



NEWSLETTER OCTOBER 2023

Torture and Vulnerable Groups in Africa

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I- Editorial newsletter october 2023

Torture is the worst kind of human rights violation. It damages the physical integrity of victims, annihilates their dignity and dehumanises torturers. International instruments have prohibited torture at all times and in all places.

In view of the repeated acts of torture committed against vulnerable groups in recent years, the Committee for the Prevention of Torture in Africa has chosen torture and vulnerable groups as its theme for 2023.

International and regional organisations and human rights defenders have campaigned to ensure that vulnerable groups enjoy all their political, economic, social and cultural rights without any discrimination or restriction. For this reason, the practice of torture against them constitutes a SERIOUS violation of human rights. If torture is rejected by the universal human subconscious when it is practised against people enjoying all their physical and moral faculties, what can be said if these practices are carried out against people weakened by age, illness, and disability or material conditions? Since its establishment, the CPTA has noted numerous abuses committed against women (particularly during pandemics and conflicts), people with disabilities, older persons, indigenous peoples, prisoners and LGBTQI people. Moreover, reparation for victims can be more difficult to obtain in countries where the State itself has difficulty recognising the rights of

these weakened groups, if it does not oppress some of them.

This newsletter will endeavour to enlighten its readers, through the articles of its partners, on the little-known or overlooked aspects of these practices. In view of the interest generated by this newsletter, the CPTA would be prepared to undertake an exhaustive study on inhuman or degrading acts committed against vulnerable groups and will advocate specific instruments to protect them.

Commissioner Hatem Essaïem

Chairperson of the Committee for the Prevention of Torture in Africa

II- Refoulement and Torture of Refugees in Africa

Dr Dalia Malek (Early Career Fellow in International Human Rights Law, University of Edinburgh)

When African States impose hostile measures, policies, and practices, refugees are particularly susceptible to the risks of refoulement and torture. The African Commission and African Court can increase refugee protection through improved approaches that include making full use of underutilized tools within the African regional framework and informing their legal decisions with consideration to the specific challenges faced by refugees.

In African countries that routinely subject their citizens to torture, refugees may be disproportionately vulnerable to facing similar treatment to nationals as a result of being non-citizens, having irregular legal status, or lacking

identity documents. Beyond this, refugees within—or on their way to—countries of asylum can be uniquely susceptible to threats of torture that are specific to their status as refugees. When legal status is precarious, or when States impede access to asylum or assistance, refugees may experience perils in the host country that compromise international protection or violate their human rights beyond the risks of persecution in the country of origin. Problems remain with incorporating international standards into domestic laws and with implementation as some African States perpetrate or tolerate refoulement and torture, in many cases with impunity.

The African regional framework provides legal tools that are characterised by creativity and flexibility. However, a consideration of the efficacy of this framework must go beyond identifying available instruments and legal language, and also focus on the practices of African Member States and the ability for refugees to access justice through avenues such as individual complaints. The African Commission on Human and Peoples' Rights (African Commission) and the African Court on Human and Peoples' Rights (African Court) can help protect refugees from refoulement and torture by informing their legal decisions with consideration to the vulnerabilities of refugees, making full use of the available legal tools to protect refugees from torture and particularly from refoulement, through deeper engagement with the Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention), and by definitively interpreting refoulement into the anti-torture provision in Article 5 of the

African Charter on Human and Peoples' Rights (African Charter).

The non-refoulement principle is considered the cornerstone of international refugee law, and it is also well-established in international human rights law as a fundamental component of torture. Some United Nations (UN) and regional instruments expressly protect against refoulement; when they do not, human rights courts and quasi-judicial bodies interpret other legal provisions as encompassing non-refoulement requirements, including provisions against torture. The African regional human rights system possesses robust *de jure* protections against the torture of refugees, including refoulement, but so far Article 5 of the African Charter remains underutilised in the non-refoulement context. The Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman, or Degrading Treatment or Punishment in Africa (Robben Island Guidelines) recognise the link between refoulement and torture in Article 15: 'States should ensure no one is expelled to a country where he or she is at risk of being subjected to torture'. The Draft African Guiding Principles on the Human Rights of All Migrants also recognise torture as a corollary of refoulement. Collaborations across the African Commission's Special Mechanisms, such as between the Committee for the Prevention of Torture in Africa and the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons, and Migrants in Africa, bridge the prohibition of torture and of refoulement.

