

# Tools of torture?

## Use of electric shock equipment among African police

Mothepe Shadung

### Recommendations

**1** All policies and training with respect to the treatment of persons in custody should be compatible with national, regional and international human-rights standards.

**2** African states should ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

**3** All incidents of torture, assault and death in police custody should be reported and carefully monitored as a matter of public accountability and transparency, and perpetrators prosecuted.

**4** Handheld direct contact electric shock devices and body-worn electric shock devices designed for law enforcement are prone to abuse and should be prohibited.

### Summary

Torture is not an act that happens in isolation. It occurs in many contexts, and there are several techniques and means by which pain and suffering are inflicted on suspects, convicted inmates and others deprived of their liberty. This policy brief highlights how African law-enforcement agencies or government security forces potentially misuse electric shock equipment in a way that contravenes international and continental anti-torture frameworks. It then discusses reported cases of such misuse in South Africa. Finally, recommendations are made on how the use of electric shock equipment on the continent could be curbed, along with ways to build on efforts to prohibit and prevent torture.

---

INTERNATIONAL LAW DICTATES THAT torture and ill-treatment by law enforcement personnel should be strictly prohibited under all circumstances. Torture is not an act that happens in an isolated fashion, but rather in a broad range of contexts. There are various techniques, tools and means used to facilitate torture, including the use of electric shock equipment. Such equipment, specifically stun batons, stun shields and stun guns, has been widely reported to facilitate torture and other ill-treatment. Wired projectile electric shock weapons can also be misused and facilitate ill-treatment.

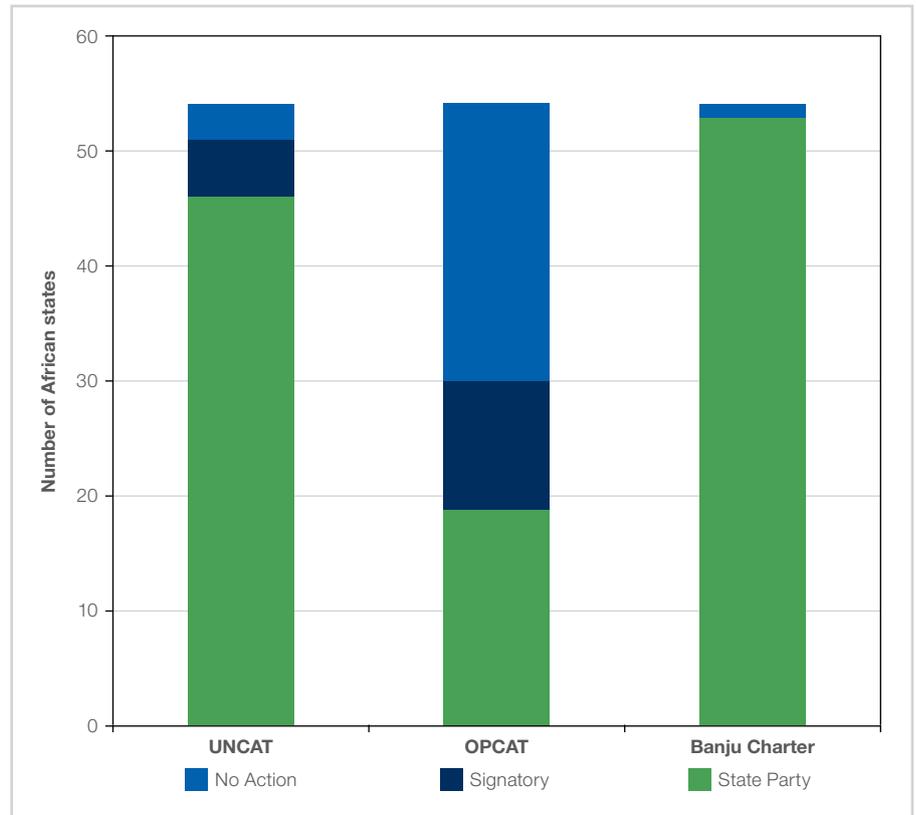
### Africa's anti-torture commitments

African countries are committed to preventing and prohibiting torture through their obligations under international and regional anti-torture frameworks.

The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), which is one year short of its 30th anniversary, offers a broad definition of torture, emphasising that the act of torture does not happen in a vacuum. Accordingly, for any act to constitute torture, the following conditions must apply:

- Severe physical or mental pain or suffering is intentionally inflicted on a person. This may be done to:

**Figure 1:** African states' commitment to international and regional anti-torture frameworks



**Sources:** UN Human Rights Office of the High Commissioner, Status of Ratification, 19 April 2016, <http://indicators.ohchr.org/>; African Commission on Human and Peoples' Rights, ratification table: African Charter on Human and Peoples' Rights, [www.achpr.org/instruments/achpr/ratification/](http://www.achpr.org/instruments/achpr/ratification/)

- Obtain information or a confession
- Punish someone for an actual or suspected act
- Intimidate or coerce
- The pain or suffering inflicted may be considered torture if inflicted for any reason based on discrimination of any kind when instigated or sanctioned by a public official or a person acting in an official capacity. This does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.<sup>1</sup>

Of the 54 African UN member states, 85% are states parties to the UNCAT (see Figure 1). Angola, Comoros, Gambia, São Tomé and Príncipe, and Sudan are signatories, while there has been no action from the Central African Republic, Tanzania and Zimbabwe. In domesticating the framework, Madagascar, Morocco, Mali, South Africa and Uganda, for example, have incorporated the UNCAT definition in their national anti-torture legislations either verbatim or with some slight adjustments.<sup>2</sup>

Building on international torture-prevention measures, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) entered into force 10 years ago on 22 June 2006. A state party to the OPCAT is required to:

... set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading

85%

OF AFRICAN UN MEMBERS ARE STATES PARTIES TO THE UNCAT

treatment or punishment (hereinafter referred to as the national preventive mechanism) ... in a public or private custodial setting [such as police stations] ... These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment.<sup>3</sup>

These oversight visits are part of a range of measures to deter the torture of detainees, hold perpetrators to account, provide transparency in places of detention and deliver redress to survivors.

