



General Assembly

Distr.: Limited
22 March 2024

Original: English

Human Rights Council

Fifty-fifth session

26 February–5 April 2024

Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Albania, Armenia,* Australia,* Austria,* Belgium, Bulgaria, Canada,* Chile, Colombia,* Costa Rica, Croatia,* Cyprus,* Czechia,* Denmark,* Ecuador,* Estonia,* Finland, France, Georgia, Germany, Greece,* Hungary,* Iceland,* Ireland,* Italy,* Latvia,* Liechtenstein,* Lithuania, Luxembourg, Malta,* Mexico,* Montenegro, Netherlands (Kingdom of the), New Zealand,* North Macedonia,* Norway,* Peru,* Poland,* Portugal,* Romania, Slovenia,* Spain,* Sweden,* Ukraine,* United Kingdom of Great Britain and Northern Ireland,* United States of America and Uruguay*: draft resolution

55/... Torture and other cruel, inhuman or degrading treatment or punishment: effective national legislative, administrative, judicial or other measures to prevent acts of torture

The Human Rights Council,

Recalling all resolutions on torture and other cruel, inhuman or degrading treatment or punishment adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council, in particular Council resolution 46/15 of 23 March 2021,

Recalling also that the prohibition of torture is a *jus cogens* norm and that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right under international law, including international human rights law and international humanitarian law, that must be respected and protected under all circumstances, including in times of international and non-international armed conflict or internal disturbances and tensions or any other public emergency, that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in the relevant international instruments and that legal and procedural safeguards against such acts must not be subject to measures that would circumvent this right,

Recalling further the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the Principles on Effective Interviewing for Investigations and Information-Gathering and the Manual on the

* State not a member of the Human Rights Council.



Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol),

Recalling in particular article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, according to which each State party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction,

Recognizing that police and other law enforcement officials, civil or military, medical personnel, public officials and other personnel in places of deprivation of liberty play a vital role in the protection of the right to life, liberty and security and in ensuring due respect for the human dignity and integrity of persons deprived of their liberty and that, in the performance of their official duties, they are obligated to respect and protect the human rights of all persons, including the right to freedom from torture and other cruel, inhuman or degrading treatment or punishment,

Convinced that effective domestic mechanisms of oversight form an essential part of the apparatus of the prevention of torture and other cruel, inhuman or degrading treatment or punishment and that protection against such acts can be strengthened by non-judicial means of a preventive nature, including regular visits to places where persons are deprived of their liberty,

Recalling the obligation of States to investigate and prosecute all acts of torture in accordance with the relevant articles of the Convention against Torture,

Commending the persistent efforts of civil society organizations, including non-governmental organizations, as well as national human rights institutions and national preventive mechanisms, and the considerable network of centres for the rehabilitation of victims of torture, to prevent and combat torture and to alleviate the suffering of victims of torture,

Welcoming the work and the reports of the Committee against Torture and of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and recognizing their key role in preventing, prohibiting and combating torture,

Acknowledging that December 2024 will mark the fortieth anniversary of the adoption of the Convention against Torture, and encouraging all States that have not signed, ratified or acceded to the Convention to consider doing so,

Welcoming and acknowledging the work of the Convention against Torture Initiative, launched in March 2014 on the thirtieth anniversary of the adoption of the Convention against Torture to achieve the universal ratification and improved implementation of the Convention, as well as related regional initiatives on the prevention and eradication of torture,

1. *Emphasizes* that States must take persistent, determined and effective measures to prevent and combat all acts of torture and other cruel, inhuman or degrading treatment or punishment, stresses that all acts of torture must be made offences under domestic criminal law punishable by appropriate penalties that take into account their grave nature, and calls upon States to affirm publicly the absolute prohibition against torture and to prohibit under domestic law acts constituting cruel, inhuman or degrading treatment or punishment;

2. *Urges* States to become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto as a matter of priority, and calls upon States parties to ensure their effective implementation;