While Article 12(5) of the African Charter protects against the mass expulsion of non-nationals, it does not address individualised

refoulement or consider the risks of torture when persecuted individuals or groups are returned to their countries of origin. Implicit non-refoulement provisions in the African Charter include those which facilitate the determination of refugee status such as the right to leave any country including one's own in Article 12(2) and the right for every persecuted individual to seek and obtain asylum in Article 12(3). The African Commission has interpreted Article 12(3) as a duty of non-refoulement. Article 60 of the African Charter allows for 'draw[ing] inspiration' from international human rights instruments, a feature of the African system that allows for flexibility and innovation in legal decisions. Given African States' widespread ratification of the Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment and Punishment (UNCAT) and other core UN human rights treaties, the peremptory character of the prohibition against torture in conjunction with Article 60 of the African Charter can empower the African Commission and the African Court to protect refugees from refoulement and torture.

The African Commission and the African Court have only considered a few cases where the Complainants have been refugees, and of those, they have made even fewer decisions on non-refoulement. In addition to the inherent challenges of accessing individual complaints and fulfilling the admissibility requirements, refugees may be particularly disadvantaged due to lack of familiarity with how to approach the legal system in a foreign country when attempting to exhaust local remedies, lack of freedom of movement when being held in detention or refugee camps, challenges

with uncertain or pending legal status, unavailability or unaffordability of legal aid, serious and massive violations of human rights, or deportations.

The OAU Convention considers itself the 'regional complement' of the 1951 Convention Relating to the Status of Refugees (1951 Convention), but it lacks a supervisory body and significant engagement by the African Commission and the African Court. Although the African Commission has made occasional reference to the OAU Convention in previous communications, it has not provided in-depth commentary on its interpretations or on non-refoulement. The African Commission has put forward in a General Comment that when combating impunity for torture and other ill-treatment, States should 'ensur[e] compliance with the prohibition of refoulement'. Complainants have also alleged before the African Commission that refugees being denied an evaluation of the risk of refoulement would result in torture or 'inhuman, degrading, and cruel treatment'. While the African Commission and Court could reasonably make pronouncements on the OAU Convention's Article 2(3) prohibition of refoulement, in the absence of doing so they also have the opportunity to more definitively extend Article 5 of the African Charter to non-refoulement cases.

By considering the vulnerabilities of refugees to risks of ill-treatment, the African Commission and African Court's application of the African Charter's prohibition of torture could serve as a powerful device for protecting refugees from refoulement.

The African Commission and the African Court can and should provide further commentary on non-refoulement, and the African Charter can provide a stronger safety net for ensuring effective protection for refugees from refoulement in light of the peremptory nature of torture.

III- Legal protection of Older Persons against acts of torture in Cameroon

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Summary

This paper provides a critical analysis of the legal protection of older persons against acts of torture in Cameroon. The legal instruments in force improve the protection of older persons against acts of torture in Cameroon. In practice, however, there are difficulties at both the normative and institutional levels.

Abstract

This contribution offers a critical analysis of the protection of older persons against acts of torture in Cameroon. Thus, the legal instruments in force improve the protection of older persons against acts of torture in Cameroon. However, in practice, there are difficulties at the normative and institutional levels.

Introduction

For Léon Duguit, the State is the organ of domination par excellence¹. This behaviour has evolved over time, to the point where concepts such as

¹ L. Duguit, *Traité de droit constitutionnel*, Paris, Fontemoing, 3^e ed., 1927, para. 63, p. 67.

"vulnerability"² have emerged. The concept of "vulnerability" is identified with "vulnerable", which comes from the Latin "vulnerabilis" referring to "that can be attacked, that offers a foothold"³. Article 18(4) of the African Charter on Human and Peoples' Rights protects Older Persons (OPs) and the Protocol to the African Charter on Human and Peoples' Rights on OPs in Africa is the binding instrument on the violation of the rights of this category of vulnerable persons (VPs)⁴. Studies on protection against acts of torture in Cameroon have so far failed to arouse the interest of social science researchers⁵. In Cameroon, OPs account for almost 10% of the population⁶. Older Persons are protected against the violation of their rights, specifically torture. Torture is defined in Article 1 of the International Convention against Torture as physical or mental suffering inflicted on a person with a view to obtaining information⁷. We propose to demonstrate, on the one hand, the stated protection of older persons (I) and, on the other hand, a protection put into perspective (II).

