

**INTER-SESSION ACTIVITY REPORT (APRIL 2014 to APRIL
2015)
AND
ANNUAL SITUATION OF TORTURE AND ILL-
TREATMENT IN AFRICA REPORT**

Presented to the 56th Ordinary Session of the African Commission on Human and
Peoples' Rights

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I: Introduction

1. This Report is prepared pursuant to Rule 23 (3) and 72 of the Rules of Procedure of the African Commission on Human and Peoples' Rights which requires each Subsidiary Mechanism of the African Commission on Human and Peoples' Rights (the African Commission) to present a report on its work at each Ordinary Session of the African Commission and each Commissioner to submit a report similarly on promotion activities undertaken during the inter-session. I submit this Report in my capacity as a Member of the African Commission, the Chairperson of the Committee for the Prevention of Torture in Africa ('CPTA' or 'the Committee'), Member of the Working Group on Older Persons and Persons with Disabilities, and Member of the Working Group on Extractive Industries, the Environment and Human Rights Violations in Africa.
2. This Report covers the inter-session between the 55th and the 56th Ordinary Sessions of the African Commission during the period May 2014 - April 2015. It also provides an annual analysis of the general situation of torture and ill-treatment in Africa.
3. The Report is divided into this introduction; my inter-sessional activities; a general analysis of the situation of torture in Africa; and recommendations.

II: Inter-sessional Activities

A: Activities as Chairperson of the CPTA

4. I undertook the following activities as Chairperson of CPTA:
 - a. On 18 June 2014, in Kenya, I spoke at a capacity-training workshop for lawyers organized by the Independent Medico-Legal Unit, on the theme: 'Engaging the African Commission on Human and Peoples' Rights on enhancing the rights of victims and survivors of torture'.

- b. I oversaw the preparation of the statement posted on the CPTA webpage on the occasion of the International Day in Support of Victims of Torture on 26 June 2014, calling on all relevant actors to ensure effective redress for victims of torture.¹
- c. On 1 – 3 September 2014, in Johannesburg, South Africa, I gave a key note address at an Article 5 Initiative meeting involving countries from Eastern and Southern Africa, on the theme: ‘Innovations and Counter Measures to Ensure Protection Against Torture and Ill-treatment in Africa’.
- d. On 26 September 2014, in Nairobi, Kenya, I run a training session organized by the African Centre for Justice and Peace Studies for lawyers from different regions of The Sudan on how to combat torture and ill-treatment using the African Charter.
- e. On 4 November 2014, I submitted a Statement for a Panel Discussion on ‘Promoting the universal ratification of the Convention’, for an event organised by the United Nations Committee against Torture, marking the 30th Anniversary of the Convention against Torture (CAT).²
- f. On 17 December 2014, in Kampala, Uganda, I convened an internal meeting of the Committee where the CPTA resolved to begin preparing Article 5 General Comments.
- g. On 18 December 2014, in Kampala, Uganda, I led a round table discussion between the Committee and Ugandan stakeholders (including the Uganda Human Rights Commission, State and civil society agencies) where participants shared good practices and challenges in protecting against torture and ill-treatment.³

¹ See ‘Statement on the Occasion of the International Day in Support of Victims of Torture – 26 June 2014’ available at <http://www.achpr.org/press/2014/06/d210/>.

² See ‘30th Anniversary of the Adoption of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 4 November 2014’ available at <http://www.ohchr.org/Documents/HRBodies/CAT/30Anniversary/Mr.LawrenceMute.pdf>.

³ See ‘Roundtable Discussion on the Prevention and Prohibition of Torture: Good Practices and Challenges in Uganda, 18 Dec 2014’ available at http://www.achpr.org/files/special-mechanisms/cpta/good_practices_and_challenges_kampala_dec_2014.pdf.

- h. On 1 April 2015, I chaired a skype meeting of the CPTA at which internal business of the Committee was transacted.
- i. During the intersession, I also led the Committee in preparing the current edition of its newsletter. The Committee plans to issue one such newsletter every year.

