



Togo's Compliance with the Convention Against Torture Suggested List of Issues Prior to Reporting

Submitted by The Advocates for Human Rights,
a non-governmental organization in special consultative status with ECOSOC since 1996
and
Togolese Diaspora Forces

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Founded in 1983, **The Advocates for Human Rights** (“The Advocates”) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. Individuals from Togo who fled discrimination and violence based on their political opinion and requested legal assistance from The Advocates in seeking asylum in the United States have contributed to this report. All client information is used with their permission.

Togolese Diaspora Forces (Diaspora Forces Minnesota) is a not-for-profit organization created by Togolese in Minnesota to support the education system and to raise awareness about the lack of freedom, poverty and social justice in Togo. Diaspora Forces Minnesota was established in October 2017.

EXECUTIVE SUMMARY

1. The Togolese Government frequently violates the fundamental legal safeguards of individuals participating in peaceful public demonstrations in Togo. The Government engages in arbitrary arrest and detention. Persons involved in demonstrations called for by the opposition parties have been subjected to excessive use of force, amounting to torture, and often resulting in death.
2. The Togolese Government uses the threat of detention to discourage persons from exercising their rights to peaceful assembly, opinion, and expression. The legal system and policies in Togo fail to provide individuals with adequate protection from politically motivated violence.
3. Members of the Togolese diaspora living in Minnesota, USA have participated in gathering information for this submission. Human rights organizations in Togo received firsthand information directly, as well as through media and other reports. Togolese human rights organizations The Ligue Togolaise des Droits de L'Homme (LTDH), affiliated with the International Federation for Human Rights, provided documentation of human rights abuses occurring during the period from August 1, 2018, to April 13, 2019.¹ The Regroupement des Jeunes Africains pour la Démocratie et le Développement (REJADD) and the Réseau Africain pour les Initiatives de Droits de l'Homme et de Solidarité (RAIDHS) also provided information on repression of peaceful marches occurring between August 19, 2017 and January 20, 2018.²

Togo fails to uphold its obligations under the Convention Against Torture

I. Definition and criminalization of torture

4. In paragraph 9 of the 2019 Concluding Observations, the Committee Against Torture (Committee) expressed concern at the lack of provisions that explicitly provide for: (a) complicity in torture or attempts to commit torture; and (b) the criminal responsibility of superior officers who are aware of acts of torture or ill-treatment committed by their subordinates.³
5. Togo's Constitution expressly prohibits torture and other forms of cruel, inhuman or degrading treatment. Article 21 states that no one shall be subject to torture and that no

¹ Ligue Togolaise des Droits de L'homme, *Togo: La Terreur contre le Peuple. 31 juillet 2018-27 avril 2019*, (May 22, 2019), <http://societecivilemedia.com/togo-terreur-contre-peuple-laccablant-rapport-de-ltdh/> (accessed June 13, 2019). (hereinafter referred to as « *La Terreur contre le Peuple* »).

² Regroupement des Jeunes Africains pour la Démocratie et le Développement and Réseau Africain pour les Initiatives de Droits de l'Homme et de Solidarité, *Rapport Préliminaire Togo: Plus de 100 morts dans la repression des marches pacifiques du 19 août 2017 au 20 janvier 2018*, (January 31, 2018), <http://societecivilemedia.com/3999-2/> (accessed June 13, 2019). (hereinafter referred to as « *Plus de 100 morts* »).

³ Committee Against Torture, *Concluding observations on the third periodic report on Togo, adopted by the Committee at its 1780th meeting, held on 7 August 2019*, U.N. Doc. CAT/C/TGO/CO/3, ¶ 9 [hereinafter 2019 Concluding Observations].

person who commits torture will escape punishment, including State actors.⁴ In its National Report to the UN Human Rights Council as part of the Universal Periodic Review process, the Togolese government highlighted a new definition of torture in the Criminal Code.⁵ Notably, however, in 2021 the UN Human Rights Committee noted that Togo’s definition of torture failed to mention the involvement of public officials or of a person acting in an official capacity, in line with the Convention against Torture.⁶

