Briefing of the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dr. Alice Jill Edwards, to the Meeting of the Steering Committee for Human Rights of the Council of Europe

30 November 2023

Strasbourg (via remote)

Ladies and gentlemen,

I thank you for the invitation to brief you this morning on my work, as the United Nations’ Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, towards the development of an international torture-free trade agreement.

Any such treaty would complement and reinforce existing obligations to prohibit and prevent torture and other ill-treatment, an obligation to which all countries are bound.

Last month, I presented my second interim report to the Third Committee of the General Assembly, which was dedicated to how as an international community we can remove certain equipment, restraints and weapons used by law enforcement and other public authorities which are inherently violative of the international prohibition against torture.

I noted that there is currently no international agreement governing the trade in items intended – or being misused – for torture, so the proposal for a torture-free trade agreement is a tangible step towards our global desire to live in torture-free societies.

In practice this gap means that State and private companies – outside the European Union and unless regulated at national level – are free to develop and sell items that inflict unnecessary or excessive pain.

This is a global challenge. The trade in instruments that torture – and use by public authorities – has tentacles that stretch across the globe.

Chair, my proposal contains two components.

A ‘Category A’ Prohibited list of items which I have classified as being inherently cruel, inhuman or degrading, either by design or purpose. These items should be removed from production and use immediately.

And a ‘Category B’ list which includes ordinary law enforcement equipment to be controlled, because they pose a heightened risk of misuse.

My proposal includes an early warning trigger such that a trade could be suspended or cancelled when there are reasonable grounds that torture or other serious human rights violations are being undertaken or prepared.

These lists are detailed in Annexes 1 and 2 of my report.

My report took note of the efforts taken by this body to support a world where such items are relegated to history, through the Council of Europe Recommendation CM/Rec(2021)2 on measures against the trade in goods used for the death penalty, torture and other ill-treatment.

The trade in law enforcement equipment, a sub-set of the overall market, is significant and estimated to reach 27 billion USD by 2028, growing by 8 per cent per annum. Much of this forecasted rise is correlated to expected rises in civic mobilization.

This issue is also becoming ever more important as governments outsource public functions to private entities.

Chair, ladies and gentlemen, police and other public authorities must be properly equipped and protected. However, precisely because such weapons can cause harm potentially amounting to atrocity crimes, there is a need for better regulation.

According to my research, with sincere thanks to the Omega Research Foundation, at least 335 companies in at least 54 countries are manufacturing or promoting items I have included in my Prohibited List.

A recent arms fair at Milipol Paris showed that certain items that are on my Prohibited List continue to be promoted for sale.

My Prohibited List includes such egregious items as spiked batons that can easily rip through skin. Thumb cuffs, some with cerated edges, to restrain an individual and which can easily fracture the fine bones of the hand. And electric shock belts that electrocute individuals at the touch of a button.

My list further includes caged beds, gang chains, hoods and blindfolds, spit hoods, whips, sjamboks and *lathis*, and shields and body armour with spikes. It includes excessively weighted batons and gloves that turn otherwise defensive equipment into offensive weapons. Some of the items conjure up painful and degrading images associated with slavery and servitude.

Ammunition containing multiple kinetic impact projectiles and directed energy weapons also feature on my list.

The items on my Prohibited List have no place in human-rights compliant law enforcement. They are quite literally modern-day torture tools.

Next steps?

For my part I will be following up on my prohibited list – firstly I request that all States undertake a stocktake of equipment manufactured, procured for or used by relevant public authorities and immediately legislate against, remove and decommission the items on my Prohibited List.

And second, for all States to work towards an international torture-free trade instrument so that we are all safer and better protected in our communities.

I will be supporting the UN level process, following the recommendations of the Group of Governmental Experts, in May 2022, who recommended that an instrument be developed on the trade in items used for torture (the consensus view was to drop tools used for the death penalty).

The UN process is at a pivotal moment. There is a need for the tabling of a resolution to start the drafting process.

As Council of Europe Member States, I believe you could and should play a decisive role in re-energizing that process through, for example, statements of support and practical diplomatic action.

I would encourage you to publicize your own national efforts to regulate the trade; and to take concrete steps to implement your own Recommendation. I would be very pleased to hear from you about your engagement with my own lists and the steps you are taking to ban items in Annex 1.

For my part, I plan to keep this important issue on my agenda and to continue to push States to do the right thing. Concretely, I will be taking up this issue during my country visits, as I recently did on my latest visit to Chile last month.

The Committee against Torture has informed me that they will be taking up these questions as part of their periodic review of State party reports, relying on my Prohibited List. While the Sub-Committee on the Prevention of Torture will likewise be adding this to areas of work during their visits.

I will also be reaching out to the Committee for the Prevention of Torture in Europe to engage them similarly.

Finally, I wish to end by encouraging you to keep the momentum towards an important treaty which would be a vital complement to the existing anti-torture framework. It is a generational opportunity to take a stand against torture.

Thank you for your attention.