



THEMATIC BRIEFING REPORT

**EXTRA-CUSTODIAL USE OF FORCE
AMOUNTING TO TORTURE
AND OTHER ILL-TREATMENT**

ABOUT THE OMCT

The OMCT works with around 200 member organisations which constitute its SOS-Torture Network, to end torture, fight impunity and protect human rights defenders worldwide.

Together, we make up the largest global group actively standing up to torture in more than 90 countries.

Helping local voices be heard, we support our vital partners in the field and provide direct assistance to victims.

Our international secretariat is based in Geneva, with offices in Brussels and Tunis.

INTRODUCTION

1. On 28 January 2021, the World Organisation Against Torture (OMCT) organised a two-hour virtual Thematic Briefing with the UN Committee Against Torture (hereinafter referred to as the Committee) on extra-custodial use of force through the lens of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment (CIDTP). The Briefing, conducted in a panel-dialogue style under the Chatham House Rule, provided a space for discussion among Committee members, representatives of international human rights bodies and courts, lawyers, academics and civil society representatives. There were two panels, each with four presenters introducing the following two themes: “The international normative framework and jurisprudence on extra-custodial use of force: What are the challenges and recent developments?” and “Tackling excessive use of force, discrimination and securitization: identifying best practices”. Moreover, two country cases were presented on: “the role and achievements of civil society organisations in the monitoring and protection from law enforcement abuses in Colombia” and “the importance of police reforms and independent investigative bodies in Nigeria” (see Agenda). A concept note was provided to inform the discussion.

2. Events in recent years have shown, more than ever, that torture is not just inflicted behind walls but in bright daylight. The world is witnessing, from Chile to Hongkong to Belarus, violent repression of protest movements by law enforcement officials¹ in contravention of the absolute prohibition of torture and other ill-treatment. Repressive policing practices go hand in hand with an increasing diversity of crowd control weapons, including in some instances former military grade weaponry², resulting in severe health consequences. In parallel, civilian police forces around the globe have been on a worrisome militarization trend.

3. In the current Covid-19 context, the enforcement of health-related measures has further exacerbated the violence by law-enforcement officials to alarming levels. Situations of land disputes and forced evictions³ as well as irregular migration and border control contexts are among other extra-custodial settings where abuse of the use of force frequently takes place. Widespread discrimination against people

1. “The term ‘law enforcement officials’ includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention. In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.” (UN General Assembly, *Code of conduct for law enforcement officials* (A/RES/34/169), 5 February 1980, art. 1).

2. OSCE/ODIHR and Venice Commission, *Guidelines on Freedom of Peaceful Assembly* (3rd Edition), 2019, para. 213.

3. “The term ‘Forced evictions’ [...] is defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights.” (UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 7: The right to adequate housing* (Art.11.1): *forced evictions* (E/1998/22), 20 May 1997, para. 3.

of African descent and other racial and ethnic minorities and the marginalisation of underprivileged people are among the root causes of law enforcement abuses.

4. At the same time, human rights entities have made significant efforts to set normative standards and principles to limit the use of force, through a range of instruments. Among these instruments it is worth highlighting: the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment “Istanbul Protocol” (upcoming), of General Comment 36 on the Right to Life (2019). Other developments include General Comment Number 37 on the Right of Peaceful Assembly (2020), The Berkeley Protocol on Digital Open-Source Investigations (2020), the United Nations Guidance on Less-Lethal Weapons in Law Enforcement (2020), Thematic Reports on the protection of the right to life during law enforcement (2014)⁴ and on Extra Custodial Use of Force (2017)⁵, the joint report on The Proper Management of Assemblies⁶, reports by regional bodies⁷, decisions on individual communications⁸, concluding observations by UN Treaty Bodies⁹ and jurisprudence by regional human rights tribunals¹⁰.

5. Against the backdrop of the discrepancy or gap between existing patterns of abuse of force, including the misuse of lethal and less-lethal weapons, on the one hand, and international and domestic legal frameworks, on the other, the Committee and the participants examined together how the Committee can strengthen its monitoring, interpretation and protection role when addressing this form of torture and other CIDTP.

6. This Briefing Report is structured around four main topics discussed by the participants: I. The scope and limits of the principles of the use of force; II. The policing of assemblies and risks of less-lethal weapons; III. Applying the anti-torture framework on the use of force; and IV. Key developments in the work of the Committee in addressing extra-custodial use of force. The report concludes with a set of key recommendations addressing current gaps and opportunities.

7. In addition to discussions during the Thematic Briefing, this report has been informed by a desk review of secondary sources, including the work of the Committee, other international bodies and instruments, country specific reports on the use of force drafted by the OMCT over the past years, and input from the SOS-Torture Regional Litigators’ Groups.

8. For the purpose of this report, extra-custodial use of force refers to the force used by law enforcement officials on individuals who are not deprived of their liberty. Deprivation of liberty, as defined by the United Nations Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, is “any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority”¹¹. As stated by the UN Working Group on Arbitrary Detention, “there are a number of different places which an individual is not free to leave at will and which raise a question of de facto deprivation of liberty”¹².

4. UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, 1 April 2014, A/HRC/26/36.

5. UN General Assembly, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, 20 July 2017, A/72/178.

6. UN Human Rights Council, *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions*, 4 February 2016, A/HRC/31/66.

7. OSCE/ODIHR and Venice Commission, *Guidelines on Freedom of Peaceful Assembly* (3rd Edition), 2019, & Inter-American Commission on Human Rights, *Annual Report 2015, Chapter IV.A, The Use of Force*, March 2016 & African Commission on Human and Peoples’ Rights, *Guidelines on Freedom of Assembly*, May 2017.

8. UN Committee against Torture, Comms. No. 161/2000, No. 261/2005 and No. 368/2008.

9. UN Committee against Torture: Ukraine (CAT/C/UKR/CO/6) 2014, Burundi (CAT/C/BDI/CO/2) 2014, Spain (CAT/C/ESP/CO/6) 2015, China (CAT/C/CHN/CO/5) 2015, Armenia (CAT/C/ARM/CO/4) 2016, Peru (CAT/C/PER/CO/7) 2018, Benin (CAT/C/BEN/CO/3) 2019.

