

Trainers' Guidelines
for
Legal Professionals
'Training of users'

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Prevention through Documentation Project
2006-2008



International Rehabilitation Council for Torture Victims

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INTRODUCTION

The overall objective of this training programme is to make a substantial and tangible contribution to the prevention of torture and ill-treatment worldwide by conveying knowledge and skills to health and legal professionals about systematised and high quality investigation and documentation of these unlawful acts.

The immediate purpose of the training-of-users course is to transmit knowledge and skills to both health and legal professionals to improve their knowledge and proficiency in investigating and documenting torture and ill-treatment. The course material, including the Istanbul Protocol and other relevant manuals, has been developed on the basis of binding international legal standards as interpreted by international monitoring bodies as well as generally agreed medical criteria.

The programme is based on prior training experiences carried out in Georgia, Mexico, Morocco, Sri Lanka and Uganda during the first phase of "Prevention through Documentation", an international project on the implementation of the Istanbul Protocol carried out by the International Rehabilitation Council for Torture Victims in partnership with the Human Rights Foundation of Turkey, REDRESS, Physicians for Human Rights and the World Medical Foundation. The objective is now to consolidate the results of this important work on the subject of investigation and documentation of torture and ill-treatment and include a wider number of key actors. These embrace, among others, medical doctors, psychologists, judges, prosecutors, lawyers and human rights advocates in general in the aforementioned countries and beyond.

In the course of the training, the relevant international and national legal standards will be addressed in detail. Legal participants will receive general and country specific legal training on the effective documentation of torture and ill-treatment, while health professionals will receive general and country-specific forensic training on the effective documentation of physical and psychological evidence of torture and ill-treatment. The programme is designed to ensure that the participants leave the training with a basic knowledge of how to use international law and medical criteria as means to prevent torture and ill-treatment in the exercise of their daily work.

ACKNOWLEDGMENTS:

This training programme has been developed in collaboration between the Human Rights Foundation of Turkey, REDRESS, Physicians for Human Rights and the International Rehabilitation Council for Torture Victims. The legal and medical modules have been prepared by Hülya Üçpınar, Türkcan Baykal and Sebnem Korur Fincancı.

We are grateful for the comments and contributions provided by Lutz Oette, Anna-Lena Svensson-McCarthy, Nieves Molina Clemente, Ole Vedel Rasmussen, Thomas Wenzel and Vincent Iacopino of the Legal and Medical Training Committees established as part of the Prevention through Documentation Project.

WHAT IS THE “GUIDELINES FOR TRAINERS”?

What is the frame of the Guidelines for Trainers?

- ✓ This Guidelines for Trainers has been designed as a generic training module with the purpose of supporting trainers in the preparation and implementation of the training on the Istanbul Protocol (effective investigation and documentation of torture).
- ✓ The training module proposes a multidisciplinary approach of medico-legal work on prevention of torture.
- ✓ The module adopts an interactive perspective to maximise the interaction between participants and legal experts as well as the medical experts.
- ✓ The module has a “participant centred” approach.
- ✓ The sessions in the module are based on sharing information/knowledge/experiences in addition to giving/providing information/knowledge to the participants.
- ✓ This Guidelines for Trainers gives the general frame, outlines, materials and reference materials of a Istanbul Protocol (effective investigation and documentation of torture) training.

How to use this Guidelines for Trainers?

- ✓ This generic training module is open for modification and national adaptation where needed. However, in order to keep the context, content and soul of the trainings on the Istanbul Protocol intact, it is essential that two elements are respected and integrated into any trainings:
 - “objectives”
 - “essential content” based on the core content of the Istanbul Protocol.
- ✓ Please note that the indicated duration and timeline for each session are *proposals* for effective time management for each of the exercises.
- ✓ Any modification and national adaptation should be implemented according to:
 - the needs of the participants, and
 - the specific needs in different countries.
- ✓ Any modification and national adaptation should reflect a multidisciplinary approach of medico-legal work on prevention of torture.
- ✓ The guidance, contributions and suggestions of the local experts should be at the centre of the modifications and national adaptations, as they will be best acquainted with the local needs and context.
- ✓ The medical system and legal framework as well as the competence, qualifications and specific needs and problems of the participants may differ from country to country. Therefore, the training itself should be modified and adapted accordingly in order to respond effectively to the national needs.
- ✓ All aspects of the process of national adaptation (the module and the materials) should be implemented in close collaboration between national and international trainers.