II. Fundamental legal safeguards

6. In paragraph 11 of the 2019 Concluding Observations, the Committee reiterated concerns that in practice fundamental legal safeguards are not respected during arrest and detention and called on Togo as a matter of priority to take action.⁷
7. Togolese human rights groups report significant failures of the judicial system to preserve the rights of detainees under Togolese law.⁸ One individual was arrested by soldiers in Koumondè and accused without proof of having participated in a demonstration. The soldiers beat the victim to the point of losing consciousness, then held him in police custody for three days, where he was subjected to further physical abuse.⁹ Three days after being transferred to prison, this victim was judged and condemned to eighteen months of prison, still without any proof of participation in the demonstration.¹⁰
8. Law enforcement does not appropriately employ “procès-verbal” for detainees in violation of their rights. The “procès-verbal” written for each arrested person is designed to establish the facts on which a charge is based. Judges are not on site to evaluate the facts themselves and rely on the procès-verbal.¹¹ In practice, arrested persons are frequently forced to sign them, often after interrogations and torture. For example, there are reports of individuals being taken to the Bafilo and Kara police stations and subjected to serious physical abuse before being condemned by the judge to six months of prison.¹² Soldiers came into the home of victims T. and Y., who were arrested and beaten.¹³ T. and Y. reported that they signed the “procès-verbal” because they had no choice.¹⁴

⁴ TOGOLESE CONSTITUTION art. 21.

Also available online at https://www.constituteproject.org/constitution/Togo_2007.pdf?lang=en.

⁵ Human Rights Council, *National Report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Togo*, (August 17, 2016), U.N. Doc. A/HRC/WG.6/26/TGO/1, ¶47. Also available online at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/182/57/PDF/G1618257.pdf?OpenElement>.

⁶ Office of the High Commissioner for Human Rights, “Human Rights Committee Raises Concerns about Torture, Transitional Justice and Sexual Minorities in Dialogue with Togo,” accessed July 14, 2021, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27250&LangID=E>.

⁷ 2019 Concluding Observations ¶ 11.

⁸ *La Terreur contre le Peuple*, 18-22.

⁹ *La Terreur contre le Peuple*, 24, 34.

¹⁰ *La Terreur contre le Peuple*, 24, 34.

¹¹ *La Terreur contre le Peuple*, 19.

¹² *La Terreur contre le Peuple*, 34.

¹³ *La Terreur contre le Peuple*, 34.

¹⁴ *La Terreur contre le Peuple*, 34.

III. Administration of justice

9. The Committee called on the State party to (a) Ensure effective access to justice for all defendants by operationalizing the legal aid system, ensuring access to a lawyer and recruiting more judicial officials; (b) Ensure that judges and prosecutors are appointed on the basis of objective and transparent criteria and safeguard the work of the judicial branch from any interference.¹⁵
10. Judges in Togo do not consistently adhere to due process or provide victims with legal representation. Victims and human rights organizations report that everything depends on the individual judge presiding, as some will release the detainee immediately.¹⁶ Others refuse to allow the detainee a lawyer.¹⁷ Without rights to a properly redacted procès-verbal and a lawyer, victims cannot defend themselves, much less bring the State actors who have beaten and unlawfully detained them to justice.

IV. Allegations of torture and ill-treatment

11. During Togo's last periodic report in 2019, the Committee noted that it remained concerned about allegations of torture and ill-treatment in detention, in particular of persons held in custody in police stations and gendarmeries.¹⁸
12. Law enforcement has routinely tortured individuals arrested for participating in peaceful demonstrations against the Government. The Ligue Togolaise des Droits de L'Homme (LTDH), a Togolese human rights organization affiliated with the International Federation for Human Rights, reports that during the period from August 1, 2018, to April 13, 2019, the repression of peaceful public demonstrations in favor of constitutional and institutional reforms included many instances of excessive use of force by law enforcement officers.¹⁹ LTDH has documented numerous victims who display scarring and traces of wounds from repeated beatings with batons or cords.²⁰
13. Based on information provided by the LTDH, persons participating in the demonstrations have been subjected to detentions that constituted torture sessions. Prison guards whipped and beat detainees with clubs or batons.²¹ After arresting a victim detained in Koumondè, police beat him the point of losing consciousness, then held him in police custody for three days during which they subjected him to further physical abuse.²² Another recounts being beaten in a field, then taken to Bafilo and Kara police stations where he experienced further physical abuse.²³

¹⁵ 2019 Concluding Observations ¶ 19.

