

# THE SUBSIDIARY MECHANISMS

## Introduction

The subsidiary mechanisms are created under Rule 25 of the [Rules of Procedure](#) of the African Commission on Human and Peoples' Rights (ACHPR) of 2020 to deal with a specific human rights issue. The Commission decides, by consensus or by vote, on the creation of a subsidiary mechanism, which may take the form of a Special Rapporteur, a Committee or a Working Group. It also determines the mandate and terms of reference of each such mechanism. These mechanisms are composed of Commissioners, but may also call upon independent external experts.

In 2021, there were 5 special rapporteurs, 5 working groups and 2 committees.

- [Updated list of subsidiary mechanisms - https://tinyurl.com/32f8a6w9](https://tinyurl.com/32f8a6w9)

## How do the subsidiary mechanisms work ?

### 1) Visits



The subsidiary mechanisms have the possibility to make visits to States Parties to the African Charter on Human and Peoples' Rights. These visits can have two objectives: 1) to assess the human rights situation related to their mandate or 2) to advocate with the authorities for the ratification or implementation of certain instruments, the revision of national law or the adoption of new legislation related to their mandate.

### 2) Communications and urgent appeals



To promote the rights within their mandate, the subsidiary mechanisms may decide to intervene in individual cases either by relaying the case

through the communications procedure (detailed in the fact sheet on the ACHPR sessions) or through an urgent appeal, addressing the State concerned directly to invite it to implement the necessary measures to prevent or put an end to the alleged violation.

### 3) Development of legal instruments



In order to clarify certain rights contained in the Charter, the subsidiary mechanisms may develop binding or non-binding legal instruments (such as additional protocols to the Charter, general comments on certain Articles of the Charter, guidelines, principles, declarations or resolutions) related to the rights covered by their mandate. These instruments are then presented to the plenary of the Commission for adoption.

List of the main non-binding legal instruments adopted by the Commission related to the fight against torture and the death penalty (<https://www.achpr.org/resources>):

- [General Comment No. 3 On The African Charter On Human And Peoples' Rights: The Right To Life \(Article 4\)](#) from 2015 ;
- [General Comment No. 4: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment \(Article 5\)](#) from 2017;
- [Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa](#) - Robben Island Guidelines from 2008
- [Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa](#) - Luanda Guidelines from 2015;

- [Principles on the Decriminalisation of Petty Offences in Africa](#) from 2018.

With regard to binding legal instruments, one specific initiative should be mentioned: the draft Protocol to the African Charter on Human and Peoples' Rights on the Abolition of the Death Penalty in Africa. This draft, adopted by the Commission in April 2015, was presented to the African Union Commission in June 2015. It must now go through the procedures before the African Union before being adopted and opened for ratification by Member States.

#### 4) Promotion of the rights recognised by the Charter



The promotion of the rights recognised by the Charter by the subsidiary mechanisms can be done through awareness-raising and training workshops in Member States or through the publication of press releases targeting a specific issue or situation in a given country. In addition, some mechanisms publish regular newsletters to explore, for example, issues related to their mandate or to share good practices.

All the activities carried out by these mechanisms are presented at each ordinary session of the Commission.

## Opportunities for action by FIACAT and the ACATs

Main subsidiary mechanisms linked to the mandate of FIACAT and the ACATs:

- [Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa](#) established in 1996
- [Committee for the Prevention of Torture in Africa](#) established in 2004
- [Working Group on Death Penalty, Extra-Judicial, Summary or Arbitrary Killings and Enforced Disappearances in Africa](#) established in 2005
- [Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals in Africa](#) established in 2004

### 1) Preparation, participation and follow-up of visits



FIACAT and the ACATs can encourage a subsidiary mechanism to carry out a visit to a Member State by providing information on the situation in the country. Once a mission has been decided, they can assist the mechanism in the preparation of its mission by providing information on the country situation and advice on the places to visit and the people to meet. During the visit, ACATs can meet with the mechanism to reiterate their concerns. Finally, the ACATs can also follow up the mission by ensuring that the mechanism's recommendations are taken into account and implemented by the State.

### 2) Submission of communications



The ACATs can bring to the attention of the subsidiary mechanisms the case of an individual or a group of individuals who consider themselves to be victims of a violation of the rights protected by the Charter.

They can themselves submit a communication or encourage the mechanisms to do so and provide the necessary documentation for the submission of a communication or urgent appeal by them.

### 3) Contribution to the drafting of legal instruments



When drafting binding or non-binding legal instruments, the subsidiary mechanisms frequently consult the NGOs with which they are used to working. FIACAT and the ACATs can thus influence the content of these instruments by sending a position paper or comments on the draft. Once the draft is finalised, they can also carry out advocacy to ensure, if necessary, that the instrument is adopted by the States and then that it is known to all.



### 4) Participation in awareness-raising activities



FIACAT and the ACATs can invite members of the subsidiary mechanisms to take part in the activities they carry out, such as training or awareness-raising workshops or advocacy missions. They can also contribute to the newsletters of the mechanisms that have them by writing articles on topics on which they have expertise in order to raise awareness among the Commission, Member States, NHRIs and other NGOs.

#### Find out more

- [Draft Protocol to the African Charter on Human and Peoples' Rights on the Abolition of the Death Penalty in Africa - https://tinyurl.com/3juys4em](https://tinyurl.com/3juys4em)
- [Handbook - How to work with the African commission on human and peoples' rights - https://tinyurl.com/yckmwtz5](https://tinyurl.com/yckmwtz5)