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**Human Rights Implementation Centre**

School of Law

Wills Memorial Building

Queens Road

Bristol

UK

 12 March 2015

**Re: Draft Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of His or Her Liberty by Arrest or Detention to Bring Proceedings Before Court.**

Dear Sir, Madam,

I am writing on behalf of the Human Rights Implementation Centre of the University of Bristol following the recent call for comments on the “Draft Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of His or Her Liberty by Arrest or Detention to Bring Proceedings Before Court (Draft Basic Principles and Guidelines).

We would like to thank you for this opportunity to provide input and have attached below detailed comments on the latest draft provisions for your consideration:

1. Paragraph 2 last sentence, after “whereabouts”, we would suggest replacing “or” with “and”.
2. Paragraph 9; 6th line, we would suggest removing the word “particularly”.
3. Paragraph 10 could begin with a definition of deprivation of liberty, then proceed to examples. (The Human Rights Committee’s recent General Comment No. 35, UN Doc. CCPR/C/GC/35, provides a definition of deprivation of liberty as it relates to their mandate and could form the basis of a definition to be applied to these Principles and Guidelines.)

Examples could include not just ports and transit areas but also the means of transportation including air, sea and land transportation where by individuals are involuntarily transported.

1. Paragraph 11(a), could also include examples such as detention for the purpose of extorting bribe or detention of relatives of a suspect to obtain information about the latter or secure his/her arrest.
2. Paragraph 13, last sentence, we would suggest adding after ‘imprisonment’, “following the expiry of the period for which the person was remanded in custody” so the inclusion of pre-trial detainees comes out more clearly.
3. Para 19: we suggest adding the following under fn. 26. UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), Report on the Maldives, CAT/OP/MDV/1, paras. 96 to 98.
4. Paragraph 20: the expression “by or on behalf of a governments” is not specified as an element of the definition of deprivation of liberty and seems to limit the broader scope of protection suggested by the last sentence of paragraph 19. We suggest removing it.
5. Para. 24: we suggest that the information under Principle 7, should also include information about the right to counsel/legal assistance and the right to remain silent at least for those detained on suspicion of criminal offence.
6. Paragraphs 31 and 32: we suggest replacing the term “defence” with “case”, as the latter encompasses petitions or applications (e.g. *habeas corpus*) that are not necessarily linked to criminal proceedings/charges.
7. Paragraph 50, last line. The text and the reference do not specify the international law norms concerned. We suggest spelling out the norms or referring to the principles of necessity, proportionality and non discrimination and make sure the language is consistent throughout related paragraphs under principle 16, including paragraph 53 (where a reference is made to the draft principles and guidelines).
8. Paragraph 70, first line: replace legal base with legal “basis”
9. Paragraph 71: the purpose of the paragraph is not clear. Also constitutions are generally thought to provide safeguards and circumscribe, rather than prescribe restrictions of liberty.
10. Paragraph 75: a) after the first sentence, we would suggest adding a sentence along the lines of “Such tribunal must meet the requirements of independence and impartiality and operate within the bounds of due process and fair trial guarantees.”
11. the meaning of the last sentence is not clear.
12. Paragraph 77(b): we would suggest adding information on the availability of legal assistance; the right to remain silent.
13. Paragraph 116 (e): we would suggest stating that video conferencing should not displace the right of a detained to appear in person before a judge.
14. Paragraph 116(J), third line: we would suggest adding a full stop after the word ‘permit” and start a new sentence beginning with “It shall include the possibility of release if the detention is determined to be unlawful or arbitrary.”

We trust that you will find these comments useful in the process of revising the current draft and if you have any queries then please do not hesitate to contact us.

Yours sincerely



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