

CTI contribution to inform the preparation of the report of the United Nations High Commissioner for Human Rights, pursuant to Human Rights Council Resolution 43/1 on the “Promotion and protection of the human rights and fundamental freedoms of Africans and people of African descent against excessive use of force and other human rights violations by law enforcement officers”

Purpose and objective

1. The Secretariat of [the Convention against Torture Initiative](#) (CTI), headed by Dr. Alice Edwards, is pleased to contribute with this submission to the upcoming report of the United Nations High Commissioner for Human Rights, H.E. Michelle Bachelet, pursuant to Human Rights Council Resolution 43/1 on the “Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers”, which was adopted during the 44th session of the Human Rights Council on 19 June 2020. The OHCHR report will be presented during the forty-seventh session of the Human Rights Council, in June 2021.
2. The present submission recommends ten (10) fundamental elements for professional policing and law enforcement and aims to highlight some good practices, lessons and experiences of States in this domain, emerging from CTI conferences, seminars and research, drawn from States across all world regions.
3. Police and other law enforcement actors in all our societies play a vital role in building secure and peaceful societies, and helping societies repair and recover from violence and conflict. Their role in securing law and order, pursuing justice for victims of crime and in enforcing human rights is why they exist. Their good work allows ordinary citizens to go about their daily lives without fear. Integrity is fundamental for them to be able to perform their functions safely and effectively and without it, the State risks social unrest, deterioration in trust and short and long-term instability. Yet, regrettably, complaints of police over-reach, corruption or violence are still too common in all parts of the world. Studies show consistently that vulnerable and marginalised people and communities are at greater risk of being unfairly treated within justice systems.

Please note that this document has been prepared to assist in the discussions pursuant to UN HRC Res. 43/1 and does not necessarily represent the views of or endorsement of the practices included herein by any of the six individual Core States behind the Convention against Torture Initiative (CTI), namely, Chile, Denmark, Fiji, Ghana, Indonesia and Morocco.

CTI's work to support States in preventing and responding to incidents of torture and ill-treatment and in professionalising police and law enforcement services

4. CTI has been facilitating exchanges, sharing good practices, and advising on positive police standards since its establishment in 2014. In 2019, CTI convened a [Global Seminar](#) on *“Cooperation and Innovation in Policing and Law Enforcement: Sharing experiences and building capacity on criminal investigation and law enforcement practices”*, held in Copenhagen, Denmark. The Seminar gathered police representatives from 23 countries from all regions, many at the rank of commissioner or director of national police academies, alongside judges, criminal investigators and leading experts in the fields of forensic psychology, neuroscience, interviewing and torture prevention. Some of the key recommendations and outcomes shared at the CTI Global Seminar included the following:
 - The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) contains key provisions on the prevention of torture and ill-treatment; complaints, investigations and prosecutions; and redress for victims, which can be used as a helpful practical framework to inform policing and law enforcement.
 - Contextual differences and challenges arising as a result of factors such as geography, resources, and different legal systems are to be factored into organisational reform processes;
 - Fairness, integrity, professionalism, service excellence, responsiveness to populations, visibility, accessibility, transparency and accountability are all hallmarks of modern human rights-oriented police services.
5. CTI has also organised several regional seminars and events, where participants have exchanged on good practices and challenges in implementing safeguards against torture and ill-treatment in police custody, non-coercive interviewing techniques, and best ways to professionalise police services. The reports of those meetings are available here: [Marrakech, Morocco \(2015\)](#); [Fes, Morocco \(2017\)](#); [Saint Lucia \(2018\)](#) and [Bali, Indonesia \(2019\)](#).
6. CTI has also developed several practical tools and resources offering States a range of practices of how to improve policing and law enforcement and reduce incentives and risks of torture or ill-treatment, including the following:
 - [CTI UNCAT Implementation Tool 1/2017 on State strategies to prevent and respond to torture and other ill-treatment or punishment](#), which compiles 14 State good practices, including experiences of institutional strengthening of police services as part of broader national torture prevention strategies, human rights action plans and agency operational plans.
 - [CTI UNCAT Implementation Tool 2/2017 on Safeguards in the first hours of police detention](#), which compiles 21 good State practices, including several on the role police play in notifying arrested and detained persons of their rights; guaranteeing the right to have prompt access to a lawyer and to communicate with a family member or third party; providing for audio and video recording of interrogations; ensuring the judicial oversight of arrest or detention; and in keeping detention records.
 - [CTI Training Tool 1/2017 on Investigative Interviewing for Criminal Cases](#), which provides an overview and introduction to the PEACE method of non-coercive interviewing, outlining the key phases to be followed by police and others in the criminal justice system in charge of interrogations when questioning suspects, victims and witnesses.

