**Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,**

**Dr Alice Edwards**

**52nd session of the Human Rights Council, 14 March 2023**

Theme of report

**Good practices in national criminalization, investigation, prosecution and sentencing for offences of torture**

Introduction of report ([A/HRC/52/30](https://www.ohchr.org/en/documents/thematic-reports/ahrc5230-good-practices-national-criminalization-investigation))

In her first report to the UN Human Rights Council, the Special Rapporteur on Torture examines challenges and good practices concerning national criminalization, investigation, and prosecution of torture offenses.  She further highlights the main obstacles hindering full and prompt investigations into allegations of torture, including institutional, legal, political and practical challenges.

The criminalization and investigation of any act of torture is a fundamental legal obligation on all States.  In her report, the Rapporteur appeals to governments to recognize the explicit crime of torture in national criminal law and in line with the UN Convention against Torture.  The report indicates that 105 countries worldwide have an autonomous crime of torture in their national penal codes, and almost all States prohibit torture in their national constitutions. The Rapporteur also appeals to States to legislate torture as a war crime and crime against humanity, which emphasises the gravity of this crime, increases transparency and affords survivors of torture greater access to justice and redress. The Rapporteur expresses her willingness to offer technical assistance on draft laws and procedures.

The report stresses the rights of victims and survivors of torture, and place them squarely at the centre of any legal proceedings. She urges States to treat victims with due respect, compassion and dignity and to offer appropriate rehabilitation and protection measures, including trauma counselling, courtroom sensitization, victim and witness protection schemes. Dr Edwards appeals to States to ensure that victims and survivors are ‘given voice’, fully empowered and can actively participate in justice processes, as an important step in helping societies heal, rebuild and reconcile.

The report highlights the importance of creating safe, secure and confidential complaints processes in closed facilities, which is particularly important given the power imbalance between the accuser and accused in torture cases. This, in addition to enacting legislations to protect whistleblowers against retaliation.

The duty to investigate and prosecute torture offenses requires swift action by States including in difficult security conditions. In this respect, States should comply with minimum standards applicable to investigations (impartiality, independent and open to public scrutiny) and to open investigations into torture promptly and without delay.

In her recommendations, Dr Edwards looks to national authorities, first and foremost, to take a strong and firm lead in pursuing justice efforts ‘at home’, to operate as primary responders, and take ownership of justice processes, through equipping and empower investigation bodies to take action against torture in line with international standards.