¹⁶ *La Terreur contre le Peuple*, 19.

¹⁷ *La Terreur contre le Peuple*, 19.

¹⁸ 2019 Concluding Observations ¶ 22-23.

¹⁹ *La Terreur contre le Peuple*.

²⁰ *La Terreur contre le Peuple*, 18.

²¹ *La Terreur contre le Peuple*, 18.

²² *La Terreur contre le Peuple*, 24, 34.

²³ *La Terreur contre le Peuple*, 34.

V. Conditions of Detention

14. In 2019, the Committee expressed deep concern about the persistence of conditions of detention amounting to ill-treatment in the majority of institutions in the country and reiterated recommendations that Togo promptly take all necessary measures to bring detention conditions in prisons and custody facilities in line with the Nelson Mandela Rules.²⁴
15. Article 16 of the Togolese Constitution preserves the right of persons in detention to treatment that does not threaten their dignity, mental, or physical health.²⁵ Conditions of detention in Togo, however, are dangerously overcrowded and unsanitary, arising to the level of inhumane or degrading treatment. The prisons in Togo were already overpopulated and ripe for the transmission of disease prior to the rise in political detainees.²⁶ Mr. Foly SATCHIVI, until recently detained in the Lomé prison, was denied medical care for a chronic ulcer and respiratory problems while he was in prison.²⁷ Despite the opening of the civil prison in Kpalimé in September 2016, the LDTH reports that the prison of Lomé continues to be grossly overcrowded: 1887 persons are held in a space intended for 666.²⁸

VI. Impunity and investigations

16. The Committee also expressed deep concern at reports of impunity for past acts of torture or ill-treatment and reiterated that all persons who have committed acts of torture should be systematically brought to justice and punished in accordance with the seriousness of their acts.²⁹
17. REJADD and RAIDHS have traced a long history of impunity for security forces and governmental authorities in Togo and argues that the repression of political demonstrations during the period the report analyzes is a continuation of that impunity.³⁰ The government detained the President of REJADD for one year after he publicized acts of excessive force perpetrated by governmental security forces. Rather than investigating the perpetrators, the government detained a prominent human rights activist.

²⁴2019 Concluding Observations ¶ 24-25.

²⁵ TOGOLESE CONSTITUTION art. 16.

Also available online at https://www.constituteproject.org/constitution/Togo_2007.pdf?lang=en.

²⁶ *Plus de 100 morts*, 32.

²⁷ Front Line Defenders, *Continued Detention of Human Rights Defender and Youth Leader Foly Satchivi* (August 30, 2018). Also available online at <https://www.frontlinedefenders.org/en/case/continued-detention-human-rights-defender-and-youth-leader-foly-satchivi>, (accessed January 30, 2020), (hereinafter referred to as “*Continued Detention*”).

²⁸ *La Terreur contre le Peuple*, 25.

²⁹ Concluding Observations, paras. 26-27.

³⁰ Regroupement des Jeunes Africains pour la Démocratie et le Développement, Réseau Africain pour les Initiatives de Droits de l’Homme et de Solidarité, *Plus de 100 morts*, (Togo : January 31, 2018), 29. On file with authors. (hereinafter referred to as « *Plus de 100 morts* »).