- [CTI UNCAT Implementation Tool 7/2019 on Procedures and Mechanisms to Handle Complaints of and Investigations into Torture or other Ill-treatment](#), which compiles 35 good State practices, including State experiences on how police guarantees victims' right to complain; responds to gender-based violence; informs arrested or detained persons of their rights, including information about how to make a complaint; as well as investigates complaints of misconduct through specialised independent units or oversight bodies.
 - [CTI UNCAT Implementation Tool 8/2020 on the Non-admission of Evidence Obtained by Torture and Ill-treatment: Procedures and Practices](#), which gathers 22 good State practices, including positive State experiences on the key role that police interviewers and investigators play in ensuring that confessions or evidence obtained by torture or ill-treatment are not used in court proceedings, including by guaranteeing the effective implementation of legal and procedural safeguards against torture and ill-treatment.
7. Lastly, CTI has embarked upon a process of developing a practical resource kit for professional, human rights-compliant policing, which will compile existing good State practices, tools and examples on best ways to professionalise police, clustered around different thematic chapters. Chapters will be released as they are prepared, and will be accessible for download from CTI's website at: www.cti2024.org.

Elements of a professional police service: States' good practices and experiences

8. From CTI's experience, the following ten (10) elements are foundational measures for any modern police service, which can assist countries in building and strengthening the legal and institutional framework, as well as the knowledge, capacity and professionalism of their police and law enforcement services. The elements identified below are also relevant to ensure that police can play an effective role in combating racism and discrimination in policing, as well as promoting and building good community relations with Africans, persons of African descent and other minority groups. As highlighted above, the UN Convention against Torture is a practical guiding framework for States to guard against discrimination-based police excess and abuse and underpins the below-mentioned measures.
1. **Political and police leadership** is relevant to instill behavioural changes. When the highest ranked officials not only endorse change but also model positive behaviour they encourage and mandate similar behaviour throughout the organisation. Changing police culture may involve:
 - ✓ Identifying the root causes of racial discrimination or bias against certain groups or communities, for example, underlying socio-economic inequality and marginalisation, and addressing institutional policies, habits or customs that act to incentivise or reward forms of misconduct.
 - ✓ Promoting a police culture which sees the police as part of, not apart from, the community they serve through community-policing initiatives, which involve amongst other steps, fostering closer and regular police-community dialogue. This could entail, for example, holding regular neighbourhood meetings and interviews with community members; meetings with specific interest groups, for example, Africans or persons of African descent, or other minority groups; conducting satisfaction or priority polls or surveys, for the purposes of involving the community in police efforts to prevent and respond to crime; using social media and other communication channels to keep the community informed of activities, policy or priority changes, and crime and other relevant statistics.

- ✓ A top-down emulation and signaling of zero tolerance for racist or other unlawful behaviour.
- ✓ Publishing annual policing plans, endorsed by the government, is a good practice. Comprehensive, consultative processes involving local authorities and citizens, to determine public needs, should be part of the process of preparation.
- ✓ Establishing human rights departments, units or positions within the police has also helped to foster organisational change within the police service. Such departments or units would need proper authority and budget, while dedicated positions would need adequate seniority to be able to function effectively.

