

# Committee for the Prevention of Torture in Africa - 73OS

Oct 29, 2022

## INTRODUCTION

1. This Report has been prepared in accordance with Rules 25 (3) and 64 of the Rules of Procedure of the African Commission on Human and Peoples' Rights (the African Commission), which provide that each Subsidiary Mechanism of the African Commission shall submit a report on its work to each Ordinary Session of the African Commission, and that every Commissioner shall submit a similar report on the activities he or she has undertaken during the intersession period.

2. I submit this Report in my capacity as a Member of the Commission, as Chairperson of the Committee for the Prevention of Torture in Africa (CPTA) and as Rapporteur for the Republic of Djibouti, the Republic of The Gambia, the Republic of Guinea, the Republic of Mauritius, the Republic of Madagascar and the Republic of the Sudan.

3. This Report is presented on the occasion of the 73rd Ordinary Session of the African Commission on Human and Peoples' Rights (the African Commission). It summarises my intersession activities under the various thematic and special mandates entrusted to me. This Intersession Report covers the period from the 71st to the 73rd Ordinary Session of the African Commission, i.e., the period from 14 May 2022 to 19 October 2022.

4. During the period covered by this report, from the 71st Ordinary Session to the present Session, I have taken part in all the activities provided for in the Commission's work schedule.

5. With the relatively positive evolution of the pandemic situation and the lifting of travel restrictions by the African Union, some activities could be held in- person. Other activities were conducted through webinars organized by our Commission, or in collaboration with our partners.

6. The Report is structured in four parts: the introduction, activities undertaken during the intersession period, a presentation of the situation of torture and other ill-treatments in Africa, and recommendations.

## I.ACTIVITIES UNDERTAKEN DURING THE INTERSESSION PERIOD

7. During the intersession period, I participated in the following activities in my capacity as a member of the African Commission (A) and as Chairperson and/or member of Special Mechanisms (B).

### A.ACTIVITIES CARRIED OUT AS A MEMBER OF THE COMMISSION

- **CRC EXPERT MEETING ON "MISSING PERSONS**

8. On 24 and 25 May, together with the Vice-Chairperson, I took part in the North and West Africa Inter-State meeting to develop a joint approach to missing migrants along the migration routes.

9. The meeting was organized in Gammarth by the ICRC and the Institute for Security Studies (ISS-South Africa) under the auspices of the ACHPR and the ICRC. Thirteen (13) government delegations from North and West Africa, representatives from UNHCR, IOM, AU as well as representatives from Costa Rica and Argentina participated in the meeting. The latter presented the coordination mechanisms for migration in Central America.

10. The work in plenary and in working groups had focused on the sharing of experiences between the participating countries and the contribution of the ICRC, UNHCR and IOM. The report of the Vice-Chairperson of the Commission will cover all aspects of this meeting, especially as she was very much involved in its organization.

- **URGENT MEETING OF THE ACHPR**

11. I participated in the urgent meeting convened on 29 June 2022 together with all the Commissioners to examine the situation subsequent to the abuses committed by Moroccan law enforcement agencies against African migrants who were trying to force their way into the Spanish enclave of Mellila.

- **OHCHR-AFRICAN HUMAN RIGHTS BODIES MEETING ON THE ADDIS ABABA ROADMAP: LUSAKA 10/11 JULY 2022**

12. The Office of the UN High Commissioner for Human Rights invited the AU human rights bodies to a two-day consultation to review the existing memoranda of understanding between the two organisations and to develop an effective strategy to strengthen coordination and jointly implement identifiable activities. Participants noted that the Covid 19 pandemic has prevented the implementation of joint activities. Furthermore, the laudable principles of the Addis Ababa Roadmap were not matched by a programme of activities or a clear roadmap of joint actions. While reviewing the various protocols, the meeting called for the adoption of a specific cooperation programme to be established at a future meeting.