3. *Calls upon* States to adopt and implement effective legislative, administrative, judicial or other measures to prevent torture and other cruel, inhuman or degrading treatment or punishment in places of detention and other places where persons are or may be deprived of their liberty, either by virtue of an order by a public authority or at its instigation or with its consent or acquiescence, including by implementing legal and procedural safeguards, as well as ensuring that the competent judicial or disciplinary authorities and, where relevant, the prosecution can effectively ensure compliance with such safeguards;

4. *Encourages* States to take appropriate effective legislative, administrative, judicial and other measures to apply the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and also encourages States to use the Principles on Effective Interviewing for Investigations and Information-Gathering and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), as appropriate, through the implementation of national measures;

5. *Calls upon* States to ensure that all persons deprived of their liberty shall be treated with the respect due to their inherent dignity and value as human beings and that no one shall be subjected to, and all persons shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification, and underlines that the safety and security of persons deprived of their liberty, staff, service providers and visitors shall be ensured at all times;

6. *Also calls upon* States to include education and information regarding the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment in the training of law enforcement personnel and other personnel authorized to resort to force or who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment, which may include training on the use of force, all available modern scientific methods for the investigation of crimes and the critical importance of reporting instances of torture or other cruel, inhuman or degrading treatment or punishment to superior authorities;

7. *Emphasizes* that States shall keep under systematic review interrogation rules, instructions, methods and practices, as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under their jurisdiction, and stresses the importance of the development of domestic guidelines on the conduct of interrogations, with a view to preventing any cases of torture and other cruel, inhuman or degrading treatment or punishment;

8. *Stresses* that effective legal and procedural safeguards for the prevention of torture and other cruel, inhuman or degrading treatment or punishment include ensuring that any individual arrested or detained on a criminal charge is brought promptly before a judge or other independent judicial officer and permitting prompt and regular medical care and legal counsel at any stage of detention and regular contact with family members, including visits;

9. *Calls upon* States to put in place measures to prevent and address discrimination against persons deprived of their liberty on any grounds and ensure that the individual needs of persons deprived of their liberty are taken into account;

10. *Urges* all States to adopt a victim- and survivor-centred and age- and gender-responsive approach in the fight against torture and other cruel, inhuman or degrading treatment or punishment, paying special attention to the views and needs of victims and survivors in policy development and other activities relating to rehabilitation, prevention and accountability for torture and other cruel, inhuman or degrading treatment or punishment and sexual and gender-based violence that constitutes torture or other cruel, inhuman or degrading treatment or punishment;

11. *Emphasizes* that conditions of detention must respect the dignity and human rights of persons deprived of their liberty, highlights the importance of reflecting on this in efforts to promote respect for and protection of the rights of persons deprived of their liberty, calls upon States to address and prevent detention conditions amounting to torture or other cruel, inhuman or degrading treatment or punishment, notes in this regard concerns about solitary confinement, and encourages States to take effective measures to address overcrowding in detention facilities, which may have an impact on the dignity and human rights of persons deprived of their liberty;

12. *Also emphasizes* that States are responsible for the safety of persons in their custody, and calls upon States, in keeping order and creating a safe, secure and humane environment in places of detention, to ensure that staff who interact with persons deprived of their liberty treat them with humanity and with respect for the inherent dignity of the human person and to ensure the development of constructive relations between staff and persons deprived of their liberty, as a crucial factor in efforts to prevent and combat torture and other cruel, inhuman and degrading treatment or punishment and other forms of violence;

13. *Calls upon* States to ensure that any signs of torture or other cruel, inhuman or degrading treatment or punishment observed by health-care professionals during the examination of or provision of medical care to persons deprived of their liberty be documented and reported to the competent medical, administrative or judicial authority and that proper procedural safeguards be followed in order not to expose persons deprived of their liberty to a foreseeable risk of harm;

14. *Encourages* States to respect the principles of equivalence and continuity of health care without prejudice and ensure that persons deprived of their liberty enjoy the same standards of health care that are available to patients in the community, as well as to ensure the informed consent of all persons deprived of their liberty in relation to all health-care procedures in places of detention, including a comprehensive initial medical assessment as soon as possible upon admission to places of detention;