State practices:

The Bahamas: The Royal Bahamas Police Force (RBPF) annually releases the Commissioner's Policing Plan, which outlines the thematic areas that police will be prioritising during the year. The 2019 Policing Plan included professionalisation of police services as one of its key priority areas, through education, performance indicators and relevant training.

Ghana: Ghana embarked on a transition from a police "force" to a police "service", changing their motto from "Attention We Command" to "Service with Integrity". This has been coupled with the implementation of community-policing methods through the formation of Neighbourhood Watch Committees and the engagement of Community Protection Assistants, who are recruited from within communities. This initiative has been advantageous in improving relations between citizens and the police, but has also fostered community cooperation on crime prevention strategies.

Morocco: Morocco launched the so-called "Police open doors" initiative, which has given the general public direct contact and interaction with the police, fostering cooperation, increasing public trust and improving the relationship between the two.

Tunisia: The Directorate General of Human Rights within the Tunisian Ministry of Interior is empowered to receive complaints of human rights violations and forward the cases to the competent authorities. It has also been involved in delivering ongoing training programmes for security agents and developing procedure manuals and a code of ethics, which have contributed to establishing a human rights approach to policing.

2. Human rights-reinforcing legal, regulatory and policy frameworks, including:

- ✓ Domestic laws and regulations that are compatible with international and regional standards on human rights (including UNCAT), use of force and restraints, torture prevention, anti-corruption standards, and non-discrimination.
- ✓ Incorporating legal and procedural safeguards against torture and ill-treatment in legislation, such as the right to be informed of the grounds for arrest or detention, to be notified of the rights available, to have prompt access to a lawyer, to request and receive medical treatment, and to inform a third party of one's arrest or custody.
- ✓ Enacting an offence of torture or ill-treatment in national law, as provided for in Article 4 of UNCAT, and apply the definition in Article 1, which recognises that torture is prohibited where such severe pain or suffering is inflicted for purposes including "any reason based on discrimination of any kind".

- ✓ Operationalising the above-mentioned laws through codes of police conduct and practical and accessible manuals, policies and procedures helping to inform officers and community of roles and responsibilities.
- ✓ Ratifying/acceding to international human rights treaties, in particular the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol.

State practices:

Chile: Article 150A of Law 20.968 of November 2016 establishes the crime of torture, in line with Article 1 of UNCAT, and explicitly refers to "(...) race, ethnicity, or social group to which the person belongs (...)" [*unofficial translation*] as some of the discriminatory purposes on which severe pain or suffering is inflicted.

Colombia: Section 35 (26) of Act 734 of 2002, which promulgates the Single Disciplinary Code (*Código Disciplinario Único*), prohibits the distinction, exclusion, restriction or preference by public officials based on race, colour, descent or national or ethnic origin that has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise of human rights and fundamental freedoms in the political, economic, social, cultural or any other fields of public life.

Timor-Leste: Section 52 (2) (e) of Decree Law No. 19/2009, approving the Penal Code, includes in the list of "aggravating circumstances" requiring a higher punishment, where "[t]he crime is motivated by racism, or any other discriminatory sentiment on grounds of gender, ideology, religion or beliefs, ethnicity, nationality, sex, sexual orientation, illness or physical disability of the victim." This includes the various crimes of torture included in the Code.

United Kingdom: The Equality Act 2010 recognises a public sector duty to ensure that, in the exercise of public functions, authorities reduce the inequalities of outcome resulting from socio-economic disadvantage. The Act is applicable to the police service and protects against discrimination on the basis of, among other protected characteristics, race, which includes colour, nationality or ethnic or national origins.