I- Strong protection for Older Persons against acts of torture

² A. Catherine and S. Etoa, "Vulnérabilité et droit public", Cahiers de la Recherche sur les Droits Fondamentaux, 2020, p. 1.

³ See Dictionnaire de l'Académie française, "Vulnérable", Paris, 8^e ed. Available at <http://www.ademie-francaise.fr>

⁴ See the Protocol to the African Charter on Human and Peoples' Rights on Older Persons adopted on 31 January 2016.

⁵ L. Konaté, B. Hein, H. Tou, F. Drabo, J. Macq, A. Berthé-Sanou (eds.), "The elderly in Sub-Saharan Africa: a vulnerable population often ignored in public policy, Santé Publique", pp. 367-371.

⁶ W.A. Yakam, Y. Carrière and T. Legrand, "Vulnérabilité des personnes âgées au Cameroun : formes et facteurs", unpublished, p. 2.

As a fundamental right, the protection of OPs against acts of torture in Cameroon has a constitutional basis, which is contained in the Preamble⁸. The Penal Code (PC) also protects OPs under Articles 277-3⁹ and 351. It should be noted that Article 277(5), which criminalises torture, provides a definition that reflects the United Nations Convention against Torture and Inhuman or Degrading Treatment or Punishment (UNCAT). At institutional level, Law No. 2004/016 of 22 July 2004 on the establishment, organisation and operation of the National Commission on Human Rights and Freedoms states in Article 3 that the Commission's remit includes providing judicial assistance to the Ministry of Justice in all cases of human rights violations, including torture of OPs¹⁰. Furthermore, an office for OPs has been set up in the Ministry of Social Affairs¹¹. Additionally, a legislative committee has been set up in each region¹².

II- Relatively limited protection for Older Persons against acts of torture

The normative gaps that make Cameroon's current instruments inadequate can be seen in the normative gap. According to the report of the Human Rights Council Advisory

⁷ See article 1^{er} of the International Convention against Torture.

⁸ See the Preamble to Law no.° 96/06 of 18 January 1996 revising the Constitution of 02 June 1972, amended and supplemented by Law no.° 2008/001 of 14 April 2008.

⁹ See Article 277 of Law No.° 2016/067 of 12 July 2016 on the Criminal Code in Cameroon.

¹⁰ See Article 3 of Law no.° 2004/016 of 22 July 2004 on the creation, organisation and operation of the National Commission on Human Rights and Freedoms.

¹¹ See Decree 85/119 of 28 August 1985.

¹² See Ordinance no.° 73/17 of 22 May 1973 organising social security, amended by law no.° 84/006 of 4 July 1984.

Committee, there is a normative gap in existing human rights literature because age is not explicitly listed as a ground for discrimination. This is the case in Cameroon's legal provisions on the protection of OPs against acts of torture. These instruments are general and vague and do not take sufficient account of the specific target of older persons. Another difficulty linked to the gaps in legislation on the protection of OPs against acts of torture is the lack of a specific reparation mechanism¹³.

Conclusion

At the end of this study, it is clear that the protection of OPs against acts of torture is affirmed. However, in practice, it is clear that there are many difficulties that reduce the effectiveness of the protection of OPs at the normative and institutional levels. We propose the following recommendations: setting up a monitoring system in detention centres to alert the judicial authorities in the event of acts of torture against OPs; organising training for magistrates and judicial police officers so that they are aware of the issues involved in protecting human rights; strengthening relations between the Commission on Human and Peoples' Rights and the Cameroonian government in order to coordinate efforts to improve the protection of OPs against acts of torture.

¹³ See REDRESS, *Report on justice for victims of torture in the world, law, practice and necessary developments*, 2013, p. 78.

