

AFRICAN UNION

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African Commission on Human & Peoples' Rights

Commission Africaine des Droits de l'Homme et des Peuples

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**REPORT OF
THE FIRST WORKING SESSION OF THE FOLLOW
UP COMMITTEE ON THE IMPLEMENTATION OF
THE ROBBEN ISLAND GUIDELINES**

**JOINTLY ORGANISED BY THE AFRICAN
COMMISSION AND THE ASSOCIATION FOR THE
PREVENTION OF TORTURE (APT) IN
COLLABORATION WITH THE UNIVERSITY OF
BRISTOL - SCHOOL OF LAW**

***19TH – 20TH FEBRUARY 2005
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I. Introduction and background

The African Charter on Human and Peoples' Rights provides for the establishment of a regional human rights body - the African Commission on Human and Peoples' Rights (ACHPR), with the mandate to promote the observance of the Charter, monitor its implementation, ensure the protection of the rights and freedoms set out therein, interpret the Charter and advise on its implementation.

Article 5 of the African Charter provides that every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

The African Commission has established working groups (committees) composed of Commissioners and independent experts to among other things, undertake research and gather information on specific human rights issues on the continent. One such Working Group (Committee) is the Working Group on the Implementation of the Robben Island Guidelines (RIG) for the Prevention and Prohibition of Torture also known as the Follow-up Committee on the Robben Island Guidelines established by the African Commission at its 35th Ordinary Session in May 2004.

The Robben Island Guidelines were developed from a meeting organised by the Association for the Prevention of Torture (APT) in February 2002 in Cape Town, South Africa. These Guidelines were adopted by a resolution of the African Commission during the 32nd Ordinary Session in October 2002. This was a significant progress in addressing torture and cruel, inhuman or degrading treatment or punishment in Africa. The Guidelines have been disseminated to all partners of the African Commission including State Parties to the African Charter.

However, the adoption of the RIG was by itself not enough to ensure the prevention and prohibition of torture, thus the establishment of the Follow up committee of the RIG with the following mandate:

- To organise, with the support of interested partners, seminars to disseminate the Robben Island Guidelines to the national and regional stakeholders;
- To develop and propose to the African Commission strategies to promote and implement the RIG within Member States;
- To promote and facilitate the implementation of the Robben Island Guidelines within Member States.
- To make a progress report to the African Commission at each of its ordinary session.

The following persons were nominated at the 35th Ordinary Session of the African Commission to serve on the Follow up Committee and were present at the meeting:

- Commissioner Sanji Monageng, Member of the African Commission and Chairperson of the Committee;
- Ms Hannah Forster, Executive Director of the African Centre for Democracy and Human Rights Studies;
- Adv. Karen McKenzie, Executive Director of the Independent Complaints Directorate in South Africa;
- Mr. Jean Baptiste Niyizugero, Africa Programme Officer, Association for the Prevention of Torture;
- Ms Laila Zerrougui – Magistrate and Professor of Law at the National Institute of Magistracy in Algiers and Member of the United Nations Sub-Commission on the Promotion and Protection of Human Rights and;
- Mr. Malick Sow, Executive Secretary of the National Human Rights Institution of Senegal.

Were assisted by:

- Mr. Germain Baricako, Secretary to the African Commission;
- Mrs. Annie Rashidi Mulumba, Legal Officer, Secretariat of ACHPR

Were also present as observers:

- Professor Malcom Evans, Board Member of APT;
- Ms Fiona Adolu.

II. Meeting discussions and decisions

Item 1- Objective of the meeting

The main objective of the Working Session was to formulate strategies and to draw up an effective Plan of action or programme of activities for the promotion, dissemination and the implementation of the Robben Islands Guidelines (RIG).

Item 2 - Officers of the Committee

The African Commission appointed Mrs. Sanji Chairperson of the Committee. During the Bristol Meeting, Mr. Jean Baptiste Niyizurugero was elected Vice-Chairperson of the Follow up Committee.

Item 3 - Discussion on the functioning of the Committee

- Rules of Procedures

It was agreed that in the execution of its mandate, the Follow up Committee would adopt achievable practical procedures and mechanisms in order to ensure its efficacy. Furthermore, in drafting its internal rules, the Follow up Committee

would be guided by the Rules of procedures of the African Commission in accordance with Rules 30 and 31 of the Rules of Procedures of the African Commission. (Attached hereto in **Annex 1** is the draft Rules of Procedures of the Follow up Committee)

Item 4- Discussion on the Role of the African Commission

- **Terms of Reference**

The Terms of Reference of the Follow up Committee are included in the African Commission's Resolution on the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading treatment or punishment in Africa, attached hereto as **Annex 2**.

- **Input from the Bureau and Use of the RIG by the ACHPR**

It was agreed that the African Commission will engage in evaluating the efficacy of the mechanisms used by States in their efforts to implement the Guidelines by requesting them to state the extent to which they have implemented the Guidelines. The African Commission will also be involved in lobbying African States to ratify the Optional Protocol to the UN Convention against Torture.