B: Activities as Member of the Working Group on Older Persons and Persons with Disabilities

- 5. I undertook the following activities as member of the Working Group on Older Persons and Persons with Disabilities in Africa:
 - a. I participated in a number of activities in Nairobi, Kenya, with relevant stakeholders to review disability legislation and align it with international human rights standards in areas such as legal capacity and marriage.
 - b. On 22 - 24 August 2014, in Pretoria, South Africa, I attended a round-table discussion with stakeholders from different African countries at the Centre for Human Rights of the University of Pretoria, to discuss possible amendments to the Draft Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (Draft Disability Protocol).
 - c. On 8 October 2014, in Geneva, Switzerland, I gave an address on the theme enhancing the cooperation between regional mechanisms to enhance the socio-economic rights of persons with disabilities, at a meeting organized by the Office of the High Commissioner for Human Rights.
 - d. From 16 - 17 October 2014, in Nairobi, Kenya, I attended a joint East African Community and African Union Commission regional consultative meeting on the theme: 'Mainstreaming Disability in Development Policy and Programming', where I made a presentation on the Draft Disability Protocol.

- e. I contributed an Article to the African Yearbook on Disability on the Draft Disability Protocol.⁴
- f. From 2 – 4 March 2015, in Banjul, The Gambia, I chaired an internal meeting of the Working Group on Older Persons and Persons with Disabilities to discuss stakeholder contributions made to the Draft Disability Protocol.
- g. On 12 March 2015, I undertook a Lecture at the Centre for Human Rights of the University of Pretoria on monitoring the Convention on the Rights of Persons with Disabilities in Africa.
- h. From 31 March – 1 April 2015, in Brazzaville, Congo, I attended a joint Economic Community for Central African States/African Union Commission sub-regional consultative meeting on the theme: ‘Mainstreaming Disability in Development Policy and Programming’, where I made a presentation on the Draft Disability Protocol.

C: Activities as Member of the Working Group on Extractive Industries, the Environment and Human Rights Violations in Africa

- 6. I undertook the following activities as member of the Working Group on Extractive Industries, Environment and Human Rights Violations in Africa:
 - a. From 14 – 15 July 2014, in Kigali, Rwanda, I attended the 4th Annual Internal Meeting of the Working Group on Extractive Industries, Environment and Human Rights in Africa.
 - b. On 19 – 21 January 2015, in Nairobi, Kenya, I attended the Sub-Regional Consultation on Extractive Industries, Environment and Human Rights for East Africa, which drew participation from government officials, civil society and private companies to share experiences and best practices on extractive industries.

⁴ Heléne Combrinck and Lawrence M. Mute ‘Developments regarding disability rights during 2013: The African Charter and African Commission on Human and Peoples’ Rights’ (2014) 2 ADY 309-317, available at http://www.adry.up.ac.za/images/adry/volume2_2014/adry_2014_2_regional1.pdf.

- c. From 22 - 23 January 2015, in Nairobi, Kenya, I attended the 5th Annual Internal Meeting of the Working Group on Extractive Industries, Environment and Human Rights in Africa.
- d. On 13 February 2015, in Nairobi, Kenya, I addressed a workshop organized by the Institute for Human Rights and Business on the subject: 'Creating an Enabling Environment for Community Engagement in Kenya's Extractive Sector: Approach of the African Commission on Human and Peoples' Rights'.

D: Other activities as Member of the African Commission

- 7. I undertook the following other activities as a member of the African Commission:
 - a. From 18 - 19 July 2014, in Kigali, Rwanda, I attended the Third Annual Meeting of the African Commission and the African Court on Human and Peoples' Rights.
 - b. From 20-29 July 2014, in Kigali, Rwanda, I attended the 16th Extra-Ordinary Session of the African Commission.
 - c. On 8 October 2014, in Geneva, Switzerland, I attended a joint discussion between UN Human Rights Mechanisms and Regional Human Rights Bodies on how to build on Resolution 275 of the African Commission.
 - d. On 21 - 22 November 2014, in Addis Ababa, Ethiopia, I attended a training and exchange programme on Litigation Procedures and Strategies before African and International Courts organized by the Pan African Lawyers Union (PALU).
 - e. From 19 - 28 February 2015, in Banjul, The Gambia, I attended the 17th Extra-Ordinary Session of the African Commission.
 - f. On 24 - 26 March 2015, in Nairobi, Kenya, I attended a retreat for the African Commission on the theme: 'Accountability for African Women's Reproductive Health and Rights' organised by IPAS.

