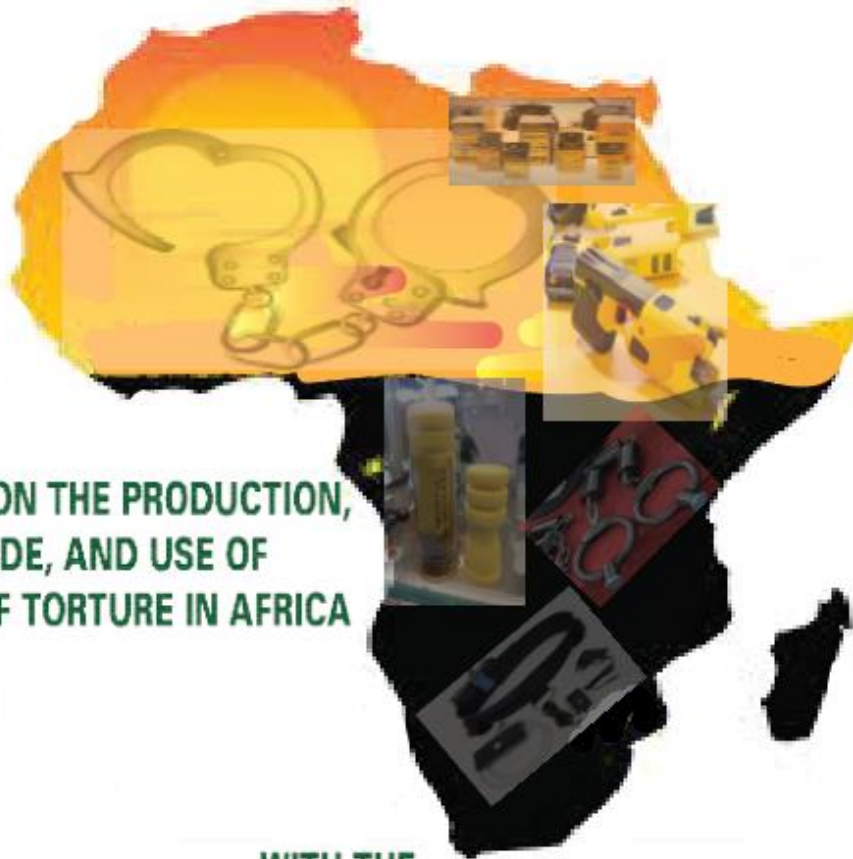




**ACHPR**  
African Commission on  
Human and Peoples' Rights



**Omega  
Research  
Foundation**



**REPORT ON THE PRODUCTION,  
TRADE, AND USE OF  
TOOLS OF TORTURE IN AFRICA**

**WITH THE  
TECHNICAL USUPPORT OF  
OMEGA RESEARCH FOUNDATION**

An Organ of  
**African  
Union** 

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## AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

### REPORT ON THE PRODUCTION, TRADE, AND USE OF TOOLS OF TORTURE IN AFRICA

by

COMMITTEE FOR THE PREVENTION OF TORTURE IN AFRICA

With the technical support of Omega Research Foundation

## TABLE OF CONTENTS

A.	INTRODUCTION .....	4
B.	LEGAL FRAMEWORK .....	5
1.	PROHIBITION OF TORTURE .....	5
2.	USE OF FORCE AND EQUIPMENT .....	7
3.	TRADE IN TOOLS OF TORTURE .....	8
C.	ANALYSIS .....	11
1-	OVERVIEW.....	11
2-	INHERENTLY ABUSIVE EQUIPMENT IN AFRICA.....	13
a.	BODY-WORN ELECTRIC SHOCK.....	13
b.	DIRECT CONTACT ELECTRIC SHOCK .....	14
c.	WHIPS .....	16
3-	OTHER LAW ENFORCEMENT EQUIPMENT IN AFRICA .....	17
a-	CHEMICAL IRRITANTS .....	17
b-	STANDARD HANDCUFFS .....	19
c-	BATONS.....	20
D.	RECOMMENDATIONS .....	21

## A. INTRODUCTION

1. The Committee for the Prevention of Torture in Africa (the Committee or CPTA) is mandated to facilitate the dissemination and implementation of the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (the Robben Island Guidelines or RIG). The Robben Island Guidelines elaborate on **Article 5 of the African Charter on Human and Peoples' Rights (the African Charter), which prohibits all forms of exploitation and degradation of human beings, particularly slavery, slave trade, torture, and cruel, inhuman or degrading punishment and treatment.**
2. Aspiration 3 of *Agenda 2063: The Africa We Want* seeks an Africa of “good governance, democratic values, gender equality, respect for human rights, justice and the rule of law”<sup>1</sup>. This Aspiration underpins the pursuit of “capable institutions and transformative leadership,” and “independent courts and judiciary”<sup>2</sup>. Institutions in Africa will be “at the service of its people”, and all levels of governmental institutions will be “developmental, democratic, and accountable”<sup>3</sup>.
3. Acts of torture and other forms of cruel, inhuman, or degrading treatment or punishment (other ill-treatment) are committed by state institutions, including law enforcement, security, and correctional services officials, in every region of the world, including in Africa.
4. Any device or weapon can be misused to inflict torture or other ill-treatment. Nonetheless, reports from the United Nations (UN), as well as regional and national monitoring bodies, have highlighted the (mis)use of specialist law enforcement equipment (‘tools of torture’) for torture or other ill-treatment. **Tools of torture comprise two classes of equipment: inherently abusive equipment that should never be used by law enforcement, and other law enforcement equipment that may have a legitimate purpose when used in strict accordance with international human rights and police standards.** The latter, while not inherently abusive, may be used for torture and other ill-treatment, whereas the first type of equipment has no legitimate law enforcement role.
5. In some instances of torture and other ill-treatment, officials use law enforcement equipment that may have a legitimate purpose, when used by trained personnel in accordance with international human rights and police standards, but that can be misused for torture and other ill-treatment. **Such equipment, including standard handcuffs, batons, pepper spray, and projectile electric shock weapons,** is manufactured, promoted, and traded on a significant scale by a large number of

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<sup>1</sup> African Union. 2016. *Agenda 2063: The Africa We Want*. Popular version, May 2016. paragraph 27

<sup>2</sup> African Union. 2016. *Agenda 2063: The Africa We Want*. Popular version, May 2016. paragraphs 28, 29

<sup>3</sup> African Union. 2016. *Agenda 2063: The Africa We Want*. Popular version, May 2016. paragraph 30

companies. The manufacture, trade, and use of this equipment should be carefully controlled to ensure that it is not used for torture or other ill-treatment.

6. In other instances, officials use equipment that is inherently abusive. This equipment includes, for example, body-worn electric shock devices and other kinds of direct-contact electric shock weapons (such as shock shields, electric shock batons, and ‘stun’ guns), whips, and certain restraints, including thumbcuffs, weighted cuffs, and fixed wall/floor restraints. These weapons are manufactured, promoted, and traded worldwide by a relatively small number of companies. The UN and other human rights bodies have stated that the use of these types of equipment breaches international human rights and police standards, and that the trade in all such equipment should be prohibited<sup>4</sup>.
7. There is a growing international awareness of the necessity of controlling the trade in tools of torture – that is, the trade of both inherently abusive equipment and other kinds of law enforcement equipment – as part of States’ obligations to prevent torture and other forms of ill-treatment.
8. This awareness was reflected in Resolution 472 on the prohibition of the use, production, export and trade of tools used for torture adopted by the African Commission on Human and Peoples’ Rights (the Commission or ACHPR) in December 2020<sup>5</sup>. The Resolution recalls States’ responsibilities to address the trade in tools of torture.
9. This thematic report highlights the trade in the tools of torture in Africa, outlines the existing legal framework, provides a brief analysis of the manufacture, trade, and use of this equipment, and proposes several recommendations to control the trade and promote States’ torture prevention obligations.