During their promotional missions, Members of the African Commission will promote and disseminate the provisions of the RIG and fully support the work of the committee.

The African Commission will request States to report on the promotion, dissemination and implementation of the RIG especially when submitting reports under Article 62 of the African Charter.

In the drafting of concluding observations, the African Commission will, on one hand, acknowledge particular measures taken by State Members to implement the RIG and on the other hand, will ask State Members to make further efforts to implement the RIG if weaknesses are observed.

The secretariat of the African Commission shall endeavour to provide its assistance to the Committee in the implementation of their mandate. The meeting agreed that the Secretariat of the African Commission will initiate diplomatic contacts to obtain required authorization by States for field missions of the Committee. In addition, the Secretariat will circulate the Robben Islands Guidelines and the Ouagadougou recommendations to National Human Rights Institutions with affiliate status and NGOs having observer status with the African Commission and request them to assist the Follow up Committee in the implementation of the RIG.

The meeting agreed that the Chairperson of the Follow-Up Committee, or the Vice-Chair at her absence, will report at each Ordinary Session of the African Commission on various activities undertaken by the Committee to disseminate, promote and implement the RIG.

Item 5- Cooperation with Other Stakeholders

The Committee shall seek cooperation with all stakeholders including:

- **States Parties**

The Committee will cooperate with State Parties by engaging in training programs within the States. The Committee will provide training to:

- Government officials on State reporting on torture in their periodic reports;
- Judicial officials on appropriate law with regards to torture;
- Legislative bodies on the adoption of appropriate laws including the criminalization of torture;
- Policy makers on policy development including the incorporation of the Robben Island Guidelines in governmental policies.

The States Parties are also requested to cooperate with the Follow-Up Committee by implementing the recommendations proposed by the African Commission or the Committee.

The Secretariat of the African Commission will send “notes verbale” to State Members to inform them on the establishment of the Committee and its mandate.

- **NGO’s and National Human Rights Institutions**

The meeting requested the Secretariat to send copies of the RIG to NGO’s and National Human Rights Institutions and introduce them to Members of the Committee.

The African Commission was encouraged to request NGOs and National Human Rights Institution to provide logistical support and supplementary aid such as training to judges and advocates and engaging in research and studies for an effective implementation of the RIG.

NGOs and National Human Rights Institutions will be encouraged to bring cases to Court on behalf of individuals within the State, to the African Commission and the African Court on Human and Peoples’ Rights as well as thoroughly monitor the proper use of the law in the criminalisation and punishment of torture. An important focus of the Committee in this regard will be to train human rights advocates, lawyers and investigators on how to monitor, litigate and investigate allegations of torture.

The meeting agreed on the importance to include the issue of torture prohibition and prevention in the agenda of the NGO Forum as well as of the National Human Rights Institutions Meeting, which are scheduled to take place prior to African Commission sessions, in order to promote the RIG.

The meeting also highlighted the need to have key partners in countries in order to facilitate the flow of information.

- **UN Bodies/Agencies**

The collaboration between the UN Bodies/Agencies and the Committee will be aimed at joint studies, missions, country visits, research and workshops with, among others, the UN Special Rapporteur on Torture. Exchange of information, material and human resources and training for Committee members and staff will also be key ways of collaboration between UN bodies and the Committee. Representation of the Committee at meetings of the UN appropriate Bodies/Agencies such as the Committee Against Torture, will also be encouraged.

Item 6- Financial and Human resources

- **Financial Resources**

It was decided that the main source of funding for the Committee shall be from the African Union. Resources shall also be solicited from the donor community and other stakeholders. In addition, Members of the Committee are encouraged to initiate contacts, identify potential partners and seek resources from partner organizations and inform the Secretariat of the Commission for further negotiations.

- **Human Resources**

The meeting decided that human resources shall be provided by the Secretariat of the African Commission on Human and People's Rights, as well as potential partners. It will also be vital to seek advice, consultation and input from prominent experts in the human rights field in the discharge of the mandate of the Committee. It was agreed that an Assistant to the Follow up Committee will be based at the Secretariat as the Focal Point and be involved in the provision of other technical assistance, including writing project proposals, making follow up and advocacy work.

Item 7- Plan/ Programme of activities

The main programme of activities to be used by the Follow-Up Committee to facilitate its efforts in reaching its objective of promoting the Robben Island Guidelines and their implementation will entail the following:

- Organizing seminars, campaigns and training sessions in countries to promote the Robben Island Guidelines and to ensure their dissemination;
- Publishing position papers, articles relating to the Guidelines;
- Identifying pilot countries and pilot projects for case studies;
- Organizing activities in pilot countries in order to stimulate and initiate national plans of action for implementation of the Robben Island Guidelines;
- Conducting studies and research on issues relating to themes developed in the Robben Island Guidelines in order to develop strategies to promote the implementation of the Robben Island Guidelines at national and regional levels and producing policy documents for adoption by the Commission;
- Publication and dissemination of the Ouagadougou Recommendations.