E: Letters of Appeal

8. I forwarded the following six letters of appeal to the Federal Democratic Republic of Ethiopia, the Republic of The Sudan and the Republic of The Gambia, in my capacity as Commissioner-Rapporteur for the Human Rights Situation in these countries:
- a. On 8 May 2014, I transmitted a letter of appeal to His Excellency Dr Mulatu Teshome, President of the Federal Democratic Republic of Ethiopia, jointly with the Special Rapporteur on Freedom of Expression and Access to Information in Africa and the Special Rapporteur on the Situation of Human Rights Defenders in Africa, regarding the alleged harassment and intimidation of journalists, bloggers and human rights defenders in the country. The letter specifically raised concerns about the alleged arrests and *incommunicado* detention of the blogging collective - Zone Nine. There has not been any response from the Government of the Federal Democratic Republic of Ethiopia to the letter of appeal.
 - b. On 27 May 2014, I transmitted a letter of appeal to His Excellency Omar Hassan al-Bashir, President of the Republic of The Sudan, jointly with the Chairperson of the Working Group on the Death Penalty and Extrajudicial, Summary or Arbitrary Killings in Africa and the Special Rapporteur on the Rights of Women in Africa, regarding the alleged sentencing of Mrs Meriam Yahia Ibrahim to 100 lashings and the death penalty by hanging, for apostasy and adultery. There has not been any response from the Government of the Republic of The Sudan to the letter of appeal. However, media sources indicate that on 23 June 2014 Mrs Ibrahim was released after an appeals court lifted her death sentence.
 - c. On 8 October 2014, I sent a letter of appeal to His Excellency, Sheikh Professor Alhaji Dr. Yahya A.J.J. Jammeh, President of the Republic of The Gambia, jointly with the Special Rapporteur on Freedom of Expression

and Access to Information in Africa, regarding the alleged *incommunicado* detention of journalist Ebrima Manneh. By letter dated 17 November 2014, the Government of the Republic of The Gambia acknowledged receipt of the letter of appeal and noted that: “The Government of the Republic of The Gambia sees no reason why Chief Manneh will be detained for eight (8) years for a crime the Government does not know about, when those charged with treason are tried in public courts”.

- d. On 8 January 2015, I sent a letter of appeal to His Excellency Omar Hassan al-Bashir, President of the Republic of The Sudan, jointly with the Special Rapporteur on Human Rights Defenders in Africa and the Special Rapporteur on Freedom of Expression and Access to Information in Africa, regarding the alleged arrests and *incommunicado* detention of Dr Amin Mekki Medani, a human rights defender and opposition leader, and Dr Farouq Abu Eissa. There has not been any response from the Government of the Republic of The Sudan to the letter of appeal.
- e. On 27 January 2015, I sent a letter of appeal to His Excellency, Sheikh Professor Alhaji Dr. Yahya A.J.J. Jammeh, President of the Republic of The Gambia, jointly with the Special Rapporteur on Prisons and Conditions of Detention in Africa, regarding the human rights situation in the country following the attempted unconstitutional change of government on 30 December 2014. In letter dated 2 February 2015, the Government of the Republic of The Gambia acknowledged receipt of the letter of appeal, and by letter dated 25 February 2015 the Government forwarded its official response to the letter of appeal strongly denying the basis for the allegations, and stating that it would not compromise on holding those responsible for the attacks accountable.
- f. On 2 March 2015, I sent a letter of appeal to His Excellency Omar Hassan al-Bashir, President of the Republic of The Sudan, regarding the alleged mass rape of over 200 women and girls by Sudanese armed forces, within

a thirty-six (36) hour period, starting 30 October 2014, in Tabit, Northern Darfur. There has not been any response from the Government of the Republic of The Sudan to the letter of appeal.

III: Situation of Torture and Ill-Treatment in Africa

A: Normative context

9. This section of the Report is prepared pursuant to 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 Robben Island Guidelines.
10. The Robben Island Guidelines provide concrete directions to African State and non-state actors on how to implement the provisions in Article 5 of the African Charter which provides that:

‘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 trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.’
11. The Robben Island Guidelines is an unprecedented instrument for preventing and eradicating torture and ill treatment in Africa. It is an essential tool for States in fulfilling their national, regional and international obligations to strengthen and implement the prohibition and prevention of torture. The African Commission and other stakeholders can also use the Guidelines as a basis for reminding States and other parties of what actions they should take to prevent torture and other cruel, inhuman or degrading punishment or treatment.