10. See, for example, European Court of Human Rights, *İzci v. Turkey*, 2013.

11. UN General Assembly, *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*, 18 December 2002, A/RES/57/199, article 4(2).

12. Human Rights Council, *Report of the Working Group on Arbitrary Detention*, 19 July 2017, A/HRC/36/37, para. 52.

I. SCOPE AND LIMITS OF THE PRINCIPLES ON THE USE OF FORCE

9. When safeguarding security and public order, “the police in any society will at some point be confronted with a situation where they have to decide whether to use force and, if so, how much”¹³. After all, “the State’s power is not unlimited so as to attain its aims independent of the seriousness of certain actions and the culpability of their perpetrators”¹⁴. Whereas there is no internationally agreed upon definition of the term “use of force”, the UN Guidance on Less-Lethal Weapons defines it as “the use of physical means to coerce or influence behaviour or to damage property”¹⁵. Also, recent domestic legislative initiatives have endeavoured to define the term, ranging from very abstract and general concepts and/or the use of basic international principles to provisions developed around concrete examples of methods and weapons.

10. The diversity of approaches in defining the use of force demonstrates the complexity of a term that, in practice, alludes to at least four dimensions of law enforcement action: **1.** The principles that should govern law enforcement aimed at serving the community and protecting all persons against illicit acts¹⁶; **2.** The application of these principles in the specific circumstances taken into consideration a rapidly evolving range of lethal and less-lethal weapons, equipment and techniques for the deployment of force; **3.** The consequences of such interaction on the physical and mental integrity of individuals to whom the action is directed as well as on causalities; and **4.** The impact of such consequences on the effective enjoyment of rights, including the right of peaceful assembly or freedom of expression, by a wider community.

13. UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 1 April 2014, A/HRC/26/36, para. 46.

14. I/A Court HR, Case of Cruz Sánchez *et al. v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of April 17, 2015. Series C No. 292, para. 262. See also: IACHR, Report on Terrorism and Human Rights, October 22, 2002, para. 89.

15. Office of the United Nations High Commissioner for Human Rights, *Guidance on Less Lethal Weapons in Law Enforcement*, 2020, p. 46.

16. UN General Assembly, *Code of conduct for law enforcement officials*, 5 February 1980, A/RES/34/169, art. 1.

11. Participants discussed the key general international principles on the use of force by law enforcement officials, namely: Legality; Precaution; Necessity; Proportionality; Non-discrimination and Accountability¹⁷, which were articulated in two main documents: The Code of Conduct for Law Enforcement Officials (1979), and The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990). Both documents, regarded today as international standards¹⁸, highlight the role of law enforcement officials in protecting and respecting human dignity and human rights, in particular the prohibition of torture or other cruel, inhuman or degrading treatment or punishment¹⁹ and the rights to life, liberty and security²⁰.

12. The Basic Principles connect the principle of proportionality to the obligation of minimizing damage and injury, and respect and preserve human life.²¹ The elaboration of the scope of the Principles, in particular by the mandate of the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, further unpacked the principles in light of the right to life and concluded “that only the protection of life can meet the proportionality requirement where lethal force is used intentionally, and the protection of life can be the only legitimate objective for the use of such force”²². Most recently, the UN Human Rights Committee listed adherence to the Principles as a way to measure whether a deprivation of life is arbitrary or not.²³

13. In 2019, the United Nations Guidance on Less-lethal Weapons in Law Enforcement compiled the principles outlined by the two previous documents while expanding on their scope to regulate the use of less-lethal weapons by law enforcement officials. By presenting them together and elaborating on the often overlooked principles of non-discrimination and accountability, the document makes an important contribution to the understanding of the principles as interconnected, interdependent and equally relevant for guiding the use of force.

14. The mentioned principles are explained below in more detail:

According to the principle of **legality**²⁴: the use of force shall be regulated by domestic law, in accordance with international law, through laws and regulations which are clear and accessible to the general public.

The **precaution** principle focuses on planning and preventing the use of force. It is of particular importance in the context of the facilitation of assemblies, where it requires protocols and procedures in place to de-escalate tensions²⁵ and to provide adequate warnings²⁶ prior to the deployment of force. Additionally, it covers the importance of minimising the consequences of resorting to it by assessing particular vulnerabilities and by understanding the effects of specific less-lethal weapons. This principle addresses the relevance of training and adequate equipment.²⁷

The principle of **necessity** provides that law enforcement officials may use force only when no reasonable alternative appears available, and it is therefore strictly necessary to achieve a lawful and legitimate

17. “Any use of force by law enforcement officials shall comply with the principles of legality, precaution, necessity, proportionality, non-discrimination and accountability.” See: Office of the United Nations High Commissioner for Human Rights, *Guidance on Less Lethal Weapons in Law Enforcement*, 2020, para. 2.3.

18. United Nations Committee on Human Rights, *General Comment No. 36*, 2019, CCPR/C/GC/36, para. 13.

19. UN General Assembly, *Code of conduct for law enforcement officials*, 5 February 1980, A/RES/34/169, art. 15.

20. Preamble of the *United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, 1990.

21. *United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, 1990, Principle 5(b).

22. UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, 1 April 2014, A/HRC/26/36, para. 72.

23. United Nations Human Rights Committee, *General Comment No. 36*, 2019, CCPR/C/GC/36.

24. Office of the United Nations High Commissioner for Human Rights, *Guidance on Less Lethal Weapons in Law Enforcement*, 2020, paras. 2.4 and 2.5.

25. OSCE/ODIHR and Venice Commission, *Guidelines on Freedom of Peaceful Assembly* (3rd Edition), 2019, para. 88.

26. OSCE/ODIHR and Venice Commission, *Guidelines on Freedom of Peaceful Assembly* (3rd Edition), 2019, para. 187.

27. Office of the United Nations High Commissioner for Human Rights, *Guidance on Less Lethal Weapons in Law Enforcement*, 2020, paras. 2.6 and 2.7.

law enforcement objective. When the use of force is reasonably necessary²⁸ only the minimum force required to achieve that objective shall be used and must cease as soon as it is no longer necessary.²⁹

Proportionality³⁰ means that law enforcement officials should consider both the type and the level of the force to be used, when necessary, and the harm that may reasonably be expected to result from it. Consequently, the use of force shall be proportionate to the threat posed or to the offence. The Guidance reiterates that “[i]n no case should this provision be interpreted to authorize the use of force used which is disproportionate to the legitimate objective to be achieved”³¹.