At the international level, the UN Subcommittee on Prevention of Torture serves as an independent detention monitoring body. At the national level, states can decide on the structure or model for their national preventative mechanism based on their domestic contexts. In Africa some countries have established specialised institutions (Burkina Faso, Nigeria and Senegal, for example).<sup>4</sup> Others have designated national human rights commissions (Mali, Mauritius, Mozambique and Togo).<sup>5</sup> While the national preventative mechanism can be established before or after OPCAT ratification – depending on the national context – African countries should, in addition, endeavour to ratify the OPCAT without delay. To date, only 19 out of the 54 African UN member states have ratified the OPCAT.

Article 5 of the African Charter on Human and Peoples' Rights (also known as the Banjul Charter), which entered into force in 1986, prohibits 'torture, cruel, inhumane or degrading punishment and treatment'.<sup>6</sup> The African Commission on Human and Peoples' Rights provides oversight and interpretation of the Banjul Charter.

South Sudan is the only member of the African Union that has not signed or ratified the Banjul Charter. States parties to the charter are required, under Article 62, to submit an initial report two years after ratification or accession, and periodic reports every two years thereafter. The reports provide an indication of national legislative and other measures undertaken to achieve implementation of the charter. Six states parties – Comoros, Equatorial Guinea, Eritrea, Guinea-Bissau, São Tomé and Príncipe, and Somalia – have not submitted any reports.<sup>7</sup>

Building on its anti-torture efforts in the continent, the African Commission adopted a key instrument in October 2002 – the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa, commonly known as the Robben Island Guidelines (RIG). These guidelines set out measures to tackle torture in three concrete ways: prohibition, prevention and responding to the needs of victims.<sup>8</sup>

Implementation of the RIG rests with all African national and regional actors, including international actors, through dialogue and cooperation between several stakeholders, such as relevant state authorities, parliamentarians, national human rights institutions and civil society. A follow-up committee, known as the Committee for the Prevention of Torture in Africa, was established in 2004 to facilitate and promote implementation of the RIG, and to present a progress report to the African Commission at each ordinary session.

The most recent report, presented to the 58th Ordinary Session of the African Commission from 6-20 April 2016, highlighted positive and negative developments in the prohibition and prevention of torture and ill-treatment in Africa.<sup>9</sup> Positive developments include the status of ratification of the UNCAT and OPCAT; designation of national preventative mechanisms; inclusion of provisions prohibiting torture

---

TO DATE, ONLY

19

OUT OF THE 54 AFRICAN UN MEMBER STATES HAVE RATIFIED THE OPCAT

---

and ill-treatment in the Constitutions or criminal statutes of 46 African states; and notable domestic anti-torture steps taken in Benin, Ethiopia, Kenya, Niger Nigeria and Zimbabwe. Negative developments relate to continued use of torture and ill-treatment by state and non-state actors in violation of Article 5 of the Banjul Charter and the RIG. The use of torture and ill-treatment by law enforcement officials and security forces in the following contexts were noted in the report: places of detention, enforced disappearances, suspected terrorism, conflict situations, elections and demonstrations.

While torture and ill-treatment remain widespread in the continent, the UN Committee Against Torture and the African Commission have initiated a number of interventions. In some judicial cases,<sup>10</sup> they have found in favour of complainants alleging use of torture and ill-treatment by law enforcement and security forces and, at times non-state or private actors. They have, for example, highlighted that the respondents were in violation of the UNCAT, Article 5 of the African Charter and the RIG; requested payment of adequate compensation to victims for the torture and trauma caused; encouraged relevant states to train security officers on relevant torture-prevention standards; and urged relevant states to bring perpetrators to justice.

More recently in April 2015, the African Commission adopted the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (the Luanda Guidelines). These Guidelines provide guidance for policymakers, law enforcement officials and criminal justice practitioners. In particular, Part 5 of these guidelines deals with deaths, serious injury, torture and other cruel, inhuman or degrading treatment or punishment, and other serious human rights violations that occur in police custody and pre-trial detention.<sup>11</sup> States parties to the Banjul Charter are required to adopt legislative, administrative, judicial and other measures to put the Luanda Guidelines into practice and provide information on their implementation efforts.

National human rights commissions in Africa play a central role in the prevention of torture on the continent. They fulfil this by, for example, monitoring visits to prisons, police stations and other places of detention; organising training workshops on torture; investigating allegations of torture; and organising workshops and awareness-raising training sessions for administrative, police and military authorities, as well as for media and civil-society organisations.<sup>12</sup> These and other torture-prevention initiatives and activities help states to fulfil their international and regional anti-torture commitments.

