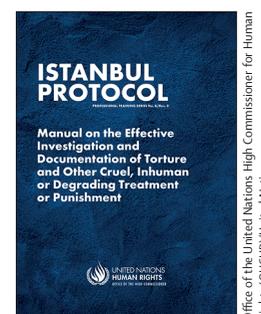




## Istanbul Protocol 2022 empowers health professionals to end torture



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Torture, one of the most heinous crimes known to humanity, inflicts profound harms on individuals and threatens the health, dignity, and wellbeing of families and communities. Health professionals have a duty both to document torture and to protect human rights as a foundation for human health and wellbeing.<sup>1</sup> Effective clinical investigation and documentation are essential to corroborate allegations of torture and other forms of ill-treatment and to achieve prevention, accountability, and redress for such crimes. Yet, until the 1990s, there were no internationally accepted standards for documenting torture and ill-treatment.

In 1996, a small group of health professionals with legal and human rights experts developed such standards, and these became the *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, or the Istanbul Protocol.<sup>2</sup> The Istanbul Protocol standards have been endorsed by the UN and international, regional, and national human rights bodies and legal mechanisms. They have informed states' treaty obligations to investigate, prosecute, and punish torture under the UN Convention against Torture<sup>3</sup> and international and national law. And they have underpinned health professionals' global efforts to end torture, hold perpetrators accountable, and afford victims the redress and rehabilitation they are entitled to.<sup>4</sup>

Over the past 25 years, the Istanbul Protocol has guided clinicians to conduct medico-legal investigations that have exposed torture worldwide and informed a broad range of anti-torture activities. These include advocacy for accountability, prevention, policy reform, training for health professionals and legal experts, and rehabilitation of torture survivors.<sup>5</sup> The Istanbul Protocol has enabled convictions for torture in countries where torture is widespread and systematic<sup>6,7</sup> and the exposure of clandestine torture regimes.<sup>8</sup> Additionally, the Istanbul Protocol routinely facilitates the production of crucial clinical evidence that is used for adjudicating claims of asylum seekers fleeing persecution<sup>9</sup> and has been recognised by courts as relevant guidance for clinical evaluations of asylum applicants.<sup>10</sup>

But there is a long way to go. Despite the absolute prohibition of torture in international law, torture is practised in more than half of the world's countries,<sup>11</sup> often with impunity. Although the Istanbul Protocol has guided successful anti-torture efforts in many countries, some countries have deliberately misused its standards to undermine accountability. For example, perpetrators of torture have been exonerated on the basis of the absence of physical and psychological findings of torture or ill-treatment.<sup>12</sup> Independent, non-governmental clinical experts have been banned from testifying in judicial proceedings.<sup>12,13</sup> Istanbul Protocol guidance on the formulation of clinicians' interpretations of findings and their conclusions has been misinterpreted to suggest that torture has not occurred.<sup>12,13</sup> This situation, in conjunction with 25 years of practical experience implementing the Istanbul Protocol and advances in torture jurisprudence, investigation, and documentation practices, has inspired a large-scale effort to update and strengthen Istanbul Protocol guidance.

Over the past 6 years, more than 180 clinical, legal, and human rights experts from 51 countries worked together to update Istanbul Protocol standards and provide additional guidance.<sup>11</sup> The initiative was coordinated by four civil society organisations (Physicians for Human Rights, the International Rehabilitation Council for Torture Victims, the Human Rights Foundation of Turkey, and REDRESS) and four UN anti-torture bodies (the Committee against Torture, the Subcommittee on Prevention of Torture, the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the UN Voluntary Fund for Victims of Torture).

These efforts have culminated on June 29, 2022, with the publication by the Office of the UN High Commissioner for Human Rights (OHCHR) of the new edition of the Istanbul Protocol.<sup>11</sup> This latest edition reflects advances in the global understanding of the practices and effects of torture and ill-treatment and includes updates on important legal issues. It clarifies the definition and scope of torture, jurisprudence on torture prevention, accountability and redress, and outlines current legal investigation practices as well

as new guidance for judges, prosecutors, and other actors.

Important updates include the new World Medical Association statement on the ethical obligation for health professionals to document torture whenever it is alleged or suspected.<sup>14</sup> Additional guidance is provided on how to address conflicting ethical obligations—eg, when the alleged victim’s autonomy conflicts with the duty to document torture and ill-treatment. And updated standards guide the conduct of clinical assessments of physical and psychological evidence, including new guidance on evaluations of children and of lesbian, gay, bisexual, transgender, and intersex people.

To prevent misuse of the Istanbul Protocol, the new edition clearly identifies its limitations. There is also more consistent guidance on the interpretation of physical and psychological evidence of torture and ill-treatment, as well as on the obligation of clinicians to provide a conclusion on the possibility of torture in all medico-legal clinical evaluations. Moreover, the new edition of the Istanbul Protocol delineates for clinicians standards on the documentation of torture and ill-treatment in non-legal contexts and the necessary conditions for effective implementation of the Istanbul Protocol by states. Such implementation guidance calls for a sea change in how legal, judicial, health, and law enforcement sectors work effectively in collaboration with international actors and members of civil society.

Health professionals have vital roles in global efforts to hold perpetrators of torture accountable. The 2022 edition of the Istanbul Protocol is an essential tool to empower health professionals to leverage their clinical knowledge and skills to help end torture and safeguard our humanity.

All the coauthors participated in the development of the new edition of the Istanbul Protocol that is discussed in this Comment and we declare no other competing interests.

The revised edition of the Istanbul Protocol is available in print and electronic mediums, with translated editions forthcoming. Please consult the OHCHR website and Shop.un.org for more information.

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