The principle of **non-discrimination** is directed at ensuring equal treatment of persons subject to the use of force while exercising a heightened level of care and precaution with respect to individuals “who are known or are likely to be especially vulnerable to the effects of a particular weapon”³².

Finally, the principle of **accountability** recalls the State’s obligation to ensure that law enforcement officials, including those who gave the orders, are individually held accountable for their decisions and actions regarding the use force. Moreover, the principle covers the State’s obligation to investigate all alleged or suspected violations of human rights, including torture or other forms of cruel, inhuman or degrading treatment or punishment.³³

15. The Guidance on Less-lethal Weapons in Law Enforcement explicitly underscores that international human rights laws applies to the use of force, particularly laws “pertaining to the rights to life, to freedom from torture or other forms of cruel, inhuman or degrading treatment or punishment, and to security of person, and to the right of peaceful assembly”³⁴. Furthermore, it states that breaches of the principles of necessity and/or proportionality, which result in unnecessary or excessive use of force, may amount to torture or ill-treatment.³⁵ This statement echoes decisions by the European Court of Human Rights in relation to the use of force in non-custodial settings.³⁶

16. The Guidance further elaborates on how the inappropriate use of less-lethal weapons can lead to breaches of the absolute prohibition of torture and other ill-treatment³⁷, and provides a non-exhaustive list of weapons and equipment that is “inherently degrading or unnecessarily painful”³⁸ and whose use would therefore contravene international human rights standards.

28. “Given the irreversible nature of the possible consequences of the use of force, the IACHR conceives of it as “a last resort that, qualitatively and quantitatively limited, is intended to prevent a more serious occurrence than that caused by the state’s reaction.” Within that framework, characterized by **exceptionality**, both the Commission and the I/A Court HR have agreed that for the use of force to be justified one must satisfy the principles of legality, **absolute necessity**, and proportionality.” See: I/A Commission on Human Rights, *Annual Report 2015, Chapter IV.A, The Use of Force*, March 2016, para. 7.

29. Office of the United Nations High Commissioner for Human Rights, *Guidance on Less Lethal Weapons in Law Enforcement*, 2020, paras. 2.8 and 2.9.

30. Ibid. para. 2.10.

31. ³¹ UN General Assembly, *Code of conduct for law enforcement officials*, 5 February 1980, A/RES/34/169, Commentary (b) on Article 3.

32. Office of the United Nations High Commissioner for Human Rights, *Guidance on Less Lethal Weapons in Law Enforcement*, 2020, para. 2.11.

33. Ibid. paras. 3.1 to 3.13.

34. Office of the United Nations High Commissioner for Human Rights, *Guidance on Less Lethal Weapons in Law Enforcement*, 2020, para. 1.4.

35. Ibid. para. 2.9.

36. European Court of Human Rights, *Balçık and Others v. Turkey*, 2007; European Court of Human Rights; *Süleyman Çelebi and Others v. Turkey*, 2016. European Court of Human Rights, *Kılıcı v. Turkey*, 2018.

37. Office of the United Nations High Commissioner for Human Rights, *Guidance on Less Lethal Weapons in Law Enforcement*, 2020, para. 7.1.5.

38. Ibid. paras. 5.1 and 5.2.

II. THE POLICING OF ASSEMBLIES AND RISKS OF LESS-LETHAL WEAPONS

17. Between 16 March 2020 and 24 January 2021, the Omega Research Foundation mapped over 160 cases of alleged excessive use of force in the context of enforcing pandemic related measures or in response to protests arising from coronavirus-related concerns. Firearms, hand-held kinetic impact weapons, beatings and chemical irritants were used around the world more than 30 times each. Omega found that the use of force in these scenarios disproportionately affected people who were already experiencing intersecting discrimination. These findings align with the assessment of the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Killings with regards to states of emergency in the context of the pandemic. She noted that security measures “are increasing the vulnerability to police violence of particular groups and individuals, including poor people forced to go out to make a living, homeless men, women and children; women and children in situations of domestic violence; migrants and refugees; slum dwellers and all those who live a “hand to mouth” existence for whom daily economic activity is essential for daily survival”³⁹.

18. It is also worth noting that, as documented by the Omega Research Foundation, the use of chemical irritants, including tear gas, in the midst of the ongoing Covid-19 pandemic, could increase the risk of infection given that irritants diminish the layers of mucus that protect the body from viruses, which may exacerbate respiratory problems and cause people to cough, sneeze and rub their eyes and face and to remove protective face masks⁴⁰.

39. UN Special Rapporteur on extrajudicial, arbitrary or summary executions, #Covid19 Human Rights Dispatch – Number 1.

40. Omega Research Foundation, *Position Paper: Lowering the Risk, Curtailing the Use of Chemical Irritants during the Covid-19 Pandemic*, 2020, p.2.

19. In the framework of the Black Lives Matter protests in the United States, between 26 May and 5 June 2020, Amnesty International documented 125 separate incidents of police violence against protesters in 40 states and the District of Columbia, concluding that “the use of lethal force against people of colour in the USA should be understood as part of the wider pattern of racially discriminatory treatment by law enforcement officers, including unjustified stops and searches, excessive use of force and racial profiling”⁴¹. The use of potentially deadly restraint techniques and the unnecessary and excessive use of specific weapons, such as chemical irritants and kinetic impact projectiles resulted in serious injuries. Amnesty’s report denounces the shocking failure to limit the use of force to situations where it is necessary and proportionate to an actual threat and details how protesters, journalists, legal observers and street medics were met with police violence.⁴²

20. The UN Guidance on less-lethal weapons highlights the specific risks associated with each type of less-lethal weapons listed. In the case of chemical irritants aimed at dispersing public gatherings that turn violent, the document highlights that their use should be a last resort, with law enforcement agencies first trying to identify and isolate any violent participants.⁴³ The Guidance also stipulates that due consideration should be given to non-violent participants and bystanders, as well as to the risk of causing a stampede.⁴⁴ Moreover, as stated in previous decisions of the European Court of Human Rights, these can have serious short and long-term effects on people’s health⁴⁵.