Despite these commitments, however, reports of torture and ill-treatment by law enforcement or government security forces are still persistent and widespread on the continent. Amnesty International's *Torture in 2014* report

on 'police abuse and forced confession' in Africa indicates that security forces in African countries, including those in Ethiopia, the Gambia, Kenya, Mali, Mauritania, Nigeria, Senegal, Sudan and Zimbabwe, used torture as a means of extracting confessions.<sup>13</sup>

## National human rights commissions in Africa play a central role in the prevention of torture on the continent

In Egypt government figures showed that at least 90 people, a 40% increase over the previous year, died in police custody in Greater Cairo in 2014.<sup>14</sup> Many other cases of torture were documented by NGO Human Rights Watch, despite government pledges to protect detainees from being tortured. Local activists and the Egyptian Commission for Rights and Freedoms recorded at least 121 deaths in custody in Egypt between the beginning of 2014 and March 2014, and torture was among the list of varying causes of death.<sup>15</sup> In Burundi 345 new cases of torture by government security forces were recorded since the beginning of 2016.<sup>16</sup>

These examples are just some of the many reported cases in African countries in which police officials have been accused of torture. They point to the urgent need for African governments to ensure that law enforcement officials comply with international commitments, regional standards and national laws aimed at prohibition and prevention, and to the need to hold violators to account.

## Electric shock equipment and its use in Africa

There is a wide array of tools and techniques used to perpetrate torture. Such tools include law enforcement equipment that, when abused facilitate torture and other ill-treatment. This includes the use or abuse of electric shock equipment by the police services. Under the RIG, for instance, states are required to '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'.<sup>17</sup>

Electric shock devices are designed to either incapacitate a person and/or enforce compliance through pain. They are capable of causing both immediate and/or longer-term physical medical harm. The effects of electric shock devices are reported to include severe pain, incapacitation and penetration injuries (from projectile electric shock weapons); scars or welts, burns, secondary injuries caused by falls, and death (from direct contact electric shock equipment, such as stun batons

and stun shields); and burns, scars or welts, immediate and uncontrolled urination or defecation, heartbeat irregularities and great risk of cardiac arrhythmia, seizures, and secondary injuries caused by falls (from body-worn electric shock equipment, such as stun belts).<sup>18</sup>

The severity of the effects depends on a number of factors, such as the physical attributes of and medical history of the recipient, the type of equipment used, the manner in which it is used, and the duration of the shock.

There are several cases in which law enforcement officials in African countries have been implicated in using electric shock devices for torture and ill-treatment. In early 2011, for example, an Egyptian protestor told Human Rights Watch that soldiers had beaten him up in the street with rubber batons and an 'electric tazer gun', which shocked him.<sup>19</sup> Amnesty International (UK) found evidence of what seemed like Chinese-manufactured stun batons being carried by police in Egypt, Ghana, Madagascar and Senegal.<sup>20</sup> In May 2016 police in the Democratic Republic of the Congo reportedly used stun batons to force Moise Katumbi supporters out of a Lubumbashi court, where Katumbi was attending a closed-door hearing following government allegations against him.<sup>21</sup>

Such incidents may well become more widespread. In February 2016, the Nigerian police inspector-general, Solomon Arase, stated that, in 2016, firearms used by police officials in Nigeria may soon be replaced with stun guns.<sup>22</sup>

## Stun guns and other handheld direct contact electric shock devices are prone to abuse and their use should be prohibited

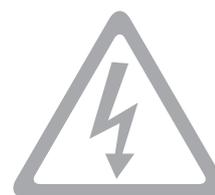
In the context of law enforcement, the use of electric shock equipment that can inflict torture or other ill-treatment should, in line with international and regional legal instruments, norms and standards, be prohibited. African states should implement strict regulations on wired projectile electric shock weapons, as is the case with other types of firearms. Stun guns, other handheld direct contact electric shock devices and body-worn electric shock devices, however, are prone to abuse and their use should be prohibited.

### **(Ab)use by South African police?**

#### **South Africa's anti-torture commitments**

As a member of the Southern African Regional Police Chiefs Cooperation Organisation (SARPPCO), South Africa participates in subregional cooperation among the police services of the Southern African Development Community. SARPPCO has a number of objectives, subject to domestic legislation and international obligations of member states, which, overall, are aimed at promoting regional police cooperation and collaboration in matters with regional implications. These include, for example, cross-border crime management; information sharing on criminal activities; recommendations on matters involving effective policing in the region; and formulating regional training policies and strategies.<sup>23</sup>

Policing and anti-torture standards are promoted in the SARPPCO Code of Conduct for Police Officials. In accordance with Article 5, '[n]o police official, under any



AFRICAN STATES MUST IMPLEMENT STRICT REGULATIONS ON WIRED PROJECTILE SHOCK WEAPONS

circumstances, shall inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment to any person'.<sup>24</sup>

South Africa is also committed to prohibiting and preventing torture by police officials through its international and continental obligations.

At the domestic level, torture is prohibited in South Africa by virtue of the country's legislation and policies, which serve as an overarching national commitment to criminalising torture. First, according to Section 12 (1) of the Constitution of South Africa, the supreme law of the country, everyone has the right to freedom and security of the person, which includes the right to not be tortured in any way,<sup>25</sup> and to not be treated or punished in a cruel, inhuman or degrading way.<sup>26</sup>

At the domestic level, torture is prohibited in South Africa by virtue of the country's legislation and policies

Secondly, in July 1999 standing orders to implement the Policy on the Prevention of Torture and Treatment of Persons in Custody of the South African Police Service came into effect.<sup>27</sup> This policy prohibits members of the South African Police Service (SAPS) from committing, attempting to commit, complicity in, or participation in torture, with no exception, as 'there can simply be no justification, ever, for *torture*'.<sup>28</sup> Under this policy, it is the responsibility of station commissioners and every other commander to take effective measures to prevent torture by a member of the SAPS under his or her command. The measures that are listed in the policy prescribe that people in police custody, including physically or mentally handicapped people, shall be detained under conditions consistent with human dignity; have the right to consult with a legal practitioner; and have communication and visitation rights. The policy concludes with a paragraph on the requirement to incorporate prevention against torture in the training and education of members of the SAPS, and sets out how to conduct questioning in a proper manner with people in custody.