- **AFRICAN DEFENDERS/TUNISIAN LEAGUE OF HUMAN RIGHTS TRAINING WORKSHOP FOR ALGERIAN AND TUNISIAN LAWYERS AND JOURNALISTS, HAMMAMET 15-17 JULY 2022**

13. The Tunisian League for the Defence of Human Rights and African human rights defenders organised a training workshop for Tunisian and Algerian lawyers and journalists in Hammamet from 15 to 17 July 2022, as part of their project to protect human rights defenders in the Horn and North of Africa. The workshop was intended to familiarise participants with African human rights bodies and the procedures for alerting and referring cases to these bodies.

14. I provided this training with a Tunisian lawyer, a human rights defender, who presented strategic litigation, appeals before UN bodies and led the work in sub-groups. For my part, I focused the training on the following aspects:

- a. Presentation of the African Commission on Human and Peoples' Rights.
- b. The intervention measures of the ACHPR to stop or prevent human rights violations.
- c. Litigation before the ACHPR: Communications.
- d. The relationship between African and UN bodies.
- e. Study of a practical case: a communication.

15. The three-day workshop was a success. It allowed participants to familiarize themselves with African and UN human rights bodies and the procedures before these bodies. They were able to take note of texts and references useful in their future actions. These workshops should reach a wider audience in North Africa. We have noted the ignorance of large sections of our societies of the existence of an African Commission or Court on Human and Peoples' Rights.

- **PARTICIPATION IN THE 72nd ORDINARY SESSION**

16. Like all my fellow Commissioners, I took part from 19 July to 2 August 2022 in the work of the 72nd Ordinary Session of the ACHPR. This session took place virtually. The Final Communiqué of the session reported the results of this session.

- **PARTICIPATION IN THE PROMOTION MISSION TO CAPE VERDE**

17. A request for a promotion mission to this State Party to the African Charter was transmitted to the State authorities. However, the delegation of the African Commission could not carry out this mission during the intersession period.

## **B.ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF THE SPECIAL MECHANISMS**

- **CHAIRPERSON OF THE COMMITTEE FOR THE PREVENTION OF TORTURE IN AFRICA**

- o **URGENT MEETING ON THE FREEZING OF ACHPR ACCOUNTS**

18. On the evening of 23 May, I had a virtual meeting with the Deputy Chairperson of the Commission and the Finance Officer, in the presence of legal experts, to examine the possibility of holding the SOPs validation workshop on torture, scheduled to take place in Abidjan from 27 to 29 May 2022, following the ban on the withdrawal of foreign currency funds by the Gambian authorities. This sudden ban, which is contrary to diplomatic regulations and customs, jeopardises the activities of the ACHPR.

19. After examining the situation and given the expenses already incurred, it was decided to maintain the workshop and to make two transfers, the first to the hotel hosting the proceedings and the participants and the second to pay for other expenses (interpreters, vehicle hiring, etc.).

- **PARTICIPATION IN THE REGIONAL WORKSHOP FOR THE VALIDATION OF THE ABIDJAN RULES**

20. I chaired the regional workshop held in Abidjan from 27 to 29 May 2022 for the validation of the standard operating procedures of the alert and reporting mechanism to the ACHPR on the situation of torture and related acts of the CPTA.

21. In addition to CPTA members, the workshop brought together experts who participated in the development of the SOPs and representatives of African NGOs active in the field of torture from the five sub-regions as well as participants from the SPT and Defend Defenders.

22. The workshop reviewed the entire draft standard operating procedures and amended some paragraphs in the light of the experiences of others. The discussions were very intense and of a high level. The last day was devoted to the exchange of experiences and the implementation of these procedures. Given the length of the title of the standard rules document, it was proposed to call them the "Abidjan Rules". The Abidjan Rules will be submitted to the 72nd Ordinary Session of the ACHPR (July) with a view to their final adoption and to schedule their public launch during a panel of the 73rd session, scheduled for October 2022.