## **B. LEGAL FRAMEWORK**

### **1. PROHIBITION OF TORTURE**

10. Article 5 of the African Charter states, *“Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave*

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<sup>4</sup> More information on different kinds of equipment can be found on the Omega Research Foundation website: <https://omegaresearchfoundation.org/weapons-equipment>.

<sup>5</sup> African Commission on Human and Peoples’ Rights. 2020. *472 Resolution on the prohibition of the use, production, export and trade of tools used for torture*. ACHPR/Res.472 (LXVII) 2020. 3 December 2020. Accessed 25 October 2022. Available at: <https://achpr.au.int/en/adopted-resolutions/472-resolution-prohibition-use-production-export-and-trade-tools>.

*trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited”<sup>6</sup>.*

11. Per the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), **torture is “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions”<sup>7</sup>.**
12. The Commission affirms that human and peoples’ rights must be upheld and protected, including in situations of emergency or other exceptional circumstances<sup>8</sup>. Similarly, the UNCAT<sup>9</sup> and Robben Island Guidelines state that there may be no derogation from the prohibition of torture. The prohibition is absolute, including in “Circumstances such as state of war, threat of war, internal political instability, or any other public emergency”<sup>10</sup>.
13. As Signatories or States Parties to the UNCAT and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), the majority of African States have affirmed the importance of ensuring that the prohibitions against torture are realised in places of detention, including through the maintenance of independent National Preventive Mechanisms whose role includes examining the treatment of persons deprived of their liberty<sup>11</sup>.

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<sup>6</sup> African Union. African (Banjul) Charter on Human and Peoples’ Rights. Article 5. Accessed 25 October 2022. Available at: <https://au.int/en/treaties/african-charter-human-and-peoples-rights>.

<sup>7</sup> United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Article 1.1. Accessed 25 October 2022. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

<sup>8</sup> See, for example, African Commission on Human and Peoples’ Rights. 2020. ACHPR/Res. 447 (LXVI) 2020. Resolution on upholding human rights during situations of emergency and in other exceptional circumstances.

<sup>9</sup> United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Article 2.2, 2.3. Accessed 25 October 2022. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

<sup>10</sup> African Commission on Human and Peoples’ Rights. 2002. Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines), paragraph 9.

<sup>11</sup> For more information on the status of ratification, see United Nations Office of the High Commissioner for Human Rights. 2022. ‘Status of Ratification Interactive Dashboard’. Accessed 25 October 2022. Available at: <https://indicators.ohchr.org/>.

United Nations Office of the High Commissioner for Human Rights. 1984. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Adopted by General Assembly resolution 39/46.

## 2. USE OF FORCE AND EQUIPMENT

14. Any use of force by law enforcement is bound by six principles: legality, precaution, non-discrimination, necessity, proportionality, and accountability. As noted by the Commission in the Study on the Use of Force by Law Enforcement Officials in Africa, all six principles must be adhered to for any use of force to be considered lawful under international standards. These principles are recalled in regional and international standards around use of force.
15. The Commission mostly establishes normative standards around police use of force and equipment in soft-law instruments, including the Luanda Guidelines on the Conditions of Arrest, Police Custody, and Pretrial Detention in Africa (Luanda Guidelines). The Luanda Guidelines specify that force used by law enforcement must be necessary, “proportionate and always at the most minimal level necessary”, as well as being “strictly regulated under national law and in conformity with international standards”<sup>12</sup>. The Guidelines also note that there must be limitations on the use and types of restraints<sup>13</sup>.
16. Rules 43.2, 47, and 48 of The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) outline circumstances in which specific use of particular instruments of restraint would be permitted and those that should not be<sup>14</sup>. **For instance, Rule 47 of the Mandela Rules** identifies restraints that are abusive and should be prohibited, listing “**chains, irons or other instruments of restraint which are inherently degrading**”<sup>15</sup>.
17. The Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa establish practices for the issue of equipment to law enforcement and for its use<sup>16</sup>. Force, when used in policing assemblies, should be as a last resort, be proportionate, and must be lawful. When force is used, “law enforcement officials must only use the

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United Nations Office of the High Commissioner for Human Rights. 2002. *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Adopted by resolution A/RES/57/199.

<sup>12</sup> African Commission on Human and Peoples’ Rights. 2014. The Guidelines on the conditions of arrest, police custody, and pre-trial detention in Africa (Luanda Guidelines). General Provision 3.c. i, iii., see also General Provision 25.b.

<sup>13</sup> African Commission on Human and Peoples’ Rights. 2014. The Guidelines on the conditions of arrest, police custody, and pre-trial detention in Africa (Luanda Guidelines). General Provision 3.c. ii., see also General Provision 25.c, d., and General Provision 32.b.vi and vii.

<sup>14</sup> United Nations Office on Drugs and Crime. The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Rule 43.2, 47, 48

<sup>15</sup> United Nations Office on Drugs and Crime. The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Rule 47.1

<sup>16</sup> African Commission on Human and Peoples’ Rights. 2017. Policing Assemblies in Africa: Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa.

minimum level of force necessary”<sup>17</sup>. The **Guidelines also note the importance of training law enforcement officials in the lawful use of force**<sup>18</sup>.

18. At the international level, the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement similarly state that force may only be used as a last resort, and that it must be proportionate, necessary, and in accordance with human rights<sup>19</sup>. The Guidance provides detailed recommendations for States on the use of a range of equipment. Crucially, the Guidance recalls the potential lethality of less-lethal weapons including batons and kinetic impact projectiles, acknowledging that they have been used to perpetrate “extrajudicial killings and acts of torture or other forms of cruel, inhuman or degrading treatment or punishment”<sup>20</sup>.

### 3. TRADE IN TOOLS OF TORTURE

19. The RIG form one of the strongest regional tools to assist states in upholding their torture prevention obligations, and mark a significant statement of African States’ commitment to preventing torture, including through addressing the trade in tools of torture. **Guideline 14 of the RIG (RIG 14) explicitly notes the obligation of States to “prohibit and prevent the use, production and trade of equipment and substances designed to inflict torture or ill-treatment and the abuse of any other equipment or substance to these ends”**<sup>21</sup>.
20. Some other regional or domestic frameworks also address the trade in the tools of torture (see, for instance, the European Union Anti-Torture Regulation<sup>22</sup>), but RIG 14 is notable as a statement of the obligation of States to ensure that abusive equipment is not manufactured, traded, or used. RIG 14 serves as a foundation for African States to act to eradicate the trade in inherently abusive equipment and to develop robust controls on the trade in other kinds of law enforcement equipment. In this way, the

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<sup>17</sup> African Commission on Human and Peoples’ Rights. 2017. Policing Assemblies in Africa: Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa. 22.2.

<sup>18</sup> African Commission on Human and Peoples’ Rights. 2017 Policing Assemblies in Africa: Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa. 21.3.4.

