

**FORMAL NYDA SUBMISSION TO DEPARTMENT OF JUSTICE AND  
CONSTITUTIONAL DEVELOPMENT**

COMMENTS ON THE PREVENTION AND COMBATING OF TORTURE OF PERSONS BILL

Date: 07 August July 2012

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**1. INTRODUCTION**

The National Youth Development Agency (NYDA) is a National Public Entity established through an Act of Parliament, NYDA Act NO.54 of 2008. NYDA is thereby enjoined by the Act to facilitate mainstreaming of youth development across public, private and civil society. It executes this mandate through various means and one of the ways is through submitting inputs that are youth biased into all legislative and policy documents that are in the process of development, amendment or review.

NYDA wishes to make an input on this bill pertaining to the Prevention and Combating of Torture of Persons published for comment on Government Gazette No.35412 of 1 June 2012 by Department of Justice and Constitutional Development

NYDA recognises that the introduction of this Bill is likely to help the majority of youth who are in conflict with the law. In addition, we hope this will help in integrating some of these youths who have 'fallen out of society<sup>1</sup>' as their actions are regarded as contravening the values espoused by the Constitution of the Republic of South Africa.

**2. GENERAL COMMENTS**

NYDA supports the Bill on Prevention and Combating of Torture of Persons. This Bill gives effect to United Nations Convention against Torture and Other Cruel or Degrading Treatment or Punishment and further affirms Section 12 of the Constitution of South Africa. We further wish to submit that majority of people that suffer this inhumane or degrading treatment are the youth in South Africa, especially those that are in conflict

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<sup>1</sup> The South African Youth Context refers youth who are in conflict with the law as fallen out of society as a consequence their actions are regarded as opposed to the values espoused by the Constitution

with the law. The South African Youth context state that approximately 29% of youth between the ages of 18-25 are in conflict with the law<sup>2</sup>. It is within this context that the Bill is extremely relevant to the youth who are victim of aforesaid degrading treatment. We welcome the focus of the Bill in defining the scope of the offences and the penalties that constitute torture; the obligation to conduct awareness to government and also the factors worth considering when sentencing an offender.

NYDA also acknowledges that the Bill has a potential to reduce the number of convictions among youth who are forced to confess wrong doing through torture. As a consequence of the above inferences, we anticipate that youth will ultimately achieve desired social cohesion goals as defined in the National Youth Policy 2009 – 2014

### **3. SPECIFIC INPUTS**

NYDA supports the Bill that focuses on Prevention and Combating of Torture of Persons and we recommend that Department of Justice and Constitutional Development considers the points below, which we believe will further strengthen the Bill:

- NYDA recommends that this bill seeking to combat torture should not be confined to people who are arrested or imprisoned, but extend to people who are working in farm areas, schools premises and also those in the hands of private securities. There are a number of reported incidences that confirm that torture does take place in the above-mentioned sectors of the society, and we therefore request that Section 4 should cover these issues based on the argument above.
- Based on the above mentioned arguments, we recommend that Section 8 of the Bill should widen the scope of the people who will be targeted by the programme of awareness to include private security companies, farm owners and educators. These are some of the sectors of the society that have been accused of using torture as a means of obtaining information, confession or discipline.

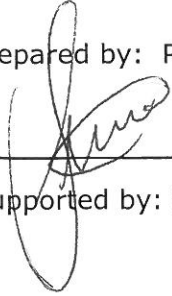
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<sup>2</sup> See NYDA The South Africa Youth Context section on Social Cohesion page 229

**4. CONCLUSION**

NYDA supports the Bill that looks at the Prevention and Combating of Torture of Persons. We further request for the haste approval and implementation of this law which has a potential of restoring dignity and respect of vulnerable people of South Africa and put to an end inhumane practices.

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Date:

07/08/12

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Date:

07/08/12