3. Education and public information on rights of citizens and obligations of the police

- ✓ Education in schools and universities as well as public information campaigns, through for example media, social media and other formats, is critical for citizens to know their rights and it has also been considered key to reforming justice systems and building fully engaged societies.

States practices:

Brazil: The *Centro de Assessoramento a Programas de Educação para a Cidadania* (CAPEC, or the Center for Advising Citizenship Education Programs) has provided training to police officers in Brazil to help them understand their vital role as defenders of human rights. CAPEC's trainings focus on showing law enforcement officers how important their role is in society and how their work affects the lives of individuals and communities. CAPEC's training has so far been used in 25 states in Brazil and with more than 30,000 participants, mainly from the civil police, military police, federal police, traffic police and municipal guards. CAPEC has worked with the federal government, state and city governments.

Czech Republic: The Department of Civil Society Studies of the Faculty of Humanities in Charles University in Prague developed *Czechkid*, an online resource aimed at students aged 12-15 and

their teachers in addressing multicultural education, and which includes, among others, a chapter on the topic of racism and racial prejudice. This resource was developed in response to the introduction of multicultural education as a cross-curricular topic in the Czech Republic in 2004.

People's Republic of China: Since 2003, China has supported efforts to distribute brochures and posters across a variety of communities, aimed at making arrested persons aware of their rights. Posters titled "If you are arrested, know your rights!" lists the rights all detainees may expect in police custody, and have been featured in police stations and urban centres across the country. Legal aid centres and justice sector officials, including police officers, have been active in distributing the materials to the public.

4. Representative recruitment, retention and promotions policies, calibrated for human rights such that personnel represent the diversity of the communities and people they serve, and are fairly compensated. This would involve:

- ✓ Promotions criteria that take account of aspects of positive policing, such as overall conduct, mentorship to fellow officers or community outreach, have been known to seed positive change. A sole focus of promotions criteria on such factors as case resolution statistics can incentivise corner-cutting and unintentionally incentivise undesirable behaviour.
- ✓ Recruitment and retention processes should screen out individuals with tendencies towards racial bias or discrimination, while screening in candidates with essential qualities for human rights-oriented policing, including: personal integrity; empathy and compassion; communication skills; and problem-solving skills.
- ✓ The welfare of personnel such as working conditions, salaries, training, mentorship and leadership, is to be kept on the agenda as relevant to improving police practices and professionalism.

State practices:

Australia: The Police of the Australian State of Victoria has launched Round 4 of the "Victoria Police Diversity Recruitment Program" in June 2020 and is expected to launch Round 5 at the start of 2021. The programme encourages applications from persons identifying as African-Australians, culturally and linguistically diverse communities, or from refugee and humanitarian backgrounds, seeking to increase the cultural diversity of the police force and to reflect all parts of the community served. Victoria Police has also implemented an "Aboriginal and Torres Strait Islander Employment Plan", to create employment and career development opportunities that embrace the diversity of its workforce and which are inclusive and safe from discrimination.

Caribbean: The Caribbean Human Rights and Use of Force Model Policy contains minimum standards to be observed by all Caribbean law enforcement agencies highlights that recruitment "must [be] free from bias or any discriminatory practices concerning race, gender, social status".

New Zealand: The New Zealand Police set up the new role of National Strategic Ethnic Advisor within the Police National Headquarters, responsible for providing strategic advice, leading engagement on and implementing initiatives that respond to the needs of the diverse ethnic communities New Zealand Police serves. The Advisor is also responsible for recruits from Asian, Middle Eastern, Latin American and African communities to increase diversity within the service.

5. Promoting practical and modern policing practices and techniques, as the police are in general, practical and results-orientated. Substituting entrenched practices with alternative ways of achieving the same or a similar result, with more efficiency, less cost and greater empathy, are recommended, such as:

- ✓ Implementing non-coercive investigative interviewing, by building rapport with the interviewee, rather than using old tactics of pressure and intimidation. This method has been proven to adduce greater cooperation by the suspect, and lower the possibility of confessions being declared inadmissible or vacating of judgments on appeal because of unlawful questioning.
- ✓ Additional areas for specific attention, including: de-escalation tactics, how to carry out police functions while respecting the dignity of the suspect, witness or victim, and use of force and restraints.

