

THE ACTIVITY REPORT OF THE CHAIRPERSON OF THE FOLLOW-UP COMMITTEE OF THE ROBBEN ISLAND GUIDELINES

This report covers the activities of the Chairperson of the follow-up Committee on the implementation of the Robben Island Guidelines (RIG) during the intersession period May 2009-November 2009.

The Mandate of the Chairperson was established in October 2002 following the adoption of the RIG and the adoption of the follow-up committee on the implementation of the RIG in 2004

Commissioner Catherine Dupe Atoki was appointed Chairperson at the 42nd Ordinary Session held in Brazzaville from 15-28 November 2007.

The report is divided into 3 parts;

Part 1 – Covers the activities carried out under this mandate during the period under review.

Part 11- present the positive development in the area of torture in Africa

Part 111- Conclusion and recommendations

1. The Association for the prevention of Torture (APT) a long-standing partner of the commission on the Torture Mechanism invited the Chairperson to Geneva for a working visit from the 23rd – 27th June 2009.
- 2) The meeting afforded Chairperson the opportunity to meet with several officials of the United Nations (UN) working in the field of torture prevention, one of which were members of the Sub-committee on the prevention of Torture; (SPT) the body responsible for the implementation of the optional protocol on the convention against torture (OPCAT).
- 3) The highlight of the visit was the presentation at the hearing of the SPT of the mechanism developed by the African Commission on the prevention of torture. The chairperson also engaged with members of the APT on further collaboration with the African Commission particularly in respect of the provision of personal assistant to the working group.
- 4) The overall import of this visit further underpins the need for collaboration with the UN on mutual advocacy of anti-torture measures, participation in expert workshops and training, exchange of documentation and information on activities.
- 5) **On 25-27 October 2009** The Chairperson of undertook a Mission to Uganda pursuant to the invitation extended to her at the 45th Ordinary

Session of the African Commission, held in Banjul the Gambia from 13-27 May 2009, to promote the Robben Island Guidelines in Uganda.

- 6) During the Mission the Chairperson engaged with high Government officials, politicians and law enforcement officials to whom presentations were made on torture, its effect on the victims and rehabilitation of the victims.
- 7) A one day sensitization workshop was conducted to promote the RIG and the participants include police, immigration, army, prison police, Special forces of Uganda known as JAAT, staff of the Ministry of Justice, the Uganda Human Rights Commission, the Uganda Amnesty Commission, the Law Reform Commission of Uganda and staff of the Ministry of Foreign Affairs.
- 8) Before ending the mission the chairperson visited the central prison in Kampala.
- 9) The need to expedite Anti- Torture Bill currently before National Assembly for consideration was raised with the Attorney General and the Uganda Human Rights Commission as well as the relevant NGOs.
- 10) **On 21-23 October 2009** the chairperson conducted promotional mission to the Republic of Benin. The mission was in furtherance of an invitation by the delegation of the Republic of Benin to the Chairperson during the 45th Ordinary Session of the ACHPR to promote RIG in Benin. The Mission to the Republic of Benin was undertaken with some members of the follow-up Committee of the Robben Island Guidelines namely:
 - M. Jean Baptiste Niyizurugero, Vice-Chairperson of the RIG Committee
 - M. Malick Sow, Member of the RIG Committee
 - Mme Hannah Forster, Member of the RIG Committee
 - Mr. Sheikh Tijan Hydera, Legal Counsel, ACHPR Secretariat
 - Mr. Hans Draminsky Petersen, Member of the United Nations Sub-Committee for the Prevention of Torture (SPT), member of the delegation as a Resource Person
- 11) During the Mission the Chairperson had constructive dialogue with Beninese Authorities on Government Policies and measures put in place for the prevention and protection of torture. The Mission provided an opportunity to promote and sensitize relevant stakeholders on the RIG and the need to use the guidelines in their torture prevention programmes.

- 12) A one-day seminar on the Robben Island Guidelines for the Prevention of Torture in Africa was organized by the delegation in collaboration with the Ministry of Justice and the Association for the Prevention Against Torture (APT). Over 30 participants from The Ministry of Justice, the National Assembly (Bureau and Laws Commission), Supreme Court, The Police, Gendarmerie, Prison Services, Members of the Media, and Human Rights NGOs attended and participated in this workshop.

- 13) The mission benefited from the collaboration of the Commission with the UN with the presence of Dr. Hans Draminsky Petersen, member of the United Nations Sub-Committee for the prevention and protection of Torture (SPT) as a resource person. His intervention enhanced and assisted in the realization of the objective of the mission.