B: Indicative Examples of Extent, types and instances of torture and ill-treatment in Africa

12. The use of torture and ill-treatment in Africa continued during the inter-session period (April 2014 to April 2015) in violation of Article 5 of the African Charter

and the Robben Island Guidelines. Not unlike the last inter-session period (April 2013 – April 2014), the use of torture by law-enforcement and security forces and, sometimes by armed militia groups or private actors, remained widespread in Africa. Acts of torture were committed on members of opposition political parties or movements, protestors, suspects of terrorism, human rights activists, detainees and prisoners. Non-State actors too perpetrated on civilians acts which can be termed torture, including abductions, shootings and bombings.

13. Many credible reports and allegations that may amount to torture or ill-treatment during the reporting period came to the CPTA's note in its bid to seek implementation of the Robben Island Guidelines:

a. In **Algeria**, the UN Committee against Torture, in *Communication No. 376/2009: Bendib v. Algeria*, found in favour of the complainant who had submitted that her son was subjected to torture in violation of the provisions of CAT, and had died while in police custody.⁵ Further, the UN Committee found the State in violation of CAT in *Communication No. 402/2009: Abdelmalek v. Algeria*, in which the Complainant alleged that he was unlawfully detained by officials of Algeria and that he was subjected to brutal acts of torture, which have left him with physical injuries and psychological trauma.⁶

b. In **Burundi**, the CPTA is concerned about information which revealed the existence of serious Article 5 violations. The Committee received reports alleging the detention of patients for non-payment of hospital fees in public hospitals, without further treatment and care until someone paid for the patients. This is supported by the Concluding Observations of the UN Committee, on the Second Periodic Report of Burundi stating its

⁵ United Nations 'Report of the Committee against Torture' A/69/44, Fifty-first session (28 October– 22 November 2013), Fifty-second session (28 April–23 May 2014), 2014, page 291.

⁶ As above, page 321.

concern about the continuing practice in Burundi of detaining patients in hospital for non-payment of fees.⁷

- c. In **Congo-Brazzaville**, there are reports of widespread acts of torture or ill-treatment occurring during arrests and questioning of suspects and political dissidents, sometimes leading to deaths.⁸
- d. In **Egypt**, the African Commission continues to receive alarming reports of acts of torture and cruel, inhuman and degrading treatment committed by state officials against human rights defenders, journalists, alleged members of the Muslim Brotherhood, dissidents and detainees in general. Even minors faced the death penalty. Reports are that 'often, torture was used to gather information leading to the detention of other suspects or to obtain "confessions" that could be used by courts to sentence government critics or opponents to prison terms, but it was also used to degrade, humiliate and mentally and physically scar the victims.'⁹
- e. Reports indicate that hundreds of **Eritrean** refugees, and to a lesser extent **Ethiopian** refugees, have become enslaved in torture camps in *Sudan* and *Egypt*, after leaving their countries to seek refuge in Europe.¹⁰ The refugees were subjected to rape, violence and torture by the traffickers, in collusion with state security forces.¹¹ Most concerning about this situation

⁷ United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 'Concluding Observations on the Second Periodic Report of Burundi' 12 December 2014, CAT/C/BDI/CO/2, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/242/05/PDF/G1424205.pdf?OpenElement> (accessed 18 March 2015) para 15.

⁸ International Federation of ACAT, 'Congo: Torture, arbitrary detention, overcrowded prisons' March 2015 available at <http://www.fiacat.org/congo-torture-arbitrary-detention-overcrowded-prisons> (accessed on 19 March 2015).

⁹ Amnesty International 'Amnesty International Report 2014/2015: The state of the world's human rights' 25 February 2015, available at <https://www.amnesty.org/en/documents/pol10/0001/2015/en/> (accessed on 11 March 2015) page 43.

¹⁰ The Guardian 'Hundreds of Eritreans enslaved in torture camps in Sudan and Egypt' 11 February 2014, available at <http://www.theguardian.com/world/2014/feb/11/eritreans-enslaved-traffickers-sudan-egypt-torture-camps> (accessed on 30 October 2014).