State practices:

England and Wales: With the adoption of the Police and Criminal Evidence Act 1984, the United Kingdom began a major police reform undertaking in England and Wales which led to meaningful changes in police culture and practice, prompted by a series of cases of forced confessions and accusations of wrongful convictions. Today, interviews are recorded, access to a lawyer is generally being achieved promptly, and detained persons are offered access to legal advice from the moment of detention. During the 1980s and 1990s, a group of psychologists took part in an independent evaluation of the Metropolitan Police's interrogation practices and training, which led to the development and nation-wide implementation of the so-called "PEACE" model of investigative interviewing (acronym used to refer to key interview stages: Preparation and Planning, Engage and Explain, Account, Closure and Evaluation). It has since been adopted by a growing number of police services in many countries and has transformed the questioning of suspects, witnesses and victims, with improved justice outcomes, safer and more reliable convictions and fairness in proceedings.¹

Indonesia: In Indonesia, Article 117 (1) of the Criminal Procedure Code provides that all evidence must be given without pressure of any kind. In order to be more effective and ensure the integrity of interview evidence, Indonesia has recently begun to train its police to use an adaptation of the so-called "PEACE method" of non-coercive investigative interviewing, known as "POAC" in the Indonesian version (acronym used to refer to key interview stages: Planning, Organising, Actuating and Controlling). Police and other law enforcement agencies are applying this method to ensure that officers do not resort to the traditional interrogation model, which had prioritised a confession.

Norway: Norway has also adapted the PEACE model of investigative interviewing from the UK in response to a number of documented forced confessions and wrongful convictions. The "investigative interviewing" model provides for non-coercive interviewing that is designed to promote accurate memory retrieval and lessens the drawing of premature conclusions based on assumptions about guilt or innocence. Norway has trained its police in investigative interviewing and has used the so-called "CREATIV" method (acronym used to reflect key interview stages: Communication, Rule of Law, Ethics and empathy, Active consciousness, Trust through openness and Information – Verified through science) successfully to investigate and prosecute crimes for several years, including in terrorism cases.

¹ For more on the method of investigative interviewing and the PEACE model, consult: https://cti2024.org/content/docs/CTI-Training_Tool_1-Final.pdf.

6. Investing in technology and forensic science: Technology can help police execute their duties more efficiently while also providing a greater degree of transparency in the event circumstances go wrong. Bolstering criminal investigation capacity through forensic and scientific evidence gathering techniques helps advance justice outcomes, though they cannot be relied upon solely without proper training and understanding of their limits.

- ✓ CCTV, body-worn or vehicle cameras have proven effective, helps to make officers more cautious in their conduct and as a source of evidence.
- ✓ While technology is potentially helpful, investment in training and adherence to rules on appropriate use are still required. Deployment of tasers, for example, should be as resisted as firing live ammunition as they were introduced to reduce harm to the suspect, and not to be used with more frequency and disregard for human safety.
- ✓ Application of data protection rules and data collection systems that increase transparency and accountability in policing are recommended.
- ✓ Investing in forensic science is recommended, which includes relevant training and acquiring technology used to collect, preserve and analyse evidence gathered during the course of investigations and in crime scenes.

State practices:

Bahamas: The Royal Bahamas Police Force (RBPF) has boosted its capacity by acquiring new tools to monitor crime hot spots and areas frequented by tourists. The RBPF has installed numerous CCTV cameras and introduced a new gunshot detection technology called ShotSpotter, which alerts the police by determining the exact location of gunshots being fired, in order to combat gun-related crime and contribute to crime reduction rates in the country.

