BACKGROUND NOTE

TECHNICAL EXPERTS CONSULTATION TO REVIEW THE AFRICAN TRANSITIONAL JUSTICE POLICY FRAMEWORK

Nairobi, Kenya
29th to 31st August 2013

Introduction

The Centre for the Study of Violence and Reconciliation (CSVR) in collaboration with the Department of Political Affairs (DPA), African Union Commission will host a two and a half day consultation to review the Draft African Transitional Justice Policy Framework (ATJF). The Consultation will be held in Nairobi, Kenya from the 29th to the 31st of August 2013.

This meeting follows a series of consultations since 2010 where the initial draft of the TJ Framework, as outlined in the Annex of the Panel of the Wise Report “Peace, justice and reconciliation in Africa: Opportunities and Challenges in the Fight against Impunity”, was developed. The consultation will aim to gather a final set of inputs and comments from various technical experts before circulation amongst and discussion with relevant AU member state experts.

Purpose of a Continental Transitional Justice Policy Framework

Acknowledging Africa’s contribution to the development of norms and practise regarding the responsibility to protect and the International Criminal Court (ICC), a gap exists between the existence of the norms and African states meeting the related obligations and responsibilities. The development of a continental TJ policy framework is therefore hinged on assisting states to recognise their obligations and responsibilities towards ensuring protection from and accountability for violations including providing guidelines on meeting the needs of victims.

The African Union through its various organs and institutions is central to peace making, peace keeping and post conflict reconstruction initiatives in situations of conflict, political instability and other instances where gross human rights violations are perpetrated. A TJ policy framework is intended as offering guidelines on approaching accountability, truth, justice and reconciliation in the aftermath of gross human rights violations in Africa. These

1 See Annex of the AU Panel of the Wise Report “Peace, justice and reconciliation in Africa: Opportunities and Challenges in the Fight against Impunity” – AFRICAN UNION DRAFT TRANSITIONAL JUSTICE POLICY FRAMEWORK.
guidelines while closely linked to international norms and standards on transitional justice, will take into account the nuances of the African continent such as socio-economic rights, the balance between reparations and development, various understandings of democracy, issues of amnesty and the contested issue of the ICC. A TJ Policy Framework will also assist the AU intervene in and initiate TJ processes in a coherent and coordinated manner. Issues of gender justice are central to the TJ Policy Framework.

**Key events in development of framework to date**

Since the completion and adoption of the Panel of the Wise Report, there have been several formal and informal consultations. These consultations have focused on conceptualising, refining and giving structure to the Draft Framework and to provide both academic and technical input to the document. These consultations have included:

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<tr>
<th>Date</th>
<th>Consultation</th>
<th>Objective</th>
<th>Outcome</th>
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<td>September 2011 Cape Town South Africa</td>
<td>African Union Commission Consultation with African Union Member States on Transitional Justice</td>
<td>First convening to make proposals on possible structure and content of an ATJF.</td>
<td>Recommendation for a formal convening of a reference team that would flesh out the content of an ATJF.</td>
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<td>March – August 2012</td>
<td>Review and revision of draft TJ Framework</td>
<td>To collate inputs of the various consultations and revise first draft of TJ Framework.</td>
<td>A draft document including the outcomes and deliberations of various consultations with various stakeholders.</td>
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<td>August 2012 Lome Togo</td>
<td>Experts Review of African Transitional Justice Framework</td>
<td>Review the ATJF and, make specific recommendations to improve the structure, scope and content of the framework.</td>
<td>Incorporation of recommendations from Pretoria Consultation; recommendations for draft to be reviewed and revised by technically and legally sound TJ expert.</td>
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Expert Consultation to Review Draft ATJF

The current draft of the ATJF is a comprehensive document containing inputs from various stakeholders at different points of the process. It has been revised to clearly include the recommendations put forward at each point of the drafting as well as incorporation of some contemporary issues relating to transitional justice in Africa. At the Expert Reference Team meeting in Lome, Togo, it was agreed that this last draft would be a final version that would then be circulated amongst relevant decision makers within the AU system. This consultation will therefore review the current draft to provide a set of final recommendations prior to the circulation and validation processes of the Draft. The consultation will outline and consider specific elements of the popularization, validation and consultation process with AU member states.

As such CSVR in collaboration with the DPA - AUC, will facilitate an Experts Consultation in Nairobi, Kenya to review the document on 29th to 31st August 2013.

Objectives of the Consultation:

- Review, and make specific input towards finalizing the draft African Transitional Justice Policy Framework;
- Review and ensure mainstreaming of gender considerations throughout the Draft Policy Framework; and
- Outline and consider a practical road map to popularize, validate and consult AU member states and other relevant organs on the adoption of the African Transitional Justice Policy Framework.

Expected Outcomes

- Recommendations for a final draft of the ATJF;
- A final draft of the ATJF that clearly incorporates gender considerations; and
- Road map for popularization, validation and consultation of AU member states and other relevant AU organs.

Participants

Participants of the Consultation will include:

- Representatives of the AUC;
- Representatives of various AU organs; and
- Experts on transitional justice and related subjects.