

COVID-19

AND THE UN CONVENTION AGAINST TORTURE



This note has been prepared by CTI in order to highlight some of the latest and key guidance regarding the applicability of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) during the Covid-19 pandemic, and to provide some examples of how States are addressing related challenges.

BACKGROUND



Since the outbreak of Covid-19, States around the world have been required to take a number of extraordinary measures to manage their national responses to the global pandemic and mitigate the risk of Covid-19 spread. The adoption of such measures has often followed a declaration of a state of emergency, alongside various measures that impact upon the delivery of healthcare, freedom of movement, peaceful assembly, personal liberty, and daily social and economic activities. This exceptional situation has caused unprecedented challenges requiring new approaches and changes in established working methods. There are limits on the ability of governments to impose some measures; notably, the prohibition against torture is absolute and no derogation is permitted, even in times of public emergency such as the current one.

For policing and law enforcement, Covid-19 has posed particular challenges associated with enforcing lockdowns, quarantines and other curfew measures. Justice systems have been challenged by how to continue to carry out criminal investigations in light of movement constraints, including conducting timely yet remote interviews with suspects, victims and witnesses, collection and preparation of evidence, or holding court hearings via video systems.

As prisons and other places of deprivation of liberty have become hotspots for Covid-19 contagion and spread, challenges have arisen around providing adequate healthcare as well as finding alternative online means and platforms to allow contact with relatives and lawyers and access by monitoring and oversight bodies, due to restrictions on in-person meetings. Good practices have



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included decongesting places of deprivation of liberty to alleviate overcrowding, as well as remote-virtual visits and the use of mobile or online technology have proved particularly helpful.

“It is without doubt that these are challenging times on a number of fronts - for governments, for organisations and for people throughout the world. We are facing one of most serious threats, which is putting unprecedented pressure on our health systems, our economies and our morale, we are witnessing a growing chorus of protests against reports of violence and heavy-handedness in national responses. Not all of this is Covid-19 related. But the pandemic is arguably quite literally bringing out the best and the worst, and showing good practices as well as gaps in our national response efforts. Against this background, the duty to prevent torture and ill-treatment and the absolute and non-derogable character of the prohibition remain as relevant as ever.”

CTI Statement to the UN Committee against Torture, 13 July 2020, delivered by H.E. Frank Tressler, Permanent Representative of Chile to the United Nations in Geneva

The pandemic has also highlighted particular vulnerabilities of at risk populations. In health terms, these include persons with underlying medical problems such as high blood pressure, respiratory or heart problems, diabetes or deficient immune systems. In addition to these risk factors, torture survivors and other persons suffering from psychological trauma and conditions need special assistance, as lack of social interaction and self-isolation can cause re-traumatisation and exacerbate mental health fragilities. Persons in aged care and other places of confinement are another category requiring innovative ways to ensure social engagement and care.

USEFUL RESOURCES:

- [OHCHR Human Rights Treaties Branch, Internal HRTB toolkit of treaty law perspectives and jurisprudence in the context of COVID-19](#)
- [Association for the Prevention of Torture \(APT\), COVID-19 and Persons Deprived of Liberty Information Hub](#)

TREATY RATIFICATION/ACCESSION BY EMAIL DURING THE COVID-19 PERIOD

The closure of offices and restricted travel during the Covid-19 pandemic has affected States' ability to deposit original instruments of accession or ratification of international treaties in-person at the Treaty Section of the Office of Legal Affairs in New York (OLA). However, thanks to some flexible adaptation to its usual working methods, remote processing of treaty ratification/ accession has been exceptionally enabled. OLA is currently accepting scanned copies of instruments of accession or ratification to become party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), which can be sent to treatysection@un.org. New signatures are not able to be handled remotely, but will restart once OLA re-opens and signature ceremonies can be held safely. CTI highly encourages States considering becoming party to UNCAT but currently unable to travel to New York to make use of this exceptional remote procedure.

PRISON CONDITIONS AND TREATMENT OF PERSONS DEPRIVED OF LIBERTY

Poor material and living conditions in prisons and other places where persons are deprived of their liberty have been priority areas of focus for many governments as such conditions, often brought on by serious overcrowding, increase risks of Covid-19 spread and, in turn, put pressure on the healthcare response system. States quickly identified the need to decongest prisons and other places of deprivation of liberty by, for example, early release of low risk, vulnerable, elderly or juvenile prisoners; postponing the start of sentences; releasing or offering bail or other conditions to pre-trial detainees charged with low-level or non-violent offences; issuing amnesties or pardons for certain categories; as well as introduced or making greater use of electronic monitoring, probation and parole and bail systems.

For all its challenges, the necessary responses to Covid-19 offer an important opportunity to reconsider and analyse how criminal justice systems could be adjusted to reduce the over-reliance on pre-trial detention, adopting greater range of alternatives to imprisonment and non-custodial measures, particularly for petty or non-violent offences.

“ All persons deprived of their liberty should be privately examined by independent medical personnel at the time of admission to a place of detention or confinement, in order to be screened for contagious diseases and potential signs of ill-treatment.”