VII. Human rights defenders, suppression of demonstrations and excessive use of force

18. In 2019, the Committee noted with deep concern reports of repeated attacks against political opponents and human rights defenders seeking to exercise their right to freedom of association or expression.³¹ As a matter of urgency, the Committee recommended that Togo: (a) Release all persons who remain in custody for having defended their opinions or demonstrated peacefully, and guarantee the payment of compensation to victims of arbitrary detention; (b) Ensure that political opponents, human rights defenders and other representatives of civil society are protected from acts of intimidation and violence to which they may be exposed because of their activities; and (c) Ensure that impartial and effective investigations are conducted without delay into any allegation of excessive use of force, torture, ill-treatment or extrajudicial executions targeting political opponents, human rights defenders and members of civil society organizations, and bring proceedings as necessary.³²
19. While Article 15 of the Togolese Constitution prohibits arbitrary arrest or detention,³³ **the Togolese Government arbitrarily arrests potential demonstrators to reduce the number of demonstrators and to deter others from participating.** Many participants in the opposition PNP demonstrations have been detained in Togolese prisons.³⁴ Security forces have also arbitrarily imposed detentions, before the demonstrations, to dissuade people from participating.³⁵ On the nights of January 18 and 19 of 2017, just before planned opposition demonstrations on January 20, police conducted a raid in the periphery of Lomé, and took many people in the third arrondissement into custody, for no legitimate reason and without charges.³⁶ They were released as soon as human rights organizations sounded the alarm, and it appears that their arrest was merely for the purpose of reducing the number of demonstrators.³⁷ Later, the LTDH documents a victim who was denounced as someone who called for demonstrations; without proof, he was condemned for destruction of property, even though he had never left his house.³⁸ Another victim explains that the ruling political party tries to arrest people that are able to mobilize the youth for the opposition; they came to see him just before the elections, to encourage young expatriates to return to the country, so they could be arrested.³⁹
20. After the recent February 2020 elections, the government arbitrarily arrested several individuals for contesting the election results and denouncing reprisals against government opponents. Security forces arrested one individual who claimed the opposition party (DMK) candidate won the election. They also arrested Brigitte Abjamagbo, general

³¹2019 Concluding Observations ¶ 34.

³²2019 Concluding Observations ¶ 35.

³³ TOGOLESE CONSTITUTION art. 15.

Also available online at https://www.constituteproject.org/constitution/Togo_2007.pdf?lang=en.

³⁴ *Plus de 100 morts*, 31-32.

³⁵ *Plus de 100 morts*, 32.

³⁶ *Plus de 100 morts*, 31.

³⁷ *Plus de 100 morts*, 31.

³⁸ *La Terreur contre le Peuple*, 34.

³⁹ *La Terreur contre le Peuple*, 34.

coordinator of DMK. Further, security forces arrested the former Minister of Communication and Deputy Djimon Ore for expressing their negative opinions about the Togolese government.⁴⁰

21. In 2019 and 2020, the government also arbitrarily arrested several people affiliated with the PNP. On April 13, 2019, security forces arrested three security guards at the house of the president of the PNP. On January 25, 2020, security forces arrested and detained the general secretary of the PNP. Further, on June 13, 2020, security forces arrested Mr Kpindeleze Tchamedji ALILOU, a member of the PNP prefectural office. He has not been seen since.

22. **Law enforcement and the military killed or gravely wounded many participants in peaceful demonstrations.** For example, security agents severely beat Mr. Zinedine ALI-ZERA during a demonstration organized by the opposition Parti National Panafricain (PNP) in Bafilo on April 13, 2019. Mr. ALI-ZERA died before he could be taken to the hospital.⁴¹ On December 8, 2018, while dispersing demonstrators in Togblékopé, law enforcement officers killed Moufidou IDRISSOU, a 12 year old child, with a bullet to the head when he took refuge from the tear gas; they also killed Lawa TCHAKONDO a/k/a Gado, with a bullet to his back as he fled.⁴² Other instances of excessive use of force did not result in death but nonetheless caused grave physical injury. The LTDH reports that men in military uniforms beat PNP activists at a meeting in Anié on February 14, 2019, used tear gas, and shot a 43-year-old man in the hand.⁴³ Numerous other demonstrators have been subjected to indiscriminate beatings and kickings.⁴⁴ A report by The Regroupement des Jeunes Africains pour la Democratie et le Developpement (REJADD) and the Réseau Africain pour les Initiatives de Droits de l'Homme et Solidarite (RAIDHS) identified 100 deaths resulting from excessive use of force by military, police, and other security forces during the marches.