- **STATEMENT ON THE OCCASION OF THE INTERNATIONAL DAY IN SUPPORT OF VICTIMS OF TORTURE**

23. On 26 June 2022, on the occasion of the International Day in Support of Victims of Torture, the Committee issued a statement in support of this target group. This statement, in line with the Committee's 2022 theme "Reparations for Victims of Torture", was an opportunity to show support for victims who do not have access to the comprehensive reparation mechanisms put in place by stakeholders to address the impact of human rights violations.

24. In view of this, the Committee is committed to understanding the process and effects of torture on its victims in order to put in place a set of strategies and programmes specifically designed to provide them with the particular reparation they need to approach a return to the status quo ante. In this sense, the adoption of the Abidjan Rules is significant in that it also addresses the issue of reparation in these forms.

- **COMMEMORATION OF THE INTERNATIONAL DAY AGAINST TORTURE**

25. On Monday, June 27, 2022, CPTA commemorated the International Day Against Torture. In addition to the release of the classic statement developed each year, this year CPTA organized a video conference hosted by:

- i. Ms. Betty Odallo, Senior Technical Advisor at the Center for Reproductive Rights. She made a presentation on "The impact of torture on women and girls";
- ii. Ms. Eva Nudd, Legal Advisor at Dignity who spoke on "The impact of torture on refugees and displaced persons";
- iii. Ms. Sana Bousbih, expert member of the CPTA, presented the legal framework to prevent torture.

26. For this webinar, the Committee highlighted the impact of torture on specific vulnerable categories of people, namely internally displaced persons, girls and women. This specification aims to measure the extent of the effects of torture on these categories of people and to formulate adequate remedial measures for them. The webinar also served as a reminder of all the preventive measures to avoid the occurrence of torture at all costs.

- **PANEL OF THE CPTA AT THE 72nd ORDINARY SESSION**

27. On Saturday 30 July 2022, as part of the 72nd Ordinary Session, the Committee organised a Panel on the review of the Abidjan Rules and their adoption by the African Commission.

28. This activity was aimed at sharing with the Commission the draft text of the Abidjan Rules in order to collect contributions for its finalization and adoption.

29. The Abidjan Rules were well received by the Commission, which adopted them with some amendments.

30. The African Commission adopted the Abidjan Rules by Resolution ACHPR/RES. 520 (LXXII).

- **VIRTUAL MEETING WITH APT**

31. At her request, I had a virtual meeting with the President of the APT on 9 September 2022. We discussed the possibilities of promoting the Mendez principles in Africa. In this regard, we proposed that the APT attend the next session of the ACHPR and consider the desirability of a resolution encouraging the dissemination of the Mendez principles on our continent. We also agreed to organise sub-regional workshops to popularise the principles.

32. With regard to the Abidjan Rules, I briefed the President of the APT on the process of drafting and adopting these rules. While welcoming the steps taken, the President promised her organisation's support and assistance in the dissemination and promotion of the Abidjan Rules, following their launch at the 73rd Session of our Commission.

- **VIRTUAL MEETING WITH THE NATIONAL HUMAN RIGHTS COMMISSION OF SOUTH AFRICA**

33. On 21 September 2022, as Chairperson of the Committee, I had a virtual contact meeting with representatives of the National Human Rights Commission of South Africa.

34. This meeting was an opportunity for the said Commission to establish formal contact with the Committee to discuss matters of mutual interest.

35. I would like to reiterate my appreciation for this welcome move by the South African National Human Rights Commission.

- **CHAIRMAN OF THE ADVISORY COMMITTEE ON BUDGET AND PERSONNEL MATTERS**

36. The report on the activities of this Working Group will be presented at the Private Session.

- **ACTIVITIES CARRIED OUT AS COUNTRY RAPPORTEUR**

#### **i. REPUBLIC OF SUDAN**

- **WEBINAR ON THE HUMAN RIGHTS SITUATION IN SUDAN**

37. On 14 June 2022, I participated in a webinar organised by FIDH on the human rights situation in Sudan. Four Sudanese civil society organizations presented a report on the state of freedoms and rights since the coup d'état of 25 October 2021. For my part, I reiterated our Commission's continued support and monitoring of the situation in that African country.

