

9 December 2013

Committee for the Prevention of Torture in Africa

Re: Support for the Right to Reparation for Victims of Torture in Africa

Dear honourable Chairperson Mute, dear honourable members of the Committee for the Prevention of Torture in Africa,

We, the undersigned civil society organisations, congratulate you on your recent appointment as Commissioner of the African Commission on Human and Peoples' Rights, and as Chair of the Commission's Committee for the Prevention of Torture in Africa (CPTA). We extend our congratulations to Commissioner Asuagbor on her appointment as member of the Committee, and all other members on the renewal of their appointments.

As organisations providing medical, psychological and / or legal assistance to, and advocating for the rights of victims of torture and other cruel, inhuman or degrading treatment or punishment ('ill-treatment') throughout Africa, we are working to ensure that victims' needs and rights are adequately addressed and implemented at national and (sub-) regional level. We therefore look forward to continue collaborating with and supporting the CPTA in its work on the rights of victims, including their right to adequate reparation as reflected in part III of the Robben Island Guidelines. The CPTA in particular has a crucial role to play in strengthening the rights of victims of torture and ill-treatment in Africa and in providing advice and technical support to national actors on the implementation of the Robben Island Guidelines.

We hope to have a meeting with the CPTA in the near future to discuss how to further strengthen the rights of victims of torture and ill-treatment in Africa, including through the adoption of a General Comment on part III of the Robben Island Guidelines.

We would also like to use this opportunity to briefly outline an initiative of our organisations on the right to reparation for victims of torture in Africa, and in which we hope to continue engaging the CPTA in the future.

1. Background on the "Pan-African Right to Reparation Initiative"

The Commemorative Seminar on the 10th Anniversary of the Robben Island Guidelines, held in Johannesburg on 21-23 August 2012, highlighted the progress made in the region in terms of prevention and prohibition of torture and ill-treatment. However, the Seminar equally emphasised that there is a need for concerted efforts on strengthening the rights of victims as enshrined in part III of the Robben Island Guidelines, including in particular the right to reparation.¹ At an expert meeting on the right to reparation for victims in Africa in advance of the 53rd Ordinary Session of the African Commission, practitioners working in and with (sub-)

¹The Commemorative Seminar was organised by the African Commission in collaboration with the UN Office of the High Commissioner for Human Rights, the South African Human Rights Commission and the Association for the Prevention of Torture, see further Outcome Document "Johannesburg Declaration and Plan of Action on the Prevention and Criminalization of Torture in Africa", at http://www.achpr.org/files/special-mechanisms/cpta/johannesburg_declaration_final.pdf.

regional mechanisms, including representatives of the CPTA, have underlined that further guidance on the right to reparation for victims of torture and ill-treatment is necessary so as to strengthen victims' access to justice, including reparation, at national and regional level.²

The participants' recommendations included that the CPTA develop a General Comment on part III of the Robben Island Guidelines. As a result of the expert meeting, a network of civil society organisations and experts working with and advocating for the rights of victims of torture and ill-treatment throughout Africa was established to further follow up on these recommendations. In addition, the first edition of a bi-annual newsletter entitled "Pan-African Reparation Perspectives" that seeks to monitor relevant developments across Africa was published on 26 June 2013. While the newsletter provides further background on the initiative, we wish to draw your attention in particular to the article by Jean-Baptiste Niyizurugero on the role of the CPTA in facilitating justice and redress for victims of torture and ill-treatment in Africa.³

2. A CPTA General Comment on Part III of the Robben Island Guidelines

A General Comment on part III of the Robben Island Guidelines could help address current challenges preventing victims of torture and ill-treatment from obtaining adequate reparation at national (and regional) level. These include, for instance, gaps between the normative framework and international standards on the right to reparation and contextual realities on the ground as well as a lack of awareness of the content on the right to reparation. It could further set out the obligations of States and in that respect hone in on specific African responses to recent developments under international law, including in particular, the UN Committee against Torture's General Comment No.3. A General Comment on part III of the Robben Island Guidelines could draw from and consolidate the Commission's existing jurisprudence, including its concluding observations on State's periodic reports, and jurisprudence from other regional and international mechanisms as well as (sub-) regional perspectives on what constitutes reparation for victims.