Thirdly, the Prevention and Combating of Torture of Persons Act 13 of 2013 provides for prosecution of those who commit, attempt to commit, or incite, instigate, command or procure any person to commit torture.<sup>29</sup> If found guilty of the offence of torture, the offender is 'on conviction liable to imprisonment, including imprisonment for life'.<sup>30</sup> Measures aimed at preventing and combating torture are also provided for in the Act,<sup>31</sup> including awareness raising, and training and education of public officials.

## Electric shock equipment in South Africa

Force Products, a Johannesburg-based supplier to the Armaments Corporation of South Africa, states that it designs and manufactures tested, non-lethal electrified security products.<sup>32</sup> According to the company, electric shock devices used by the police, one of its clients, and Special Police Task Force units include its Anti'Scape stun belts<sup>33</sup> and electric shock riot shields.<sup>34</sup> Force Products also manufactures stun batons and stun guns that are in use by South African authorities.

According to a report published by *The Sunday Independent* on 15 May 2011, the SAPS was 'considering purchasing Taser guns as an addition to police officials' current tool set'.<sup>35</sup> It was reported that, although not officially sanctioned, some officials of the SAPS already purchased and carried their personal 'shock emitting equipment such as hand held Taser-like devices'.<sup>36</sup> It was reported in May 2010, that the South African police were in possession of X-26 Tasers.<sup>37</sup> As part of a pilot programme, a number of Tasers were reportedly issued to members of specialised police units in 2012.<sup>38</sup>

## Shocking reports in South Africa

In spite of South Africa's anti-torture legislation and policies, there have been reported cases of torture occurring in the country. There have also been reports of the use of electric shock equipment linked to these acts of torture by the SAPS. Although the available information does not provide a full picture of the use of electric shock devices by the SAPS – and whether they are authorised for use by the SAPS in the first place – it does provide some insight.

Reports include alleged instances where people in police custody have suffered electric shock treatment at the hands of SAPS members, without specific mention of the type of electric shock device or equipment used. Due to a lack of comprehensive, publicly available qualitative and quantitative data, it cannot be confirmed which torture cases are directly linked to the use of electric shock device and, where there are allegations of the use of electric shock equipment by members of the police, it cannot be confirmed which particular devices or equipment were used.

The 2010 Amnesty International *Human Rights Report on South Africa* reveals incidents of torture and other ill-treatment by police, including the use of electric shock devices by police on detainees.<sup>39</sup> In July 2010 medical evidence showed that Zimbabwean nationals arrested near the Central Methodist Mission in Johannesburg had, inter alia, been shocked with electric stun guns.<sup>40</sup> All detainees were released uncharged days later.

In some cases the alleged use of electric shock devices by the SAPS cannot be confirmed by investigators, as victims'

injury marks are often not visible, or the devices allegedly used cannot be traced. In the opinion of Professor Jeanine Vellema, a specialist forensic pathologist called by the state as witness in *State v. Mgabhi*, when a person is tortured by means of electric shock, water reduces the chances of there being significant or even any burn wounds, which would otherwise be caused by direct electric shock treatment.<sup>41</sup> Therefore, a person with experience in committing torture would use this method to conceal the evidence.<sup>42</sup> Vellema pointed out that studies have shown that there is no visible evidence in about 30% of electric shock cases.

Ten SAPS members were charged with the murder and torture of Khuthazile Mbendu, who was wanted in connection with theft. Mbendu died on 8 December 2014, after allegedly being tortured with a 'tazer shock device' while on the way to the police station.<sup>43</sup>

Studies have shown that there is no visible evidence in about 30% of electric shock cases

More recently, in April 2016, police are reported to have used stun guns in an attempt to disperse protesting students at Rhodes University.<sup>44</sup> It is not clear from the reports whether the devices were direct contact stun guns, or projectile electric shock weapons.

There have been legal cases where, reportedly, the SAPS have administered electric shocks, although it is not clear what type of electric shock equipment was used. In *State v. Mgabhi*, the accused testified that he was 'assaulted and tortured *inter alia* by means of electric shocks for just over an hour'.<sup>45</sup> He further alleged that a number of police officers had participated in the assault and torture.

In *Gobuamang v. Minister of Police*, the plaintiff stated that a police officer "shocked him with an electric device", which he described as being two-pronged, which pierced his buttock and caused him to suffer excruciating pain. He continued to feel this pain for some four to five days thereafter.<sup>46</sup>

These reported incidents and cases point to the need for comprehensive information on the availability of and extent of the use of electric shock equipment by the SAPS. It would be useful in policy formulation, amendments and implementation if such information were publicly available – particularly in incidents where such equipment is reportedly used to commit torture. This would be a decisive step towards torture prevention in South Africa, helping hold those guilty of the offence accountable, and contributing towards strengthening international and regional anti-torture norms.

## Policing the police

The Independent Police Investigative Directorate (IPID) is mandated to ensure 'effective independent oversight of the South African Police Service (SAPS) and Municipal Police Services (MPS)' by conducting 'independent and impartial investigations of specified criminality committed by members of the SAPS and MPS'.<sup>47</sup>

The IPID investigates matters specified in Chapter 6, Section 28 of the Independent Police Investigative Directorate Act 1 of 2011, such as deaths in police custody or complaints of torture.<sup>48</sup> According to the Act, police are obligated to report such matters for investigation to the IPID, cooperate with the IPID and act or respond to disciplinary recommendations made by the IPID. The IPID reports that between 2013/14 and 2014/15 financial years, there was a 4% increase in deaths in police custody; a 2% increase in deaths as a result of police action; an 86% increase in complaints of torture; and a 5% decrease in complaints of assault.