- **VIDEO CONFERENCE ON HUMAN RIGHTS VIOLATIONS IN SUDAN**

38. On 21 June 2022, on the margins of the 50th Session of the Human Rights Council, Redress, FIDH and Defend Defenders hosted a video conference on human rights violations in Sudan. The informative meeting focused on the ongoing human rights violations in Sudan and the UN's engagement in the country. However, the lack of interpretation reduced the impact of the meeting.

- **WEBINAR ON WOMEN'S PROPERTY RIGHTS IN SUDAN**

39. The Sudanese NGO SIHA Network organized a webinar on women's land ownership rights in Sudan on June 27, 2022. Speakers highlighted the urgent need for policy reform in this area to help Sudanese women gain access to land ownership.

#### **ii. REPUBLIC OF GUINEA**

40. In response to the human rights situation in the Republic of Guinea, in particular the restriction of freedom of association and peaceful assembly, as Country Rapporteur Commissioner, and jointly with Commissioner Maria Teresa Manuela, Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa, we issued a press release on the human rights situation in the Republic of Guinea on 25 August 2022. In this press release, we called on the Guinean authorities to respect the rights guaranteed by the African Charter in its territory.

## **II. REPORT ON THE SITUATION OF TORTURE AND OTHER ILL-TREATMENT IN AFRICA**

41. Torture" means 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, to intimidate or coerce him or her or a third person, or for any other reason based on discrimination of any kind, when such pain or suffering is inflicted by a public official or any other person acting in an official capacity".[[ 'Article 5 of the African

Commission on Human and Peoples' Rights' <<https://www.achpr.org/legalinstruments/detail?id=49>>.]

42. This annual report on the situation of torture and other ill-treatment in Africa is prepared in accordance with one of the terms of reference of the CPTA, which mandates the Committee to report to each Ordinary Session of the African Commission on the status of implementation of the Guidelines and measures for the prohibition and prevention of torture, The Robben Island Guidelines provide concrete guidance to State and non-State actors on how to implement Article 5 of the African Charter on Human and Peoples' Rights (the African Charter) which states that: "Every individual shall have the right to respect for the inherent dignity of the human person and to the recognition of his legal personality. All forms of exploitation and degradation of man, in particular slavery, trafficking in persons, physical or moral torture, and cruel, inhuman or degrading treatment or punishment, shall be prohibited" [ 'Article 5 of the African Commission on Human and Peoples' Rights' <<https://www.achpr.org/legalinstruments/detail?id=49>>.] .

43. The Committee for the Prevention of Torture in Africa (CPTA) promotes the implementation of the Robben Island Guidelines and other important instruments in the prevention and prohibition of torture and other ill-treatment, including the United Nations Convention against Torture (UNCAT) and the Optional Protocol to the UNCAT (OPCAT). It is also working to establish effective National Preventive Mechanisms (NPMs) in African States in accordance with the OPCAT.

#### **A. Positive developments**

- **UNCAT**

44. The UNCAT primarily calls on States to criminalise torture. To date, the following fifty-two (52) African States have ratified the UNCAT: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cabo Verde, Cameroon, Comoros, Congo, Côte d'Ivoire, Djibouti, Egypt, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Equatorial Guinea, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, South Africa, Mali, Central African Republic, Chad, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, Sudan, South Sudan, Swaziland, Togo, Tunisia, Uganda and Zambia[ 'Status of Ratification Interactive Dashboard: Convention Against Torture and Other, Cruel, Inhuman, or Degrading Treatment or Punishment' (Office of the High Commissioner UN Human Rights, 11 March 2022)' <<https://indicators.ohchr.org/>>.] .

45. Only two African States have not yet ratified the UNCAT: the United Republic of Tanzania and Zimbabwe[ *ibid.*] .

46. Kenya's State Party report was considered by the UN Committee against Torture (CAT) in May 2022 with concluding observations by CAT[ 'Article 5 of the African Commission on Human and Peoples' Rights' <<https://www.achpr.org/legalinstruments/detail?id=49>>.*See* Concluding Observations, UN Doc CAT/C/KEN/CO/3, 30 May 2022 [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.as...](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.as...)] .