21. The UN Guidance warns that the effects of chemical irritants dispersed at a distance (tear gas) can be indiscriminate as a result of external factors like the direction of the wind. An indiscriminate spread of chemical irritants prevents law enforcement officials from protecting vulnerable individuals⁴⁶ from its harmful effects, as well as from guaranteeing the enjoyment of the individual right to peaceful assembly⁴⁷.

KEY GUIDELINES TO PRESERVE THE PERSONAL INTEGRITY DURING ASSEMBLIES

22. The right of peaceful assembly protects *peaceful* assemblies⁴⁸ – not merely *lawful* assemblies. This means that the authorities cannot rely on the purported unlawfulness of a peaceful demonstration

41. Amnesty International, *USA the World is Watching: Mass violations by U.S police of Black Lives Matter protests*, 2020, p.5. See also OMCT statement, 5/06/2020, available here: <https://www.omct.org/en/resources/statements/was-george-floyd-tortured-to-death-urgent-measures-are-needed-to-prevent-lasting-damage-to-human-rights-and-democracy> and joint statement, 9/06/2020: <https://www.omct.org/en/resources/statements/open-letter-to-un-human-rights-council-to-convene-a-special-session-on-police-violence-in-the-usa-1>

42. Amnesty International, *USA the World is Watching: Mass violations by U.S police of Black Lives Matter protests*, 2020.

43. “Tear gas affects people differently, with children, pregnant women and the elderly particularly susceptible to its effects.” See: Amnesty International, *Tear Gas: An Investigation*, available at: <https://teargas.amnesty.org/#how-it-works>.

44. Office of the United Nations High Commissioner for Human Rights, *Guidance on Less Lethal Weapons in Law Enforcement*, 2020, paras. 6.33 and 6.34.

45. European Court of Human Rights, *Abdullah Yaşa and others v. Turkey*, 2013, para. 30 : “[t]he use of chemical irritants can temporarily cause breathing difficulties, nausea, vomiting, irritation of the respiratory tract, tear ducts and eyes, spasms, chest pains, dermatitis or allergies. In large doses, it can cause necrosis of the tissue in the respiratory tract and the digestive system, pulmonary oedema and internal bleeding”. DONT KNOW HOW TO REMOVE YELLOW (HSM)

46. Law enforcement officials must take appropriate and heightened precautionary measures to protect vulnerable groups. See: Special Rapporteur on extrajudicial, arbitrary or summary executions. (UN Special Rapporteur on extrajudicial, arbitrary or summary executions, #Covid19 Human Rights Dispatch – Number 1)

47. See Assembly, *Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies*, 4 February 2016, A/HRC/31/66, para. 4.

48. “Such assemblies may take many forms, including demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs.” United Nations Human Rights Committee, *General Comment 37*, 2020, [CCPR/C/GC/37](https://www.unhcr.org/refugees/article/43c4e624.html), para.6. “To avert the risk of a restrictive interpretation, the European Court has refrained from formulating the notion of an assembly, which it regards as an autonomous concept, or exhaustively listing the criteria which would define it. It has specified in relevant cases that the right to freedom of assembly covered both private meetings and meetings in public places, whether static or in the form of a procession; in addition, it can be exercised by individual participants and by the persons organising the gathering (see *Kudrevičius and Others* with further references, and *Lashmankin and Others*). It has also emphasised that Article 11 of the Convention only protects the right to “peaceful assembly”, a notion which does not cover gatherings where the organisers and participants have violent intentions. The guarantees of Article 11 therefore apply to all gatherings except those where the organisers and participants have such intentions, incite violence or otherwise reject the foundations of a democratic society (see *Kudrevičius and Others* with further references).” (European Court of Human Rights, *Navalnyy v Russia*, 2018).

to sidestep or evade their obligations⁴⁹. Participants in a peaceful assembly shall be respected and protected⁵⁰, including be free from fear⁵¹. The scope of protection includes actions of counter-protesters.⁵² No assembly should be considered unprotected.⁵³

23. While the right of peaceful assembly extends only to ‘peaceful’ assemblies, the prohibition of torture and other forms of ill-treatment is applicable even when assemblies are not peaceful. This was a point emphasized in General Comment No. 37⁵⁴ adopted by the Human Rights Committee and by the Special Rapporteur in his 2017 report, recalling that individuals cannot lose their protection in any circumstances **‘including in the context of violent riots’**⁵⁵.

24. Failing to facilitate and protect assemblies may lead to violations of the right to be free from torture and other ill-treatment, the right to security and the right to life. Firearms are not an appropriate tool for the policing of assemblies and must never be used simply to disperse an assembly.⁵⁶ Chemical irritants⁵⁷ and other less-lethal weapons in the context of assemblies should not be used in an indiscriminate manner⁵⁸. Their widespread use or misuse can result in significant injuries, disability or death.⁵⁹

25. The State bears a responsibility to provide for first aid and access to emergency medical services at assemblies.⁶⁰ This is particularly important in contexts where there is a potential for disorder or violence and the police are preparing to deploy with a range of crowd control weapons. Experts at the Thematic Briefing emphasized that law enforcement officials should neither interfere with nor intimidate health personnel, who should have sufficient protection and resources. Assembly monitors, human rights defenders and journalists should not be prevented from observing and recording the policing of assemblies, nor should they be intimidated or sanctioned⁶¹.

49. General Assembly, *Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies*, 4 February 2016, A/HRC/31/66, para. 9.

50. UN Human Rights Committee General Comment No. 37, 2019, para 30.

51. “everyone must be able to express their grievances or aspirations in a peaceful manner, including through public protests, without fear of reprisals or of being intimidated, harassed, injured, sexually assaulted, beaten, arbitrarily arrested and detained, tortured, killed or subjected to enforced disappearance” See: Preamble of the UN Human Rights Council, *Resolution on the promotion and protection of human rights in the context of peaceful protests*, 11 April 2014, A/HRC/RES/25/38.