<sup>19</sup> Office of the United Nations High Commissioner for Human Rights. 2020. *United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement*. 2.3.

<sup>20</sup> Office of the United Nations High Commissioner for Human Rights. 2020. *United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement*. 1.2.

<sup>21</sup> African Commission on Human and Peoples’ Rights. 2002. Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment of Punishment in Africa (The Robben Island Guidelines), paragraph 14.

<sup>22</sup> Regulation (EU) 2019/125 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

For a discussion of the EU Anti-Torture Regulation, see the 2020 Omega Research Foundation report *Review of EU Anti-Torture Regulation and its implementation*, available at: <https://omegaresearchfoundation.org/publications/review-eu-anti-torture-regulation-and-its-implementation>.



Robben Island Guidelines link States' responsibilities to prevent torture and other ill-treatment to their development and enforcement of trade controls.

21. Although States are required to provide a report on their implementation of the RIG to the Commission, reporting practices are, as yet, incomplete. This is despite the list of *Indicative Questions to State Parties in respect of Article 5 of the African Charter* including a reference to whether the State has “adopted specific legislation criminalising torture in accordance with the provisions of CAT and the Robben Island Guidelines?”<sup>23</sup>. A specific question addressing implementation of RIG 14 should also be included in the list of Indicative Questions, which would contribute to understanding of largely underreported trade practices.
22. Obligations under the RIG ideally place African States to join and contribute to the international Alliance for Torture-Free Trade, which is seeking to “end the trade in goods used for capital punishment and torture”<sup>24</sup>. Like the RIG, the Alliance establishes the relationship between the tools of torture and their use in acts of torture and other ill-treatment. Those States that participate in the Alliance, “acknowledge that the availability of goods used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment enables such practices”<sup>25</sup>.
23. **States' obligations under the RIG are recalled in Resolution 472 on the prohibition of the use, production, export, and trade of tools used for torture**<sup>26</sup>. In this Resolution, the Commission reiterated States' anti-torture and anti-torture trade commitments with explicit reference to the RIG, and made recommendations to improve implementation of these existing standards. One such recommendation urges States to “address gaps in applicable laws, policies and practice with the view to prohibit and prevent the use, production, export and trade of equipment or substances designed to inflict torture or ill-treatment and the abuse of any other equipment to these ends”<sup>27</sup>.

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<sup>23</sup> African Union. *State Periodic Reporting under Article 62 of the African Charter on Human and Peoples' Rights: Indicative Questions to State Parties in respect of Article 5 of the African Charter*. Accessed 26 October 2022. Available at: <https://www.achpr.org/public/Document/file/English/Indicative%20Questions%20to%20State%20Parties%20in%20respect%20of%20Article%205%20of%20the%20Afr....pdf>.

<sup>24</sup> Alliance for Torture-Free Trade. Accessed 26 October 2022. Available at: <http://www.torturefreetrade.org/>.

<sup>25</sup> Alliance for Torture-Free Trade. 2017. 'Global Alliance to end trade in goods used for capital punishment and torture 18 September 2017, New York, Political Declaration'. Accessed 26 October 2022. Available to download at: <https://www.torturefreetrade.org/en/news.html?entry=3>.

<sup>26</sup> African Commission on Human and Peoples' Rights. 2020. *472 Resolution on the prohibition of the use, production, export and trade of tools used for torture*. ACHPR/Res.472 (LXVII) 2020. 3 December 2020. Accessed 25 October 2022. Available at: <https://achpr.au.int/en/adopted-resolutions/472-resolution-prohibition-use-production-export-and-trade-tools>.

<sup>27</sup> African Commission on Human and Peoples' Rights. 2020. *472 Resolution on the prohibition of the use, production, export and trade of tools used for torture*. ACHPR/Res.472 (LXVII) 2020. 3 December 2020. Accessed 25 October 2022. Available at: <https://achpr.au.int/en/adopted-resolutions/472-resolution-prohibition-use-production-export-and-trade-tools>.

24. At the international level, the UN General Assembly has also pressed States to address the trade in the tools of torture. Most recently, in 2022, the Resolution on torture called on States to “prevent and prohibit the production, trade, export, import and use of equipment that has no practical use other than for the purpose of torture or other cruel, inhuman or degrading treatment or punishment”<sup>28</sup>.
25. The UN Guidance on Less-Lethal Weapons in Law Enforcement explicitly address the transfer of law enforcement equipment, noting “States shall regulate all transfers, including export and import, of less-lethal weapons and related equipment in accordance with their international obligations”. In the case of “Less-lethal weapons or related equipment whose designated, expected or intended use of tantamount to torture or another form of cruel, inhuman or degrading treatment or punishment”, these should “never be transferred”<sup>29</sup>. The Guidance also requires States to consider “the human rights record of the recipient State” when making transfer decisions, noting that less-lethal weapons and related equipment should not be transferred if they “present an undue risk of injury or loss of life”<sup>30</sup>.
26. In 2019, the General Assembly adopted a Resolution<sup>31</sup> that began a process of exploring possible common international standards on the trade in tools of torture. Several African States<sup>32</sup> supported the Resolution, and African States’ obligations under RIG 14 well position them to significantly contribute to the ongoing process. The initial Secretary-General’s survey of UN Member States was published in 2020<sup>33</sup>, and a Group of Governmental Experts (GGE) was formed to explore the feasibility and scope of possible international standards. The GGE’s report was presented at an

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<sup>28</sup> UN, General Assembly, A/RES/77/209. Resolution adopted by the General Assembly on 15 December 2022. Torture and other cruel, inhuman or degrading treatment or punishment, 29 October 2019, Third Committee, Seventy-fourth session. Accessed 26 October 2022. Available at: <https://digitallibrary.un.org/record/3999707?ln=en>. Paragraph 21.

<sup>29</sup> Office of the United Nations High Commissioner for Human Rights. 2020. United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement. 4.7. Available at: [https://www.ohchr.org/Documents/HRBodies/CCPR/LLW\\_Guidance.pdf](https://www.ohchr.org/Documents/HRBodies/CCPR/LLW_Guidance.pdf)

<sup>30</sup> Office of the United Nations High Commissioner for Human Rights. 2020. United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement. 4.7.3

<sup>31</sup> UN General Assembly, Resolution Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards, Resolution adopted by the General Assembly on 28 June 2019, Seventy-third session, A/RES/73/304. Accessed 26 October 2022. Available at: <https://daccess-ods.un.org/tmp/1446568.81690025.html>.

<sup>32</sup> African states that voted in favour of the Resolution include Angola, Benin, Cabo Verde, Côte d’Ivoire, Eritrea, Guinea-Bissau, Madagascar, Mozambique, Seychelles, South Africa, and Togo. For more information, see the United Nations Digital Library. Accessed 26 October 2022. Available at: <https://digitallibrary.un.org/record/3811071?ln=en>.

<sup>33</sup> United Nations General Assembly. 2020. *Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards: Report of the Secretary-General*. 28 July 2020. Seventy-fourth session. A/74/969. Accessed 26 October 2022. Available at: <https://digitallibrary.un.org/record/3878840?ln=en>.

informal meeting of the UN General Assembly in June 2022<sup>34</sup>. The report noted that most GGE members “consider it feasible to establish international standards in relation to goods that have no other use than for the purpose of torture or other cruel, inhuman or degrading treatment or punishment” in addition to those goods that can be misused for torture or other ill-treatment<sup>35</sup>. In March 2023, the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment announced that one of her 2023 reports will examine “the regulation, production, and trade in law enforcement equipment and the relationship with torture and ill-treatment as a contribution to the New York-led discussions”, and included a call for State contributions in the report drafting<sup>36</sup>. As the process towards developing an international torture-free trade treaty continues, African States will be able to advocate for strong international controls, informed by existing African standards, such as RIG 14.

