

ACHPR/Res.472 (LXVII) 2020: Resolution on the prohibition of the use, production, export and trade of tools used for torture

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 67th Ordinary Session held virtually, from 13 November to 03 December 2020;

Recalling its mandate to promote and protect human and peoples' rights in Africa pursuant to Article 45 of the African Charter on Human and Peoples' Rights (the African Charter);

Recalling also Articles 4, 5, and 6 of the African Charter, which commit States Parties to uphold the right to life and integrity of person, the right to the respect of the dignity inherent in a human being and prohibition of all forms of torture, cruel, inhuman or degrading punishment and treatment, arbitrary arrest, and detention of persons;

Further recalling its Guidelines and Measures for the Prohibition and Prevention of Torture and Cruel, Inhuman or Degrading Treatment or Punishment in Africa (the Robben Island Guidelines) of 2004, in particular the obligation under Guideline 14 that States should prohibit and prevent the use, production and trade of equipment or substances designed to inflict torture or ill-treatment and the abuse of any other equipment or substance to these ends;

Recognizing its Luanda Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa (the Luanda Guidelines of 2014), in particular that any use of force must be proportionate and always at the most minimal level necessary, and the limit on the permissible use of restraints, and the type of restraints;

Acknowledging Resolution ACHPR/Res. 348(LVIII) 2016 on the Collaboration between the African Commission on Human and Peoples' Rights and Partners on Promoting the revised United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), noting that the use of chains, irons or other instruments of restraint which are inherently degrading or painful shall be prohibited;

Recalling also the Commission's press statement of 28 February 2020, its statement on human rights based effective response to the novel COVID-19 virus in Africa of 24 March 2020, and its Resolution ACHPR/Res. 449 (LXVI) 2020 on Human and Peoples' Rights as central pillar of successful response to COVID-19 and recovery from its socio-political impacts;

Noting that the continuation as well as negative impact of the COVID-19 pandemic since its outbreak, including its triggering effect for acts of torture or other cruel, inhuman or degrading treatment or punishment;

Cognizant that individuals arrested or in police custody, pre-trial detainees, and those in detention in some African States are subject to torture, inhuman and degrading treatment or punishment carried out by various State and non-State actors, through the use or misuse of equipment and substances that either have no practical purpose other than for torture, or that can easily be misused to inflict torture;

Recognizing that police and prison staff in some African States lack suitable equipment, to ensure that any use of force or restraints is lawful and appropriate, and budget provisions for providing for the essential needs of detainees during custody;

Recognizing also that all police and prison staff should receive ongoing human rights-based training to assist in the prevention of torture;

Noting the launch of the Alliance for Torture-Free Trade and the membership of a number of African States;

Noting also the UN General Assembly Resolution [A/RES/73/304](#), “Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards” for the production, trade, export, import and use of equipment that has no practical use other than for the purpose of torture or other cruel, inhuman or degrading treatment or punishment;

Supporting the Committee for the Prevention of Torture in Africa Annual Theme for 2020 of the ‘prohibition of the use, production, and trade of equipment or substances designed to inflict torture or ill-treatment;

The African Commission:

1. **Urges** States Parties to the African Charter to draw on the provisions of the Robben Island Guidelines and to address the gaps in applicable laws, policies and practice with the view to prohibit and prevent the use, production, export and trade of equipment or substances designed to inflict torture or ill-treatment and the abuse of any other equipment or substance to these ends;
2. **Encourages** States Parties to support and fully engage with the ongoing UN General Assembly process examining the feasibility, scope and parameters for possible common international standards and to support the Group of Governmental Experts in this regard;
3. **Calls on** States Parties to prohibit the use of chains, irons or other instruments of restraint which are inherently degrading or painful; and
4. **Requests** the Commission to report on the situation of the use, production, export and trade of law enforcement equipment and

other related goods employed in torture and other ill-treatment in the Member States of the African Union; and develop guidance for States Parties to the African Charter to effectively regulate the production trade in such equipment, to be presented at its 68th Ordinary Session.

Done virtually, on 03 December 2020