¹¹ Human Rights Watch 'I wanted to lie down and die: Trafficking and torture of Eritreans in Sudan and Egypt' February 2014, available at

is the complicity of the police and military with the traffickers, including situations where Sudanese traffickers hand over victims to members of the Egyptian military or police, who then transfer them to Egyptian traffickers.¹² Reports further indicate that there have been several instances of refoulement of Eritrean refugees and asylum seekers which violates CAT.¹³

- f. In **Ethiopia**, there are allegations of torture taking place for purposes of interrogation, coercion and punishment in federal and regional detention centres and prisons, police stations, military camps and other unofficial detention sites.¹⁴ Common reported methods of torture include beatings, kicking, tying in contorted stress positions, electric shocks, mock execution, burning and rape.¹⁵
- g. In **The Gambia**, reports aver that torture is prevalent and routine, in particular undertaken by the National Intelligence Agency during initial stages of detention, and that ‘the Government has not fulfilled its obligation to investigate, prosecute and punish every incident of torture and ill-treatment or its obligation to prevent such occurrences.’¹⁶ There are allegations that ‘the nature of the torture is brutal and includes very severe beatings with hard objects or electrical wires; electrocution (including to the genital area), asphyxiation by placing a plastic bag over the head and filling it with water, cigarette burns, tying up with ropes,

http://www.hrw.org/sites/default/files/reports/egypt0214_ForUpload_1_0.pdf (accessed 5 November 2014), page 31.

¹² As above, page 42.

¹³ The Regional Mixed Migration Secretariat (RMMS) ‘Behind bars the detention of migrants in and from the East & Horn of Africa’ February 2015, available at http://www.regionalmms.org/fileadmin/content/rmms_publications/Behind_Bars_the_detention_of_migrants_in_and_from_the_East_Horn_of_Africa_2.pdf (accessed on 19 March 2015) page 12.

¹⁴ Amnesty International ‘Because I am Oromo: Sweeping repression in the Oromia Region of Ethiopia’ April 2014, available at http://www.amnesty.org.uk/sites/default/files/repression_in_omoria_-_amnesty_international_report_-_28_oct_14.pdf (accessed on 13 April 2015) page 79.

¹⁵ As above, page 80.

¹⁶ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez ‘Mission to The Gambia’ A/HRC/28/68/Add.4, 2 March 2015, para 98.

burning with hot liquid and an account by one victim of having to dig his own grave believing he would be buried alive.’¹⁷

The African Commission has received allegations of attacks on the lesbian, gay, bisexual and transgender community in The Gambia, including ill-treatment, arrests and detentions of individuals based on their real or perceived gender identity or sexual orientation.

Most recently, the African Commission has also received allegations of torture and ill-treatment of persons allegedly linked to the attempted unconstitutional change of government of 30 December 2014. There have been more than fifty cases of forced disappearances, including one minor, in order to facilitate torture or summary execution or both.¹⁸

- h. In **Guinea**, there are allegations of torture and ill-treatment in facilities for the deprivation of liberty, particularly in gendarmeries and military detention camps.¹⁹ The acts of torture usually occur during the interrogation of suspects while in custody, and in the course of preliminary investigations for the purpose of extorting confessions.²⁰
- i. **Kenya** experienced grave acts of terrorism during the intersession. Three incidents are particularly notable, where at least 64 civilians were shot dead by Al-Shabaab terrorists;²¹ and nearly 150 mostly university students were killed on a university campus in Garissa.

¹⁷ As above, para 32.

¹⁸ As above, para 63.

¹⁹ United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ‘Concluding observations on Guinea in the absence of its initial report’ 20 June 2014, CAT/C/GIN/CO/1, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fGIN%2fCO%2f1&Lang=en (accessed on 18 March 2015) para 9.

²⁰ As above.

²¹ Exodus starts from killing fields’ 3 December 2014, available at <http://www.nation.co.ke/news/Exodus-starts-from-killing-fields/-/1056/2544042/-/f36jtwz/-/index.html> (accessed on 26 March 2015).

- j. In **Mozambique**, there are ‘reports of persistent impunity for police officers and prison officials who torture or ill-treat arrested and detained persons.’²²
- k. In **Nigeria**, there have been numerous systemic and widespread acts of torture and ill-treatment at the hands of insurgent groups such as Boko Haram, and state security forces. Torture and other ill-treatment were found to be routine practices in criminal investigations across Nigeria. Suspects in police and military custody across the country were subjected to torture as punishment or to extract ‘confessions’ as a shortcut to “solve” cases – particularly armed robbery and murder.²³ The risk of torture and other ill-treatment is exacerbated by the endemic corruption in policing. Rape by police is a common method of torture inflicted primarily on women.²⁴
- l. In **Sierra Leone**, there are ‘allegations of excessive use of force, including lethal force, by police and security forces, especially when apprehending suspects and quelling demonstrations.’²⁵
- m. In **Somalia**, reports aver that ‘Al-Shabaab factions continued to torture and unlawfully kill people they accused of spying or not conforming to their strict interpretation of Islamic law. They killed people in public, including by stoning, and carried out amputations and floggings.’²⁶

²² United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ‘Concluding Observations on the Initial Report of Mozambique’ 10 December 2013, CAT/C/MOZ/CO/1, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fMOZ%2fCO%2f1&Lang=en (accessed on 18 March 2015) para 18.