52. European Court of Human Rights, *Identoba and Others v Georgia*, 12 May 2015.

53. General Assembly, *Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies*, 4 February 2016, A/HRC/31/66, para. 9.

54. “Where gatherings do not fall within the scope of “peaceful assemblies”, for example if they become violent, they are no longer protected by article 21, but the individuals involved retain their other rights under the Covenant, including those listed above, subject to the applicable restrictions.” See: UN Human Rights Committee General Comment No. 37, 2019, para. 10.

55. UN Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, 20 July 2017, A/72/178, para. 15.

56. UN Human Rights Committee General Comment No. 37, 2019, para. 98.

57. “The availability of tear gas can mean police avoid having to resort to the use of more harmful weapons. But in practice police forces use tear gas in ways that it was never intended to be used, often in large quantities against largely peaceful protesters or by firing projectiles directly at people.” See: Amnesty International, *Tear Gas: An Investigation*, available at: <https://teargas.amnesty.org/#how-it-works>.

58. Agents who may legitimately make use of force should “apply a standard of differentiated use of force, determining the level of cooperation, resistance, or aggressiveness of the person involved and, on this basis, use tactics of negotiation, control or use of force, as appropriate” See: I/A Court HR: *Case of Landaeta Mejías Brothers et al. v. Venezuela*. Judgment of August 27, 2014. Preliminary Objections, Merits, Reparations and Costs. Series C No. 281, para. 134; and *Case of Nadege Dorzema et al. v. Dominican Republic*. Merits, Reparations and Costs. Judgment of October 24, 2012 Series C No. 251, para. 85.

59. See: R.J. Haar and V. Iacopino, *Lethal in Disguise: The Health Consequences of Crowd-Control Weapons*. Network of Civil Liberties Organizations and Physicians for Human Rights, 2016.

60. OSCE/ODIHR and Venice Commission, *Guidelines on Freedom of Peaceful Assembly* (3rd Edition), 2019, para. 138; *Balçık and Others v. Turkey*, 29 November 2007, para. 49.

61. OSCE/ODIHR and Venice Commission, *Guidelines on Freedom of Peaceful Assembly* (3rd Edition), 2019, paras. 213 and 180.

26. As documented by Physicians for Human Rights and the International Network of Civil Liberties Organizations, the pain and incapacitation inflicted through the use of less-lethal weapons such as kinetic impact projectiles, water cannons, stun grenades and acoustic weapons typically do not result in the orderly dispersal of protesters. On the contrary, their use “for crowd dispersal is often counterproductive, as they cause confusion and panic resulting in additional injuries as well as an escalation of violence”⁶².

URGENT NEED TO STEP UP THE PROTECTION OF THOSE IN A SITUATION OF HEIGHTENED VULNERABILITY

27. Poor and underprivileged people are disproportionately exposed and affected by abusive policing amounting to torture and other ill-treatment. The COVID-19 pandemic has brought to the fore the protection gaps and the vulnerabilities of marginalized groups.

28. In the Philippines children were reportedly locked in a coffin and youths in a dog cage. In Argentina, a video has been authenticated in which a police officer hits a homeless person because he was on the streets during confinement. Persons deprived of liberty live in many countries around the world in overcrowded, unhygienic conditions. Personal distancing is hardly possible leading to high infection rates.

29. Migrants and refugees are stuck in overcrowded housing, camps, or detained in centers, without appropriate health care, others are left on the street exposed to the virus and targeted with inhuman and degrading treatment. Women face worldwide an alarming increase of domestic violence and face difficulties in accessing judicial, police and health services.

30. We are witnessing how governments have increased harassment and arrest of human rights defenders, opposition activists and independent journalists. In the name of protection against COVID-19, civil society space is further closing.

31. Against this backdrop, the anti-torture international legal framework and international protection mechanisms are key to foster the adoption of more robust measures to curb entrenched discriminatory patterns and attitudes, in particular within the security and justice apparatus, triggering violations of the right to be free from torture and other ill-treatment.

62. Ibid.

III. APPLYING THE ANTI-TORTURE FRAMEWORK TO THE USE OF FORCE

32. The former UN Special Rapporteur on Torture, Professor Manfred Nowak, in 2005⁶³ and 2010⁶⁴ examined the extra-custodial use of force from the perspective of the absolute prohibition of torture and stated that “if the use of force is not necessary and, in the particular circumstances of the case, disproportional to the purpose achieved, it amounts to cruel or inhuman treatment”⁶⁵. Further elaborating on the extra-custodial scope of the prohibition, the UN Special Rapporteur, Professor Nils Melzer, in his 2017 report concluded that a “failure to take all precautions practically possible in the planning⁶⁶, preparation and conduct of law enforcement operations increases the risk of unnecessary or disproportionate force being used and, in principle, breaches the State’s obligations to prevent CIDTP”.⁶⁷

33. In relation to possible breaches of article 1 of the UN Convention Against Torture in extra-custodial settings, in the mentioned report, the UN Special Rapporteur on torture states that any intentional and purposeful extra-custodial use of force on a powerless person will always amount to an aggravated form of CIDTP⁶⁸.

63. UN Commission on Human Rights, *Report of the Special Rapporteur on the Question of Torture, Manfred Nowak*, 23 December 2005, E/CN.4/2006/6.

64. UN Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak*, 9 February 2010, A/HRC/13/39.

65. *Ibid.*, para. 60.

66. The planning of operations entails understanding the harm that techniques, weapons and related equipment can cause. (European Court of Human Rights, *Giuliani and Gaggio v. Italy*, 24 March 2011).

