



## ORAL STATEMENT BY AMNESTY INTERNATIONAL

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**73<sup>rd</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, 20 October – 9 November 2022, Banjul, The Gambia**

**Agenda Item 6(ix): Activity report of the Chairperson of the Committee for the Prevention of Torture in Africa**

Honourable Chairperson,

Amnesty International welcomes this opportunity to address the African Commission on Human and Peoples' Rights (African Commission) following the presentation of the inter-session activity report of the Chairperson of the Committee for the Prevention of Torture in Africa (CPTA).

Amnesty International has worked for decades to document the commission of torture and other cruel, inhuman or degrading treatment or punishment across the world.

One vital aspect of torture prevention – as previously recognised by the African Commission - is the fight for prohibitions and controls on the trade in equipment used in the commission of torture and other ill-treatment.

This trade includes inherently abusive law enforcement equipment such as electric shock batons, thumb cuffs and other inhumane restraints whose manufacture and trade must be prohibited. It also includes standard issue law enforcement equipment – for example handcuffs, batons, tear gas and pepper spray – which can play a legitimate role in law enforcement, but which is often abused. Its trade needs strict, human rights-based controls.

The need for these types of trade controls has been recognised for decades by several UN Special Rapporteurs on torture and other ill-treatment, and in the UN General Assembly Torture resolution.<sup>1</sup> Since June 2019, a series of resolutions and reports at the UN have built momentum for international action on this issue.<sup>2</sup>

The necessity of such prohibitions and trade controls has long been recognised in the African human rights system, including in the Robben Island Guidelines.<sup>3</sup> Indeed, in 2020, the African

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<sup>1</sup> For example, UN General Assembly (UNGA), Resolution 74/143: Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 18 December 2019, UN Doc. A/RES/74/143. Human Rights Council; UN Special Rapporteur on the question of torture, Report: *Civil and Political Rights, Including the Questions of Torture and Detention*, 15 December 2004, E/CN.4/2005/62; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Report: *Extra-custodial use of force and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment*, 21 July 2017, A/72/178, para. 59.

<sup>2</sup> UN General Assembly (UNGA), Resolution 73/304, Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards, UN Doc. A/RES/73/304, 28 June 2019; UN General Assembly (UNGA), Resolution 74/969, Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards, UN Doc. A/RES/ 74/969, 28 July 2020.

<sup>3</sup> ACHPR, Robben Island Guidelines for the Prohibition and Prevention of Torture in Africa, adopted in October 2002, [www.achpr.org/public/Document/file/Any/rig\\_practical\\_use\\_book.pdf](http://www.achpr.org/public/Document/file/Any/rig_practical_use_book.pdf), p. 27, Art. 14.



Commission stressed the importance of a robust regional response in Resolution 472 on the prohibition of the use, production, export and trade of tools used for torture.<sup>4</sup>

Amnesty International welcomes and supports these initiatives as we believe the need for such controls across Africa is vital. Amnesty International has documented the abuse of law enforcement equipment for torture or other ill-treatment in many countries across the continent.

In Egypt and Tunisia, for example, security forces have held detainees in stress positions for prologued periods, tortured them with electric shock devices and administered beatings.<sup>5</sup>

While many violations occur in detention, law enforcement equipment has been regularly abused outside custodial settings against those exercising their right to peaceful assembly.

Amnesty International has documented excessive and often unnecessary use of tear gas against protesters in Côte d'Ivoire, Democratic Republic of Congo, Guinea, Kenya, Mali, Sudan, Uganda, and Zimbabwe;<sup>6</sup> and the abuse of police batons in Egypt, Nigeria, South Africa, Tunisia and Zimbabwe.<sup>7</sup>

This represents a threat to human rights protected under the African Charter on Human and Peoples' Rights, including the right to life, the right to be free from torture and other ill-treatment, and the right to freedom of assembly.

In May 2022, a UN-mandated Group of Governmental Experts released a report recommending the establishment of common international standards and put forward two options, one of which was the development of a legally binding instrument.<sup>8</sup>

This instrument - or Torture-Free Trade Treaty - would, first, prohibit equipment used in law enforcement that has "no practical use other than for the purpose of torture or other ill-treatment"; and second, establish effective human rights safeguards to control the trade in law enforcement equipment that could be used for the commission of torture or other ill-treatment.

African states and intergovernmental bodies have a vital role to play in this process. States parties to the African Charter on Human and Peoples' Rights can work domestically, regionally, and internationally to introduce legislative changes and publicly support efforts to begin the negotiation and adoption of a legally binding instrument at the UN.

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<sup>4</sup> African Commission, 472 Resolution on the prohibition of the use, production, export and trade of tools used for torture. ACHPR/Res.472 (LXVII) 2020

<sup>5</sup> Amnesty International, Report: the state of the world's Human Rights, [www.amnesty.org/en/documents/pol10/4870/2022/en/](https://www.amnesty.org/en/documents/pol10/4870/2022/en/), pp. 235, 154.

<sup>6</sup> Amnesty International, Tear Gas: An Investigation, [teargas.amnesty.org/#top](https://teargas.amnesty.org/#top) see cases in Côte d'Ivoire, Democratic Republic of Congo, Guinea, Kenya, Mali, Nigeria, Sudan, Uganda, and Zimbabwe

<sup>7</sup> Amnesty International, Blunt Force: Investigating the misuse of police batons and related equipment

[www.amnesty.org/en/latest/research/2021/09/blunt-force/](https://www.amnesty.org/en/latest/research/2021/09/blunt-force/) see cases in Egypt, Nigeria, South Africa, Tunisia and Zimbabwe.

<sup>8</sup> UN Office of the High Commissioner for Human Rights (OHCHR), *Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards: Report of the Group of Governmental experts*, A/76/850, 30 May 2022 (advance unedited version), [www.ohchr.org/en/documents/reports/a76850-towards-torture-free-trade-examining-feasibility-scope-and-parameters](https://www.ohchr.org/en/documents/reports/a76850-towards-torture-free-trade-examining-feasibility-scope-and-parameters). The Group put forward two options for common international standards: option a, a legally binding instrument; and option b, non-binding standards. This position paper discusses option a.



Amnesty International therefore recommends that the African Commission call on states parties to the African Charter on Human and Peoples' Rights to:

1. Support ongoing efforts to develop African regional trade prohibitions and controls on these goods;
2. Join the global Alliance for Torture-Free Trade - a group of over 60 states from all regions pledging to take measures to control and restrict exports of goods used for torture or other ill-treatment.<sup>9</sup>
3. Take an active diplomatic role in the current UN process and support upcoming resolutions and initiatives aimed at the development of an international "Torture-Free Trade Treaty".

Thank you.

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<sup>9</sup> Alliance for Torture-Free Trade <https://www.torturefreetrade.org/>; Its members include Cape Verde, Madagascar and Seychelles. The Alliance also works for controls/restrictions on goods used to carry out executions.