²³ Amnesty International “Welcome to hell fire” Torture and other ill-treatment in Nigeria, September 2014, available at <https://www.amnesty.org/en/documents/AFR44/011/2014/en/> (accessed on 15 March 2015) page 6.

²⁴ As above.

²⁵ United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ‘Concluding Observations on the Initial Report of Sierra Leone’ 20 June 2014, CAT/C/SLE/CO/1, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fSLE%2fCO%2f1&Lang=en (accessed on 18 March 2015) para 13.

²⁶ Amnesty International Report (n 9 above) page 330.

- n. In **South Africa**, prisoners in Bloemfontein prison have sued G4S, a British security company contracted by the Government of South Africa to construct, run and manage the prison in 2000, over allegations that G4S subjected prisoners to electric shock, forcibly injected them with anti-psychotic drugs, held some in isolation cells for up to three years and committed other acts of torture and ill-treatment.²⁷
- o. In **The Sudan**, the African Commission continues to receive disturbing allegations of acts of violence, torture or ill-treatment of human rights activists, political dissidents, detainees and vulnerable groups, particularly at the hands of the National Intelligence and Security Services.

C: Positive developments in the prohibition of and protection against torture and ill-treatment in Africa

- 14. CAT principally calls for States to criminalise torture. To date, the following forty-five (45) African States have ratified CAT: Algeria, Benin, Botswana, Burkina Faso, Burundi, Cape Verde, Cameroon, Chad, Republic of Congo, Cote d'Ivoire, The Democratic Republic of Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Swaziland, Togo, Tunisia, Uganda and Zambia. Eritrea ratified CAT on 25 September 2014.
- 15. Five (5) other countries have signed CAT: Angola, Comoros, Gambia, Sao Tome and Principe and The Sudan. No African country signed CAT during the inter-session period.

²⁷ The Guardian 'South African prisoners sue G4S over torture claims' 13 February 2015, available at <http://www.theguardian.com/world/2015/feb/13/south-african-prisoners-sue-g4s-over-torture-claims> (accessed 16 March 2015).

16. The Optional Protocol to CAT (OP-CAT) essentially seeks the establishment of National Preventive Mechanisms (NPMs). Sixteen (16) African States have ratified OP-CAT: Benin, Burkina Faso, Burundi, The Democratic Republic of Congo, Gabon, Liberia, Mali, Mauritania, Mauritius, Morocco, Mozambique, Niger, Nigeria, Senegal, Togo and Tunisia. Morocco ratified the OP-CAT on 24 November 2014, Mozambique on 1 July 2014 and Niger on 7 November 2014.
17. Twelve (12) other States have signed it: Angola, Cameroon, Cape Verde, Chad, The Republic of Congo, Ghana, Guinea, Guinea-Bissau, Madagascar, Sierra Leone, South Africa and Zambia. No African country signed OP-CAT during the inter-session period.
18. In line with the provisions of OP-CAT, six African states – Mali, Mauritius, Nigeria, Senegal, Togo and Tunisia – have designated their NPMs.²⁸ Mali, Mauritius and Togo mandated their National Human Rights Institutions to act as NPMs, while the others established new institutions.²⁹
19. The Constitutions or criminal statutes of the following forty-six African States include provisions prohibiting torture and ill-treatment: Algeria, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, The Central African Republic, Chad, Congo, Cote d’Ivoire, The Democratic Republic of Congo, Djibouti, Egypt, Equatorial Guinea, Ethiopia, The Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Morocco, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, South Africa, Swaziland, Tanzania, Togo, Tunisia, Uganda and Zambia.³⁰
20. *During the inter-session period the following domestic progressive anti-torture steps were taken:*

²⁸ APT website <http://www.apr.ch/en/>.