67. UN General Assembly, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, 20 July 2017, A/72/178, para. 46.

68. UN General Assembly, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, 20 July 2017, A/72/178, para. 47.

34. It is worth highlighting the abundant jurisprudence of the European Court of Human Rights that has examined violations of article 3 of the European Convention on Human Rights (prohibition of torture and inhuman or degrading treatment) in the context of demonstrations. The Court has taken into consideration the level of severity of the injuries sustained (“minimum level of severity”⁶⁹); the State’s arguments to explain or justify if the use of force was rendered strictly necessary and proportionate to the aim sought to be achieved; as well as the use of less lethal weapons, including tear gas and tear gas grenades, in particular when fired directly at demonstrators⁷⁰ or when sprayed against peaceful protesters or individuals apprehended⁷¹. The Court has also stressed the importance of the existence of appropriate legal frameworks⁷² and safeguards surrounding the proper use of force, including specific crowd control weapons and equipment⁷³.

35. Regarding the purpose element of the definition of torture, while obtaining information or a confession might entail having custody of the person, intimidation, punishment and discrimination are common motives in extra-custodial settings. About the latter, the Committee has “emphasized that the discriminatory use of mental or physical violence or abuse is an important factor in determining whether an act constitutes torture”⁷⁴.

36. Unlawful (including due to direct or indirect discrimination⁷⁵), excessive and/or disproportionate use of force can cause physical or mental pain or suffering, including with irreversible implications, and death. Moderate and severe injuries⁷⁶, including permanent blindness⁷⁷, may result from the violation of the international principles on the use of force, the misuse of assigned weapons⁷⁸, related equipment such as shields or restraining devices or of weaponless or empty-hand techniques (including, for example, pain compliance or balance displacement techniques)⁷⁹. They can also be the result of the use of weapons, ammunition or related equipment that cause “unwarranted injury or present an unwarranted risk”⁸⁰.

37. Despite the indivisible, interdependent and interrelated character of the obligation to prevent torture and other cruel, inhuman or degrading treatment or punishment⁸¹ and the fact that subsequently measures that are required to prevent torture must be applied to prevent ill-treatment⁸², ill-treatment is not criminalized as extensively as torture at the domestic level. While the Committee has recommended on a few occasions the adoption of legal provisions to criminalize acts of cruel, inhuman and degrading treatment in national criminal codes⁸³, participants highlighted that the prosecution of ill-treatment in extra-custodial settings remains a significant challenge.⁸⁴

69. See European Court of Human Rights, *Gazioğlu and Others v. Turkey*, 17 May 2011, para. 40.

70. European Court of Human Rights, *Abdullah Yaşa and Others v. Turkey*, 16 July 2013.

71. European Court of Human Rights, *Ali Güneş v. Turkey*, 10 April 2012, *Izci v. Turkey*, 23 July 2013.

72. European Court of Human Rights, *Cestaro v. Italy*, 7 April 2015, *Abdullah Yaşa and Others v. Turkey*, 16 July 2013.

73. European Court of Human Rights, *Abdullah Yaşa and Others v. Turkey*, 16 July 2013.

74. UN Committee Against Torture, General Comment No. 2, 24 January 2008, CAT/C/GC/2, para. 20.

75. Committee on Economic, Social and Cultural Rights, General Comment No. 20, para. 10(a); Committee on the Elimination of Racial Discrimination, General Recommendation No. 32, para. 8.

76. Office of the United Nations High Commissioner for Human Rights, *Guidance on Less Lethal Weapons in Law Enforcement*, 2020, pp. 45-46.

77. In Chile, “more than 200 people have been victims of severe eye trauma, impairing their vision for life”, See: World Organisation Against Torture, *News Release: International Human Rights Observation Mission Courthouse of Justice Santiago*, 11 December 2019, and UN Office of the High Commissioner for Human Rights, *Press Release: UN Human Rights Office report on Chile crisis describes multiple police violations and calls for reform*, 13 December, 2019.

78. See, for example: European Court of Human Rights, *Abdullah Yaşa and Others v. Turkey*, 16 July 2013.

79. Royal Newfoundland Constabulary, *Use of Force Training Manual*. Available at: <https://www.ciddd.ca/documents/exhibits/P-0624.pdf>.

80. UN General Assembly, Code of conduct for law enforcement officials, 5 February 1980, A/RES/34/169, Principle 11 (c).

81. UN Committee Against Torture, General Comment No. 2, 24 January 2008, CAT/C/GC/2, para. 3.

82. UN Committee Against Torture, General Comment No. 2, 24 January 2008, CAT/C/GC/2, para 3.

83. See: Namibia (CAT/C/NAM/CO/2), 2017, para. 8 and Cyprus (CAT/C/CYP/CO/5), 2019, para. 9.

84. According to the UN Basic Principles “Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law”. See, United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990.

IV. KEY DEVELOPMENTS IN THE WORK OF THE UN COMMITTEE AGAINST TORTURE IN ADDRESSING THE USE OF FORCE

38. Over the years, the Committee has dealt with cases and patterns of extra-custodial use of force in the framework of the individual communications procedure under article 22 of the Convention. Its first landmark case in this regard was *Dzemajl et al. v. Yugoslavia*⁸⁵, where the Committee found that, in the framework of an arson attack and eviction, the burning and destruction of houses by civilians with the acquiescence of the police constituted acts of cruel, inhuman or degrading treatment or punishment, under the terms of Article 16 of the Convention alone⁸⁶, and that the nature of these acts is further aggravated by the fact that the acts were committed with a significant level of racial motivation. In *Sonko v. Spain*⁸⁷ the Committee considered that the physical and mental suffering prior to the death of a migrant, who drowned after having been thrown into the sea by the Spanish Civil Guard, exacerbated by his particular vulnerability as a migrant, amounted to cruel, inhuman or degrading treatment or punishment.⁸⁸ In its concluding observations, the Committee regularly urges States under its review

85. UN Committee Against Torture, Comm. No. 161/2000.

86. See also: UN Committee against Torture, *Osmani v. Serbia*, Comm. No. 261/2005.

87. UN Committee against Torture, Comm. No. 368/2008.

88. World Organisation Against Torture, Concept Note: Thematic briefing on extra-custodial use of force amounting to torture and other ill-treatment, January 2020.

to investigate allegations of excessive use of force, in the context of protests⁸⁹, evictions⁹⁰, or racially motivated violence⁹¹.