Canada: In July 2020, the Canadian Association of Chiefs of Police and Statistics Canada announced that they would work to enable data collection to report statistics on indigenous and ethno-cultural groups as part of Canada's official police-reported crime statistics.

Fiji: After ratifying UNCAT in 2016, Fiji piloted the implementation of the "first hour procedure and video recorded interviews" project, in which police are required to use video recording of interviews, as an important measure to reduce risks of torture and ill-treatment and supporting evidence gathering.

7. Training, skills and attitude evaluation: A growing number of police forces around the world have extended training periods before officers are able to be assigned public duties. There has been a shift towards a knowledge-based profession. Training and capacity-building on the operationalisation of human rights-based policing, including relevant international standards on the use of force, de-escalation tactics, how to conduct arrests and treat and interview suspects, victims and witnesses with dignity is key to preventing torture and ill-treatment, as well as to deter racial discrimination or racial profiling in policing. Elements for effective and adequate training provision include:

- ✓ Introducing training early in the police curricula;
- ✓ Providing for training of trainers, so a select group of police officers can become agents of change by building the capacity of others within the police service;
- ✓ Training is to be conducted regularly, including the introduction of refresher courses, and is certified;

- ✓ Training to include both a theoretical and an operational component that allows police officers to easily understand how to translate into practice and day-to-day activities;
- ✓ Certain tasks of police require longer and more in-depth training, such as interviewing and criminal investigation.

State practices:

Bahamas: In 2019, the Royal Bahamas Police Force (RBPF) signed a memorandum of understanding with the University of The Bahamas and a memorandum of cooperation with Georgia State University in the United States, to ensure that the police is kept abreast of the latest knowledge and developments in the field, and improve policies, procedures and the overall public safety in the country.

Belgium: Police officers of the Belgian National Police in Brussels underwent special training on Muslim culture and religion to ensure they are respectful towards Islam and guarantee respectful relations with Muslims.

Norway: The Norwegian Police University College requires police training in communication, emotional intelligence and human rights as essential features of a highly functional police officer, in a shift towards a knowledge-based profession.

8. Periodic review of interrogation rules and procedures, laws, regulations, codes of conduct, and national manuals, policies and procedures, in line with Article 11 of UNCAT, which requires States parties to keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under their jurisdiction, with a view to preventing torture.

- ✓ Regularly review, monitor and investigate any incidents of racial profiling, or otherwise racist and discriminatory attitudes and behaviour in the performance of duties.
- ✓ Racial profiling is to be prohibited, in line with General Recommendation No. 36 on Preventing and Combating Racial Profiling by Law Enforcement, recently issued by the Committee on the Elimination of Racial Discrimination, which recommends States parties to “develop and effectively implement laws and policies that define and prohibit racial profiling by law enforcement officials”.²
- ✓ Apply data-capture processes including pen and paper, mobile phones, hand-held devices, laptop computers, dispatch radios and/or body-worn cameras to record information about various police practices, including especially stop and search practices. Routine data-capture is important for deterrence of over and/or misuse of certain practices, and to maintain case records of stops or searches practice in order to assist with the follow-up of criminal cases and/or potential complaints.

² Committee on the Elimination of Racial Discrimination, General Recommendation No. 36 on Preventing and Combating Racial Profiling by Law Enforcement, 24 November 2020, CERD/C/GC/36, para. 38, available at: https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/1_Global/CERD_C_GC_36_9291_E.pdf.

State practices:

Germany: On 21 June 2020, the city-state of Berlin enacted the State Anti-discrimination Act (*Landesantidiskriminierungsgesetz*), which prohibits Berlin public authorities, including the police, as well as public schools and universities, from engaging in discrimination on the grounds of ethnic origin or racial association, among other grounds.