IV- The Road Not Taken: An Assessment of the Efficacy of the Law protecting Vulnerable Groups in Africa

Dorcas Anyango¹ JohnMark Mackenzie²

Abstract

Vulnerability has gained traction as a tenet in human rights jurisprudence in Africa warranting specific protection for groups. The degree of protection afforded to these groups, however, falls short of the required standard as they continue to experience torture that often culminates in death. This paper will offer an assessment of the efficacy of protection from torture, afforded to vulnerable persons in Africa, by analyzing their lived experiences vis-à-vis the protections. In complementing the existing work on vulnerability in Africa, the paper will uniquely hail the triumphs of the existing protection system, and propose suggestions for a more effective framework.

Introduction

The African Charter on Human and Peoples Rights recognizes in Article 18 women, the aged and disabled persons as vulnerable groups in need of protection by the state. This has been generally adopted by states across the continent. The unique characteristics inherent to them make them particularly susceptible

to various forms of torture from harassment by police to extrajudicial killings. Given their reliance on others for protection (particularly the state), the groups have been afforded protection by states in a number of ways.

Triumphs against Torture: The Successes of Protection Afforded to Vulnerable Groups in Africa

Statutory recognition of the freedom from torture for all persons-vulnerable groups included is a fundamental protection afforded to vulnerable persons. Establishment and empowerment of specialized courts for enforcement of the rights of vulnerable groups has similarly accorded vulnerable groups protection against torture. This is particularly true in Kenya and South Africa whence courts monitor compliance with their orders particularly where human rights matters are concerned.¹⁴ Continent wide efforts have also been made. With the recent establishment of the African Court on Humans and Peoples' Rights to compliment the African Commission on Human and Peoples' rights and The African Committee of Experts on the Rights and Welfare of the Child which has been at the forefront of establishing jurisprudence on vulnerable groups such as the Children of Nubian Descent case (a minority and stateless group claiming

discrimination by Kenya and harassment when applying for identification documents) jurisprudence in the field of vulnerability is bound to expand. Through mass action such as strikes and protests citizens have condemned torture against vulnerable groups. Women in Sudan spearheaded a march in condemnation of the rape of about 13 girls and women during a democratic governance protest.¹⁵ Amnesty International is also an example of an NGO that condemns torture of vulnerable groups through publications, organizing mass actions and calling for change within states.

Challenges in protecting vulnerable groups in Africa

While great strides have been taken to protect vulnerable groups some challenges persist. Implementation of laws that protect vulnerable people against torture has proved difficult. The prevalence of Female Genital Mutilation (FGM) among young girls in Kenya despite the enactment of the Prohibition of Female Genital Mutilation Act in 2011 is evidence of this. Prevalence of customary over statutory law draws back the protection of vulnerable persons in Africa. Gender Based Violence, a form of torture particularly against women is still persistent with the prevalence

¹⁴ Article 172 (1) (b) Constitution of the Republic of South Africa recognizes structural interdicts as one of the remedies available to a litigant and the recent recognition of the remedy by the Supreme Court of the Republic of Kenya in the *Mitu-Bell Welfare Society v Kenya Airports Authority & 2 others*; Initiative for Strategic Litigation in Africa (Amicus Curiae) [2021] eKLR

¹⁵ BBC News, "Sudan Women Protest against "Rape by Security Forces"" *BBC News* (23 December 2021) <<https://www.bbc.com/news/world-africa-59755684>> accessed 26 July 2023.

ranging from 10%-40% across the continent.¹⁶ Lack of political goodwill to enforce the right of vulnerable persons against torture is another impediment to the protection of vulnerable groups against torture. The minimal funding and poor staffing of enforcement bodies for vulnerable groups prevents proper intervention when torture occurs. The lack of awareness on rights by vulnerable groups similarly impedes their protection as they are not aware of avenues for redress and the legal protections afforded to them.

