

Statement by

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SPECIAL RAPPORTEUR ON TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

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*Check against delivery*

Mr President/Madam Chair, Distinguished Delegates,

I wanted to start by acknowledging the many States that are working hard to improve their legislative, administrative and judicial practices and procedures to prevent and respond to torture and related ill-treatment. I appreciate the constructive conversations I have had with many governments over the past year, even over very serious allegations.

I thank the Governments of Switzerland and Australia for their financial support to the mandate. I express my appreciation to Chile and and Ukraine for their exemplary cooperation during my country visits to their countries.

However, I have a question for all States: How many of you have shed tears for those who have been tortured in this past year?

I implore you to put your torture tools down.

The global picture is a desperately bleak one.

I do not need to remind you of the millions of people affected by armed conflicts, where torture is increasingly being applied as a standard brutal practice rather than as a grave crime of exception.

I do not need to remind you of the thousands of people – opposition members, protesters, human rights defenders, or innocent bystanders – many are never named, or ever known, and who are at risk of torture or have suffered torture already, who have been disappeared or killed, who are detained arbitrarily, and whose families and communities are suffering while waiting for news about their fates.

So I ask you again: How many of you have shed tears for those who have been tortured in this past year?

I implore you to put your torture tools down.

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Mr/Madam Chair,

Today I’m presenting two reports, the first on prisons (A/HRC/55/52) and the second on my fact finding visit to Ukraine (A/HRC/55/52/Add.1).

The prisons report benefited from 110 submissions, for which I am especially grateful, and which points the very real interest that societies place on this subject.

PRISONS

Significant challenges facing prisons are found in some form in almost every country. Prisons are under pressure from too many demands, insufficient resources and inadequate staffing, and as a result conditions are often unsafe and inhumane.

Far too many people are imprisoned, for too long, especially on remand, often in severely overcrowded and dilapidated facilities.

Well-managed and adequately resourced prisons are essential in a functioning society. However, with financial and managerial neglect, prisons become incubators for violence, corruption and further crime. Such neglect exacerbates poverty and the likelihood of recidivism, and ultimately fails to keep the public safe.

The link between poverty and prisons – with prison populations being largely composed of members of economically disadvantaged and marginalized communities – calls for States to incorporate criminal justice and prison reforms in their plans for delivering on the 2030 Agenda.

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My report examines a wide-ranging number of issues, from recurring to emerging challenges.

*Human rights-compliant prison management*

Let me start by advocating for human rights-compliant prison management. This means that every decision in a prison should be driven by the obligation to treat prisoners as people with dignity, respect and human rights. Dignity applies to the conditions that they live in, how they are treated, and how their needs are met.

Such dignified treatment and conditions also apply to those working in prisons. It is a job that requires careful recruitment, decent pay and conditions, adequate and professional training, and opportunities for promotion. My report recommends that prison officers be remunerated on salary scales and conditions equivalent to those in the armed or social services, recognizing how difficult and important these positions are. I recommend that prisoner-to-staff ratios are improved. These ratios vary widely across the globe and there is not yet an international guiding standard.

*Rehabilitation*

Mr/Madam Chair,

Prisons should be places where people are offered a chance of social rehabilitation. Stop thinking that locking people up can cure society’s ills!

While we should not be naive about the need for prisons, it is also true that neglecting rehabilitation is bad public policy. For young offenders it can mean crushing their aspirations. Many have regrets about their actions and choices, and many want and need help to step off the treadmill of recidivism. Despite the low costs of such programmes, many prisoners have limited access to education or vocational skills, giving them little reason to get out of bed. This needs to change, and my report presents a number of good practices.

*Reducing over-crowding*

Over-crowding is another major challenge, which impacts all aspects of prison life. Detaining persons in overcrowded cells is a form of cruel, inhuman or degrading treatment. Yet it is an issue that can be addressed via a range of measures, including accurate, regular and transparent reporting on capacity levels, and ensuring decisions on sentencing as well as pre-trial detention are informed by prison conditions.

If judges or prosecutors fail to take into account the conditions in which they send individuals, they become complicit in those degrading or inhuman conditions.

