



Human Rights Council**Forty-sixth session**

22 February–24 March 2021

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development****Resolution adopted by the Human Rights Council
on 23 March 2021****46/15. Torture and other cruel, inhuman or degrading treatment or
punishment: the roles and responsibilities of police and other law
enforcement officials***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 31/31 of 24 March 2016,

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, which must be respected and protected under all circumstances, including in times of international and non-international armed conflict or disturbance and tension or any other public emergency, that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in 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 Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules),

Recognizing that police and other law enforcement officials play a vital role in the protection of the right to life, liberty and security of person, and in serving the community and protecting all persons against acts of torture and other cruel, inhuman or degrading treatment or punishment, and that, in the performance of their duties, law enforcement officials are obligated to respect and protect the human rights of all persons,

Convinced that public confidence in police and other law enforcement officials is paramount for their ability to perform their functions effectively and depends on, inter alia, their respect for the human rights, fundamental freedoms and human dignity of all persons,



Acknowledging the efforts of the Convention against Torture Initiative in supporting States to strengthen their policies to professionalize police services, with the objective of contributing to the full implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by all States parties,

Mindful of existing principles, guidelines and standards relevant to arrest, detention and interrogation, including the Luanda Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, adopted by the African Commission on Human and Peoples' Rights; the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, adopted by the Inter-American Commission on Human Rights; the European Code for Police Ethics, adopted by the Council of Europe; and the revised standards for law enforcement agencies, issued by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment,

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;

3. *Emphasizes* that no one shall be subjected to arbitrary arrest or detention and that all arrests must be carried out pursuant to a warrant or based on a reasonable suspicion that a person has committed or is about to commit an offence, and that police or other law enforcement officials conducting an arrest should be identifiable, including the organization and, as applicable, the unit to which they belong;

4. *Stresses* the obligation of States to ensure that anyone who is arrested is informed at the time of arrest of the reasons for the arrest, is promptly informed of any charges against him or her in accessible forms of communication, including in a language that he or she understands, and is provided with information about and an explanation of his or her rights;

5. *Calls upon* States to ensure effective legal and procedural safeguards for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, and notably that any individual arrested or detained by police or law enforcement officials is brought promptly before a judge or other independent judicial official, and at any stage of detention enjoys, without undue delay, access to a lawyer and a doctor, including, where necessary, an age- and gender-responsive medical examination, and having the fact of one's detention notified to a relative or another third party, and is provided with consular notification and access, as appropriate;

6. *Emphasizes* that conditions of detention, including in police custody, must respect the dignity and human 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, and encourages States to take effective measures to address overcrowding in detention facilities;

7. *Recognizes* that the separation of the roles and responsibilities of police and other law enforcement officials can lead to greater safeguards for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, as well as greater specialization, professionalism and efficiency in policing and law enforcement, and invites States to consider designating dedicated arresting officers, custody officers and investigating officers;

8. *Stresses* the importance of developing corroborating methods of crime investigation to eliminate or reduce the sole reliance on confessions for the purpose of securing convictions, and the importance of seeking corroborative evidence through all available modern methods of crime investigation, including through appropriate equipment for, inter alia, audio and audiovisual recordings, skilled human resources and international cooperation on capacity-building, while ensuring the principle of non-discrimination and the right to privacy;

9. *Emphasizes* that the purpose of interviewing is to obtain accurate and reliable information in order to elicit the truth about matters under investigation, and that the use of torture or other cruel, inhuman or degrading treatment or punishment does not contribute to achieving that goal;

10. *Also emphasizes* that States shall keep under systematic review interviewing 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 under their jurisdiction;

11. *Welcomes* the collaboration between police and law enforcement practitioners, lawyers, human rights experts and other relevant stakeholders on the development of international guidelines on non-coercive interviewing and associated safeguards;

12. *Calls upon* all States to take effective measures to ensure that the use of force by police and other law enforcement officials, including the use of less-lethal weapons, is in conformity with international obligations and the principles of legality, necessity, proportionality, accountability and non-discrimination, and that those using force account for each use of force, bearing in mind that lethal force may only be used to protect against grievous bodily harm or an imminent threat to life;