Strategies for protecting vulnerable groups from torture

In eliminating torture against vulnerable groups, the following recommendations would be useful for the continent; first, policymakers should be engaged on the relevance of the fight against torture in other key policy areas such as national security, torture and migration.¹⁷ Accountability should be enhanced through empowering more anti-torture litigation, victim support and advocacy through regional and/or Network-based litigators groups to mentor, should similarly be encouraged. Furthermore, a safety net of social, medical and legal assistance through the World Organization Against Torture emergency fund for victims of torture. Citizens should also denounce, monitor and report on situations of systematic or widespread torture and support local

¹⁶ Six Steps to Unite against Gender-Based Violence in Africa - Beyond the 16 Days Campaign' para 3
<<https://blogs.worldbank.org/youth-transforming-africa/six-steps-unite-against-gender-based-violence-africa-beyond-16-days>> accessed 24 July 2023.

and global advocacy for accountability to allow local voices to access international remedies, advocacy venues and build greater media coverage and attention to those struggles.¹⁸ Institutions should similarly be strengthened to win the fight against torture of vulnerable group for instance through increased funding. Legal regimes should be reformed to model laws on prevention of torture around the Convention Against Torture.

In conclusion, while much has been done in terms of legislation and policy making, Africa is still losing the battle against torture and needs to embrace radical reforms to protect this class of persons that are an integral part of societies.

V- A permissive legal framework fuels the use of torture in Malawi

Centre for Human Rights Education, Advice and Assistance (CHREAA)

Irish Rule of Law International (IRLI)

Reprieve

Southern African Litigation Centre (SALC)

Paralegal Advisory Service Institute (PASI)

Malawian law and the admissibility of torture-tainted evidence

Section 19(3) of the Constitution of Malawi prohibits the use of torture and cruel, inhuman or degrading

¹⁷ The World Organization Against Torture Strategic Plan 2021-2024.Pdf 8 Priority I, Public Engagement.

¹⁸ Ibid

treatment or punishment. The Constitution also expressly prohibits the use of forced confessions and enshrines the right to due process.

Notwithstanding the foregoing protections, Section 176 of the Malawian Criminal Procedure and Evidence Code (CP&EC), permits the use of forced confessions as long as the court is satisfied beyond reasonable doubt that 1) the confession is made by the accused person 2) its contents are materially true. The courts have adjudicated that the second criterion is met by the submission of corroborating evidence.

S176 of the CP&EC manifestly offends the Constitution, yet the position of the Malawian Supreme Court, maintains that it does not.¹⁹ Malawi is one of the last few remaining countries retaining a permissive legal framework with regards to torture, and as a result, the use of torture in the criminal justice system is rife.

Persons from lower socioeconomic backgrounds and selective justice

Malawi remains one of the poorest countries in the world, and most people who come into conflict with the law are from lower socio-economic backgrounds. Although every person has the constitutional right to representation,²⁰ the majority of people who come into conflict with the law cannot access one.

Further exacerbating the issue is the deplorable state of police investigations. Frequently no

investigation is undertaken at all, particularly when a confession is obtained. Furthermore, the Malawi Police Service (MPS) have very little access to hard evidence such as: DNA, finger prints, CCTV etc. and so most cases rely solely on testimonial evidence, which makes confession evidence paramount to a case. Without a lawyer, and having given a forced confession, many people will simply plead guilty to the case and no trial will occur, and so the police and prosecution will not have to present any further evidence to substantiate their case. Amount of persons languishing in Malawi's overcrowded prisons who are innocent of their crimes could potentially be high.

The same type of treatment does not seem to be visited upon wealthier people of Malawi who come into conflict with the law, who can afford private lawyers. Furthermore, corruption is rife within many facets of the Malawian Government, including the Malawi Police Service, which means that wealthier people can often bribe their way out of any issues.

Children in conflict with the law and children in prisons

The prolific use of torture or cruel inhuman and degrading treatment in Malawi extends to children. We have various cases of children who have been beat up and assaulted by the police, particularly older children.

Under Section 42(2) (g) (iii) of the Constitution of Malawi, children are prohibited from being kept in custody

¹⁹ *Thomson Fulaye Bokhobokho and Another v The Republic Malawi Supreme Court of Appeal, Criminal Appeal No. 10 of 2000;*

²⁰ Section 42(2)(f)(v) of the Constitution of Malawi

with adults, unless it is in their best interests to do so. Notwithstanding the foregoing safeguards, children are regularly arrested and detained in police cells and are put in the same cells as other adult detainees, making them extremely vulnerable to abuse and exploitation. There have been reports of child sex abuse occurring in such circumstances.

