

# COPENHAGEN DECLARATION ON TORTURE AND FORCED MIGRATION

Adopted on 31 March 2014 during the IRCT Council Meeting in Copenhagen, Denmark

and amended by the:

IRCT Council on 13 May 2020

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,

Bearing in mind that:

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

Persons who have experienced torture<sup>1</sup> and are forced to leave their country of origin or place of habitual residence constitute a particularly vulnerable group of migrants;

Untreated physical or mental health problems worsen and make it harder for the individual to integrate and participate fully in the host society.

Observing that:

Situations of forced migration<sup>2</sup> may increase the risk of torture, ill-treatment and re-traumatisation through;

- States depriving people of their liberty as a routine or mandatory response to forced migration;

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<sup>1</sup> Reference to “torture” in this Declaration includes reference to other cruel, inhuman, degrading treatment or punishment, in accordance with the UN Convention against Torture

<sup>2</sup> Reference to “forced migration” in this Declaration refers to the movement of refugees and internally displaced people in the context of natural disasters, war, persecution, genocide and other crimes against humanity, civil unrest, people trafficking and slavery and other human rights violations.

- States practicing open-ended immigration detention without judicial review, which may in itself amount to torture;
- States practicing immigration detention of children which causes severe physical and psychological pain and suffering to the child even when applied for short periods.
- States introducing procedures for fast-tracking asylum claims, which may increase the risk of persons being subject to refoulement without adequate consideration of the risk of torture on return;

Forced migrants who have experienced torture are often unable to access treatment in the host or transit country either due to a lack of appropriate and accessible services, a lack of awareness that such services exist, or a lack of awareness of their legal right to access such services.

Forced migrants who have experienced torture are often not enabled to effectively present their story and reasons for claiming asylum because standardised and accelerated status determination procedures do not take account of how torture impacts victims' ability to accurately and consistently remember and describe the traumatic events that they have experienced.

Declare that:

States party to the UN Convention against Torture shall not expel, return or extradite any person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture;

States party to the UN Convention against Torture have a clear obligation to provide access without discrimination, to specialised holistic rehabilitation services at the earliest opportunity to all persons, including children, who have experienced torture.

And urgently call upon States to:

Recognise their obligations to provide protection to forced migrants who have experienced torture, where interception occurs (i.e. at sea or at the border), in refugee camps and camps for internally displaced persons, and along migration and trafficking routes;

Ensure that State and non-State actors who interact with forced migrants are trained in identifying signs and symptoms of torture and are sensitised to the needs of torture victims so that they are able to provide services in an ethical, safe, impartial, respectful and professional manner.

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

*1) In relation to laws and policies, States should:*

- Introduce mechanisms in national legislation or policy for the early identification of forced migrants who have experienced torture;
- Adopt systematic procedures for a basic physical and psychological assessment of forced migrants designed to identify signs of torture and ill-treatment including, where indicated, access to a full medico-legal evaluation in accordance with the Istanbul Protocol;
- Recognise that return of a traumatised torture victim to a country where appropriate rehabilitation services are not available to that person would constitute a violation of the prohibition of refoulement due to the retraumatising effects of such an action.
- Provide access to specialised rehabilitation services for forced migrants who have experienced torture, without discrimination and regardless of their legal status;
- Provide specialised health and mental health care in situations of humanitarian crisis where the needs of forced migrants who have experienced torture are urgent.

*2) In relation to status determination procedures involving individuals either alleging or showing other signs of having been tortured, States must:*

- Offer trauma-informed status determination processes that provide individuals with an effective opportunity to present the basis for their asylum claims;
- Refrain from applying accelerated status determination procedures that may prejudice a fair assessment of their claim;
- Provide access to free legal support and medico-legal documentation and ensure that asylum proceeding equally consider clinical evaluations from state and non-state sources based on compliance with the standards in the Istanbul Protocol;
- Provide access to health and specialised rehabilitation services to ensure appropriate psychological and social support throughout the status determination procedure;
- Offer interpreters<sup>3</sup> during interviews with State officials and health care providers.

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<sup>3</sup> Interpreters should be independent, trained professionals (i.e. not family members), proficient in the preferred language and dialect of the client and gender appropriate.

*3) In relation to access to specialised rehabilitation services, States must ensure that:*

- Information regarding the availability of rehabilitation services, and of the legal right to access such services is provided;
- Access to rehabilitation services is facilitated at the earliest possible point in time;
- Rehabilitation services are provided in a safe and private environment.

*4) In relation to the protection of forced migrants, States must:*

- Ensure that forced migrants are not subject to routine administrative detention and that alternatives to detention are used wherever possible;
- Ensure access to fair legal processes and the prompt and effective investigation of allegations of torture;
- Ensure that where interception of forced migrants occurs, and where access to asylum procedures may be obstructed, the individual is not forcibly returned to the country of origin or transit where there may be a risk of torture;
- Ensure that in relation to internally displaced persons, the individual is not forcibly returned to the place of origin where there may be a risk of torture;
- Ensure protections against torture that may occur in association with arrest and/or detention;
- Ensure protection against incidents of violence that may amount to torture including sexual or gender-based violence.
- Ensure special consideration of the needs of forced migrants who are particularly vulnerable (i.e. women, children, the elderly people with disabilities, members of ethnic and religious minorities, and LGBTI persons).

*5) Considering that children are particularly vulnerable in the context of forced migration, States must ensure that:*

- Safeguards are introduced to make sure that every decision made in asylum and migration processes includes assessments linked to the best interests of the child;
- The administrative or other immigration detention of children should be ended to avoid the severe psychological and physical harm caused by even short periods of detention of children;
- Throughout asylum and migration processes, authorities should ensure that children are not separated from their families.

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