

ACHPR/Res.228 (LII) 2012: RESOLUTION ON THE NEED TO DEVELOP GUIDELINES ON CONDITIONS OF POLICE CUSTODY AND PRE-TRIAL DETENTION IN AFRICA

The African Commission on Human and Peoples' Rights (the Commission) meeting at its 52nd Ordinary Session, held from 9 to 22 October 2012 in Yamoussoukro Cote d'Ivoire;

Recalling its mandate to promote human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Noting Articles 4, 5, 6, 7, and 26 of the African Charter on the rights to life, dignity, security, fair trial, and the independence of the judiciary;

Noting further its mandate under Article 45(1)(b) of the African Charter “*to formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African states may base their legislation*”;

Concerned by abusive recourse to police custody and pre-trial detention prevalent in several States Parties to the African Charter characterized by weak criminal justice system;

Acknowledging that individuals in police custody and pre-trial detainees in many African countries experience arbitrary limitations on their rights, poor health conditions and are subject to torture, inhumane and degrading treatment or punishment;

Noting that pre-trial detention disproportionately impacts the vulnerable and marginalised who are unlikely to have the means to afford legal assistance or to be released on bail;

Recognising that arbitrary arrest, detention and conditions of police custody in many African countries are characterised by lack of accountability; poorly paid and under-resourced police; mal-functioning of the administration of justice, including the lack of independence of the judicial service system; the excessive and disproportionate use of force by the police; the lack of registration and monitoring systems for keeping track of police detention; systemic corruption and the lack of resources resulting in the absence of the rule of law;

Concerned by the lack of respect of national legislations relating to police custody and pre-trial detention by the police and other law enforcements agents, and the ineffectiveness of monitoring mechanisms;

Recognising the need to formulate and lay down principles and guidelines to further strengthen the criminal justice system in States Parties with regards to police custody and pre-trial detention, and to ensure compliance with

international norms and principles by the police and other law enforcement agents;

Decides to authorize the Special Rapporteur on Prisons and Conditions of Detention in Africa (the Special Rapporteur) to develop a Guideline on the Conditions of Police Custody and Pre-trial Detention in Africa (the Guidelines), including tools for its effective implementation ;

Calls upon States Parties, civil society and other stakeholders, to collaborate with the Special Rapporteur by contributing to the process of developing the Guidelines;

Request the Special Rapporteur to report the progress made in developing the Guidelines at its next Ordinary Session.

Adopted at the 52nd Ordinary Session of the African Commission on Human and Peoples' Rights in Yamoussoukro, Cote d'Ivoire, 9 to 22 October 2012