27. ACHPR Resolution 472 encourages all States Parties to the African Charter to “support and fully engage with the ongoing UN General Assembly process examining the feasibility, scope and parameters for possible common international standards and to support the Group of Governmental Experts in this regard”<sup>37</sup>.
28. Despite the instruments and frameworks outlined above, **on a practical level the trade in the tools of torture remains largely unregulated across African States. If African States are to meet their anti-torture obligations, including as established in the Robben Island Guidelines, action must be taken to address the manufacture, trade, and use of the tools of torture.**

## C. ANALYSIS

### 1- OVERVIEW

29. The phrase ‘tools of torture’ is used to encompass two categories of equipment: inherently abusive equipment, and other law enforcement equipment that may have

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<sup>34</sup> To watch the discussion, including the statement from one African State – Egypt – see: UN Web TV. 2022. ‘General Assembly: Torture-Free Trade Informal Meeting, 76<sup>th</sup> Session’. Accessed 27 October 2022. Available at: <https://media.un.org/en/asset/k1k/k1kfdjld08>.

<sup>35</sup> United Nations Human Rights: Office of the High Commissioner. 2022. A/76/850: Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards - Report of the Group of Governmental experts’. Accessed 27 October 2022. Available at: <https://www.ohchr.org/en/documents/reports/a76850-towards-torture-free-trade-examining-feasibility-scope-and-parameters>.

<sup>36</sup> Dr Alice Jill Edwards. 2023. Interactive dialogue with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Alice Jill Edwards, 26th meeting, 52nd Regular Session of Human Rights Council. 14 March 2023. Video of announcement. Accessed 17 March 2023. Available at: <https://media.un.org/en/asset/k16/k16tv1iows>.

<sup>37</sup> African Commission on Human and Peoples’ Rights. 2020. *472 Resolution on the prohibition of the use, production, export and trade of tools used for torture*. ACHPR/Res.472 (LXVII) 2020. 3 December 2020. Accessed 25 October 2022. Available at: <https://achpr.au.int/en/adopted-resolutions/472-resolution-prohibition-use-production-export-and-trade-tools>.

a legitimate purpose when used in strict accordance with international human rights and police standards. This second type of equipment, while not inherently abusive, may be used for torture and other ill-treatment, whereas the first type of equipment has no legitimate law enforcement role<sup>38</sup>.

30. Companies based throughout Africa manufacture and trade tools of torture, although the industry is both underreported and under-researched. Without consistent and comprehensive reporting practices on the part of States, it is not possible to ascertain the true extent of the scale of African manufacturing and trade in the tools of torture.
31. Inherently abusive equipment (thumbcuffs, direct-contact electric shock weapons, and sjamboks, for instance) is manufactured and traded by a small number of companies, whereas a larger number of companies manufacture and trade other kinds of equipment used by law enforcement (rubber and plastic bullets, handcuffs, and pepper spray, for example). The equipment discussed below does not constitute the entire range of tools of torture in Africa, but has been selected to present an overview of the industry. The companies discussed have been selected as examples, they do not form the entirety of the trade or represent the full nature of exchanges that occur<sup>39</sup>. This report does not imply any illegal activity or wrongdoing by any of the companies discussed below.
32. Globally, Africa is a relatively small manufacturer of law enforcement equipment. Research by the Omega Research Foundation indicates that **South Africa is the regional industry hub, home to a large number of manufacturers, as well as companies that import weapons to be traded and re-exported across Africa**. As a consequence of the prominence of South Africa's industry, the companies listed below all have links to South Africa. Research undertaken during the preparation of this report has also documented domestic manufacturing in various African States beyond South Africa, including, for example, **in Egypt and Nigeria**. In addition to local manufacturing, African States are also known to have imported a range of law enforcement equipment from all regions of the world. While the trade is smaller in Africa than in some other continents, it is nonetheless problematic, and law enforcement equipment is still used for torture and other ill-treatment.
33. In many States across the world, law enforcement and other State officials perpetrate acts of torture or other ill-treatment using specialist law enforcement equipment. Such acts occur both in places where people are deprived of their liberty and in policing on the streets, including during policing of protests and public assemblies. The examples of human rights violations discussed below are a selection of those that have been

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<sup>38</sup> This report focuses on the production, trade, and use of tools of torture, and does not address the use of firearms in policing, nor the use of ad hoc weapons for torture or other ill-treatment.

<sup>39</sup> The companies discussed below are not named, and an effort has been made to remove identifying information. More detailed and specific information on the companies is held by the Omega Research Foundation. Should any queries arise, please contact the Omega Research Foundation.

documented in African States. This report does not allege that the States discussed are the only States where the (mis)use of law enforcement equipment occurs, nor does this report assert that these are the most egregious incidents. As noted above, **the manufacture, trade, and use of law enforcement equipment is under-reported, and reports of allegations of torture and ill-treatment rarely document the nature of the equipment used. This gap in reporting practices constrains analysis and stymies efforts to prevent the (mis)use of law enforcement equipment for torture and other ill-treatment. This dearth in accurate and reliable information speaks to the need for robust controls on the manufacture, trade, and use of the tools used for torture and other ill-treatment.**

## 2- INHERENTLY ABUSIVE EQUIPMENT IN AFRICA

34. Inherently abusive law enforcement equipment includes body-worn electric shock devices, direct contact electric shock weapons, whips, metal-spiked batons, and fixed floor or wall restraints, for example, as well as other equipment that has no legitimate law enforcement purpose<sup>40</sup>. The UN and other human rights bodies have stated that any use of such equipment would breach international human rights and police standards, and that trade in such equipment should be prohibited. Nonetheless, these goods are manufactured, traded, and used across the world, including in a range of African States. Some examples are discussed below.

### a. BODY-WORN ELECTRIC SHOCK

35. The term ‘body-worn electric shock’ encompasses a range of devices, activated by remote control, which are manufactured specifically to attach to prisoners’ bodies. This includes stun belts and stun cuffs. The activation of body-worn electric shock devices, as well as their use without activation, constitutes torture or other ill-treatment. **Body-worn electric shock devices are inherently abusive, and do not fulfil a law enforcement purpose that cannot be achieved through less harmful means. Their manufacture, trade, and use should be prohibited, and any existing devices held by States must be removed and verifiably destroyed.**

36. A South African company manufactures a range of electric shock products, including body-worn electric shock devices. Among its products is an electric shock belt, which features a “control range” of “up to 100+ metres”<sup>41</sup>. This product is advertised for use “to restrain and control the behaviour of prisoners / aggressors while escorting in order to prevent escape and ensure safety, efficiency without dangerous attacks to

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<sup>40</sup> More information on different kinds of equipment can be found on the Omega Research Foundation website: <https://omegaresearchfoundation.org/weapons-equipment>. See also the Omega Research Foundation’s ‘Visual Guide’, available at: <https://omegaresearchfoundation.org/identification-tools/visual-guide-law-enforcement-and-security-equipment>; and the Omega Research Foundation’s ‘A Visual Guide to the EU Torture Trade Regulation’, available at: <https://omegaresearchfoundation.org/identification-tools/visual-guide-eu-torture-trade-regulation>.