The sharp increase in the number of complaints of torture between the 2013/14 and 2014/15 financial years is of grave concern. The IPID reported one case of electrocution related to torture or assault in its 2012/13 annual report.<sup>49</sup> Unfortunately, the report falls short of providing additional information on the method used in these and other reported cases of torture, as is done with cases involving death. Filling this information gap would provide insight into the methods used in these acts and inform the interventions required.

Of the active workload for each category of reported cases, the IPID completed 66% of cases of deaths in police custody; 50% of deaths as a result of police action; 37% of cases of torture; and 45% of cases of assault. The active workload comprises cases reported during the 2014/15 financial year and cases carried over from the previous financial years. According to Deputy Minister of Police Makhotso Maggie Soty, 'capacity remains a challenge for the IPID', as demonstrated by the

**Table 1: Cases of death, torture and assault reported to the IPID in the period 2014/15**

Type of incident	Reported cases
S 28 (1) (a) – Deaths in police custody	244
S 28 (1) (b) – Deaths as a result of police action	396
S 28 (1) (f) – Any complaint of torture against a police officer in the execution of his/her duties	145
S 28 (1) (f) – Any complaint of assault against a police officer in the execution of his/her duties	3 711

**Source:** IPID, Annual Report 2014/15, 15 September 2015, [www.icd.gov.za/sites/default/files/documents/IPID\\_Annual\\_Report%20\\_2014-15.pdf](http://www.icd.gov.za/sites/default/files/documents/IPID_Annual_Report%20_2014-15.pdf)

inability of the core function to meet some of its targets.<sup>50</sup> It is therefore important that capacity is increased and other necessary resources invested in the IPID to empower it further in its provision of independent police oversight.

As mentioned above, one of the key concerns associated with investigations or legal cases involving the use of electric shock devices by the police is that, often, victims cannot point to physical marks or wounds as evidence that electric shock had been used. The removal of the IPID's legislative mandate to conduct police station visits limits its ability to investigate the extent of the use of electric shock devices in death, torture and assault cases. It is hoped that the establishment of a national preventive mechanism under the OPCAT, which the South African Human Rights Commission is working closely on with the Ministry of Justice and Correctional Services, will close this gap. It is also important that station commissioners, and any other members of the SAPS or MPS, fulfil their obligation to report all matters that must be investigated by the IPID within the specified time.

## Conclusion and recommendations

African states have made progress in criminalising torture through their commitment to international, regional and national legal frameworks. However, they should make a more concerted effort to effectively and fully implement these frameworks, and provide law enforcement officials with training on measures aimed at prohibiting and preventing torture. The use of electric shock equipment in law enforcement must be interrogated, and its regulation or prohibition should be implemented and strictly monitored.

The following recommendations should be considered:

- 1 All policies and training with respect to the treatment of persons in custody should be compatible with national, regional and international human rights standards. Law enforcement agencies must ensure that officials undergo adequate training on appropriate use of security equipment.
- 2 All African states should ratify the UNCAT and the OPCAT.
- 3 African states should submit their reports on time to the African Charter on Human and People's Rights. These reports serve not only as a platform for constructive dialogue among states but, importantly, also serve as the vehicle through which states can share their implementation achievements and lessons learnt.
- 4 All incidents of torture, assault and death in police custody should be reported and carefully monitored as a matter of public accountability and transparency.
- 5 Wired projectile electric shock weapons should be strictly regulated and their use carefully monitored to ensure they are always deployed with proportionate force, lawfully and to the minimum extent necessary.
- 6 Handheld direct contact electric shock devices and body-worn electric shock devices should be prohibited. Stun batons, stun shields, stun belts and stun guns are prone to abuse and have no law enforcement purpose that cannot be achieved through safer means. African governments should take effective legislative, administrative, judicial or other measures to prohibit the use of such equipment in law enforcement.

## Notes

The author wishes to thank Noël Stott, Senior Research Fellow, Transnational Threats and International Crime Division, ISS Pretoria and the Omega Research Foundation for their valuable reviews of this policy brief.