15. *Welcomes* the establishment of national preventive mechanisms to prevent torture and other cruel, inhuman or degrading treatment or punishment, urges States to consider establishing, appointing, maintaining or enhancing independent and effective mechanisms that have experts with the required capabilities and professional knowledge to undertake monitoring visits to places of detention and other places under State jurisdiction and control where persons are or may be deprived of their liberty, inter alia, with a view to preventing acts of torture or other cruel, inhuman or degrading treatment or punishment, and calls upon States parties to the Optional Protocol to the Convention against Torture to fulfil their obligation to designate or establish national preventive mechanisms, at the latest one year after the entry into force of the Optional Protocol or of its ratification or accession thereto, that are truly independent, composed of experts with the required capabilities and professional knowledge and properly resourced and, further, to consider the recommendations of such mechanisms, to encourage public debate and to engage in constructive dialogue with such mechanisms on possible implementation measures;

16. *Calls upon* States to establish, appoint, maintain or enhance other independent and effective mechanisms, for example, national human rights institutions in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and ombudsperson institutions, and to encourage such mechanisms to have experts with the required capabilities and professional knowledge to, inter alia, undertake regular and unannounced monitoring visits to places of detention and any other places under the State's jurisdiction and control where persons are or may be deprived of their liberty, including police stations, examine all issues related to the treatment and conditions of persons deprived of their liberty, make recommendations to the relevant authorities with the aim of improving the treatment and conditions of persons deprived of their liberty and submit proposals and observations concerning existing or draft legislation, with a view to preventing acts of torture or other cruel, inhuman or degrading treatment or punishment;

17. *Emphasizes* the importance of States ensuring proper follow-up to the recommendations and conclusions of relevant treaty bodies and mechanisms, including the Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, national preventive mechanisms and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, while recognizing the important role of the universal periodic review, national human rights institutions and other relevant national or regional bodies in preventing torture and other cruel, inhuman or degrading treatment or punishment;

18. *Also emphasizes* the importance of States undertaking to grant independent monitoring mechanisms access to all information on the number of persons deprived of their

liberty in places of detention and places and locations of detention, as well as all information relevant to the treatment of those persons, including their records and their conditions of detention, access to all places of detention and their installations and facilities, the opportunity to have private and fully confidential interviews with persons deprived of their liberty, staff and any other person in the place of deprivation of liberty, if necessary with an interpreter, and the liberty to choose the places they want to visit and the persons they want to interview and to make recommendations to competent authorities;

19. *Urges* all States to examine the recommendations of national preventive mechanisms and other independent monitoring bodies, to enter into a constructive dialogue with them on possible implementation measures and to undertake to publish and disseminate the annual reports of the national preventive mechanisms;

20. *Urges* States, as an important element in preventing and combating torture and other cruel, inhuman or degrading treatment or punishment, to ensure that no authority or official orders, applies, permits or tolerates any sanction, reprisal, intimidation or other prejudice against any person, group or association, including persons deprived of their liberty, for contacting, seeking to contact or having been in contact with any national or international monitoring or preventive body or other relevant stakeholders active in the prevention and combating of torture and other cruel, inhuman or degrading treatment or punishment;

21. *Urges* States concerned to comply with binding orders of the International Court of Justice related to their obligations under the Convention against Torture;

22. *Urges* States to ensure accountability for any act of sanction, reprisal, intimidation or other form of unlawful prejudicial conduct against any person, group or association, including persons deprived of their liberty, for cooperating, seeking to cooperate or having cooperated with any national or international monitoring or preventive body active in the prevention and combating of torture and other cruel, inhuman or degrading treatment or punishment, by ensuring impartial, prompt, independent and thorough investigations of any alleged act of sanction, reprisal, intimidation or other form of unlawful prejudicial conduct, to bring perpetrators to justice, to provide access to effective remedies for victims, in accordance with their international human rights obligations and commitments, and to prevent any recurrence;

23. *Welcomes* the work of the Special Rapporteur on torture, and takes note with appreciation of her latest report;¹

24. *Invites* the Special Rapporteur on torture and other relevant special procedures, within their respective mandates, to take the present resolution into account in their future work.

¹ A/HRC/55/52.