<sup>41</sup> Detailed company and product information is held by the Omega Research Foundation, please contact Omega for more information. Company information collected 2020-2023.

personnel or to innocent bystanders". The company itself does not publicise any international sales of its products, although it appears that it was an exhibitor at an international arms and security fair held in Dubai in 2018<sup>42</sup>. While it is not known if any exports took place based on this participation, their presence does indicate the company was promoting its products beyond South Africa. This company was also listed as an exhibitor at an arms and security event in South Africa in 2021, with the company profile on the fair website noting that the electric shock belt was to be among "products to be showcased". In 2019, a United States-based company advertised a "prisoner restraint system" that was visually similar, and that had the same product name as the electric shock belt manufactured by the South African company. The US-based company stated that this product had "been used on tens of thousands of prisoners nationwide by local and federal law enforcement agencies, including the Federal Bureau of Prisons and the U.S. Marshals Service". A seemingly identical product has previously also been marketed by another company, based in Florida, US. In 2020, this company used the same product description text as on the South African company's website.

37. In South Africa, electric shock stun belts are authorised for prison use for "restraining a prisoner when outside a cell"<sup>43</sup> and during "transfer/escorting"<sup>44</sup>. This authorisation is despite the 2011 determination, of the chairperson of South Africa's National Assembly Committee on Correctional Services, that electric shock equipment should be banned in prisons, and that alternative means of restraint should be found<sup>45</sup>.

#### **b. DIRECT CONTACT ELECTRIC SHOCK**

38. Often in the form of electric shock batons, 'stun' guns, or electric shock shields, direct contact electric shock weapons are used both in prisons and in security operations in public spaces. These types of weapons carry an unacceptable risk of arbitrary force, and do not have a law enforcement purpose that cannot be achieved through safer means. The manufacture, trade, and use of direct contact electric shock weapons for law enforcement officials should be prohibited, and existing stocks of such weapons should be removed and verifiably destroyed.
39. A company based in South Africa promotes "shock batons" in three sizes on its website<sup>46</sup>. The company's website states that although it had initially focused on

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<sup>42</sup> Fair exhibitor lists and information on arms and security trade fairs is available via the Omega Research Foundation's Arms Fairs database: <https://omegaresearchfoundation.org/resources/arms-fairs-0>.

<sup>43</sup> Government Gazette, Correctional Services Regulations 2004, as amended, 25 April 2012, Regulation Gazette No. 9739, Vol. 562.

<sup>44</sup> Department of Correctional Services, Chapter 16: Security equipment, B-Order, Sub-Order 2, Safety and Security, under Article 18 (1) (e) and 18 (2) of the 2004 Correctional Services Regulations, as amended.

<sup>45</sup> National Assembly Committee on Correctional Services. 2011. 'Stakeholder hearings on the prevalence of Torture in Correctional Centres'. Parliamentary Monitoring Group. 29 November 2011. Accessed 27 October 2022. Available at: <https://pmg.org.za/committee-meeting/13844/>.

<sup>46</sup> Detailed company and product information is held by the Omega Research Foundation, please contact Omega for more information. Company information collected 2020-2023.

marketing its products to South African consumers (“South African Protection & Emergency services”), it has more recently worked with “Defense Force, Police and Security organizations throughout Africa”; the website also suggests the company exports its products to the Middle East. It is one of several South African companies promoting such products, and civilian possession of these products is lawful in South Africa.

40. Reports from various African States allege that law enforcement and security officials use direct contact electric shock weapons. A 2016 report on Eritrea recounted the use of electric shocks in acts of sexual violence committed against men held in detention, and beatings using “electric sticks”<sup>47</sup>. In a 2018 report, the UN Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Support Mission in Libya (UNSMIL) noted that “electrocution” is one of the most commonly used methods of torture in detention facilities in Libya<sup>48</sup>. While the report does not specify the nature of the equipment used, it recounts various statements, including one from a man in his thirties who was detained for six months in 2016, during which “On several occasions, he was blindfolded and had his hands and feet tied before being suspended upside down by his lower limbs from the ceiling and electrocuted”<sup>49</sup>. Per a 2018 report from the UNSMIL and the OHCHR, electric shocks were also among the most commonly reported forms of torture at Libyan detention facilities for migrants and refugees<sup>50</sup>. One detained man from Cameroon reported, “They beat us every day. They use electric sticks”<sup>51</sup>. A group of Nigerian women, incarcerated at a Libyan police station, “recounted being beaten with sticks and water pipes and being given electric shocks”<sup>52</sup>.

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<sup>47</sup> United Nations Human Rights Council. 2016. *Detailed findings of the commission of inquiry on human rights in Eritrea A/HRC/32/CRP.1*. 8 June 2016.

<sup>48</sup> Office of the United Nations High Commissioner for Human Rights and the United Nations Support Mission in Libya. 2018. *Abuse Behind bars: Arbitrary and unlawful detention in Libya*. April 2018. Accessed 27 October 2022. Available at: [https://www.ohchr.org/Documents/Countries/LY/AbuseBehindBarsArbitraryUnlawful\\_EN.pdf](https://www.ohchr.org/Documents/Countries/LY/AbuseBehindBarsArbitraryUnlawful_EN.pdf).

<sup>49</sup> Office of the United Nations High Commissioner for Human Rights and the United Nations Support Mission in Libya. 2018. *Abuse Behind bars: Arbitrary and unlawful detention in Libya*. April 2018. Accessed 27 October 2022. Available at: [https://www.ohchr.org/Documents/Countries/LY/AbuseBehindBarsArbitraryUnlawful\\_EN.pdf](https://www.ohchr.org/Documents/Countries/LY/AbuseBehindBarsArbitraryUnlawful_EN.pdf).

<sup>50</sup> United Nations Support Mission in Libya and Office of the High Commissioner for Human Rights. 2018. *Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya*. 18 December 2018. Accessed 27 October 2022. Available at: <https://unsmil.unmissions.org/sites/default/files/libya-migration-report-18dec2018.pdf>.

<sup>51</sup> United Nations Support Mission in Libya and Office of the High Commissioner for Human Rights. 2018. *Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya*. 18 December 2018. Accessed 27 October 2022. Available at: <https://unsmil.unmissions.org/sites/default/files/libya-migration-report-18dec2018.pdf>.

<sup>52</sup> United Nations Support Mission in Libya and Office of the High Commissioner for Human Rights. 2018. *Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya*. 18 December 2018. Accessed 27 October 2022. Available at: <https://unsmil.unmissions.org/sites/default/files/libya-migration-report-18dec2018.pdf>.