- 1 UN Human Rights Office of the High Commissioner, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, [www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx).
- 2 Association for the Prevention of Torture and Convention against Torture Initiative, Guide on anti-torture legislation, 2016, [www.apt.ch/content/files\\_res/anti-torture-guide-en.pdf](http://www.apt.ch/content/files_res/anti-torture-guide-en.pdf).
- 3 UN Human Rights Office of the High Commissioner, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, [www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx).
- 4 Association for the Prevention of Torture, List of designated national preventive mechanisms by regions and countries, [www.apt.ch/en/list-of-designated-npm-by-regions-and-countries/](http://www.apt.ch/en/list-of-designated-npm-by-regions-and-countries/).
- 5 Association for the Prevention of Torture, List of designated National Preventive Mechanisms by regions and countries, [www.apt.ch/en/list-of-designated-npm-by-regions-and-countries/](http://www.apt.ch/en/list-of-designated-npm-by-regions-and-countries/).
- 6 African (Banjul) Charter on Human and Peoples' Rights, [www.achpr.org/files/instruments/achpr/banjul\\_charter.pdf](http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf).
- 7 African Commission on Human and Peoples' Rights, State reports and concluding observations, [www.achpr.org/states/reports-and-concluding-observations/](http://www.achpr.org/states/reports-and-concluding-observations/); this list excludes South Sudan, which is not yet a state party to the charter.
- 8 African Commission on Human and Peoples' Rights, Association for the Prevention of Torture, and Regional Office of the UN High Commissioner for Human Rights, Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (the Robben Island Guidelines), 2nd ed., [www.achpr.org/files/instruments/robben-island-guidelines/achpr\\_instr\\_guide\\_rig\\_2008\\_eng.pdf](http://www.achpr.org/files/instruments/robben-island-guidelines/achpr_instr_guide_rig_2008_eng.pdf).
- 9 Commissioner Lawrence M. Mute, Inter-Session Activity Report (November 2015 to April 2016) and Annual Situation of Torture and Ill-Treatment in Africa Report, [www.achpr.org/files/sessions/58th/inter-act-reps/246/58os\\_inter\\_session\\_report\\_mute\\_eng.pdf](http://www.achpr.org/files/sessions/58th/inter-act-reps/246/58os_inter_session_report_mute_eng.pdf).
- 10 See: UN Human Rights Office of the High Commissioner, Jurisprudence, [www.ohchr.org/EN/HRBodies/CAT/Pages/Jurisprudence.aspx](http://www.ohchr.org/EN/HRBodies/CAT/Pages/Jurisprudence.aspx).
- 11 African Commission on Human and Peoples' Rights, Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, [www.achpr.org/files/instruments/guidelines\\_arrest\\_detention/guidelines\\_on\\_arrest\\_police\\_custody\\_detention.pdf](http://www.achpr.org/files/instruments/guidelines_arrest_detention/guidelines_on_arrest_police_custody_detention.pdf).
- 12 Association for the Prevention of Torture and Network of African National Human Rights Institutions, Preventing torture in Africa: Lessons and experiences from National Human Rights Institutions, [www.apt.ch/content/files\\_res/nanhri-project-report-en-for-web.pdf](http://www.apt.ch/content/files_res/nanhri-project-report-en-for-web.pdf).
- 13 Amnesty International, Torture in 2014: 30 years of broken promises, [www.amnestyusa.org/sites/default/files/act400042014en.pdf](http://www.amnestyusa.org/sites/default/files/act400042014en.pdf).
- 14 Human Rights Watch, UN Human Rights Council: Adoption of the Universal Periodic Review Report on Egypt, 20 March 2015, [www.hrw.org/news/2015/03/20/un-human-rights-council-adoption-upr-report-egypt](http://www.hrw.org/news/2015/03/20/un-human-rights-council-adoption-upr-report-egypt).
- 15 Amnesty International, Egypt: Spate of detainee deaths points to rampant abuse at Cairo's Mattareya Police Station, 4 March 2015, [www.amnesty.org/en/press-releases/2015/03/egypt-spate-of-detainee-deaths-points-to-rampant-abuse-at-cairo-s-mattareya-police-station/?utm\\_source=annual\\_report&utm\\_medium=pdf&utm\\_campaign=2016&utm\\_term=english](http://www.amnesty.org/en/press-releases/2015/03/egypt-spate-of-detainee-deaths-points-to-rampant-abuse-at-cairo-s-mattareya-police-station/?utm_source=annual_report&utm_medium=pdf&utm_campaign=2016&utm_term=english).
- 16 UN News Centre, Torture and illegal detention on the rise in Burundi – UN rights chief, 18 April 2016, [www.un.org/apps/news/story.asp?NewsID=53711#.VzSKOBV97ox](http://www.un.org/apps/news/story.asp?NewsID=53711#.VzSKOBV97ox).
- 17 African Commission on Human and Peoples' Rights, Association for the Prevention of Torture, and Regional Office of the UN High Commissioner for Human Rights, Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (the Robben Island Guidelines), 2nd ed., [www.achpr.org/files/instruments/robben-island-guidelines/achpr\\_instr\\_guide\\_rig\\_2008\\_eng.pdf](http://www.achpr.org/files/instruments/robben-island-guidelines/achpr_instr_guide_rig_2008_eng.pdf).
- 18 Omega Research Foundation and Amnesty International, The human rights impact of less lethal weapons and other law enforcement equipment, [www.amnestyusa.org/sites/default/files/human\\_rights\\_impact\\_less\\_lethal\\_weapons\\_doha\\_paper.pdf](http://www.amnestyusa.org/sites/default/files/human_rights_impact_less_lethal_weapons_doha_paper.pdf). See also PH Yoon, The 'stunning' truth: Stun belts debilitate, they prejudice, and they may even kill, *Capital Defense Journal*, 15:2, 1 March 2003, <http://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=1531&context=wlucdj>; Association of the Bar of the City of New York, Report of Subcommittee on Conditions of Confinement on the Use of Stun Shields by the New York City Department of Correction, 129518 v.3, 2001, <http://bit.ly/1E3dnXd>.
- 19 Human Rights Watch, Egypt: Statements from protesters detained by army, [www.hrw.org/news/2011/02/08/egypt-statements-protesters-detained-army](http://www.hrw.org/news/2011/02/08/egypt-statements-protesters-detained-army).
- 20 Amnesty International, The tools of torture: A booming trade, 22 September 2014, [www.amnesty.org.uk/china-tools-of-torture-trade](http://www.amnesty.org.uk/china-tools-of-torture-trade).
- 21 Bienvenu-Marie Bakumanya, DR Congo police tear-gas opposition rally in courthouse, *Times Live*, 11 May 2016, [www.timeslive.co.za/africa/2016/05/11/DR-Congo-police-tear-gas-opposition-rally-in-courthouse](http://www.timeslive.co.za/africa/2016/05/11/DR-Congo-police-tear-gas-opposition-rally-in-courthouse); DR Congo police disperse opposition supporters, *Africa Review*, 11 May 2016, [www.africareview.com/news/DR-Congo-police-disperse-thousands-of-opposition-supporters/-/979180/3199136/-/nsvotp/-/index.html](http://www.africareview.com/news/DR-Congo-police-disperse-thousands-of-opposition-supporters/-/979180/3199136/-/nsvotp/-/index.html).
- 22 Sylvester Ugwuanyi, Accidental discharge: Police to replace firearms with stun guns for officers on patrol, *Daily Post*, 4 February 2016, <http://dailypost.ng/2016/02/04/accidental-discharge-police-to-replace-firearms-with-stun-guns-for-officers-on-patrol/>.
- 23 Southern African Development Community, Police (SARPPCO), [www.sadc.int/themes/politics-defence-security/police-sarpcco/](http://www.sadc.int/themes/politics-defence-security/police-sarpcco/).
- 24 SARPPCO, Harare Resolution on the SARPPCO Code of Conduct for Police Officials, August 2001, [www.apt.ch/content/files\\_res/SARPPCO.pdf](http://www.apt.ch/content/files_res/SARPPCO.pdf).
- 25 Section 12 (1) (d) of the Constitution of the Republic of South Africa Act 108 of 1996, [http://www.acts.co.za/constitution\\_of\\_the\\_republic\\_of\\_south/index.html](http://www.acts.co.za/constitution_of_the_republic_of_south/index.html).
- 26 Section 12 (1) (e) of the Constitution of the Republic of South Africa Act, 1996, [http://www.acts.co.za/constitution\\_of\\_the\\_republic\\_of\\_south/index.html](http://www.acts.co.za/constitution_of_the_republic_of_south/index.html).
- 27 Olivia Streater, Review of existing mechanisms for the prevention and investigation of torture and cruel, inhuman and degrading treatment or punishment in South Africa, Centre for the Study of Violence and Reconciliation, 2008, [www.csvr.org.za/docs/torturereview1208.pdf](http://www.csvr.org.za/docs/torturereview1208.pdf).
- 28 Policy on the Prevention of Torture and Treatment of Persons in Custody of the South African Police Service, 1998.
- 29 Section 2 (1) (b) of the Prevention and Combating of Torture of Persons Act 13 of 2013, [www.gov.za/sites/www.gov.za/files/36716\\_Act13of2013.pdf](http://www.gov.za/sites/www.gov.za/files/36716_Act13of2013.pdf).
- 30 Section 4 (1) of the Prevention and Combating of Torture of Persons Act 13 of 2013, [www.gov.za/sites/www.gov.za/files/36716\\_Act13of2013.pdf](http://www.gov.za/sites/www.gov.za/files/36716_Act13of2013.pdf).
- 31 Section 2 (1) (c) of the Prevention and Combating of Torture of Persons Act 13 of 2013, [www.gov.za/sites/www.gov.za/files/36716\\_Act13of2013.pdf](http://www.gov.za/sites/www.gov.za/files/36716_Act13of2013.pdf).

