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30th Anniversary of the Adoption of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

Panel 1: Promoting the Universal Ratification of the Convention against Torture

**Statement by Commissioner Lawrence Murugu Mute,
Member of the African Commission on Human and Peoples' Rights,
Chairperson of the Committee on the Prevention of Torture in Africa**

4 November 2014
Geneva, Palais de Nations

Distinguished Ladies and Gentlemen, all protocols duly observed.

It is my singular honour and privilege to make this statement on the occasion of the 30th anniversary of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture), and contribute to this panel discussion on *Promoting the Universal Ratification of the Convention*. I would like to express, on behalf of the Committee for the Prevention of Torture in Africa (CPTA), and on my own behalf, my sincere congratulations for 30 years of work towards the eradication and prevention of torture and ill treatment around the world.

The Convention against Torture, which was adopted by the United Nations (UN) on 10 December 1984, is still as relevant 30 years after its adoption, in a world where torture remains widespread. As stated in the 2014 Report of Action by Christians for the Abolition of Torture (ACAT), torture is “a present-day reality and not a vestige of medieval times”.¹ It is therefore crucial to continue striving for the universal ratification and domestication of the Convention against Torture and its Optional Protocol.

The African Commission on Human and Peoples’ Rights (the African Commission), which was established in 1987, includes 15 Special Mechanisms which facilitate the promotion of human and peoples’ rights in Africa. The roles of Special Mechanisms include the *formulation of principles and rules for solving legal problems relating to human and peoples’ rights and fundamental freedoms upon which African governments may base their legislation*.

Distinguished Ladies and Gentlemen,

The CPTA is one such Special Mechanism. This Mechanism was initially known as the Follow-up Committee on the Implementation of the Robben Island Guidelines, established by the African Commission in October 2002 to facilitate the dissemination

¹ Action by Christians for the Abolition of Torture (ACAT) ‘A world of torture report’ 2014, p. 13.

and implementation of the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (the Robben Island Guidelines). The Robben Island Guidelines expound on Article 5 of the African Charter on Human and Peoples' Rights on the prohibition of torture and cruel, inhuman and degrading treatment, and further provide practical guidance for national actors which encompass principles on the prohibition and prevention of torture contained in other regional and international instruments. The Robben Island Guidelines constitute an essential tool for use by African States in fulfilling their regional and international obligations of implementing set standards for the prohibition and prevention of torture.

The mandate of receiving individual complaints resides with the African Commission itself. Over the years, the African Commission has received and determined over 30 Communications which relate to allegations of torture and ill treatment. Recent such Communications include *Communication 368/09 - Abdelhadi Ali Radi and Others v the Republic of The Sudan* and *Communication 288/04 - Gabriel Shumba v the Republic of Zimbabwe*. In both Communications, the Respondent States were found in violation of Article 5 of the African Charter and requested to pay adequate compensation to the victims, to carry out inquiries and investigations to bring perpetrators to justice, and where appropriate, to amend legislation incompatible with the African Charter, as well as to train security officers on relevant standards concerning adherence to custodial safeguards and the prohibition of torture.

Since its establishment, the CPTA has worked to disseminate, promote and implement the Robben Island Guidelines, as well as other crucial instruments in the area of torture prevention and prohibition, including the Convention against Torture.

The CPTA appreciates and commends the work done by the Committee against Torture, and attaches great importance to the relationship that exists between the African Commission and the UN, especially in light of the principle of cooperation that

is enshrined under Article 45 (1) (c) of the African Charter. For instance, in July 2014, within this spirit of cooperation, the Petitions and Enquiry Section of the UN Office of the High Commissioner for Human Rights, responsible for processing individual complaints alleging human rights violations submitted to the various Committees, as well as the Secretariat of the African Commission, each designated focal points for the exchange of information about individual complaints that might be useful between the two human rights mechanisms.

Further, weekly briefing notes on the activities of UN Special Procedures are circulated to members of the African Commission and staff of the Secretariat of the African Commission.

The CPTA, during its mission to Mauritania, which was conducted from 26 to 31 March 2012, used the Mission Report on Mauritania by the UN Special Rapporteur on Contemporary Forms of Slavery as a basis for engagement with the Mauritanian authorities on the issue of slavery. In this regard, end of mission statements by UN Special Procedures in Africa are usually circulated to concerned focal points within the African Commission.

I should stress that the Convention against Torture is as much an African instrument as it is international, with at least 45 African States having ratified it. The CPTA will continue to advocate for the ratification and domestication of this significant Convention. It will also continue to encourage African States to become party to the Optional Protocol to the Convention against Torture as well as establishing more National Preventive Mechanisms.

Although the African Commission's Special Mechanisms and the UN Special Procedures have made significant progress in the area of cooperation, there still remain gaps that need to be addressed in order to attain effective partnership between the two bodies.

The issuing of joint press releases or statements by CPTA, the Committee against Torture, as well as the UN Special Rapporteur on Torture is an area that could be developed further. These bodies could also organise joint activities to promote sensitisation of the Robben Island Guidelines and the Convention against Torture.

Both Institutions aspire for the overall promotion and protection of human and peoples' rights, to see a world free from torture and ill treatment, and so it is important to strengthen our collaboration, and work towards achieving this common goal.

Finally, as we congratulate ourselves on the great numbers of States which have ratified or acceded to anti-torture global and continental human rights instruments, strategy demands that we eschew complacency. As I have stated elsewhere, "... torture happens in far-distant nooks and crannies ... therefore, it is dangerous that we should simply professionalise and globalise human rights work. We must communalise and localise it. We must have organically deployed community anti-torture cells involving paralegal, paramedical and other elements with capacities to use social media and other means to tell the story as soon as it begins to unfold. Our role as the global human rights community must be to deploy as soon as word gets out ... bottling the torture genie will keep being the elusive goal that we must keep working at, but the victim, each victim, cannot wait. ... Our first line of attacking torture must be responding to the victim's needs."

Thank you for your kind attention, and I wish you fruitful deliberations.