### c. WHIPS

41. Law enforcement use of whips, including sjamboks, is inherently degrading, amounting to torture or other ill-treatment. Whips fulfil no legitimate law enforcement purpose that cannot be achieved through less harmful means. The trade and manufacture of whips for law enforcement and their use by state officials must be prohibited. Any existing stocks of these weapons should be removed and verifiably destroyed.
42. A South African company that has described itself as “a major manufacturer, importer and supplier of products to the security and safety industry”, advertises both machine- and handmade whips, in this instance, sjamboks<sup>53</sup>. Images of seemingly identical products on the website of a different South African company may suggest that other companies also offer the South African-manufactured products.
43. The South African manufacturer discussed above suggests that it maintains a presence in “South Africa and neighbouring Countries”, although it does not specify to which nearby States it refers. The South African reseller, in addition to potentially advertising South African-made products, has offered sjamboks from a US-based company, which are likely imported into South Africa.
44. Use of whips by law enforcement authorities has been documented in a range of African States, including allegedly in South Africa during the COVID-19 lockdown<sup>54</sup> and in detention facilities in Libya<sup>55</sup> and Eritrea<sup>56</sup>. In January 2020, the United Nations Commission on Human Rights in South Sudan reported the use of whips to carry out acts of torture or other ill-treatment. In one instance, children who had been forcibly recruited and were being housed at a National Security Service (NSS) training centre were “lashed with a whip fashioned of leather”<sup>57</sup>. The 2019 Commission report similarly references NSS prisoners being “whipped”, among a range of other forms of

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<sup>53</sup> Detailed company and product information is held by the Omega Research Foundation, please contact Omega for more information. Company information collected 2020-2023.

<sup>54</sup> UN News. 2020. *News in Brief 27 April 2020*. Accessed 27 October 2022. Available at: <https://news.un.org/en/audio/2020/04/1062652>.

Reddy, Mitch, and Simon Allison. 2020. ‘Police use sjamboks and rubber bullets to enforce Hillbrow lockdown’. *Mail & Guardian*. 31 March 2020. Accessed 27 October 2022. Available at: <https://mg.co.za/article/2020-03-31-police-use-sjamboks-and-rubber-bullets-to-enforce-hillbrow-lockdown/>.

<sup>55</sup> Office of the United Nations High Commissioner for Human Rights and the United Nations Support Mission in Libya. 2018. *Abuse Behind bars: Arbitrary and unlawful detention in Libya*. April 2018. Accessed 27 October 2022. Available at:

[https://www.ohchr.org/Documents/Countries/LY/AbuseBehindBarsArbitraryUnlawful EN.pdf](https://www.ohchr.org/Documents/Countries/LY/AbuseBehindBarsArbitraryUnlawful%20EN.pdf); and United Nations Support Mission in Libya and Office of the High Commissioner for Human Rights. 2018. *Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya*. 18 December 2018. Accessed 27 October 2022. Available at: <https://unsmil.unmissions.org/sites/default/files/libya-migration-report-18dec2018.pdf>.

<sup>56</sup> United Nations Human Rights Council. 2016. *Detailed findings of the commission of inquiry on human rights in Eritrea A/HRC/32/CRP.1*. 8 June 2016.

<sup>57</sup> United Nations Human Rights Council. 2020. *Report of the Commission on Human Rights in South Sudan. A/HRC/43/56*. 31 January 2020.



ill-treatment<sup>58</sup>. A 2018 report from the UN Mission in South Sudan also recorded reports from NSS prisoners who had “been beaten with a leather whip during their detention”<sup>59</sup>.

### 3- OTHER LAW ENFORCEMENT EQUIPMENT IN AFRICA

45. While some weapons and equipment are inherently abusive, other kinds of law enforcement equipment may have a legitimate purpose when used in strict accordance with international human rights and police standards, but are often used by state officials for torture or ill-treatment. **This category of equipment includes, for example, some kinds of chemical irritants (tear gas<sup>60</sup> and pepper spray, for example), standard handcuffs, and police batons, as well as projectile electric shock weapons and some kinetic impact projectiles (often called rubber bullets)<sup>61</sup>.** Such equipment is manufactured and traded worldwide, including by a large number of African companies, and is used by authorities across Africa. Some examples are discussed below.

#### a- CHEMICAL IRRITANTS

46. In certain limited circumstances, chemical irritants may have a legitimate law enforcement purpose, when used in strict accordance with international human rights and police standards, but they are often misused to carry out torture and other ill-treatment. For example, the use, or threat of use, of chemical irritants like tear gas in confined spaces, or where people have no means of escape, could amount to torture or other ill-treatment. In the context of public gatherings, chemical irritants should only be used when strictly necessary, proportionate, and for the shortest possible time, using the minimum amount of irritant necessary. States should control the manufacture, trade, and use of all chemical irritants.

47. A “leading” South African “Pepper Spray brand” offers a range of products on its website, including a “Riot Extinguisher” for “security personnel to control crowds”, which contains OC and “sprays up to 12 meters”<sup>62</sup>. This company has been listed as an exhibitor at arms and security trade fairs in South Africa (at events in 2019, 2018,

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<sup>58</sup> United Nations Human Rights Council. 2019. *Report of the Commission on Human Rights in South Sudan*. A/HRC/40/69. 12 March 2019.

<sup>59</sup> UNMISS and UN OHCHR. 2018. *Report on the Right to Freedom of Opinion and Expression in South Sudan Since the July 2016 Crisis*. February 2018. Accessed 27 October 2022. Available at: [https://unmiss.unmissions.org/sites/default/files/unmiss-ohchr\\_freedom\\_of\\_expression\\_report\\_-\\_final\\_amendment.pdf](https://unmiss.unmissions.org/sites/default/files/unmiss-ohchr_freedom_of_expression_report_-_final_amendment.pdf).

<sup>60</sup> To learn more about tear gas, see the Amnesty International and Omega Research Foundation investigation, available at: <https://teargas.amnesty.org/#top>.

<sup>61</sup> See Omega Research Foundation and Amnesty International. 2023. ‘My Eye Exploded’: The Global Abuse of Kinetic Impact Projectiles. Index: ACT 30/6384/2023

<sup>62</sup> Detailed company and product information is held by the Omega Research Foundation, please contact Omega for more information. Company information collected 2020-2023.

2017, and 2023) and internationally, including in Moscow in 2015. In 2018, the company was also reported as developing international connections in Nigeria.

48. Protests and public gatherings held across Africa are often subject to excessive, disproportionate, and inappropriate use of tear gas or pepper spray, including to punish those attending. The use of excessive amounts of chemical irritants, or the use of chemical irritants for punishment, in confined spaces, or where there is no means of escape, may amount to torture or other ill-treatment. The Commission has reported the use of excessive force, including tear gas, in 2016 protests in Uganda<sup>63</sup> and the Republic of the Congo<sup>64</sup>. In Nigeria, UN reports noted the use of excessive force against peaceful protesters, including the use of water cannons, tear gas and live ammunition, injuring hundreds and killing an “unknown number”<sup>65</sup>. In 2019, the UN reported the use of tear gas, along with live ammunition and rubber bullets, against protesters in Egypt<sup>66</sup>.
49. In some instances, law enforcement authorities’ abusive use of chemical irritants is neither in response to a protest, nor in a place of detention. On 2 October 2017, for instance, Kenyan police “reportedly used tear gas in a nursery in Nyalenda, injuring at least three children”<sup>67</sup>. In 2018, the UN Security Council reported, in the Democratic Republic of Congo, cases where “religious services [were] interrupted by tear gas”<sup>68</sup>.

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<sup>63</sup> African Commission on Human and Peoples’ Rights, Commissioner Lawrence M. Mute, Chairperson, Committee for the Prevention of Torture in Africa. 2016. ‘Inter-session Activity Report (November 2015 to April 2016) and Annual Situation of Torture and Ill-Treatment in Africa Report’. 6-20 April 2016. Accessed 27 October 2022. Available at: [https://www.achpr.org/public/Document/file/English/58os\\_inter\\_session\\_report\\_mute\\_eng.pdf](https://www.achpr.org/public/Document/file/English/58os_inter_session_report_mute_eng.pdf).