How to use the materials provided with the Guidelines for Trainers?

- ✓ The materials annexed to the module are related to the specific sessions and the proposed method of implementation.
- ✓ The materials could be changed in accordance with the modification in the method of implementation. Whether or not to use the provided materials is up to the trainers'/facilitators' discretion. Any significant modification of existing materials and/or methods should be recorded and reported to the International Training Committee and National Training Committee.
- ✓ When the trainers decide to use the provided materials:
 - the content of the handouts for "procedural safeguards" should be retained;
 - it is important that the case study is meant to illustrate some of the key problems. It will need to be modified so as to reflect local realities and challenges.

TRAINING MODULE

CONTENT

SESSION I	6
INTRODUCTION	
SESSION II	7
INTRODUCTION OF THE ISTANBUL PROTOCOL	
SESSION III	8
CURRENT SITUATION IN THE COUNTRY	
SESSION IV	10
PROHIBITION OF TORTURE AND ILL-TREATMENT	
SESSION V	12
INTERNATIONAL STANDARDS AND NATIONAL LEGISLATION ON THE ETHICAL AND LEGAL RESPONSIBILITIES OF MEDICAL PROFESSIONALS General context of rights to health care of a detainee	
SESSION VI	14
RIGHT TO HEALTH CARE AS A PROCEDURAL SAFEGUARD	
SESSION VII	16
GENERAL CONSIDERATIONS FOR INTERVIEWS, TAKING THE STORY	
SESSION VIII	19
DEPRIVATION of LIBERTY and BASIC SAFEGUARDS	
SESSION IX	21
INVESTIGATION INTO TORTURE / ILL TREATMENT - Features of an investigation	
SESSION X	23
INVESTIGATION INTO TORTURE / ILL TREATMENT - Securing, obtaining and interpretation of physical and psychological evidence	
SESSION XI	25
INVESTIGATION INTO TORTURE / ILL TREATMENT -Remedies	
SESSION XII	27
FURTHER STEPS	
SESSION XIII	28
EVALUATION OF THE TRAINING	
ANNEX I	29
Ground rules for effective meetings	
ANNEX II	29
Handouts for "procedural safeguards"	
ANNEX III	31
Sample case story	
ANNEX IV	35
Handouts for "general considerations for interviews and taking the story"	
ANNEX V	37
List of source materials	

**SESSION I
INTRODUCTION**

Health professionals and legal experts will work together

Duration 1 hour

OBJECTIVES	
	<ul style="list-style-type: none"> • To get to know each other • To familiarize participants with the objectives of the programme • To introduce the programme • To underline and agree on the grounds rules for an effective training
IMPLEMENTATION	
<p>Getting to know each other The participants and trainers introduce themselves. Warm up techniques and games to get to know each other might be used.</p>	45'
<p>Introduction of the programme Introduce the programme and enable participants to ask questions concerning the programme. Explain logistics.</p>	15'
<p>Presentation of the objectives</p>	
<p>Reminding participants of the ground rules for an effective training, e.g.;</p> <ul style="list-style-type: none"> • Full participation of the trainers in all training sessions • Full participation of the participants in all training sessions • Switching off mobile phones or putting phones in silent mode • Time keeping <p>Please see Annex I for further rules.</p>	

<p>SESSION II INTRODUCTION OF THE ISTANBUL PROTOCOL</p> <p><i>Health professionals and legal experts will work together</i></p>
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Duration 0,5 hour

