminalization of torture, ratification of OPCAT and support the NPMs and how to compensate victims.
- The CPTA should issue authoritative comments on specific provisions of the RIG and provide legal guidance and interpretation to facilitate the effective national implementation of RIG by all stakeholders.
- The CPTA should undertake regular monitoring and promotion visits to State Parties which may be in the form of joint missions with SPT, NHRI or NPMs. The reports of the visits should be published and compliance to the recommendations monitored. Members of the CPTA should join the UN expert list of the OHCHR so that they may be called upon to join SPT missions in Africa.
- The CPTA should seek to cooperate at national, regional and international levels including the Office of the High Commissioner of Human Rights aimed at effective implementation of the RIG and this Declaration and Action Plan.
- The CPTA should partner with the Pan African Parliament and national actors to advocate for the criminalization of torture.
- CPTA should identify focal points in various countries and this process can be assisted by the NGO Working Group on Torture and Prisons (of the ACHPR NGO Forum) to support its work on promotion and implementation of the RIG.
- A mechanism should be established to facilitate sustainable funding for the CPTA which should also include drawing financial support from States Parties and other bodies.
- The CPTA should advocate for the establishment of a fund for victims of torture fund which State Parties should contribute to.

- The CPTA Secretariat should be strengthened with a staff member dedicated to the fulfillment of the CPTA mandate and States should assist by sending seconded staff with expertise to assist the CPTA's work.
- The CPTA should encourage States Parties to establish national mechanisms for effective rehabilitation of torture victims, including mainstreaming medical and social treatment within its public health delivery services as well as supporting independent centres providing psychosocial rehabilitation /trauma counseling.

Therefore, we participants commit ourselves to the promotion and implementation of this Declaration and Plan of Action by serving as focal points for the CPTA in our respective countries.

Done in Johannesburg on 23rd August 2012