The Netherlands: On the basis of the Police Act 2012, revised guidelines for police related to avoiding discrimination during “control” (stop and search) activities were issued to the Dutch national police. These specify how to identify suspects and cars when carrying out stop and search, using guidelines provided by the European Commission against Racism and Intolerance in its General Policy Recommendation No. 11 (2007) on combating racism and racial discrimination in policing, which defines racial profiling as “The use by the police, with no objective and reasonable justification, of grounds such as race, colour, language, religion, nationality or national or ethnic origin in control, surveillance or investigation activities”. Police officers are obligated to explain the reasons for every stop and search of any person in terms of the individual’s behaviour, using objective criteria, while disregarding personal characteristics such as ethnicity or skin colour. As a consequence, the police may not select suspect persons solely or predominantly on the grounds of skin colour, descent and/or religion.

9. An effective accountability framework, involving complaints, investigations and whistleblower and witness protection:

- ✓ Accessible and safe complaints system, allowing individuals to report allegations of abuse by police officers, such as acts of torture and ill-treatment, or incidents of racial profiling or discrimination.
- ✓ Independent oversight bodies and mechanisms. Public authorities investigating themselves are prone to pressure and lack (the perception of) impartiality and independence. Best practice authorises independent bodies to be able to initiate investigations of alleged misconduct and complaints filed against the police on its own initiative, and recommend further criminal proceedings or disciplinary action. External oversight mechanisms can be complemented by internal control and oversight bodies.
- ✓ Under Article 13 of UNCAT, States parties are required to take steps to ensure that the complainant and any witnesses are protected against any form of intimidation or reprisals as a result of having filed a complaint or any evidence given, protecting them against acts that could amount to ill-treatment or even to torture.
- ✓ In many organisations, whistleblowing carries maximum risks with minimum protection. In law enforcement, the risk to complainants and whistleblowers can be very real. Despite their best intentions, whistleblowing legislation and mechanisms are often inadequate and ineffective, owing largely to their dependence on “good” – albeit reluctant – officers to identify wrongdoing and report it to one’s superiors, who must in turn be willing to pursue the report. To protect whistleblowers and witnesses, States can take the following measures:
 - Adopt whistleblower protection legislation, providing for a clear legislative and institutional framework to protect from discriminatory or disciplinary action against persons disclosing in good faith alleged acts of wrongdoing or abuse to relevant authorities.

- Mandatory reporting by officers of police abuse or serious misconduct, as required for example of health and educational authorities in child abuse cases, could prove an effective way to change police culture and instill greater accountability. For acts amounting to torture, Article 2 (3) of UNCAT establishes that there shall be no defence of superior orders.

State practices:

Canada: In 2012, an internal community engagement review of police stops conducted by the Toronto Police Service, recommended the creation of a new “core value” focused on non-discrimination, as well as the creation of a community advisory committee to advise on issues of racial profiling and the development of an early warning system to detect patterns of possible bias among officers.

Jamaica: Jamaica's Independent Commission of Investigations (INDECOM) is a civilian staffed state agency tasked to undertake investigations concerning actions resulting in death or injury to persons or abuse of their rights. With the inception of INDECOM, Jamaica has experienced a significant decline in fatal police shootings for example, with 2019 seeing the lowest figure in over two decades.

Kenya: Section 51 (2) of Kenya's National Police Act provides protection from the initiation of disciplinary proceedings against officers failing to comply with unlawful orders. Additionally, the Witness Protection (Amendment) Act, 2010 affords protection to a wide range of persons, including relatives of witnesses who require protection on account of a testimony given or to be given, or for any other reason which the Director may consider sufficient. The witness protection programme was originally designed to run out of the Office of the Attorney General. However, the legislative amendment adopted in 2010 created an independent witness protection agency that reports to a Board comprising the ministers of justice and finance, the director-general of the National Security Intelligence Service, the police commissioner, the prisons commissioner, the director of public prosecutions, and the chairperson of the Kenyan National Commission on Human Rights.