13. *Emphasizes* that, in the context of assemblies, police and other law enforcement officials play a key role in enabling and upholding the right of peaceful assembly and the rights to freedom of expression and of association, and urges all States to ensure that police and other law enforcement officials avoid using force during assemblies, and to ensure that, where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force;

14. *Affirms* that police and other law enforcement officials shall not use firearms against persons except in self-defence or in defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives;

15. *Stresses* the importance of police and other law enforcement officials taking effective measures to protect the human rights, dignity and integrity of all persons, fully respecting the principle of non-discrimination, in particular persons in situations of vulnerability or marginalization, including on the basis of gender, age, physical or mental health, or disability;

16. *Urges* all States to adopt a gender-responsive approach in the fight against torture and other cruel, inhuman or degrading treatment or punishment, and to pay special attention to women and girls subject to violence, including sexual and gender-based violence;

17. *Stresses* the importance of preventing and tackling racism, xenophobia and racial discrimination and related intolerance in policing, and their negative effects on the ability of police and law enforcement officials to carry out their duties and to maintain the confidence of the communities they serve;

18. *Urges* States to promote a culture of accountability for police and other law enforcement officials, and calls upon States to put in place clear reporting and independent complaint procedures, such as an external police oversight mechanism, for instances or suspicion of torture or other cruel, inhuman or degrading treatment or punishment;

19. *Stresses* that an independent, competent domestic authority must promptly, effectively and impartially investigate all allegations of torture or other cruel, inhuman or degrading treatment or punishment, also wherever there is reasonable ground to believe that such an act has been committed, and that those who encourage, instigate, order, tolerate, acquiesce in, consent to or perpetrate such acts must be held responsible, brought to justice and punished in a manner commensurate with the severity of the offence, including officials in charge of any place of detention or other place where persons are deprived of their liberty where the prohibited act is found to have been committed;

20. *Encourages* all States to ensure that police and other law enforcement officials charged with or under official investigation of torture or other cruel, inhuman or degrading treatment or punishment have no involvement in the custody, interrogation or treatment of

any person under arrest, detention, imprisonment or other deprivation of liberty while such charges are pending and, if such persons are convicted, after the conviction;

21. *Calls upon* States to protect and assist all victims of acts of torture or other cruel, inhuman or degrading treatment or punishment, giving due attention to age, disability and gender-specific needs, and to encourage and facilitate victims to report such crimes and to provide them with adequate and trauma-sensitive support, as well as effective access to compensation and rehabilitation;

22. *Stresses* that States must ensure that no statement or evidence that is established to have been obtained as a result of torture is invoked as evidence in any proceedings except against persons accused of torture as evidence that the statement or evidence was obtained, urges States to extend that prohibition to statements or evidence obtained as a result of cruel, inhuman or degrading treatment or punishment, and recognizes that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

23. *Emphasizes* that, in order for police and other law enforcement officials to be able to play their role in safeguarding the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, States should ensure the proper functioning of the criminal justice system, in particular by taking effective measures to combat corruption, ensure due process, establish proper legal aid programmes, provide for the adequate selection, training, remuneration and equipment of law enforcement officials while fully respecting the principle of non-discrimination, and take measures to improve the representation of women and persons belonging to minorities within law enforcement ranks whenever possible;

24. *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 police and other law enforcement personnel, including the critical importance of reporting such acts to superior authorities or to a competent domestic authority;

25. *Also calls upon* States to give special attention in the training of law enforcement officials, including in-service training, to police ethics and human rights, especially in the investigative process and interviewing methods, to alternatives to the use of force and firearms, including de-escalation and the peaceful settlement of conflicts, the understanding of crowd behaviour, and the methods of persuasion, negotiation and mediation, and to technical means, with a view to limiting the use of force and firearms;

26. *Further calls upon* States to establish, appoint, maintain or enhance independent and effective mechanisms that have experts with the required capabilities and professional knowledge to undertake monitoring visits to places of detention, including police stations, inter alia with a view to preventing acts of torture or other cruel, inhuman or degrading treatment or punishment, and urges State parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to fulfil their obligation to establish a national preventive mechanism;

27. *Welcomes* the work of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and takes note with appreciation of his latest report;¹

28. *Invites* the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and other relevant special procedures, within their respective mandates, to take the present resolution into account in their future work.

*49th meeting
23 March 2021*

[Adopted without a vote.]

¹ A/HRC/46/26.