

WORKSTREAM I

GROUPS VULNERABLE TO TORTURE AND ILL-TREATMENT

General overview

Some individuals are disproportionately at risk of torture and ill-treatment. This is due to the discrimination and marginalisation they suffer on the grounds of their age, gender, sexual orientation or gender identity, ethnicity (such as belonging to a minority group or an indigenous people), caste, cultural or social origin, physical and mental health, or economic situation, and especially where many of these factors intersect. Such discrimination renders these individuals vulnerable to specific risks when deprived of their liberty, be it in prisons, police stations, psychiatric institutions, or other places of detention. Torture and ill-treatment also can take place in other contexts, for instance, in education or healthcare settings depending on state policies and practices. Unaddressed cases of violence within families or communities can also be recognised as torture and ill-treatment if the state does not exercise due diligence in protecting its victims and addressing impunity.

Specific forms of torture and ill-treatment can be linked to wider issues of discrimination, including through stereotyping, racial profiling, or marginalisation and neglect. It is important to analyse the specific risks of torture for individuals belonging to discriminated groups within broader society in order to develop measures for prevention, protection and reparation.

This workstream aims to identify:

- ☐ The persons and groups most vulnerable to the risk of torture and ill-treatment, their specific needs, and the situations where they are most at risk;
- ☐ Ways of increasing their protection through enhanced implementation of relevant tools and guidelines (including those of the EU and other partners), and of supporting and cooperating with international, regional and national stakeholders – including CSOs, INGOs, National Preventive Mechanisms (NPMs) and other detention monitoring bodies, and intergovernmental organisations.

A general introduction will be followed by three separate discussions on the challenges faced by women and girls; children; and minorities and indigenous peoples. These sub-groups will look at EU commitments and international and regional standards in each area, and treat other grounds for discrimination, such as LGBTI-identity or caste, in a cross-cutting manner. Discussions will explore the interconnections between identity and place/situation, by analysing:

- ☐ “Who”: the characteristics of the group and the specific causes of vulnerability to (some forms of) torture and ill-treatment;
- ☐ “Where, When and What”: the situations, places and moments in which acts of torture and ill-treatment are more likely to happen to members of these specific groups;
- ☐ “How”: how to effectively protect these groups in practice.

This analysis will help identify gaps in prevention, protection, access to justice and remedies of/for specific victims, making the fight against torture more effective.

Thursday, 1 December 2016

A – INTRODUCTION AND IDENTIFICATION OF THE ISSUES (11:00-11:30)

As an introduction, a selected panel of experts will discuss the issue of certain groups' heightened exposure to torture and ill-treatment, and what general measures should be taken to:

- ☐ Protect certain groups from specific risks of torture and ill-treatment;

- ☐ Respond to instances of torture and ill-treatment against (perceived or self-identified) members of specific groups through accountability for perpetrators, and redress and rehabilitation for victims.

B - GENDER PERSPECTIVE ON TORTURE AND ILL-TREATMENT: FOCUS ON WOMEN AND GIRLS (11:30-13:00)

WHO: In his 2016 annual report, the UN Special Rapporteur on Torture highlighted the lack of gender perspective in the discussion on torture and ill-treatment, and the tendency to down-play gender-based violence against women and girls. A more gender-sensitive lens is needed if we are to properly identify and respond to the specific threats and needs of women and girls.

WHERE/WHEN: Gender-based forms of torture and ill-treatment against women and girls can happen in detention and situations of deprivation of liberty (e.g. discrimination and violence – including rape – by the police, or by staff and other inmates in prisons); healthcare settings (e.g. degrading and humiliating medical treatment); shelters and centres for migrants; and the wider home and community/society if the state does not exercise due diligence to protect (e.g. domestic violence, or female genital mutilation and other intrusive inspections like virginity tests).

HOW¹:

Effective preventive measures:

- ☐ How to enforce group-specific protection standards (Bangkok rules, Nelson Mandela rules, Yogyakarta principles).
- ☐ How to raise awareness and train authorities, including detaining authorities, on the specific risks faced by these groups, and their specific needs (including screening, access to gender-specific healthcare, etc.).
- ☐ How to ensure effective, independent oversight of detention to protect these groups.

Access to justice and reparations for victims:

- ☐ How to overcome specific obstacles. Victims of gender-specific forms of torture often face shame and stigma, which undermine their access to justice. They may fear rejection by their families and communities and meet personnel who are not properly trained to respond to their needs.
- ☐ How to ensure access to justice and make sure the justice system also addresses the underlying causes and consequences of violations to provide both restitution and rectification.
- ☐ How to ensure access to reparations, based on a full understanding of the gender-specific nature and consequences of the harm suffered. How to ensure these have significant impact, address the underlying causes and consequences of violations, and offer continued protection for and respectful engagement with victims.

C - AGE PERSPECTIVE ON TORTURE AND ILL-TREATMENT: CHILDREN (14:30-16:00)

WHO: Children are especially vulnerable to all forms of violence, including torture, and inhuman and degrading treatment. In general, the threshold of pain and suffering of children is different than that of an adult, and it will vary according to the age, level of maturity and stage of development of the child. Other elements such as gender, ethnicity, caste, and mental and physical disability can make a child even more susceptible to torture.