- 32 Force Products, see [www.forcegroup.co.za](http://www.forcegroup.co.za).
- 33 Force Products, Passive Riot & Aggressor Control, see [www.forcegroup.co.za/uploads/docs/law\\_enforcement\\_\\_antiscap\\_\\_stunbelt.pdf](http://www.forcegroup.co.za/uploads/docs/law_enforcement__antiscap__stunbelt.pdf).
- 34 Force Products, Passive Riot & Aggressor Control, [www.forcegroup.co.za/uploads/docs/law\\_enforcement\\_\\_shock\\_ballistic\\_riot\\_shields.pdf](http://www.forcegroup.co.za/uploads/docs/law_enforcement__shock_ballistic_riot_shields.pdf).
- 35 Andrew Faull, Will introducing Taser guns reduce killings by the South African Police Service? Institute for Security Studies, 22 June 2011, [www.issafrica.org/iss-today/will-introducing-taser-guns-reduce-killings-by-the-south-african-police-service](http://www.issafrica.org/iss-today/will-introducing-taser-guns-reduce-killings-by-the-south-african-police-service).
- 36 Ibid.
- 37 Mispo.org, South Africa 2010: World Cup special issue: A guide to police and security equipment in South Africa, June 2010, <https://omegaresearchfoundation.org/sites/default/files/uploads/Publications/June%202010%20-%20World%20Cup%20Special.pdf>.
- 38 Library of Congress, Police weapons: South Africa, 6 September 2015, [www.loc.gov/law/help/police-weapons/south-africa.php#\\_ftnref19](http://www.loc.gov/law/help/police-weapons/south-africa.php#_ftnref19).
- 39 Constitutionally Speaking: Amnesty International Human Rights Report on South Africa, 28 May 2010, <http://constitutionallyspeaking.co.za/amnesty-international-human-rights-report-on-south-africa/>.
- 40 Ibid.
- 41 *S v. Mgabhi* (161/07) [2008] ZAGPHC 470 (1 December 2008), [www.saflii.org/za/cases/ZAGPHC/2008/470.html](http://www.saflii.org/za/cases/ZAGPHC/2008/470.html).
- 42 Ibid.
- 43 Jenni Evans, 10 police officers charged with murder, torture, 27 August 2015, [www.news24.com/SouthAfrica/News/10-police-officers-charged-with-murder-torture-20150827](http://www.news24.com/SouthAfrica/News/10-police-officers-charged-with-murder-torture-20150827); Dineo Bendile, 10 cops formally charged with murder of tortured detainee, 27 August 2015, <http://ewn.co.za/2015/08/27/10-cops-formally-charged-with-murder-of-Tembisa-detainee>; Sashin Naidoo, Family of police torture victim wants justice, 2 September 2015, [www.sabc.co.za/news/a/9ab9d08049b2c15e881ddeba369cf722/Family-of-police-torture-victim-wants-justice-20150209](http://www.sabc.co.za/news/a/9ab9d08049b2c15e881ddeba369cf722/Family-of-police-torture-victim-wants-justice-20150209).
- 44 South Africa anti-rape protests: Rhodes University students arrested, BBC News, 20 April 2016, [www.bbc.com/news/world-africa-36090431](http://www.bbc.com/news/world-africa-36090431).
- 45 *S v. Mgabhi* (161/07) [2008] ZAGPHC 470 (1 December 2008), [www.saflii.org/za/cases/ZAGPHC/2008/470.html](http://www.saflii.org/za/cases/ZAGPHC/2008/470.html).
- 46 *Gobuamang v. Minister of Police* [2011] ZAGPJHC 100; 2009/5959 (26 August 2011), [www.saflii.org/za/cases/ZAGPJHC/2011/100.html](http://www.saflii.org/za/cases/ZAGPJHC/2011/100.html).
- 47 Independent Police Investigative Directorate, [www.icd.gov.za/sites/default/files/documents/English%20final.pdf](http://www.icd.gov.za/sites/default/files/documents/English%20final.pdf)
- 48 Independent Police Investigative Directorate Act 1 of 2011, [www.gov.za/sites/www.gov.za/files/35018\\_rg9678\\_gon98.pdf](http://www.gov.za/sites/www.gov.za/files/35018_rg9678_gon98.pdf).
- 49 Independent Police Investigative Directorate, Annual Report 2012/13, 31 August 2013, [www.icd.gov.za/sites/default/files/documents/IPID\\_Annual\\_Report\\_2012-13.pdf](http://www.icd.gov.za/sites/default/files/documents/IPID_Annual_Report_2012-13.pdf).
- 50 Independent Police Investigative Directorate, Annual Report 2014/15, 15 September 2015, [www.icd.gov.za/sites/default/files/documents/IPID\\_Annual\\_Report%20\\_2014-15.pdf](http://www.icd.gov.za/sites/default/files/documents/IPID_Annual_Report%20_2014-15.pdf).