47. Botswana's State Party Report was considered by the UN Committee against Torture (CAT) in July 2022 with concluding observations by CAT[ *See* Concluding Observations, UN Doc. CAT/C/BWA/CO/1, 23 August 2022 [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.as...](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.as...)] .



48. The State Party Reports of Malawi, Uganda, Somalia and Chad will be considered by the UN Committee against Torture at its 75th Session in October/November 2022[ See Committee against Torture 75th, information on the consideration of State party reports: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/SessionDeta...](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDeta...) ] .

- **OPCAT**

49. The OPCAT is designed to help States meet their existing obligations to prevent torture and other forms of ill-treatment by creating a system of regular visits to places where people are or may be deprived of their liberty.

50. To date, the following twenty-three (23) African States have ratified the OPCAT: Benin, Burkina Faso, Burundi, Central African Republic, Cabo Verde, Democratic Republic of Congo, Gabon, Ghana, Liberia, Madagascar, Mali, Mauritania, Mauritius, Morocco, Mozambique, Niger, Nigeria, Rwanda, Senegal, South Africa, South Sudan, Togo and Tunisia[ 'Status of Ratification Interactive Dashboard: Convention Against Torture and Other, Cruel, Inhuman, or Degrading Treatment or Punishment' (Office of the High Commissioner UN Human Rights, 11 March 2022)' <<https://indicators.ohchr.org/&gt;>.] .

51. Eight (8) other African States are signatories to the OPCAT: Angola, Cameroon, Chad, Congo, Guinea, Guinea-Bissau, Sierra Leone and Zambia[ *ibid.*] .

52. The Subcommittee on Prevention of Torture had planned visits to Madagascar and Tunisia in 2020, which were postponed because of Covid-19. The visit to Madagascar remains postponed, but the Subcommittee visited Tunisia between 27 March 2022 and 2 April 2022[ <https://www.ohchr.org/en/press-releases/2022/04/tunisia-progress-made-c...>] .

## **B. Negative Developments in the Prohibition of Torture and Other Ill-Treatment in Africa**

- **TERRORISM AND TORTURE**

53. The Robben Island Guidelines provide that "public order", a "national emergency"[ Guideline 10 of the Robben Island Guidelines'.] or "superior orders"[ Guideline 11 of the Robben Island Guidelines'.] should not be used as a justification or excuse for torture and other ill-treatment. Torture has been used against terrorist suspects or persons allegedly associated with terrorist suspects, in order to obtain information and punish them for their alleged role in the terrorist act. Terrorist groups have also used torture-like means on populations. States, in turn, have responded by using excessive force, including torture and other ill-treatment, to combat the scourge of terrorism in their territories.

54. On May 18, 2022, Human Rights Watch reported that "Burundi's national intelligence services, police, and ruling party youth members have killed, arbitrarily detained, tortured, and harassed individuals suspected of belonging to opposition parties or working with armed opposition groups." [ <https://www.hrw.org/news/2022/05/18/burundi-suspected-opponents-killed-...>] .

55. On May 16, 2022, Human Rights Watch reported that armed Islamist groups in Burkina Faso were becoming "increasingly abusive, committing hundreds of killings, summary executions (extrajudicial/arbitrary killings)," rapes of civilians, and widespread looting." [ <https://www.hrw.org/news/2022/05/16/burkina-faso-armed-islamists-kill-r...>] .

56. In northern Mozambique, Human Rights Watch reported that "in the first week of March, ASWJ (an armed group) fighters reportedly killed at least 15 civilians in the villages of Mbuidi, Malamba, and Nangõmba"[ <https://www.hrw.org/news/2022/03/17/violence-increases-northern-mozambi...>].