²⁹ Open Society Foundations ‘African States Need to Do More to Combat the Use of Torture’ 26 June 2013, available at: <http://www.opensocietyfoundations.org/voices/african-states-need-do-more-combat-use-torture> (accessed on 2 April 2014).

³⁰ See APT website <http://www.apr.ch/en/>.

- a. Ghana is one of the key initiators of the **Convention against Torture Initiative (CTI)**, founded as a global Initiative marking thirty years of the CAT. CTI was launched in March 2014 and it aims to achieve universal ratification of CAT by 2024. It aims to identify and address challenges in ratifying and implementing the CAT. Governments including Uganda, non-governmental organisations (NGOs) as well as other prominent individuals have already joined in support of the Initiative.
 - b. As mentioned in the last inter-session activity report, on 27 November 2013, in a landmark ruling, the Supreme Court of Appeal of South Africa had ordered the South African Police Service (SAPS) to investigate allegations of crimes against humanity, including torture in Zimbabwe, stating that under international law, the country has a duty to investigate such allegations, once perpetrators set foot in South Africa. Following an appeal of the above ruling by SAPS, on 30 October 2014, the Constitutional Court of South Africa also decided that South Africa's law provides for universal jurisdiction in respect of international crimes. The Constitutional Court further 'underscored the responsibilities of the police and the prosecution where such matters are brought to them' and reaffirmed 'South Africa's commitment to ensuring international criminal justice ...'³¹
21. *During the inter-session period the following regional progressive anti-torture step was taken: the extension of the jurisdiction of the African Court of Justice and Human and Peoples' Rights to prosecute international crimes, following the adoption of the Amended Protocol on the Statute of the African Court of Justice and Human and Peoples' Rights in June 2014, in Malabo, Equatorial Guinea. The International*

³¹ Institute for Security Studies 'South Africa's police must investigate Zimbabwe torture allegations' 10 November 2014, available at <http://www.issafrica.org/iss-today/south-africas-police-must-investigate-zimbabwe-torture-allegations> (accessed on 19 March 2015).

Criminal Section of the Court would be better placed to investigate and prosecute cases involving the torture of a large number of victims.

22. *Finally, the African Commission undertook a number of interventions in 2013 geared towards protection against torture and ill-treatment. During its 15th Extra-Ordinary Session, held from 7 to 14 March 2014, in Banjul, The Gambia, the African Commission, in Communication 379/09 – Monim Elgak, Osman Hummeida and Amir Suliman (represented by FIDH and OMCT) v. the Republic of The Sudan, found in favour of the Complainants who had alleged that they were unlawfully arrested, detained, interrogated and tortured by officials of the National Security and Intelligence Services (NISS) of The Sudan. The Respondent State was found in violation of several African Charter provisions, including Article 5, and the State was requested to pay adequate compensation to the Victims in accordance with domestic law, and to investigate and prosecute perpetrators of the violations.*

IV: Recommendations

23. In view of the foregoing, I wish to make the following recommendations particularly in relation to the CPTA's work of ensuring protection against torture and ill-treatment:
- a. I call upon State and non-State actors to form or enhance anti-torture partnerships both at the national and regional levels. The CPTA looks forward to even more fruitful partnerships with State and non-State stakeholders. The Committee encourages the convening of national roundtable engagements such as the one it convened in Uganda in December 2014 where different actors may exchange ideas in an amicable atmosphere. Anti-torture networks should identify key events or issues around which they may undertake anti-torture campaigns.
 - b. I call upon actors with credible information relating to allegations of torture or ill-treatment to bring such matters to the attention of the CPTA and indeed the African Commission. There needs to be a continuous flow

of information between CPTA and its regional and international counterparts.

- c. I look forward to robust engagements by all in the preparation of Article 5 General Comments.
- d. I call upon those States that have not done so to ensure that the definition of torture in their legislation in the very minimum conforms to the definition provided under CAT. Indeed, in view of the patent ways in which private actors are perpetrating upon civilians acts that may amount to torture or ill-treatment, States should follow the example of Uganda by reviewing the definition of torture to include acts performed by private entities such as Al Shabaab and Boko Haram.
- e. States that have instituted truth and reconciliation processes should facilitate those initiatives to undertake their tasks effectively so that they may advance protection of victims of torture and ill-treatment by collecting testimonies, conducting investigations, holding public hearings, and effecting faithfully the findings and recommendations from such processes.
- f. Finally, I echo the call for the ratification and domestication of CAT and OP-CAT by all States that have not done so.