

The Copenhagen Declaration on Torture and Detention

Monday, 31 March 2014



We, the undersigned

Council Members of the International Rehabilitation Council for Torture Victims (IRCT), representing health professionals who care for victims and survivors of torture throughout the world, gathered at the Annual Council Meeting in Copenhagen, Denmark, 27 and 28 March 2014,

Bearing in mind that

Torture and ill-treatment constitute one of the gravest human rights violations worldwide;

Most cases of torture and ill-treatment in the world occur in a detention setting and people deprived of liberty, whether in open or closed spaces, are especially vulnerable to mistreatment;

Women in detention are subject to gender-based violence amounting to torture and ill-treatment, and some individuals are particularly exposed to acts of torture and ill-treatment on the grounds of their sexual orientation and identity, ethnic origins, religious beliefs, age or disability, amongst others;

Many legal and administrative practices of detention may themselves amount to or increase the risk of torture and ill-treatment in detention as well as enforced disappearances and extrajudicial killings;

Observing that:

States are obliged to care for and protect people who are within their custody or control;

States are responsible for prohibiting, preventing, and redressing torture and ill-treatment in all contexts of detention;

All victims of torture and ill-treatment have a right to effective remedies at all times, whether in detention or at liberty, including rehabilitation, reparations, and non-repetition;

Identification of victims of torture and ill-treatment in detention assists in the recognition and cessation of any ongoing torture and ill-treatment practices;

Investigation and documentation of torture and ill-treatment in detention in accordance with the Istanbul Protocol sheds light on and builds understanding of the practices and effects of torture and ill-treatment in detention;

National preventive mechanisms and administrative procedures of detention, including judicial oversight, registration and in-take medical examinations, are effective tools to addressing and preventing torture and ill-treatment;

Declare that:

Identification of victims of torture and ill-treatment is a prerequisite to addressing torture and ill-treatment in detention and rehabilitating victims;

Investigation and documentation of torture and ill-treatment in accordance with the Istanbul Protocol is important for fighting impunity, ensuring rehabilitation and reparations for victims, as well as preventing torture and ill-treatment in detention;

Access to independent civil society monitoring is an essential mechanism to ensure impartial and objective functioning of state institutions, as well as complementing and facilitating effective functioning of national preventive mechanisms;

And urgently call upon States to:

Ensure that victims of torture and ill-treatment are identified as early as possible in detention settings and have access to treatment and rehabilitation services at all times;

Ensure that effective oversight and complaints mechanisms exist to which all allegations of torture and ill-treatment are reported, guaranteeing independent functioning of national preventive mechanisms;

Ensure that civil society institutions operate in an independent and effective manner in monitoring of all places of detention and in providing treatment and rehabilitation to all victims of torture and ill-treatment;

Ensure that all suspicions and allegations of torture and ill-treatment are investigated, documented, and redressed in a prompt, independent, and transparent manner.

In order to achieve these goals, the IRCT recommends to States the following actions:

Laws and policies:

- Ensure the systematic protection of all person deprived of liberty, including individuals subjected to discrimination, through comprehensive prevention and monitoring policies, including awareness-raising and capacity-building programmes for officials and implementation of the other provisions of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).
- Adopt national legislation and establish policies prioritising identification of victims of torture and ill-treatment in detention.
- Ratify and fully implement the Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), including establishment of National Preventive Mechanisms as a matter of priority.
- Implement the Istanbul Protocol standards on investigation and documentation of torture and ill-treatment.
- Adopt and implement national laws that are compliant with the international standards and safeguards on rights of all persons in detention, including the right to be informed of the reasons for detention, the right of access to legal counsel of their choice and to their family, the right to translation, and the right to consular assistance (when applicable).
- Ensure unhindered and effective access and full participation to civil society and independent institutions to monitor and to provide rehabilitation services in all places of detention.