57. In Burundi, there were reports that national intelligence services, police and ruling party youth members killed, arbitrarily detained and tortured individuals suspected of belonging to opposition parties or working with armed opposition groups[ <https://www.hrw.org/news/2022/05/18/burundi-suspected-opponents-killed-...>].

- **EXTRAJUDICIAL AND ARBITRARY EXECUTIONS AND FORCED DISAPPEARANCES**

58. The right to life is expressly guaranteed in Article 4 of the African Charter, which provides for the absolute prohibition of arbitrary deprivation of life. In its jurisprudence, the African Commission has also held that executions may constitute cruel, inhuman and degrading treatment or punishment[ Communication 277/03: Spilg and Mack & Ditshwanelo (Kobedi) v Botswana (ACHPR 2011) para 167.] .

59. In South Sudan, it was reported that on 25 May 2022, a 16-year-old boy found the body of a soldier tied to a tree, he then told his brothers who decided to report it to the local authorities. The next day, the police gathered at the scene and 25 soldiers arrived - the commander then ordered the 16-year-old boy, his 18-year-old brother and their neighbor to sit down. Then 4 soldiers shot them. They had not been questioned by the authorities, nor had any other person suspected of the crime[ <https://www.hrw.org/news/2022/06/01/execution-style-killings-emblematic...>].

60. During its consideration of the State party report of Kenya in May 2022, the Committee against Torture expressed serious concern about reports of enforced disappearances[ <https://www.ohchr.org/en/press-releases/2022/05/un-committee-against-to...>].

61. In Cameroon, it was reported that Cameroonian soldiers killed at least ten people between April 24 and June 12, 2022. These abuses occurred during counter-insurgency operations in the northwest region[ <https://www.hrw.org/news/2022/08/11/cameroon-army-killings-disappearanc...>].

- **TORTURE IN DETENTION FACILITIES, POOR DETENTION CONDITIONS AND ARBITRARY DETENTION**

62. The Robben Island Guidelines encourage States to improve conditions in places of detention[ Guideline 34 of the Robben Island Guidelines'.] and to reduce overcrowding[ Guideline 37 of the Robben Island Guidelines'.-]. Poor conditions of detention can amount to torture and other ill-treatment.

63. In Mali, Human Rights Watch reported that "Malian armed forces and associated foreign soldiers allegedly summarily" (arbitrarily) executed "approximately 300 civilian men, some of whom were suspected Islamist fighters, in the central town of Moura in late March 2022"[ <https://www.hrw.org/news/2022/04/05/mali-massacre-army-foreign-soldiers>].

64. In Zimbabwe, it was reported that the Zimbabwe Republican Police assaulted and tortured a supporter of the opposition Citizens' Coalition for Change on 17 March 2022[ <https://www.amnesty.org/en/latest/news/2022/03/zimbabwe-police-attack-o...>].

65. On April 8, 2022, Human Rights Watch reported that "at least six inmates in Cameroon's second largest prison, the 'New Bell' prison in Douala, have died since March as a result of the



cholera epidemic in the country." [ <https://www.hrw.org/news/2022/04/08/cameroon-needs-protect-prisoners-ch...> ] .

66. In Egypt, Human Rights Watch reported that the authorities failed to conduct an independent, effective, and transparent investigation into the suspicious death in custody of economist Ayman Hadhoud. Mr. Hadhoud was reported missing on February 5, 2022. He died in detention on 5 March. The authorities only announced his death on 9 April 2022 [ <https://www.hrw.org/news/2022/07/07/egypt-flawed-investigation-death-cu...> ] .

67. In Egypt, it was reported that the authorities failed to investigate the alleged ill-treatment of detainees at the first Al-Salam police station in Cairo following the leak of videos showing detainees with injuries that appeared to be the result of torture. On 28 May 2022, the first trial of 18 men and a 17-year-old boy who were allegedly tortured by police officers at this police station was held before an anti-terrorism court [ <https://www.hrw.org/news/2022/06/10/egypts-response-torture-punish-vict...> ] .