39. In monitoring States' observance of the principles of legality and precaution, the Committee has recommended States to "revise laws and policies regarding public order policing and the use of force, including lethal force, by law enforcement officials in order to ensure that all policing laws, policies and guidelines are consistent with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials"⁹²; regulate the use of firearms⁹³, include regulations on the use of specific weapons, such as conducted energy weapons (tasers)⁹⁴ and pepper spray⁹⁵; adopt and review the crowd control procedures and tactics, particularly in the context of demonstrations, including the use of water cannons, tear gas, fire extinguishers, electrical discharge weapons (tasers), iron clubs, batons and shields, to ensure that they are not applied indiscriminately and excessively or against peaceful protestors and that they do not result in an escalation of tension⁹⁶; and provide systematic training to all law enforcement officers on the use of force, especially in the context of demonstrations, taking due account of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.⁹⁷

40. On several occasions, the Committee has expressed concern over the use of certain types of weapons, including firearms.⁹⁸ The Committee has recommended States to ensure that the use of weapons is strictly compliant with the principles of necessity, subsidiarity, proportionality, advance warning and precaution.⁹⁹ On electric shock weapons, the Committee has emphasized the need to ensure that a high threshold for their use is established and to prohibit their use on children and pregnant women.¹⁰⁰ The Committee has also recommended firmer regulations vis-à-vis law enforcement personnel authorized to use electric discharge weapons, as well as closely monitor each use.¹⁰¹ Regarding pepper spray dispensers, the Committee has called for the adoption of measures to restrict their use, especially in confined spaces, and to warn against their use on particularly vulnerable individuals, including persons with mental disabilities and individuals who have been brought under control.¹⁰²

41. The Committee has expressed concern over increased militarization of public security services and the prison system, and the proliferation of new security forces and agencies.¹⁰³

42. Regarding obligations under articles 12, 13 and 14 of the Convention, the Committee has stated that law enforcement officials involved in excessive use of force incidents ought to be brought to trial and, if found guilty, be punished in a manner that is proportionate to the gravity of their acts.¹⁰⁴ It has reminded States that they should pass legislation and enforce requirements for every officer on duty to wear visible identification, reinforcing that such measures help ensure individual accountability and protection against torture and other ill-treatment.¹⁰⁵ The Committee has criticized States for only

89. E.g. Ukraine, 2014, CAT/C/UKR/CO/6, Burundi, 2014, CAT/C/BDI/CO/2, Spain, 2015, CAT/C/ESP/CO/6, China, 2015, CAT/C/CHN/CO/5, Armenia, 2016, CAT/C/ARM/CO/4, Peru, 2018, CAT/C/PER/CO/7, Benin, 2019, CAT/C/BEN/CO/3.

90. Guatemala, 2018, CAT/C/GTM/CO/7, Paraguay, 2017, CAT/C/PRY/CO/7.

91. Portugal, 2019, CAT/C/PRT/CO/7.

92. South Africa, 2019, CAT/C/ZAF/CO/2.

93. Colombia, 2015, CAT/C/COL/CO/5.

94. Australia, 2014, CAT/C/AUS/CO/4-5.

95. Denmark, 2015, CAT/C/DNK/CO/6-7.

96. Greece, 2019, CAT/C/GRC/CO/7; Republic of Korea, 2017, CAT/C/KOR/CO/3-

97. Turkey, 2016, CAT/C/TUR/CO/4; Burundi, 2016, CAT/C/BDI/CO/2/Add.1; Honduras, 2016, CAT/C/HND/CO/2; and Armenia, 2016, CAT/C/ARM/CO/4.

98. Israel, 2016, CAT/C/ISR/CO/5.

99. UK, 2019, CAT/C/GBR/CO/6.

100. Finland, 2016, CAT/C/FIN/CO/7.

101. Australia, 2014, CAT/C/AUS/CO/4-5; United States, 2014, CAT/C/USA/CO/3-5; Finland, 2016, CAT/C/FIN/CO/7.

102. Denmark, 2015, CAT/C/DNK/CO/6-7.

103. Honduras, 2016, CAT/C/HND/CO/2; Guatemala, 2018, CAT/C/GTM/CO/7; and Mexico, 2019, CAT/C/MEX/CO/7.

104. Colombia, 2015, CAT/C/COL/CO/5.

105. Germany 2019, CAT/C/DEU/CO/6; Russian Federation, 2018, CAT/C/RUS/CO/6; Italy, 2017, CAT/C/ITA/CO/5-6.

conducting disciplinary proceedings with respect to police abuse.¹⁰⁶ The Committee has recommended States to clarify the organizational structure and chain of command within the security forces, considering the overlapping responsibilities and uncertainty over officers and subsequent accountability drawbacks.¹⁰⁷ The Committee has also noted that there should not be an institutional or hierarchical relationship between the investigative body and suspected perpetrators of such acts.¹⁰⁸

43. The Committee in its concluding observations has consistently expressed concerns regarding excessive use of force motivated by discrimination, including racist and xenophobic violence, especially against refugees, migrants and members of the Roma community¹⁰⁹, persons of African descent¹¹⁰, LGBTI persons¹¹¹, police brutality against members of indigenous peoples, e.g. Mapuche people in Chile¹¹², ill-treatment by police based on racial profiling and allegations of excessive use of force and other police abuse, in particular against persons belonging to certain racial and ethnic groups¹¹³.

44. The Committee has not yet addressed the role of new technologies in relation to extra-custodial settings¹¹⁴, while they can play an important role in preventing the use, and the illegitimate use of force. The installation of body cameras (bodycams) has shown positive effects in several countries and progressively been required by law. Research has detected the rationale that “videos don’t lie” enabled through bodycams increases police legitimacy. Further, they generate a higher self-surveillance on the part of police officers and strengthen the reliability of testimony and evidence to protect both suspects and state agents. Bodycams have also been positively evaluated by minorities generally targeted by racial profiling, generating a feeling of greater confidence in law enforcement.¹¹⁵ In addition, in-car cameras have also become an important tool for documenting police activities, providing credible evidence and preventing abuse. Another useful device are GPS trackers on police cars, patrol cars and prisoner transport wagons, which help keep track of movement, hinder transport-based torture and ill-treatment methods and support the investigation of abuses.