The Netherlands: In August 2019, the Dutch National Police launched a national, independent hotline for police officers who are discriminated against by their coworkers, with direct access to National Police Chief. The initiative was launched in response to greater calls for addressing racism and discrimination within the police.

New Zealand: The New Zealand Ombudsman can receive complaints and provide advice to whistleblowers about making protected disclosures under the Protected Disclosures Act. Serious wrongdoing that can be reported includes any criminal offence and gross negligence or mismanagement by public officials.

Sweden: The Equality Ombudsman is an independent government agency tasked with the supervision of compliance with the Discrimination Act, and the promotion of equal rights and opportunities regardless of race and ethnic origin, and it is empowered to receive complaints against the police.

Uganda: Section 10 of Uganda's Prevention and Prohibition of Torture Act, 2012 holds superior officers liable for acts of torture committed by subordinates under their authority or control when the superior failed to promptly investigate, take measures to prevent re-occurrence and cooperate with judicial authorities to prosecute the offence. Section 21 of the Act provides for the State's responsibility to ensure that complainants (whether or not they are the victims) and witnesses are protected against any ill-treatment or intimidation as a consequence of the complaint or evidence given.

10. Involve the wider judicial and legal system: The police are not alone in their responsibility for preventing such acts as misconduct, ill-treatment and discrimination. In relation to torture and ill-treatment including that inflicted on discriminatory grounds, the prosecutors, lawyers and judiciary, as well as medical personnel in documenting cases of torture, play key roles. In particular, Article 13 of UNCAT prohibits admission of evidence obtained by torture or ill-treatment in any proceedings, except those relating to complaints of torture.

- ✓ Rules of proceeding must not allow evidence obtained by torture in any proceedings, as well as verify that proper evaluation of how such evidence was obtained.

States practices:

France: Under the French Code of Criminal Procedure (Art. 173), a prosecutor (or the investigating judge) can initiate a procedure to exclude evidence if they suspect that evidence was obtained by torture. A challenge to the validity of a piece of evidence is referred to the Investigation Chamber of the Court of Appeal (Chambre de l'instruction).

Kenya: The Kenyan Constitution does not allow evidence that contravenes any right or freedom in the Bill of Rights to be used in a trial; otherwise it would render the trial unfair and would be detrimental to the administration of justice. Practically, the prosecution has to inform the court of their intention to produce a confession as evidence, and if the accused objects to this, then the court will conduct a "trial within a trial" with the primary purpose to establish the circumstances under which the statement was taken, and to determine whether the evidence can be admitted. This procedure ensures that an accused person can testify about the admissibility of the evidence without the risk of self-incrimination from cross-examination on matters which could influence a finding of guilt.

Viet Nam: Article 174 of the Criminal Procedure Code of 2015 provides for a separate investigative process to decide whether torture evidence should be excluded. In such a case, the court or prosecutor has to suspend the trial and order a re-examination of the evidence allegedly obtained by torture.

CTI Secretariat

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About the CTI

CTI is a ten-year, inter-governmental and cross-regional initiative, promoting the universal ratification and implementation of the UN Convention against Torture (UNCAT) and launched at the 30th anniversary of UNCAT in March 2014. The Initiative is being spearheaded by the Governments of Chile, Denmark, Fiji, Ghana, Indonesia and Morocco, and is supported by a full-time Secretariat based in Geneva. CTI fosters constructive dialogue and international cooperation between States, and offers technical and capacity building support to governments.

The CTI Core States enjoy the support of a full-time Secretariat, based in Geneva, and headed by Dr. Alice Edwards. The CTI also benefits from expert advice and support from the Association for the Prevention of Torture (APT), a leading international torture prevention non-governmental organisation.

The CTI is also supported by its Group of Friends, a network consisting of UN Member States, torture prevention experts and non-governmental organisations, which serves as a platform for the exchange of knowledge, experience and ideas on how to overcome obstacles to ratification and implementation of UNCAT.

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