Older people and people with disabilities

Older persons in prison are especially vulnerable as they are disproportionately more susceptible to medical problems, victimisation and difficulty in carrying out day to day activities. The prison situation in Malawi has been deemed tantamount to torture, cruel, inhumane and degrading treatment. The lack of sufficient food and medicine, prison overcrowding and poor ventilation exacerbate pre-existing challenges faced by the older population in prison. The lack of sufficient bedding and space mean that these categories of prisoners frequently complain to IRLI staff about the pain and discomfort they feel which often contributes to declining health. These conditions also exacerbate those who are mentally and physically disabled in prisons and similarly when held in custody long past the defined custody time limits.

LGBTQI+ and police violence

Malawi criminalises sex-sex conduct under it “unnatural offences” under S153 of the Penal Code. The LGBTQI community routinely encounter violence and discrimination in almost all aspects of their daily lives. Police often physically assault, arbitrarily arrest and detain them, sometimes without due process or a legal basis, at

other times as punishment for simply exercising basic rights, including seeking treatment in health institutions. This population faces abuse and violence from the general public and are afraid to report as the police not only deny them access, but end up torturing them for engaging in conduct that is deemed by the state to be criminal. Recently, there has been a push for recognition of the rights of the LGBTQI+ community evidenced by the case of Jana Gonani, who herself is a transgender woman. She was convicted under under S153(c) of the Penal Code in 2021 and is now challenging the constitutionality of this section. This constitutional challenge resulted in religious institutions uniting and demonstrating against any law reform to decriminalise same sex conduct.

Refugees

In March 2023, the Ministry of Homeland Security issued an ultimatum for all refugees and illegal migrants in the country to go to Dzaleka refugee camp, near the capital in Lilongwe, by 15 April or face eviction from their homes. The basis for this, according to Government, was that refugees were taking jobs and economic opportunities away from Malawians. In May 2023, hundreds of migrants and asylum seekers were forcibly rounded up from various locations around Malawi and relocated to Dzaleka. The camp was built in 1994 to house around 12,000 people escaping violence in Rwanda, Burundi and the Democratic Republic of the Congo. Now it is home to more than 50,000 people. Access to basic supplies and human rights including food, water and education, has become extremely limited. In May police began raiding homes and closing shops and

businesses of migrants and asylum seekers. Many, including children, were taken to Maula prison, which operates at over 200% capacity, before being relocated to the camp. The army was also brought in to help police round up people. There were many reports of assault and mistreatment at the hands of police during the forcible relocations, as well as robberies of migrants by police personnel. The Minister of Homeland security, Ken Zikhale Ng'oma, warned that evictions would continue, despite pressure to halt the relocations from various human rights organizations.

Prisoners and Prisons conditions

Malawian prisons operate at about 240% capacity, with 17,000 people in space for about 7,322. This has been the case for decades. Most of these prisons were built under colonial rule and are barely fit for human habitation. We have witnessed detainees having to sleep in a kneeling position or side by side on the ground, due to the lack of space. People in prisons suffer from long-term knee problems and other ailments that are related to being placed in a confined space for prolonged periods.

VI- Combating Torture among Vulnerable Groups: The case of Children under Cameroonian Law

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Although we are in the mid- 21st century, acts of torture have not ceased

and they affect vulnerable groups such as children. Torture is a profound attack on human dignity and, by extension, on human life. Cameroon is committed to respecting human rights and has long been involved in the fight against torture. This paper seeks to understand the fight against torture of children in Cameroonian law by examining how the fight against torture of children has been enshrined in Cameroonian law, the content of the legislation and the means of control, although the creation of certain elements to protect children against torture is not ruled out.

Key words: children, torture, protection, human rights, violation

Since the horrors of the Second World War, humanity has become aware of one fundamental thing, namely the importance of preserving the protection of human dignity by combating acts of torture, which have become "a current human rights concern". Torture, according to the legal vocabulary, is "the criminal act of subjecting another person to odious suffering generally intended to extort from the victim an advantage or a revelation". Article 277-3 of the Cameroon Penal Code makes it a criminal offence. Children are even more at risk given "the vulnerability and fragility of children and the countless scourges that threaten them and all too frequently fall upon them" Is the protection of children against acts of torture adequate? This is why the fight against torture of children has been enshrined and why other elements of child protection have made a significant contribution.