106. Switzerland, 2015, CAT/C/CHE/CO/7.

107. Burundi, 2016, CAT/C/BDI/CO/2/Add.1.

108. Colombia, 2015, CAT/C/COL/CO/5.

109. Greece, 2019, CAT/C/GRC/CO/7, para 41.

110. Bulgaria, 2020, CAT/C/BGR/QPR/7; Argentina, 2017, CAT/C/ARG/CO/5-6.

111. Argentina, 2017, CAT/C/ARG/CO/5-6; Peru, 2018, CAT/C/PER/CO/7.

112. Chile, 2018, CAT/C/CHL/CO/6, para. 22.

113. The Netherlands, 2018, CAT/C/NLD/CO/7, para. 44; Portugal, 2019, CAT/C/PRT/CO/7, para. 17; North Macedonia, 2015, CAT/C/MKD/CO/3; Slovakia, 2015, CAT/C/SVK/CO/3; Greece, 2019, CAT/C/GRC/CO/7.

114. The Committee has recommended that States adopt policies in this regard, including legislative reform in criminal law to provide for mandatory video recording of interrogations and strengthen efforts as well as to equip all places of deprivation of liberty with video recording devices, see: Ukraine, 2014, CAT/C/UKR/CO/6; Burundi, 2016, CAT/C/BDI/CO/2/Add.1.

115. Graham, *Videos Don't Lie: African Americans' Support for Body-Worn Cameras*, Criminal Justice Review, Volume 44, issue 32 May 2019.

CONCLUSIONS AND RECOMMENDATIONS

45. Extra-custodial forms of torture and other ill-treatment by law enforcement officials are a day-to-day reality around the world that has caused irreparable harm to countless victims and families. To ensure increased awareness, protection and accountability over a long-neglected problem, it is crucial that international monitoring mechanisms, in particular the Committee against Torture, Civil Society Organisations (CSOs), notably SOS-Torture network members, academics and other key actors across the globe name, monitor and report on repressive policing practices using the terms and framework of the absolute prohibition of torture and other CIDTP.

46. It is equally important that policing is conceived as a public service, in this sense, States should be urged to shift from a control-oriented approach to a service-oriented approach¹¹⁶, guided by democratic values and the protection of the individual's fundamental rights and freedoms, in particular personal integrity, life, protection from discrimination and the exercise of civic rights and freedoms.

47. The Committee has adopted important recommendations and guidelines on extra-custodial use of force amounting to torture and other ill-treatment from the perspective of articles 2, 10, 11, 12, 13, 14 and 16 of the Convention Against Torture, including the deployment of less lethal weapons.

48. Participants at the Thematic Briefing highlighted that States would need more guidance and robust recommendations by the Committee on the following normative and policy areas involving key safeguards to protect against torture and other ill-treatment in extra-custodial settings:

- a.** The criminalization of cruel, inhuman or degrading treatment or punishment in their penal codes;
- b.** The need to examine cases of extra-custodial use of force by law enforcement officials from the perspective of articles 1 and 16 of the Convention against Torture;

116. OSCE, *Guidebook on Democratic Policing*, 2007, para. 2.

- c.** The adoption of laws and protocols on the use of force, including restraint techniques and crowd control weapons. Such laws should comply with international human rights law and set out the conditions that justify the use of force, including the need to provide adequate prior warning, law enforcement command structures and authorization procedures, level of force acceptable to deal with various threats, the prohibition of the use of lethal force as recourse in public demonstrations, implementation of an ammunition registration, among others;¹¹⁷
- d.** The establishment of independent and effective police oversight bodies;
- e.** The key monitoring role played by civil society, particularly in the context of police operations to disperse assemblies, and the States' duty to facilitate and protect their monitoring role and their integrity;¹¹⁸
- f.** The production, trade, procurement and use of weapons, especially those inherently degrading or involving a high risk of torture and other ill-treatment;
- g.** The use of body cameras, in-car cameras and GPS tracking of law enforcement vehicles and other new technologies to increase (self) surveillance of law enforcement officials;
- h.** The dangers of algorithm-based policing and profiling, as well as biometric and facial recognition software;
- i.** The duty to de-escalate tensions through specific police units and protocols;¹¹⁹
- j.** The compilation and disaggregation of data on cases of excessive use of force by gender, age, race, ethnicity, income and migratory status as well as differentiation by roles (incl. demonstrators, journalists, observers, by-passers, medical personnel);
- k.** The importance of addressing vulnerability factors and patterns of discrimination, including of marginalized or impoverished communities which are important triggers of extra-custodial abuse by law-enforcement officials;
- l.** The monitoring role of the national preventive mechanisms (NPMs) and National Human Rights Institutions (NHRI) in the context of demonstrations and other extra-custodial settings;¹²⁰
- m.** The use of the principles and guidelines compiled in the Istanbul Protocol to document and investigate instances of unlawful use of force resulting in pain and suffering;
- n.** The importance of incorporating international and regional authoritative standards in laws and policies, including General Comments no. 36 and 37 adopted by the Human Rights Committee, the OSCE Guidelines on Freedom of Peaceful Assembly (3rd Edition), and the UN Guidance on Less Lethal Weapons by Law Enforcement.
- o.** Public access to information on police misconduct, including the record of criminal and disciplinary investigations and proceedings initiated, discontinued, as well as sanctions imposed.

117. OSCE/ODIHR and Venice Commission, *Guidelines on Freedom of Peaceful Assembly* (3rd Edition), 2019, para. 187.

118. See OSCE/ODIHR, *Second Handbook on Monitoring Freedom of Peaceful Assembly* (2nd Edition), 2020.

119. *Guidelines on Freedom of Peaceful Assembly* (3rd Edition), study n°581/2010 by Venice Commission & OSCE/ODIHR, 2019, para. 88.

120. United Nations Human Rights Committee, *General Comment No. 37* (CCPR/C/GC/37) 2020, para. 30

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