Identification:

- Institute mechanisms to identify victims of torture and ill-treatment in detention. Such mechanisms should include development or strengthening of judicial oversight and admissions and registration procedures. These procedures must operate in a transparent manner.
- Implement a system of checks and balances that are able to prevent and to document torture and ill-treatment throughout the entire detention process. Special emphasis should be given to the early periods of detention. Mechanisms should include examination of detainees each time they are being transferred to and from the custody of others.
- Encourage officials who may suspect torture and ill-treatment to report their suspicions to appropriate oversight bodies and complaints mechanisms.

Procedures and safeguards should be established to ensure that officials remain free from harassment, intimidation or retaliation for reporting torture or the ill- treatment of detainees and poor detention conditions.

Medical in-take examinations:

- Ensure that everyone admitted to a detention facility is examined by a health professional qualified to evaluate their mental and physical health and all signs of trauma. If a detainee states that he or she was subjected to violence, the health professional must assess the consistency of those claims with the examination findings. If the health professional has grounds for presuming the existence of torture and ill-treatment, he/she must notify the competent authorities.
- Ensure that a sufficient number of health professionals are available to examine all detainees. Health professionals must be independent in the performance of their duties and receive training in the examination and documentation of cases of torture and ill-treatment, in accordance with the Istanbul Protocol. Independent health experts should be encouraged to review state examinations and to conduct their own independent assessments. These assessments should be given equal weight in all decision-making processes.
- Maintain a record of the submission of every detainee to a medical examination, the identity of the health professional, and the findings of that examination. The Istanbul Protocol should be applied as a way of improving the drafting of medical and psychological reports.

Medical ethics:

- Ensure that all health professionals working with detainees are made aware of their ethical obligations, including the need to report torture and ill-treatment, to maintain confidentiality, and to seek the consent of victims prior to examination. National laws should be clear that health professionals must abide by their ethical obligations at all times.
- Institute safeguards and mechanisms to enable health professionals to report allegations and evidence of torture and ill-treatment in an environment free from any harassment, intimidation or retaliation and in a manner compliant with their duties of confidentiality.

Suspect Practices:

- Cease promptly any administrative practices that amount to torture and ill-treatment and develop safeguards for any practices that may amount to torture and ill-treatment or heighten the risk of torture and ill-treatment but may be deemed necessary for the safe operation of detention facilities. Clear

standards must be in place to guarantee that those practices (such as solitary confinement and restraints) must only be used when strictly necessary and never as a punitive measure. Practices that may subject the families of victims to torture and ill-treatment upon visits should be eliminated.

Rehabilitation:

- Ensure access to rehabilitation services for victims of torture and ill-treatment in detention, during detention and upon release, as well as to any secondary victims. Such services must be provided in a safe environment, respectful of the dignity of all detainees.
- Provide training to service providers to understand and be sensitive to the needs of victims of torture and ill-treatment and treat them in a safe and ethical manner.

Capacity and resources:

- Dedicate sufficient resources to all mechanisms designed to identify victims of torture and ill-treatment as soon as possible and to ensure that all relevant personnel are provided with the required training and capacity building to carry out their tasks.
- Provide training to all officials working with detainees (e.g. judges, attorneys, and prosecutors) or in detention settings (e.g. immigration, police, prisons, and military officials) to identify signs and symptoms of torture and ill-treatment. Officials should be trained on the appropriate international standards for treatment of detainees and detention conditions.
- Emphasise in all trainings the absolute nature of the prohibition on torture and ill-treatment and the duty to disobey any orders to engage in acts that are likely to cause severe pain and suffering to the detainees whether through acts of commission or omission.
- Integrate the documentation and redress of torture and ill-treatment in the curricula of all professionals that may work with detainees.
- Build the capacity of legal and health professionals to conduct Istanbul Protocol investigations, particularly in detention settings, and to utilise these effectively in courts and other fora.
- Commit sufficient resources and funding to support the activities of state institutions and civil society organisations, while guaranteeing their independence, impartiality, and integrity, to assist in the prevention and redress of torture and ill-treatment in detention places and upon the release of victims.

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¹ Council member Karin Maria Linschoten, Edmonton Centre, Canada, presented her excuses and did not attend the Council meeting in Copenhagen, March 2014.