I- THE A PRIORI SUFFICIENT PROTECTION OF CHILDREN AGAINST TORTURE

The protection of children against acts of torture has been achieved through the general enshrinement of the fight against torture and specific legislation on the rights of the child, to which certain means of control have been added to combat acts of violation of the rights of the child. The general enshrinement of the fight against torture in Cameroonian law has taken place at both international and national levels. Internationally, Article 5 of the 1948 Universal Declaration of Human Rights prohibits torture, which is presented as the legal basis for the international framework against torture. Article 4 of the 1984 Convention against Torture prohibits it. Article 5 of the African Charter on Human and Peoples' Rights prohibits physical or moral torture. The development of this conventional framework has thus made it possible for legal obligations to refrain from torture to replace the moral obligations of the Universal Declaration of Human Rights. Still at international level, the contribution of international criminal case law cannot be overlooked. "Indeed, the jurisprudence of the ICTY and the ICTR has consistently recognised that all the purposes listed in Article 1 of the 1984 Convention characterise the crime of torture from the point of view of international law in general, and international humanitarian law in particular". The 1989 Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child set out

the prohibition of torture in specific child protection legislation.

These means of control include regional institutional means such as the Committee on the Rights and Welfare of the Child provided for in Article 32 of the African Charter on the Rights and Welfare of the Child. However, it should be pointed out that the African Charter on the Rights of the Child, unlike the African Charter on Human and Peoples' Rights, contains no clause on the admissibility and examination of individual communications from the Committee on the Rights of the Child . At national level, paragraph 6 of Article 277-3 of the Penal Code excludes any cause or circumstance mitigating or removing responsibility, the National Platform for the Protection of Children in Cameroon, including those in emergency situations, which is tasked in Article 2 of 20 October 2016 establishing and organising this platform with developing an appropriate and coordinated national strategy for prevention, response and advocacy to child protection issues. The contribution of other mechanisms should not be overlooked in the fight against torture.

II- THE SIGNIFICANT CONTRIBUTION OF OTHER PROTECTIVE ELEMENTS

Among these elements, we can lay emphasis on the need to reaffirm the protection of children against torture in terrorism legislation. The law of 23 December 2014 on the repression of acts of terrorism does not include provisions on the prohibition of torture against children in the fight against terrorism, yet the Boko Haram group used children to commit acts of terrorism. It is important to facilitate

the child's freedom of expression, because "the child is generally the first witness for the prosecution before the Judicial Police Officers or during the trial. Their statements, even though they come from an immature person, are fundamental and it is generally up to the accused to prove their innocence". To this end, provision should be made in the Code of Criminal Procedure for the presence of an assistant to facilitate the freedom of expression of child victims of violence in general and torture in particular, even though the Ministry of Social Affairs can assist them, it is important to specify this assistance. Monitoring bodies such as the Committee of Experts on the Rights and Welfare of the Child, set up under Article 32 of the Charter on the Rights of the African Child, must have the conditions for referral to it "better specified in the absence of specific provisions on the conditions for admissibility of individual communications". Clarifying these conditions will make it easier to protect children against torture and avoid obscure areas that would be detrimental to the protection of children by slowing down the complaints' procedure. The national platform for child protection must become more visible by continuously promoting it among the children who are the targets of its action.

In short, the fight against the torture of children is a tough battle that requires certain additional conditions to be put in place to make it easier for children to lodge complaints. Children are no longer passive subjects of human rights, but active subjects who must use the legal instruments that protect them.

VII. Briefing Note

The Committee for the Prevention of Torture in Africa, formerly the Robben Island Follow-up Committee, is a Special Mechanism of the African Commission on Human and Peoples' Rights. Under its terms of reference, the Committee must:

- Organise, with the support of other interested partners, seminars to disseminate the Robben Island Guidelines to national and international stakeholders.
- Develop and propose to the African Commission strategies for promoting and implementing the Robben Island Guidelines at national and regional level
- Promoting and facilitating the implementation of the Robben Island Guidelines within Member States
- Report to the African Commission, at each Ordinary Session, on the status of implementation of the Robben Island Guidelines.