Dr. Jens Modvig, Chair of the Committee against Torture

USEFUL RESOURCES:

- [CTI, Covid-19: Depositing UNCAT instruments of ratification and accession continues](#)
- [CTI, Ratification Tool](#)
- [UN Treaty Handbook](#)

USEFUL RESOURCES:

- [Subcommittee on Prevention of Torture \(SPT\), Advice to States Parties and National Preventive Mechanisms relating to the coronavirus pandemic](#)
- [WHO, Preparedness, prevention and control of Covid-19 in prisons and other places of detention](#)
- [DIGNITY, Guidance document on reducing overcrowding in pre-trial detention and prison in the context of Covid-19 - Increasing the use of non-custodial measures](#)
- [Penal Reform International, Coronavirus: Healthcare and human rights of people in prison](#)

OTHER PLACES OF DEPRIVATION OF LIBERTY OR CONFINEMENT, SUCH AS NURSING HOMES, SOCIAL CARE HOMES, HOSPITALS AND INSTITUTIONS FOR PERSONS WITH INTELLECTUAL AND PSYCHOSOCIAL DISABILITIES

Persons deprived of liberty in psychiatric institutions, or otherwise living in nursing homes, social care homes, hospitals and other institutions for persons with intellectual, psychosocial or physical disabilities, are at a recognized increased risk of Covid-19 contagion. Being particularly vulnerable because of illness, age or other medical condition also means that special attention has been given to these populations. In addition, as many of these individuals are dependent on the daily support of medical and other staff, social distancing and self-isolation poses a particular challenge. States have been encouraged to ensure priority testing of symptomatic persons with disabilities and to remove any barriers leading to discrimination in the access to Covid-19 treatment for these persons.

Some good emerging practices from various countries across regions have included testing persons with disabilities in their homes; supporting health agencies and bodies to tailor public messages for vulnerable groups; or establishing Covid-19 disability advisory groups advising the government on disability-related strategies, challenges and measures to be taken during the pandemic.

USEFUL RESOURCES:

- [OHCHR, COVID-19 and the rights of persons with disabilities: Guidance](#)
- [Special Rapporteur on the right of persons with disabilities, Covid-19: Who is protecting the people with disabilities? – UN rights expert](#)
- [International Disability Alliance, Towards a disability-inclusive Covid19 response: 10 recommendations from the International Disability Alliance](#)

ENFORCING LOCKDOWN AND QUARANTINE MEASURES HUMANELY

Police and other law enforcement officials, tasked with enforcing lockdowns, quarantine measures, curfews and other protective measures, including size of gatherings, social distancing or mask wearing, have been confronted by many challenges, including how best to carry out this work humanely, while still enforcing the law and order and keeping themselves protected from the virus. They play a crucial role in contributing to managing the pandemic and promoting safe communities.

Positively, government spokespersons, health officials and police services around the world have enhanced their use of online communication and social media messaging to issue Covid-19-related advice, reply to public queries, tackle misinformation, and help the community understand and comply with public health restrictions. Such active communication has contributed to building and keeping public trust in public authorities and has supported community-oriented policing and cooperation. As tensions and frustrations rise, including a number of sizable protests against Covid-19 measures, and as the pandemic becomes prolonged, such confrontations are expected to only increase. Existing international guidance remains relevant, such that any force must comply with principles of non-discrimination and be necessary, proportionate and in pursuance of a legitimate aim. Covid-19 has seen States reviewing existing training curricula for police and other law enforcement agencies, as well as existing rules, methods and practices relating to the use of force and firearms. De-escalation and understanding have proven key skill sets.

USEFUL RESOURCES:

- [Special Rapporteur on extrajudicial, summary or arbitrary executions, Human Rights Dispatch Number 1 – Police and military use of force in a state of emergency](#)
- [INTERPOL, Covid-19 Pandemic – Guidelines for Law Enforcement](#)
- [Commonwealth Human Rights Initiative, Respecting human rights while enforcing lockdown: Guidelines for Police](#)

SPECIAL CARE FOR VICTIMS OF TORTURE



Victims of torture are at risk of re-traumatisation during the Covid-19 pandemic owing to various measures such as the imposition of confinement/lockdown, medical quarantine and self-isolation measures and the associated lack of social interaction, which can deteriorate an already fragile mental state. Even in times of public emergency, States are mandated to provide redress and as full rehabilitation as possible to torture survivors. Psychosocial support for victims needs to continue during the pandemic and implemented via online methods to ensure regular contact with caregivers in view of limitations to face-to-face meetings. Non-governmental partners and States have undertaken a range of actions to bolster suicide prevention hotlines and providing medical advice and counselling by phone or internet, while some governments and other donors have released emergency funds to frontline and grassroots service providers.

“Torture victims are burdened with physical, social, economic and mental health problems. They may also lack the living conditions that allow them to guard against the spread of the virus.”

Chair of the Board of Trustees of the UN Voluntary Fund for Victims of Torture, Dr. Vivienne Nathanson

INDEPENDENT OVERSIGHT AND MONITORING



Monitoring places of deprivation of liberty by independent oversight bodies is one of the key safeguards against torture and ill-treatment and required by States parties to the Optional Protocol to the Convention against Torture (OPCAT). The Subcommittee on Prevention of Torture (SPT) has issued useful advice to National Preventive Mechanisms (NPMs) so they can continue to fulfil their prevention mandate with minimal need for social contact. Good practices allowing for opportunities for such engagement include, among others: promoting electronic means of communication with persons deprived of their liberty; establishing NPM hotlines to report complaints; and enhancing cooperation and communication with the families and lawyers of persons deprived of liberty and civil society organisations working with persons deprived of liberty.

USEFUL RESOURCES:

- [Convention against Torture Initiative, UNCAT Implementation Tool on Providing rehabilitation to victims of torture and other ill-treatment](#)
- [Centre for Victims of Torture, Mental Health Covid-19 Resources \(multiple languages\)](#)

USEFUL RESOURCES:

- [SPT, Advice to States Parties and National Preventive Mechanisms relating to the coronavirus disease \(COVID-19\) pandemic](#)
- [SPT, Advice on compulsory quarantine for Coronavirus-COVID-19](#)
- [APT, Practical Guidance on monitoring places of detention in times of Covid-19](#)