¹ Cf. EU Action Plan on Human Rights and Democracy 2015-2019, EU Guidelines on Torture, EU Guidelines on Violence against women and girls, [2016 Annual Report](#) of the UN SR on Torture

WHERE/WHEN: Age-specific forms of torture of children can happen in many settings, not only in formal detention. Torture and ill-treatment can also occur in other situations where children are deprived of their liberty, including in institutions or where they are in de-facto detention, such as migrating children who are deprived of their fundamental rights (e.g. their right to play). Torture of children can also be present in the home and in wider community/society (including domestic violence, corporal punishment, harmful practices such as female genital mutilation, and child, early and forced marriage) if the state does not exercise due diligence to ensure children are protected in line with international law, and safeguard the best interests of the child and their entitlement to special care and assistance.

HOW²:

Effective preventive measures:

- ☐ How to ensure alternatives to detention, and enforce group-specific protection standards (Beijing rules).
- ☐ How to raise awareness and train authorities, including detaining authorities, on the specific risks faced by these groups, and their specific needs (including the principle of separation from adults “unless it is considered in the child’s best interest not to do so”).
- ☐ How to ensure effective, independent oversight of detention to protect these groups.

Access to justice and reparations for victims:

- ☐ How to overcome specific obstacles to accountability for torture of children in domestic systems, through child-friendly mechanisms that enable children to report and express themselves freely and safely.
- ☐ How to ensure access to justice for children who have been tortured or ill-treated, including children who have been unlawfully detained, and establish appropriate, age-friendly, accessible and confidential complaint mechanisms for all children. How to provide all necessary support, including legal aid, information, representation and assistance, and guarantee the safety and security of all children who file a complaint.
- ☐ How to ensure access to child-friendly reparations and rehabilitation, ensure that paediatricians and child psychologists with specialised trauma training are available on a regular basis to all children in detention, and establish specially designed medical screenings inside places of deprivation of liberty.

Friday, 2 December 2016

D - ACTS OF TORTURE AND ILL-TREATMENT TARGETING MINORITIES AND INDIGENOUS PEOPLES (09:00-10:30)

WHO: Minorities (understood as national or ethnic, cultural, religious and linguistic minorities) and indigenous peoples experience higher levels of exposure to torture and ill-treatment. Minority and indigenous persons may share many similar, but not all, characteristics. And some, but not all, root causes of the discrimination and marginalisation they suffer are the same. For instance, both minorities and indigenous peoples often find themselves in social protests or conflicts over land which puts them at odds with the authorities, thereby subjecting them to more institutional violence than other segments of society. The marginalisation and discrimination they suffer is often compounded by linguistic, geographical and/or economic barriers, as well as societal conflicts such as those related to land and resources. The marginalisation and discrimination they suffer creates scenarios which are conducive to acts of torture and ill-treatment. Minorities and indigenous peoples will be grouped together as part of this discussion, but their particular circumstances should be taken into account.

² Cf. EU Action Plan on Human Rights and Democracy 2015-2019, EU Guidelines on Torture, EU Guidelines on the Promotion and Protection of the Rights of the Child, SDGs and the Agenda 2030 on ending torture against children, [2015 Annual Report](#) of the UN SR on Torture

WHERE/WHEN: Acts of torture and ill-treatment of minority and indigenous persons can happen in detention and situations of deprivation of liberty (e.g. ethnic/racial profiling by the police, violence and discrimination by prison staff and inmates or lack of access to information in prisons); healthcare and education settings (forced sterilisations, other forms of violence by medical staff), and in the streets during demonstrations and protests, customary events. The further vulnerabilities faced by indigenous and minority women, LGBTI persons and children will also be discussed.

HOW³:

Effective preventive measures:

- ☐ How to enforce group-specific protection standards (ILO Convention N°169, art. 8, 9, 10; and UN Declaration on the Rights of Indigenous Peoples, art. 7, 34 and 40).
- ☐ How to raise awareness and train authorities, including detaining authorities, on the specific risks faced by these groups and their specific needs (including access to information in their mother tongue).
- ☐ How to ensure effective, independent oversight of detention to protect these groups.

Access to justice and reparations for victims:

- ☐ How to overcome specific obstacles, such as linguistic/geographical/economic barriers; discrimination, marginalisation; criminalisation, impunity, etc. How to ensure access to justice and reparations.
- ☐ How to ensure cost-free access to a public defender who speaks the person's language (or an interpreter) and who is familiar with indigenous law or its basic principles. This may include handling the matter through the indigenous justice system where applicable, or calling on culturally appropriate support and expertise.

E – SUMMARY AND WAYS FORWARD (11:00-13:00)

The forum will conclude with action-oriented recommendations that emphasise practical ways forward for the EU and other stakeholders, including governmental as well as non-governmental organisations, to step up engagement in the fight against torture and protect groups which are acutely vulnerable to torture and ill-treatment worldwide. It will be a collective effort to make recommendations on how to refine domestic and international anti-torture policies, and their implementation. Recommendations tailored to the experiences and needs of specific vulnerable groups, and overarching recommendations for improved policy mechanisms to protect all persons from torture and ill-treatment will be put forward. Vulnerable categories of people not specifically discussed in the subgroups, such as the elderly, migrants, foreigners, and persons with disabilities, will also be considered in these recommendations.

³ Cf. EU Action Plan on Human Rights and Democracy 2015-2019, EU Guidelines on Torture?, 2013 Annual Report of the UN SPT (indigenous justice and the prevention of torture), [2015 Annual Report of the UN SR on minority issues](#) on Minorities in the Criminal Justice System, ILO Convention N°169...