III. Closing of the meeting

In her closing remarks, the Chairperson of the Committee expressed appreciation to the experts and to the African Commission for creating such a mechanism. She emphasized on the need to appreciate efforts that Africa is putting in trying to improve the situation of its citizen. Finally, the Chairperson thanked the organizers, namely, the African Commission, the Association for the Prevention of Torture and the University of Bristol - School of Law, for the realization of this meeting and expressed the availability of the African Commission to facilitate the work of the Committee.

Annex 1 –

RULES OF PROCEDURES OF THE FOLLOW-UP COMMITTEE ON THE IMPLEMENTATION OF THE ROBBEN ISLANDS GUIDELINES

The Follow up Committee on the implementation of the Robben Islands Guidelines (the Committee) acting in accordance with Rules 30 and 31 of the Rules and Procedures of the African Commission on Human and Peoples' Rights has adopted the present Rules of Procedure:

Rule 1 – Number and Place of meetings

The Committee shall hold two meetings per year or as necessary, at the Headquarters of the African Commission on Human and Peoples' Rights, in Banjul, The Gambia, or elsewhere as may be necessary.

Rule 2 – Quorum

The quorum shall be constituted by 2/3, being 4 members of the Committee

Rule 3 – Decisions of the Committee

Decisions of the Committee shall be reached by consensus or through voting if called for.

Rule 4 – Resignation of Members

In case of resignation, the member who resigns shall address a written notification of his/her resignation directly to the Chairperson of the Committee who shall inform the Chairperson of the African Commission on Human and Peoples' Rights.

Rule 5 – Power of the Chairperson

The Chairperson is the spokesperson of the Committee. In the absence of the Chairperson, the Vice-Chairperson shall replace him/her.

Rule 6 – Promotion of the RIG

Members of the Committee shall initiate/take any measures to disseminate, promote and implement the Robben Islands Guidelines and inform the Committee accordingly.

Rule 7 – Cooperation

The Committee shall seek cooperation with Members States, National Human Rights Institutions, UN Bodies/Agencies, NGOs or any relevant partners and experts working for the prevention and prohibition of torture, cruel, inhuman or degrading treatment.

Rule 8 – Confidentiality

The work of the Committee shall be confidential.

Rule 9 – Reporting

The Committee, through its Chairperson, shall submit to each ordinary session of the African Commission a progress report of its activities and make recommendations, as it deems useful.

Rule 10 – Finances

The African Union shall provide the necessary funds for the effective discharge of the duties of the Follow up Committee. However, Members of the Committee shall be encouraged to seek funds for the Committee from various partners.

Annex 2-

Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa

The African Commission on Human and Peoples' Rights, meeting at its 32nd ordinary session, held in Banjul, The Gambia, from 17th to 23rd October 2002;

Recalling the provisions of -:

- Article 5 of the African Charter on Human and Peoples' Rights that prohibits all forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment;
- Article 45 (1) of the African Charter which mandates the African Commission to, inter alia, formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Governments may base their legislations;
- Articles 3 and 4 of the Constitutive Act of the African Union wherein States Parties undertake to promote and respect the sanctity of human life, rule of law, good governance and democratic principles;

Recalling further its Resolution on the Right to Recourse Procedure and Fair Trial adopted during its 11th ordinary session, held in Tunis, Tunisia, from 2nd to 9th March 1992;

Noting the commitment of African States to ensure better promotion and respect of human rights on the continent as reaffirmed in the Grand Bay Declaration and Plan of Action adopted by the 1st Ministerial Conference on Human Rights in Africa;

Recognising the need to take concrete measures to further the implementation of existing provisions on the prohibition of torture and cruel, inhuman or degrading treatment or punishment;

Mindful of the need to assist African States to meet their international obligations in this regard;

Recalling the recommendations of the *Workshop on the Prohibition and the Prevention of Torture and Ill-treatment*, organised jointly by the African Commission and the Association for the Prevention of Torture, on Robben Island, South Africa, from 12th to 14th February 2002;

1. **Adopts** the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines).
2. **Establishes** a Follow-up Committee comprising of the African Commission, the Association for the Prevention of Torture and any prominent African Experts as the Commission may determine.
3. **Assigns** the following mandate to the Follow-up Committee -:
 - To organise, with the support of interested partners, seminars to disseminate the Robben Island Guidelines to national and regional stakeholders.
 - To develop and propose to the African Commission strategies to promote and implement the Robben Island Guidelines at the national and regional levels.
 - To promote and facilitate the implementation of the Robben Island Guidelines within Member States.
 - To make a progress report to the African Commission at each ordinary session.
4. **Urges** Special Rapporteurs and Members of the African Commission to widely disseminate the Robben Island Guidelines as part of their promotional mandate.
5. **Encourages** States parties to the African Charter, in their periodic reports to the African Commission, to bear in mind the Robben Island Guidelines.
6. **Invites** NGOs and other relevant actors to widely disseminate and utilise the Robben Island Guidelines in the course of their work.