

The beneficiaries of the **Article 5 Initiative** are people deprived of their liberty, who are at risk of torture and other ill treatment. Since the majority of people deprived of their liberty in Africa are detained in prisons and police holding cells, these facilities will be the focus of the project. It is also anticipated that the outputs will have applicability in other places of detention (e.g. repatriation centres, psychiatric institutions, juvenile detention centres, etc.).

The **Article 5 Initiative** targets institutions and individuals at four levels. First, those with the appropriate mandate at the African level, namely the special mechanisms under the ACHPR and other regional actors (e.g. UN agencies); second, state organs and institutions; third, National Human Rights Institutions (NHRIs) and, where applicable, national monitoring mechanisms; and finally, civil society organisations.

The **Article 5 Initiative** seeks to achieve its aims through three main methods:

- Research and development of comprehensive baseline studies on measures taken and implemented to give effect to obligations under the UNCAT (and the Optional Protocol to the Convention against Torture, if applicable) within the target countries. This will lay the foundation for the subsequent outputs.
- Developing a Domestication and Implementation Package (DIP) for each target country consisting of guidance notes, guidelines, checklists and reporting tools for stakeholders. These will be used to establish momentum and coherence on what the priorities are, what is achievable and what is compliant with the UNCAT under existing domestic conditions in each target country.
- Interaction and cooperation with the ACHPR (supported by states, NHRIs, and civil society).

## CONTACT DETAILS

### **Dr Lillian Artz**

#### **Associate Professor**

Gender, Health and Justice Research Unit  
University of Cape Town, South Africa  
E-mail: Lillian.Artz@uct.ac.za  
Tel: +27 21 406 6023

### **Mr Lukas Muntingh**

#### **Project Coordinator**

Civil Society Prison Reform Initiative  
Community Law Centre  
University of the Western Cape, South Africa  
E-mail: lmuntingh@uwc.ac.za  
Tel. +27 21 959 2950

### **Ms Debra Long**

#### **Project Coordinator**

Human Rights Implementation Centre  
University of Bristol, UK  
E-mail: debra.long@bristol.ac.uk  
Tel: +44 1483 892 843

### **Mr Sean Tait**

#### **Coordinator**

African Policing Civil Oversight Forum, South Africa  
E-mail: sean@apcof.org.za  
Tel: +27 21 461 7211

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## INTRODUCTION

Article 5 of the Universal Declaration of Human Rights and Article 5 of the African Charter on Human and People's Rights (the African Charter) guarantee the right of all people to be free from torture and other cruel, inhuman and degrading treatment (hereafter, other ill treatment).

The **Article 5 Initiative** draws its name from these two articles, and is a collaboration of four organisations working for the prevention and eradication of torture in Africa through research and the development of practice-aimed resources.

The **Article 5 Initiative** is a partnership between the University of Cape Town (Gender, Health and Justice Research Unit), the University of the Western Cape (Community Law Centre), the University of Bristol (Human Rights Implementation Centre) and the African Policing Civil Oversight Forum (APCOF). The **Article 5 Initiative** is supported by the European Union (EU) through the European Instrument for the Development of Human Rights (EIDHR).

The **Article 5 Initiative** aims to support African institutions to improve domestic compliance with international law obligations, norms and procedures under the United Nations Convention against Torture (UNCAT) and the African Commission on Human and People's Rights (ACHPR). The **Article 5 Initiative** focuses on six post-conflict African countries, namely Burundi, Kenya, Mozambique, Rwanda, South Africa and Uganda.

## BACKGROUND

Claims that torture still takes place in detention facilities within emerging African democracies is often met with indifference, despite evidence that it is being perpetrated.

In the post-conflict context, the state's focus is often on broad nation-building efforts and institutional governance.

The treatment of people deprived of their liberty is often overlooked in these efforts, notwithstanding that they are particularly at risk of being subjected to torture and other ill treatment, and continue to be part of systemic secondary victimisation.

## THE CHALLENGE

Despite the fact that the majority of African states have ratified the UNCAT, little has been achieved at ground level in giving effect to the objectives of the Convention in Africa. In many regards, some of the standards set by the UNCAT and other supportive international instruments are too abstract to have meaningful impact at the operational level. In addition, international instruments are frequently perceived by States as 'foreign' or 'imposed' and often unattainable.

The UNCAT does not formulate concrete operational standards on the prevention and eradication of torture and other ill treatment. The UN Standard Minimum Rules for the Treatment of Prisoners (UNSMR) is more precise in describing the minimum standards for humane detention of prisoners, but the UNSMR was adopted in 1955 and much has changed since then. In the intervening years, other instruments that relate to the prevention and eradication of torture and other ill treatment have been adopted by the UN and regional human rights structures. In Africa, the

African Charter and the ACHPR's Robben Island Guidelines (RIG) have been implemented. While the concept of the eradication and prevention of torture in Africa has been embedded in these instruments, a lack of compliance with the international prohibition of torture and other ill treatment still remains a problem throughout the continent.

The Special Rapporteur on Prisons and Conditions of Detention and the Committee for the Prevention of Torture in Africa are two special mechanisms of the ACHPR that are mandated to monitor the treatment of persons deprived of their liberty and the conditions of their detention, as well as to promote adherence to the UNCAT and the RIG. These special mechanisms have ensured that the absolute prohibition and prevention of torture in Africa remain on the agenda of the ACHPR. However, these special mechanisms have lacked the necessary resources and tools to systematically and effectively monitor the implementation of the UNCAT and the RIG.

## AIM

The six post-conflict states in which the **Article 5 Initiative** will be working have made varied progress in relation to the strengthening of the rule of law, the development of good governance and oversight structures, and basic criminal justice reform aimed at promoting access to justice.

The **Article 5 Initiative** will conduct research and develop and institutionalise integrated Domestication and Implementation Packages (DIPs) of practical, context-specific norms and guidelines, which can be used by relevant mechanisms of the African human rights system and national actors to strengthen the implementation of standards aimed at preventing and eradicating torture and other ill treatment in Africa.