68. In Egypt, in June 2022, concerns were raised about the continued detention of Mohamed El-Baqer, a human rights defender and lawyer, Director of the Adalah Centre for Rights and Freedoms. He is reportedly being held in poor conditions of detention amounting to ill-treatment in the Tora 2 high security prison in Cairo [ <https://www.omct.org/en/resources/statements/egypt-mohamed-el-baqer-100...> ] .

69. In Botswana, in August 2022, the UN Committee against Torture expressed concern that multiple death sentences were carried out without advance notice to death row inmates or their families and that hanging was used as a method of execution, which is considered a violation of the UN Convention against Torture. The Committee also noted that the African Court on Human and Peoples' Rights found in 2019 that the circumstances surrounding these executions and the method of execution unavoidably undermined dignity under the prohibition of torture and cruel, inhuman and degrading treatment [ Concluding observations of the UN Committee against Torture, UN Doc. CAT/C/BWA/CO/1, 23 August 2022 [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.as...](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.as...) ] .

70. In Algeria, it was reported that Mohamed Benhlime, an activist, former military officer and whistleblower, was subjected to torture and other ill-treatment while imprisoned in El Harrash prison in Algiers, after being deported from Spain to Algeria in March 2022 [ <https://www.amnesty.org/en/documents/mde28/5855/2022/en/> ] .

71. In Cameroon, a prominent Anglophone peace activist, Abdul Karim, was arrested in August 2022 and is reportedly being held in poor conditions of detention amounting to ill-treatment [ <https://www.hrw.org/news/2022/08/16/activist-cameroon-detained-again> ] .

72. In Equatorial Guinea, in August 2022, it was reported that the authorities systematically, arbitrarily and indiscriminately arrest young men in the context of the fight against gang crime. These men are then at risk of torture and enforced disappearance [ <https://www.amnesty.org/en/latest/news/2022/08/equatorial-guinea-cleani...> ] .

- **EXCESSIVE USE OF FORCE AGAINST DEMONSTRATORS**

73. In accordance with Resolution 474 of the African Commission on the Prohibition of the Excessive Use of Force by Law Enforcement Officials in African States, the use of force by law enforcement and public security officials must be in accordance with the principles of legality, necessity, proportionality and accountability and must not endanger human life [ African Commission on Human and Peoples' Rights, ACHPR/Res. 474 (EXT.OS/ XXXI) 2021, <<https://www.achpr.org/sessions/resolutions?id=505>> ] .

74. In Sudan, it was reported that during the last demonstration on 28 May 2022, one protester was shot by security forces and another died after inhaling tear gas [ <https://www.ohchr.org/en/press-releases/2022/06/sudan-un-experts-urge-a...> ] .

75. In Uganda, on the eve of the May 26, 2022 bye-election (Omoror parliamentary election), Human Rights Watch reported that "security forces beat party supporters and arbitrarily detained at least 13 opposition supporters that night and on election day" [ <https://www.hrw.org/news/2022/06/06/uganda-omoro-election-marred-abuses> ] .

- **ATTACKS ON LGBTI PEOPLE**

76. LGBTI+ groups in Africa are constantly faced with human rights issues as well as institutional violence. Only twenty-two (22) African States have legalized same sex relationships. Four (4) States apply the death penalty in response to LGBTI+ relationships (Mauritania, Nigeria, Somalia and South Sudan) [ 'Legal Hurdles Faced by LGBT+ People in Africa' Reuters (27 October 2020) <<https://www.reuters.com/article/us-nigeria-lgbt-lawmaking-idUSKBN27C2XQ...>; ] . This group is at risk of arrest, blackmail, extortion, stigmatisation, discrimination and violence. As almost half of the States that ban homosexuality are African States [ *ibid.* ] , LGBTI+ people are at constant risk of abuse in the home.

- **CONCERNS ABOUT TORTURE OR ILL-TREATMENT FOLLOWING STATES' RESPONSES TO COVID-19**

77. During the review of Kenya's State Party report in May 2022, the Committee against Torture noted "excessive use of force, including lethal force, by law enforcement officials... in the implementation of measures to control the COVID-19 pandemic" [ [https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/KEN/INT\\_CA...](https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/KEN/INT_CA...) ] .

