

RISK 13

TORTURE OR CRUEL, INHUMAN, DEGRADING TREATMENT OR PUNISHMENT

WHAT ACTS OR SITUATIONS CONSTITUTE THE PRESENCE OF THE RISK?

This risk illustrates acts of **torture** by which any intentionally severe pain or suffering is inflicted on a person, whether physical or mental, for purposes such as: a) obtaining personal information or a confession, b) punishing an act the person has committed or is suspected of having committed, c) intimidating or coercing him/her; d) any reason based on discrimination of any kind by a public official, either directly or indirectly, or non-State actors (e.g. personnel in detention facilities or de facto authorities). It also includes any other act of **cruel, inhuman and degrading treatment or punishment**. These acts may be targeting a person in relation to a third person and may include beatings or blunt trauma, shaking, suspension in painful positions, stabbing, puncture wounds, amputation, removal of nails, burns, hot fluids, acid, forced ingestion, injections, electric shocks, asphyxiation, death threats, mock executions, witness torture of another person, sleep deprivation, overcrowding, solitary confinement, withholding of food or water, sensory deprivation, exposure to extreme light or sound, use of animals, positional torture, rape, sexual assault, or force nudity.

WHAT FACTORS MUST BE IDENTIFIED FOR MONITORING?

The monitoring of this protection risk can include acts perpetrated by any actor or group and, as such, must be reported. States are always obliged to prevent and act upon this, independently of being part or signatory to conventions or treaties. In order for these acts to be recognized as torture and other cruel, inhuman or degrading treatment or punishment according to international human rights law (and held the responsible authority accountable), there must be evidence that it has been perpetrated at the instigation of, or with the consent or acquiescence of a public official or any other person acting in an official capacity. According to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, States should take legislative, administrative, judicial or other measures preventing torture in situations where: a) the act is committed in their territory, b) the offender is a national of that State, c) the victim is a national of that State (if State considers appropriate intervening). Pain and suffering caused by the application and implementation of laws (lawful sanctions) is not considered as being part of this protection risk.

WHAT INFORMATION & DATA CAN ILLUSTRATE THE PRESENCE OF THE RISK?

The existence of this protection risk is backed up by data, reports and information illustrating incidents such as the number of victims, areas, trends and allegations. Additional information that could illustrate the presence of this risk include: a) no legislative, administrative, judicial or other measures have been taken by authorities in past situations; b) criminal law does not include torture as an offence; c) no prohibition against torture is included in trainings of law enforcement personnel, civil or military, medical personnel, public officials and other persons involved in custody, interrogation or treatment of individuals; d) no complaint on allegations of these acts are being allowed; d) the legal system does not support obtaining redress or fair and adequate compensation; e) the state (signatory of the Convention) does not report on the measures taken to prevent torture to the UN Committee Against Torture.