23. **The military killed many peaceful protestors as a result of an excessive use of force.** Examples cited in the report include the following individual victims. On August 19, 2017, the first day of the marches called by the PNP, the military shot and killed a student named Bastou Ouro-Kefia and a taxi driver named Mamadou Afissou Sibabi in Sokodé.⁴⁵ On September 20, 2017, the military shot and killed 9-year old Yacoubou Abdoulaye in Mango. On October 18, 2017, the military shot and killed 13-year old Kokou Joseph Zoumekey, or “Jojo” in Lomé.⁴⁶ Other firearm-related deaths occurred as complications of bullet injuries inflicted during the marches, for example 16-year old Rachad Maman Agrigna, who was wounded in Bafilo and died in Sokodé on September 22, 2017.⁴⁷ In

⁴⁰ Correspondence with NGO representative (July 13, 2021).

⁴¹ Ligue Togolaise des Droits de l'Homme, *La Terreur contre le Peuple*, (April 2019), 10. On file with authors. (hereinafter referred to as « *La Terreur contre le Peuple* »).

⁴² *La Terreur contre le Peuple*, 12, 30.

⁴³ *La Terreur contre le Peuple*, 11.

⁴⁴ *La Terreur contre le Peuple*, 10.

⁴⁵ Regroupement des Jeunes Africains pour la Démocratie et le Développement, Réseau Africain pour les Initiatives de Droits de l'Homme et de Solidarité, *Plus de 100 morts*, (Togo : January 31, 2018), 29. On file with authors. (hereinafter referred to as « *Plus de 100 morts* »).

⁴⁶ *Plus de 100 morts*, 29.

⁴⁷ *Plus de 100 morts*, 29.

Mango on September 20, 2017, soldiers chasing Séidou N'tchirifou Bawa and Yaya Samari pushed them into the Oti River where they drowned.⁴⁸ In Sokodé on October 21, 2017, soldiers armed with clubs beat Moutaka Akondo Naboudja. He later died from his wounds.⁴⁹ High school teacher N'Tchomla died as a result of inhaling large amounts of toxic tear gas on October 21, 2017, at Sokodé.⁵⁰ The REJADD-RAIDHS report repression of peaceful marches also details numerous cases of people wounded during demonstrations by bullets, by rubber bullets, and by beatings.⁵¹

24. The government has interfered with the work of the PNP through violence and harassment. In 2017, military burned down the headquarters of the PNP. In 2019, security forces interrupted a weekly PNP meeting. They used teargas to disperse the meeting and beat the PNP activists attending the meeting.
25. **Freedom of opinion and expression:** Although Article 25 of the Constitution preserves the freedom of expression and opinion of all people⁵², the Togolese Government routinely violates the freedom of opinion and expression of political opponents. Police interrogated and threatened several members of the political opposition party leading up to the February 2020 elections. The DMK candidate fled the country due to death threats and violence against his wife and children by security forces. The founder of the DMK party has also fled the country due to threats to his life.
26. **Human rights defenders in Togo have also faced reprisals for speaking out about and reporting on human rights violations.** Assiba Johnson, the President of REJADD, was imprisoned on April 4, 2018, after and because of the release of the REJADD-RAIDHS report.⁵³ He was condemned for propagating false news and insulting the authorities, and held in Lomé prison until April 5, 2019.⁵⁴
27. In Bè-Gakpoto, Lomé, police arrested Foly Satchivi, the leader of the Togolese human rights movement “En Aucun Cas,” just before a press conference he had organized for the discussion of the socio-political climate in Togo.⁵⁵ He was forcefully taken to the Lomé prison, charged with rebellion, incitement to commit crimes and misdemeanors, and disruption of public order in connection with the press conference.⁵⁶ On January 18, 2019, Mr. Satchivi was sentenced to three years of prison, one year suspended, for the three

⁴⁸ *Plus de 100 morts*, 29.