78. On April 26, 2022, Criminal Justice Reform in Africa reported that "police and law enforcement officers have often used excessive force to harass, threaten, arrest and detain persons suspected of violating these regulations. Several examples of brutal enforcement actions such as torture and killings are noted on the continent, including in Kenya, Uganda, Nigeria and South Africa" [ <https://acjr.org.za/acjr-statement-achpr.pdf/view> ] .

- **REFUGEES, MIGRANTS AND TORTURE**

79. The rights of migrants are protected by the African Charter on Human and Peoples' Rights, the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), and other international and regional instruments. However, during the intersession period, refugees and migrants continued to be exposed to a wide range of human rights violations, including torture and other ill-treatment. In accordance with international law, persons should not be returned or sent to countries (*refoulement*) where they would be at risk of torture or other ill-treatment.

80. In April 2022, United Nations experts condemned Egypt's policy of expelling Eritrean asylum-seekers, calling on the authorities to stop further forced returns. The experts expressed serious concern that the policy of collective expulsion, which is prohibited under international human rights law, puts individuals at risk of torture, ill-treatment, enforced disappearance, human trafficking and arbitrary detention [ <https://www.ohchr.org/en/press-releases/2022/04/egypt-un-experts-condem...> ] .

### **III. RECOMMENDATIONS**

81. In view of the foregoing, the following recommendations can be made, particularly with regard to the CPTA's mandate to prevent and prohibit torture and other ill-treatment:

- i. States that have not yet done so should ratify the UNCAT.
- ii. States that have not yet done so should ratify the OPCAT, and establish National Preventive Mechanisms to monitor places of detention.
- iii. All States should criminalize torture and other ill-treatment in accordance with the UNCAT.
- iv. When the UN issues concluding observations in response to a report submitted, States should ensure that they act to implement the recommendations made to them to ensure greater protection of human rights in their States.
- v. As States begin to emerge from the Covid-19 pandemic, they should ensure that all measures and restrictions that may have facilitated or constituted abuse are fully removed.
- vi. States should take steps to avoid the use of general laws such as anti-terrorism legislation, state of emergency laws and other state security laws to carry out arbitrary arrests, searches and detentions contrary to international and regional standards.
- vii. States should take measures to improve conditions of detention in accordance with the Guidelines on Conditions of Arrest, Custody and Pre-trial Detention in Africa (Luanda Guidelines).
- viii. States should review their national legislation to protect individuals from enforced disappearance, torture and other ill-treatment by prohibiting incommunicado detention, prolonged solitary confinement and criminalizing the use of secret or unauthorized detention facilities, in accordance with the Robben Island Guidelines and the OPCAT.
- ix. States should establish mechanisms to receive complaints of torture and other ill-treatment.
- x. States should promptly, thoroughly, independently and impartially investigate all allegations of torture and other ill-treatment and ensure that perpetrators are held accountable and appropriately punished in accordance with the gravity of the offences, in accordance with relevant international and regional standards.
- xi. States should ensure that security personnel do not use excessive force against civilians and that they respond to demonstrations in accordance with the Guidelines for Law Enforcement Officials in Africa.
- xii. States should respect and protect the rights of persons or groups most vulnerable to torture and other ill-treatment, including persons with intellectual or psychosocial disabilities, the homeless, women and children, the LGBTQI community, migrants, refugees and internally displaced persons, and ensure that perpetrators are held accountable.
- xiii. States should ensure that victims of torture and other ill-treatment have the right to all forms of redress, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, in accordance with General Comment No. 4 of the African Charter on Human and Peoples' Rights: The Right to Reparation for Victims of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Article 5).
- xiv. All parties to conflicts must respect international humanitarian law as set out in the Geneva Conventions in their treatment of civilians and civilian objects.
- xv. Anyone with information about allegations of torture and other ill-treatment should bring these allegations to the attention of the CPTA.