A General Comment on part III of the Robben Island Guidelines would enable the CPTA to provide State Parties and other stakeholders with authoritative views and guidance for ensuring that victims of torture obtain justice, including adequate reparation in line with international standards. In addition, it could assist the African Commission in assessing State compliance with the Robben Island Guidelines and their obligations under Article 5 of the Charter in the consideration of State's periodic reports. A General Comment on part III of the Guidelines could furthermore contribute to the development of the Commission's jurisprudence on the right to reparation for victims of torture and ill-treatment where it finds a State in violation of Article 5. Lastly, a General Comment on the rights of victims would furthermore underline that victims, their needs and rights, are at the centre of the CPTA's work. Overall, a

² "Expert Meeting: Right to Reparation for Torture: the role of African Human Rights Mechanisms", organised by the Centre for the Study of Violence and Reconciliation and REDRESS, in partnership with the Egyptian Initiative for Personal Rights, Prisoners Rehabilitation and Welfare Action, Action pour la protection de Droits de l'Homme, Independent Medico-Legal Unit, 5-6 April 2013, at http://www.redress.org/downloads/Concept-Note_Expert-meeting-on-Reparation_Eng.pdf.

³ See 'Pan African Reparation Perspectives- Special Bulletin on Reparation for Victims of Torture in Africa', 26 June 2013, p.4, at <http://www.prawa.org/wp-content/uploads/2013/06/Newsletter-Redress-ENGLISH-FINAL.pdf>; a second edition of the newsletter will be published in January 2014.

General Comment on part III of the Robben Island Guidelines could significantly strengthen the right of victims.

The drafting of a General Comment would be within the mandate of the CPTA, given its “important role in the issuance of authoritative comments on specific provisions of the Robben Island Guidelines, and provid[ing] legal guidance and interpretation to facilitate the effective national implementation of the Robben Island Guidelines by all stakeholders.”⁴ Furthermore, Article 45 (1) (b) of the African Charter authorises the African Commission to “formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples’ rights.” As an important complement to the African Charter, the Robben Island Guidelines fall within the Commission’s interpretative scope, and the CPTA is best placed to lead the Commission’s approach to the interpretation of the Robben Island Guidelines.

3. Proposed next steps

Given our organisations’ different areas of expertise, and our representation throughout Africa, we believe that our organisations are well placed to provide input into the CPTA’s strategy on the rights of victims.

Building on the CPTA’s previous indication to support, in principle, the drafting of a General Comment on part III of the Robben Island Guidelines, we hope to collaborate with the CPTA in that respect. Following a strategy meeting of several members of the Reparation Network at the 54th Ordinary Session of the African Commission, we would like to offer our assistance to the CPTA in the drafting of the General Comment. Specifically, we would like to organise a meeting with the CPTA to exchange on a basic first draft of a General Comment in more detail.

We stand ready to assist the CPTA on this and other aspects of its important work in the future, and look forward to hearing from you.

Yours sincerely,

African Centre for Treatment and Rehabilitation of Torture Victims (ACTV)

Action pour la Protection des Droits de l’Homme (APDH)

Association for the Prevention of Torture (APT)

Article 5 Initiative

Cairo Institute of Human Rights Studies

Collectif des Familles de Disparus en Algérie (CFDA)

Centre for the Study of Violence and Reconciliation (CSVR)

⁴ Johannesburg Declaration and Plan of Action on the Prevention and Criminalization of Torture in Africa (August 2012).

Egyptian Initiative for Personal Rights (EIPR)
International Federation for Human Rights (FIDH)
Human Rights Implementation Centre, University of Bristol
Independent Medico Legal Unit (IMLU)
International Rehabilitation Council for Torture Victims (IRCT)
Kenyan Human Rights Commission
Khulumani Support Group
Pan African Lawyers Union (PALU)
Prisoners' Rehabilitation and Welfare Action (PRAWA)
REDRESS
Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO)
World Organisation against Torture (OMCT)
Zimbabwe Human Rights NGO Forum
Zimbabwe Lawyers for Human Rights (ZHLR)