*Specific segments of prison population*

My report further assessed the different needs of specific segments of the prison population, including female detainees, young offenders and indigenous peoples.

Emerging areas of research included the complexitities of accommodating high levels of neurodiversity within prison populations and the menopausal health needs of female detainees.

*Forward-looking challenges*

Mr/Madam Chair, my report is also forward-looking. I addressed two major global trends that have already, and will continue to, impact prisons, prisoners and staff.

First, prisons are conducive to the spread of infectious diseases. As pandemics are predicted to emerge more rapidly and have more severe impacts, societies need to be ready. Prisons must be included in national pandemic planning. Responses are to be guided by the well-established ‘equivalence of care’ principle to ensure that prisoners receive the same levels of health care as available in the community.

For those of you participating in the development of the World Health Organization’s new pandemic instrument, I encourage you to ensure that the special vulnerability of prisons [and other places where persons are deprived of their liberty] are properly reflected in that instrument.

The second major global challenge addressed in the report speaks to the responsibility of States to safeguard prisons and prisoners against the effects of climate change and natural hazards. Almost 30% of the global prison population live in countries that are most exposed to natural hazards.

States have a heightened duty of care for persons in their custody, requiring them to protect inmates from extreme temperatures and to ensure that construction design as well as locations of prisons are climate-appropriate and informed by human rights.

Mr/Madam Chair,

International standards, foremost among them the Nelson Mandela Rules or the UN’s Standard Minimum Rules for the Treatment of Prisoners, are agreed. However there are still important gaps in those standards and especially in their implementation.

I urge States to rethink their criminal and social justice policies and priorities. Crime prevention, diversion, alternatives to imprisonment and rehabilitation must be priority areas.

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COUNTRY VISIT TO UKRAINE

Mr/Madam Chair,

I turn now to my report number A/HRC/55/52/Add.1 on my country visit to Ukraine, which I conducted from 4 to 10 September 2023.

The areas of focus of the visit were on national investigations and prosecutions of crimes of torture and other ill-treatment including rape and sexual violence, allegedly committed within the context of the full-scale armed attack by the Russian Federation against Ukraine. The second area I reviewed was the treatment and conditions of Russian prisoners of war held by Ukraine; and other conflict-related detainees.

I thank the Ukrainian authorities for the invitation and for their full cooperation extended to me during the visit, notwithstanding the complex security environment of a full-scale war. I especially thank the many victims and survivors who met with me as well as civil society and other organisations.

What I concluded based on the volume of credible allegations of torture is that torture is an element of Russia’s war policy. These grevious crimes appear to be neither random nor incidental. Rather the methods, purposes and targets were consistent and included being applied across multiple temporarily occupied territories of Ukraine and/or inside Russia itself.

I repeat my multiple calls to the Russian Federation to issue a strong and unequivocal directive to all its armed forces and associated groups, and other officials under its command or authority, including penitentiary and law enforcement, that torture is never permissible and that it will be punished; to open investigations into these allegations; and allow international monitors into all places of deprivation of liberty as well as to observe criminal proceedings.

In respect of the conditions of treatment of Russian prisoners of war and other conflict-related detainees in Ukraine, the report provides a detailed analysis. In summary I found sincere efforts were being made by the Ukrainian authorities to treat POWs respectfully. The camp that I visited – Zakhid-1 - was well organized, clean and largely met international standards.

My report raises several concerns about the prison conditions in which Ukrainian nationals charged with collaboration were being held at the Penal Facility No. 19, as also acknowledged by the authorities, such that the whole facility requires investment and renovation. Some of my recommendations could be actioned immediately. I look forward to hearing about progress.

Finally, during my visit I received several allegations of abusive treatment by Ukrainian officials, primarily the allegations were said to have occurred after capture or arrest and during transit to official sites. I call on the Ukrainian authorities to investigate such allegations promptly, to reinforce training, disciplinary and other preventive measures, and to guarantee the protection of all legal rights of all complainants and detainees.

Thank you Mr/Madam Chair.

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