See also:

United Nations Human Rights: Office of the High Commissioner. 2016. ‘Press briefing notes on Uganda’. 23 February 2016. Accessed 27 October 2022. Available at:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17081&LangID=E>.

<sup>64</sup> African Commission on Human and Peoples’ Rights, Commissioner Lawrence M. Mute, Chairperson, Committee for the Prevention of Torture in Africa. 2016. ‘Inter-session Activity Report (November 2015 to April 2016) and Annual Situation of Torture and Ill-Treatment in Africa Report’. 6-20 April 2016. Accessed 27 October 2022. Available at: [https://www.achpr.org/public/Document/file/English/58os\\_inter\\_session\\_report\\_mute\\_eng.pdf](https://www.achpr.org/public/Document/file/English/58os_inter_session_report_mute_eng.pdf).

<sup>65</sup> United Nations Human Rights: Office of the High Commissioner. 2020. ‘UN human rights experts demand Nigeria investigate shooting of peaceful protestors by soldiers’. 3 November 2020. Accessed 27 October 2022. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26468&LangID=E>.

<sup>66</sup> United Nations Human Rights: Office of the High Commissioner. 2019. ‘UN experts urge Egypt to end crackdown on protesters and human rights defenders. 28 October 2019. Accessed 27 October 2022. Available at: <https://www.ohchr.org/en/press-releases/2019/10/un-experts-urge-egypt-end-crackdown-protesters-and-human-rights-defenders>.

<sup>67</sup> United Nations Human Rights: Office of the High Commissioner. 2017. ‘News: Kenya must lift protest ban and end pattern of police brutality ahead of poll, UN experts warn.’ 16 October 2017. Accessed 27 October 2022. Available at: <https://www.ohchr.org/en/press-releases/2017/10/kenya-must-lift-protest-ban-and-end-pattern-police-brutality-ahead-poll-un>.

<sup>68</sup> United Nations Security Council. 2018. *8153rd meeting - The situation concerning the Democratic Republic of Congo: Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (S/2018/16)*. S/PV.8153. Accessed 27 October 2022. Available at:

Reports that “security forces... have fired tear gas inside churches” were also noted by UN News, which cited an account that stated, “security forces allegedly fired live ammunition, rubber bullets and tear gas grenades, in some cases at point blank range”<sup>69</sup>. In 2019, Michelle Bachelet, UN High Commissioner for Human Rights, cited reports that security forces in Sudan used tear gas inside hospitals<sup>70</sup>. In 2020, UN News reported the use of “Rubber bullets, tear gas, water guns and whips” in South Africa “to enforce [COVID-19 restrictions such as] social distancing in shopping lines...and outside their homes”<sup>71</sup>.

## **b- STANDARD HANDCUFFS**

50. Standard handcuffs may have a legitimate law enforcement purpose, when used in accordance with international human rights and police standards, but they are often used to carry out torture and other ill-treatment. Restraints should only be used for the shortest possible period of time, and never for punishment. They should not be fixed too tightly, applied for an extended period of time, or used to restrain a person in stress positions. States should control the manufacture, trade, and use of standard handcuffs.
51. A South African company offers a range of restraints, including standard handcuffs, on its website<sup>72</sup>. It is one of several South Africa-based companies promoting handcuffs. The company in question does not state that it manufactures these products itself, and is likely that at least some of the products are imported for resale

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[https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_pv\\_8153.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_8153.pdf).

<sup>69</sup> UN News. 2018. ‘UN rights office warns DR Congo authorities against use of excessive force when policing protests’. 5 January 2018. Accessed 27 October 2022. Available at: <https://news.un.org/en/story/2018/01/641032-un-rights-office-warns-dr-congo-authorities-against-use-excessive-force-when>.

See also:

UN News. 2018. ‘DR Congo: UN rights office urges probe into use of force against protesters’. 23 January 2018. Accessed 27 October 2022. Available at: <https://news.un.org/en/story/2018/01/1000981>.

UN News. 2018. ‘DR Congo elections: ‘Excessive use of force’ in campaign must be avoided, says Bachelet’. 14 December 2018. Accessed 27 October 2022. Available at: <https://news.un.org/en/story/2018/12/1028561>.

<sup>70</sup> United Nations Human Rights: Office of the High Commissioner. 2019. ‘Reports of excessive force against Sudan protests deeply worrying - Bachelet’. 17 January 2019. Accessed 27 October 2022. Available at: <https://www.ohchr.org/en/press-releases/2019/01/reports-excessive-force-against-sudan-protests-deeply-worrying-bachelet>.

See also

UN News. 2019. ‘Sudan: UN rights chief alarmed over ‘excessive force’, alleged use of live fire against protestors’. 17 January 2019. Accessed 27 October 2022. Available at: <https://news.un.org/en/story/2019/01/1030702>.

See also

UN News. 2019. ‘Sudan: ‘Exercise utmost restraint’ urges Guterres as thousands march in Khartoum, sparking deadly clashes’. 8 April 2019. Accessed 27 October 2022. Available at: <https://news.un.org/en/story/2019/04/1036321>.

<sup>71</sup> UN News. 2020. *News in Brief 27 April 2020*. Accessed 27 October 2022. Available at: <https://news.un.org/en/audio/2020/04/1062652>.

<sup>72</sup> Detailed company and product information is held by the Omega Research Foundation, please contact Omega for more information.

domestically and around Africa. The company states it has “licenses to sell products to Southern Africa”, and has “thousands of... customers around Southern Africa”. For sales beyond the Southern African region, the website advises that customers contact the company.

52. Reports allege the use of standard handcuffs in torture and other ill-treatment across Africa<sup>73</sup>. In a 2016 report cited by the Commission, Amnesty International alleged that detainees in Tunisia “were subjected to electric shocks, including on the genitals, and a stress position known as the “roasted chicken” whereby their hands and feet were cuffed to a stick”<sup>74</sup>.

### c- BATONS

53. According to the Commission’s Study on the Use of Force by Law Enforcement Officials in Africa, batons are the most-commonly issued law enforcement weapon in Africa. Batons may have a legitimate law enforcement purpose, when used in accordance with international human rights and police standards, but they are often used to carry out torture and other ill-treatment. Batons can be used in abusive restraint techniques, such as neck-holds, which present a very high risk of death or serious injury. Their use to strike, hit, or jab can result in serious injury including fractures, injuries to internal organs, or even death. States should control the manufacture, trade, and use of batons, and other hand-held kinetic impact weapons.
54. A South African company manufactures a range of law enforcement and security products, including various batons (tonfa/side-handled, straight, and extendable)<sup>75</sup>. The company has exported its products to “more than 78 countries”, and has international agents in eight countries (in Africa, the countries with agents are South Africa and Côte d’Ivoire). In addition to its international agents, the company’s website notes, “We ship to all countries unless there are trade restrictions or embargoes that prevent us from sending a shipment”. The company exhibits its products at arms and security fairs internationally. For example, it was on the exhibitor list of fairs in London in 2019 and 2017, in Istanbul in 2017, and Kuala Lumpur in 2018 and 2016; and in South Africa, at fairs in 2022, 2019, 2018 (three events), 2017, and 2016 (two events).