## Subscribe to the ISS for the latest analysis, insight and news

We're improving human security in Africa with authoritative research, training and expert policy analysis

Step 1: **Go to [www.issafrica.org](http://www.issafrica.org)**

Step 2: **Under 'Subscribe to the ISS,' click on 'Email subscriptions'**

Step 3: **Select the type of notices you would like to receive:**

### Latest from the ISS

- ISS press releases
- ISS Weekly newsletter
- ISS Today
- ISS Spotlight

### ISS event invitations

- Seminars, ISS Addis Ababa
- Seminars, ISS Dakar
- Seminars, ISS Nairobi
- Seminars, ISS Pretoria
- Training courses

### ISS thematic reports

- Peace and Security Council Report
- Regional Report: Central Africa
- Regional Report: East Africa
- Regional Report: West Africa
- Regional Report: Southern Africa

**Or, subscribe by topic of interest (to receive press releases, spotlights, event invitations, and reports that deal with your chosen topic):**

- African Futures
- Arms control and disarmament
- Conflict prevention and analysis
- Corruption and governance
- Counter-terrorism
- Crime and criminal justice
- International criminal justice
- Organised crime
- Peacekeeping and conflict management

### About the author

Mothepa Shadung is a junior researcher at the ISS in Pretoria. She works in the Transnational Threats and International Crime Division, in the Africa's Development and the Threat of Weapons of Mass Destruction programme and the Arms Management programme. She holds a master's qualification in international relations from the University of the Witwatersrand. She is a member of the Golden Key International Honour Society.

### About the ISS

The Institute for Security Studies is an African organisation that aims to enhance human security on the continent. It does independent and authoritative research, provides expert policy analysis and advice, and delivers practical training and technical assistance.

### About the Omega Research Foundation

The Omega Research Foundation conducts research on the development, manufacture, trade and use of military, security and police equipment. Such equipment ranges from small arms and light weapons to less lethal and restraint equipment, surveillance systems and large-weapon systems. Omega promotes effective mechanisms to prevent the proliferation and misuse of such weapons through information sharing, awareness-raising workshops and training, and advocacy activities, targeting, among others, the strengthening of export-control regimes and use-of-force policies. For more, visit <https://omegaresearchfoundation.org>

### Acknowledgements



The Omega Research Foundation is funded to do this research by the European Instrument for Democracy and Human Rights, the Sigrid Rausing Trust, the Oak Foundation and the Joseph Rowntree Charitable Trust. The ISS is also grateful for support from the members of the ISS Partnership Forum: the governments of Australia, Canada, Denmark, Finland, Japan, Netherlands, Norway, Sweden and the USA.

© 2016, Institute for Security Studies

Copyright in the volume as a whole is vested in the Institute for Security Studies and the authors and no part may be reproduced in whole or in part without the express permission, in writing, of both the authors and the publishers.

The opinions expressed do not reflect those of the ISS, its trustees, members of the Advisory Council or donors. Authors contribute to ISS publications in their personal capacity.

### ISS Pretoria

Block C, Brooklyn Court,  
361 Veale Street  
New Muckleneuk,  
Pretoria, South Africa  
Tel: +27 12 346 9500  
Fax: +27 12 460 0998

### ISS Addis Ababa

5th Floor, Get House  
Building, Africa Avenue,  
Addis Ababa, Ethiopia  
Tel: +251 11 515 6320  
Fax: +251 11 515 6449

### ISS Dakar

4th Floor, Immeuble  
Atryum  
Route de Ouakam,  
Dakar, Senegal  
Tel: +221 33 860 3304/42  
Fax: +221 33 860 3343

### ISS Nairobi

Braeside Gardens,  
off Muthangari Road  
Lavington, Nairobi, Kenya  
Tel: +254 72 860 7642  
Fax: +254 73 565 0300

[www.issafrica.org](http://www.issafrica.org)

ISS Policy Brief No 85

ISSN 1026-0404



9 771026 040004