⁴⁹ *Plus de 100 morts*, 29.

⁵⁰ *Plus de 100 morts*, 29.

⁵¹ *Plus de 100 morts*, 30, 142-149.

⁵² TOGOLESE CONSTITUTION art. 25.

Also available online at https://www.constituteproject.org/constitution/Togo_2007.pdf?lang=en.

⁵³ Société Civile Média, *Togo-Droits de l'Homme: Le président du REJADD mis aux arrêts!* (April 4, 2018), <http://societecivilemedia.com/togo-droits-de-lhomme-president-rejadd-mis-aux-arrets/> (accessed June 13, 2019).

⁵⁴ Société Civile Média, *Togo: Assiba Johnson libéré, Foly Satchivi réclamé* (April 5, 2019), <http://societecivilemedia.com/6643-2/> (accessed June 14, 2019).

⁵⁵ Front Line Defenders, *Continued Detention of Human Rights Defender and Youth Leader Foly Satchivi* (August 30, 2018).

Also available online at <https://www.frontlinedefenders.org/en/case/continued-detention-human-rights-defender-and-youth-leader-foly-satchivi> (accessed January 30, 2020), (hereinafter referred to as “*Continued Detention*”).

⁵⁶ *Continued Detention*.

charges.⁵⁷ On October 10, 2019, the Lomé Court of Appeal reversed the January 18, 2019, decision partially, but found Mr. Satchivi guilty of the crime of “glorification of crimes and offenses.”⁵⁸ Mr. Satchivi was only released on October 16, 2019, because President Faure Essozimna Gnassingbé issued him a presidential pardon.⁵⁹

28. One client of The Advocates experienced harassment and threats from the government due to his role as a political activist with the PNP. Defense and security agents, along with other masked individuals, came to his home around 2am while he was away, threatening his wife and children. He ultimately fled the country due to these threats.⁶⁰

VIII. Suggested questions for the Government of Togo:

- What measures have been taken to investigate and prosecute the torture and ill-treatment committed by State actors during the demonstrations organized by the PNP and DMK?
- Have all detainees arrested in connection with peaceful protests and the leaders of PNP and DMK, including Kpatcha Gnassingbé, been released? If not, when will they be released?
- What steps are being taken to facilitate the return of all political exiles since 2005 without exception and to guarantee their security?
- Please provide information about steps being taken to establish and use an independent mechanism for investigating complaints of torture or ill-treatment at the hands of members of police or security forces.
- What training do judges, lawyers and prosecutors on international standards related to torture and ill-treatment?

⁵⁷ *Continued Detention* (updated January 18, 2019).

⁵⁸ *Continued Detention* (updated October 16, 2019).

⁵⁹ *Continued Detention* (updated October 16, 2019).

⁶⁰ Interviews with clients of The Advocates, 2020-2021.

- Have all judicial officers received training on proper administration of the law protecting freedom of assembly and freedom of expression and opinion and on the role of human rights defenders? If not, when will they receive this training?
- Please provide information about detention conditions and any action taken to end overcrowding in detention, including commuting sentences and releasing persons in pretrial detention without charges?
- What has the State party done to ensure adequate hygiene and access to medical treatment for detained persons?
- What measures have been taken to ensure that detainees can have the lawfulness of their detention adjudicated in a timely manner?
- What has been done to end the practice of using preemptive arrest and detention to deter freedom of opinion, expression and assembly, including participation in opposition demonstrations?
- Please provide detailed information about laws protecting freedom of association and civil society, amendments made in October 2021, and the draft legal framework currently being considered.
- What has the government done to empower grassroots communities to engage in promotion and protection of their human rights, consistent with international human rights standards and referencing local customs such as traditional conflict management roles for local authorities and community leaders?
- What steps have been taken to integrate human rights education into all levels of formal education?