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<sup>73</sup> As an example, note: United Nations Security Council. 2017. The situation in Libya. 8091st meeting. Wednesday, 8 November 2017. S/PV.8091.

<sup>74</sup> Amnesty International. 2016. ‘Tunisia: Evidence of torture and deaths in custody suggest gains of the uprising sliding into reverse gear’. 14 January 2016. Accessed 27 October 2022. Available at: <https://www.amnesty.org/en/latest/news/2016/01/tunisia-evidence-of-torture-and-deaths-in-custody/>.

Cited in: African Commission on Human and Peoples’ Rights, Commissioner Lawrence M. Mute, Chairperson, Committee for the Prevention of Torture in Africa. 2016. ‘Inter-session Activity Report (November 2015 to April 2016) and Annual Situation of Torture and Ill-Treatment in Africa Report’. 6-20 April 2016. Accessed 27 October 2022. Available at: [https://www.achpr.org/public/Document/file/English/580s\\_inter\\_session\\_report\\_mute\\_eng.pdf](https://www.achpr.org/public/Document/file/English/580s_inter_session_report_mute_eng.pdf).

<sup>75</sup> Detailed company and product information is held by the Omega Research Foundation, please contact Omega for more information.

55. Human rights bodies report the use of batons and other equipment to torture people in an effort to coerce them to confess to crimes while in custody, often while they are restrained in handcuffs, or other types of restraints. Batons are also misused to harm people on the street, including people protesting or attending public assemblies or gatherings<sup>76</sup>. In a 2015 report, an OHCHR spokesperson reported that some detainees in Burundi were “*beaten, particularly on their feet and buttocks with some of those released having trouble walking due to the beating*”<sup>77</sup>. In 2017 and 2018, the United Nations Human Rights Council Commission of Inquiry on Burundi found multiple incidents of beatings comprising acts of torture and other ill-treatment in places of detention in Burundi<sup>78</sup>. Although the Commission of Inquiry does not always specify that police batons were used, in the 2019 report it did note some torture victims “*were kicked or beaten with sticks or batons on different parts of their bodies*”<sup>79</sup>. Beatings were also reported in the final Report of the United Nations Independent Investigation on Burundi<sup>80</sup>. In 2017, it was reported by OHCHR that police in Kenya used wooden clubs to beat protesters<sup>81</sup>; and in 2021, UN News reported that Ugandan police beat journalists covering an election event<sup>82</sup>.

#### D. RECOMMENDATIONS

56. The Committee calls upon:

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<sup>76</sup> For information on the misuse of striking weapons, such as batons, see: Omega Research Foundation and Amnesty International. 2021. ‘Blunt Force: investigating the misuse of police batons and related equipment’. Available at: <https://omegaresearchfoundation.org/publications/new-investigation-exposing-global-misuse-police-batons>. Accessed 27 October 2022.

<sup>77</sup> United Nations Human Rights: Office of the High Commissioner. 2015. ‘Press briefing note on: Maldives, Burundi and CAR investigations.’ 1 May 2015. Accessed 27 October 2022. Available at: <https://www.ohchr.org/en/press-briefing-notes/2015/05/press-briefing-note-maldives-burundi-and-car-investigations>.

<sup>78</sup> United Nations General Assembly: Human Rights Council. 2018. Report of the Commission of Inquiry on Burundi A/HRC/39/63. 8 August 2018. Accessed 27 October 2022. Available at: <https://www.ohchr.org/en/hr-bodies/hrc/co-i-burundi/co-i-burundi-report-hrc39>.

United Nations General Assembly: Human Rights Council. 2017. Report of the Commission of Inquiry on Burundi A/HRC/36/54. 11 August 2017. Accessed 27 October 2022. Available at: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/36/54](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/54).

See also: UN News. 2016. ‘Torture and illegal detention on the rise in Burundi - UN rights chief’. 18 April 2016. Accessed 27 October 2022. Available at: <https://news.un.org/en/story/2016/04/526992>.

<sup>79</sup> United Nations General Assembly: Human Rights Council. 2019. *Report of the Commission of Inquiry on Burundi A/HRC/42/49*. 6 August 2019. Accessed 27 October 2022. Available at: <https://undocs.org/en/A/HRC/42/49>.

<sup>80</sup> United Nations Human Rights Council. 2016. *Report of the United Nations Independent Investigation on Burundi (UNIIB) established pursuant to Human Rights Council resolution S-24/1*.

<sup>81</sup> United Nations Human Rights: Office of the High Commissioner. 2017. ‘News: Kenya must lift protest ban and end pattern of police brutality ahead of poll, UN experts warn.’ 16 October 2017. Accessed 27 October 2022. Available at: <https://www.ohchr.org/en/press-releases/2017/10/kenya-must-lift-protest-ban-and-end-pattern-police-brutality-ahead-poll-un>.

<sup>82</sup> UN News. 2021. ‘Uganda: ‘Deteriorating’ human rights situation in run-up to elections next week’. 8 January 2021. Accessed 27 October 2022. Available at: <https://news.un.org/en/story/2021/01/1081662>

- i. Those States that have ratified UNCAT and OPCAT to fully implement the treaties, and States that have not yet ratified these instruments to expedite their ratification. With only two (2) African States (Zimbabwe and Tanzania) not yet States Parties to the UNCAT, Africa is close to regional universal ratification. The CPTA encourages the regional ratification of UNCAT and stands ready to assist any State Party in the ratification process;
- ii. All State Parties to:
  - a. Recognise and ensure the absolute prohibition of torture and other ill-treatment in their domestic laws;
  - b. Uphold their obligations to prevent torture and other ill-treatment, as outlined in international, regional, and national legal frameworks, particularly including the Robben Island Guidelines, the Nelson Mandela Rules, the Luanda Guidelines and ACHPR/Res.472 (LXVII) 2020 on the prohibition of the use, production, export and trade of tools used for torture. In so doing, States should establish domestic prohibitions on the manufacture, trade, and use of inherently abusive law enforcement equipment, and remove from use, and destroy, any equipment already issued where use would breach obligations under Robben Island Guideline 14;
  - c. Introduce national controls in line with obligations under Robben Island Guideline 14, i.e. that States should prohibit and prevent the use, production and trade of equipment or substances designed to inflict torture or ill-treatment and the abuse of any other equipment or substance to these ends. States should report on implementation progress to the Committee;
  - d. Initiate a mechanism to develop regional standards to regulate trade in law enforcement in line with Robben Island Guideline 14;
  - e. Fulfil their reporting obligations under the *Indicative Questions to State Parties in respect of Article 5 of the African Charter*, and address their implementation of Robben Island Guideline 14 and requirements under Resolution 472 within this reporting;
  - f. Ensure that law enforcement equipment is not acquired by end users likely to employ such equipment for torture or other ill-treatment;
  - g. Ensure their independent national preventive mechanisms and national human rights institutions investigate and report on the specific equipment used in places of detention and to make recommendations to

the relevant authorities to ensure that possession and use of inherently abusive equipment is prohibited and any existing equipment removed and destroyed, and that standard law enforcement equipment is not misused for torture and other ill-treatment;

- h. Join the Alliance for Torture-Free Trade;
- i. Support and fully participate in the UN process to consider international controls on the trade in tools of torture, including a Torture-Free Trade Treaty.