

Dr Alice Jill Edwards
Special Rapporteur on Torture
OHCHR-UNOG
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Dear Dr Alice Jill Edwards,

I am writing in response to your mandate's stakeholder consultation for your report on torture free trade. The IRCT is very supportive of your focus on this topic and the current processes promoting the development of legally binding international standards on the topic. We note that the questionnaire that forms the basis for the consultation focuses exclusively in identifying national practices in this area, which we believe will be a welcome contribution to the growing body of knowledge on this topic. However, since we are not a national organization and do not have a programme of research on national practices in regulating trade in torture tools, we find ourselves unable to respond to the questionnaire.

We therefore write this letter to express our strong support for the process and to share with you a few lessons that we have learned during our work on this topic including through our staff's active involve in the UN Group of Governmental Experts on torture free trade.

We strongly believe that a legally binding instrument regulating the trade of goods that have no other purpose than torture and ill-treatment and those that could be misused for these practices would contribute to preventing acts of torture and ill-treatment committed by law enforcement and detention officials.

In our experience, the category of goods that could be used for torture and ill-treatment is the most important in terms of the potential for reducing torture and ill-treatment through restricting trade in these tools. These categories of tools are frequently misused on a global scale causing immense pain and suffering in survivors. However, this category is also the most difficult to define and the one that is most challenged in political discussions about if and how to regulate tools for torture and ill-treatment.

There are unsubstantiated claims made that regulating this group of tools will end up restricting the trade in regular household items and that it will create legal uncertainty because of the risk assessment element. We therefore believe that your report presents an important opportunity to

bring clarity to what types of goods would potentially be placed on what is called the control list and demonstrate the importance of regulating this particular group of goods including through illustrative examples of how they have been misused.

In relation to the group of goods that would be placed on a control list because they could be misused for torture and ill-treatment, the UN Group of Governmental Experts proposed in its May 2022 report that the evaluation of the risk of misuse of goods on the control list should be based on the standard "*reasonable grounds for believing*", which is the same standard being used in most UN human rights fact-finding missions. While there is clear value in using this well-known international standard, we do believe that the Special Rapporteur's report is a welcome opportunity to reflect in more detail on this aspect including by considering the following questions: 1) What can be learned from the standards of proof in other similar systems such as the Arms Trade Treaty; and 2) what can we learn from other processes that assess risk of future violations rather than document violations that already took place.

Finally, we believe that the Special Rapporteur's report can make a significant contribution by analysing how the implementation of a treaty regulating the trade in torture tools can be effectively monitored at the national and international level. A broad variety of monitoring systems already exist both under the UN Human Rights Treaty Bodies, the Arms Trade Treaty, and other regimes. However, we believe that any future process will benefit from a deeper analysis of what can be learned from strengths and weaknesses of these different systems to ensure that monitoring is as effective as possible.

We hope that you consider these points valuable and look forward to continuing collaborating with your mandate on this important initiative.

Yours sincerely,



Asger Kjaerum
Advocacy Director

International Rehabilitation Council for Torture Victims (IRCT)