- 14) The Chairperson welcomes this collaboration and expresses her gratitude to the APT for facilitating and sponsoring the participation of the other members of the follow-up Committee to the mission.

Conclusions and Recommendations

Challenges

- 15) Torture, cruel, inhuman and degrading treatment or punishment remains prevalent worldwide and nonetheless in Africa. The Challenge of preventing torture is immense and daunting. Daunting because the methods devised to perpetrate this practice continues to be more and more sophisticated, with the resultant effect of diminishing obvious signs of its application.
- 16) The challenge of impunity by perpetrators of torture practice is also obvious. Agents of State party who by virtue of their position see torture as a very effective tool to extract confession and information are not readily brought to book. This is also facilitated by the fact that very few African countries have criminalised torture. The consequence is that proper prosecution of this evil practice is impaired, as it cannot be properly situated with the law.
- 17) States carry out half treated prosecution of acts amounting to torture under the guise of crimes causing grievous harm or assault. These crimes do not adequately represent the repressive, humiliating and incapacitating consequence of the use of torture
- 18) The following countries have criminalized torture in Africa, and these are;
 - ❖ Madagascar
 - ❖ Cameroon
 - ❖ Benin – The process is ongoing.
 - ❖ Uganda –The process is ongoing.
 - ❖ Ghana – The process is ongoing.
- 19) Cruel inhuman and degrading treatment or punishment most obvious in prison, police cells and other detention centres under the control of State Parties is also a course for concern.
- 20) Unannounced visits to prisons and places of detention have the potential of ensuring compliance with the minimum standards of place of detention and consequently reduce the use of torture, cruel inhuman and degrading treatment or punishment.
- 21) The importance of ratification of the Optional Protocol of the Convention Against Torture (OPCAT) in this wise cannot be

overemphasized as State Parties to this protocol will upon ratification commit to opening their prisons and other places of detention for regular and unannounced visit by members of the SPT.

22) The following Countries in Africa have ratified the OPCAT and these are:

- ❖ Senegal
- ❖ Nigeria
- ❖ Mali
- ❖ Liberia
- ❖ Benin and
- ❖ Mauritius.

Conflict

23) The Situation of conflict in Africa also serves as a breeding ground for citizens to be subjected to torture, cruel, inhuman and degrading treatment or punishment. The situation in Somalia, Guinea and other countries in conflict are apt.

24) However the Chairperson is pleased to report the following positive development in Africa in area of torture prevention

25) The Chairpersons welcomes the ratification by the Federal republic of Nigeria of the OPCAT in August 2009 making it the 6th African member Country.

26) The chairperson also welcomes the steps taken by the Republic of Sudan in prosecuting police officers in 2 cases involving custodial killings as a result of the use of torture. The Commission awaits the outcome of the trial.

27) The republic of Uganda is in the process of criminalising torture. The chairperson welcomes this move and urges the state to expedite the process so that prosecution of the perpetrators of the torture can be well situated in Law.

28) The chairperson urges the republic of Benin having ratified the OPCAT to promptly put in place in National preventive mechanism for proper monitoring of detention places. She welcomes the initiative of the State to Criminalised torture within the content of the Penal Code Bill currently before Parliament. She further urges the State to hasten the process of adoption of the bill as well as the Penal Procedure Code Bill.

- 29) The situation in Senegal is also worth noting. A law establishing a National Prevention Mechanism (NPM) has been adopted pursuant to the ratification of OPCAT. However the membership of the NPM has not been composed. The Chairperson urges the State to expedite the composition of the members of the NPM.
- 30) In Togo, the draft law on the ratification of OPCAT is currently before the parliament. The Chairperson welcomes this move and urges State to hasten its adoption.

Recommendations

- 31) The Chairperson as a first step to prevention of torture urges State Parties who have not criminalized torture to urgently do so.
- 32) The Chairperson also urges State Parties who have not ratified the OPCAT to do so, and to set up the National Preventive Mechanism in compliance with the duty so imposed.
- 33) There is need to CONTINUE to sensitise law enforcement agencies of State Parties against the use of torture in their work. The Chairperson underlines the word continue because law enforcement agents are not ignorant of the prohibition of torture, but there is a need for a change of mind set beginning from the junior to senior officer of police and other law enforcement agents.
- 34) The African Commission will continue to engage state parties during promotion mission, not only on the prohibition of torture, but on the importance of the use of the RIG developed by the Commission to assist State Parties and relevant stake holder in the prevention of torture.