OBJECTIVES	
	<ul style="list-style-type: none"> To familiarise the participants with the history, significance, aim and the content of the IP To highlight the legal and practical value of the Protocol. To review IP limitations and possible misuse of IP
REFERENCES	
<ul style="list-style-type: none"> - Istanbul Protocol - Legal Manual, Part I - "Istanbul Protocol and Challenges" 	
IMPLEMENTATION	
Presentation	<p>Presentation should include:</p> <ul style="list-style-type: none"> History of IP The importance of IP The aim and the content International recognition Legal value (with case examples) Practical value Limitations/misuse (i.e. using the IP as a diagnostic test rather than a series of guidelines; concluding that torture/ill treatment did not occur based on the absence of physical and/or psychological evidence; appropriating IP credibility, usually in the case of inadequate investigations or documentation, etc.)
	30'
TOOLS	
<ul style="list-style-type: none"> PP presentation on the IP Multimedia projector 	

SESSION III
CURRENT SITUATION IN THE COUNTRY

Health professionals and legal experts will work together

Duration 2 hours

OBJECTIVES

- To obtain a clear understanding of the practice of torture in the country
- To identify challenges faced in preventing and combating torture as well as to consider best practices and encouraging developments in this regard
- To share experiences and perspectives with colleagues from the same and other professions
- Interaction between legal and health professionals

ESSENTIAL CONTENT

- Current situation of torture in the country (key elements that enable torture; Who, to whom, where, what type, how often, why.)
- Challenges (existing keys and tools, positive elements in legislation, practice, medical-legal procedures) and difficulties (barriers/obstacles and limitations for effective investigation and documentation) experienced relating to prevention, accountability and reparation for torture
- openings, best practices and other encouraging developments relating to prevention, accountability and reparation for torture

IMPLEMENTATION

Summary of the implementation

The participants will work in mixed, medical and legal working groups to discuss the current situation regarding torture and ill-treatment and prevention of torture in the country from different aspects.

Working in the small groups

Since the number of the participants should be 50 the proposal is to divide the group into 5 smaller mixed groups (sub groups of 10) composed of both legal and health professionals

Explanation of the objectives and the flow

5'

Forming the groups (pls.see the proposal for the trainers/facilitators below)

5'

Group work (pls.see the proposal for the trainers/facilitators below)

40'

Issues to be considered by groups regarding the current situation relating to prevention, accountability and reparation for torture:

- responses to questions: "Who, to whom, where, what type, how often, why,....,"
- challenges and difficulties experienced relating to prevention, accountability and reparation for torture
- openings, best practices and other encouraging developments relating to prevention, accountability and reparation for torture

Presentation of the groups

Rapporteurs or the facilitators of each group will present their finding to the plenary

30'

Open discussion

40'

TOOLS

- Flipchart materials for 5 working group

NOTES FOR TRAINERS

Proposals to form the groups:

Split the group into 5 small mixed working groups.

- The groups could be formed beforehand by putting different colours of stickers behind name tags. This method saves some time.
- The groups could be formed by counting 1 to 5 and bringing ones, twos,..., fives together as working groups.

In either case, it is important to form the group as mixed groups (legal and health professionals) for the interaction.

Proposal for the group work

1st group would work on the current situation regarding torture and ill-treatment while try to find out the responses to questions;

- "Who, to whom, where, what type, how often, why,....,".

The other groups will work on the current situation regarding prevention of torture, however,

2nd and 3rd groups will work on the *positive aspects* of the efforts on the prevention of torture

4th and 5th groups will work on the *negative aspects* of the efforts on the prevention of torture

Remind the groups to identify one rapporteur and one facilitator for the discussion

Groups will write down their findings on a flipchart or by using computers.

SESSION IV
PROHIBITION OF TORTURE AND ILL-TREATMENT¹

Health professionals and legal experts will work together

Duration 1,5 hour

OBJECTIVES	
	<ul style="list-style-type: none"> • To identify the basic international legal standards on the prohibition of torture and ill-treatment • To familiarize participants with the international legal standards on the investigation of torture and ill-treatment
ESSENTIAL CONTENTS	
<ul style="list-style-type: none"> • Definition of torture: Any act, attempt to commit or complicity or participation in an act with intent to cause severe pain or suffering, whether mental or physical, for purposes such as; <ul style="list-style-type: none"> ○ obtaining information or a confession, ○ punishing, ○ intimidating or coercing, or for ○ any reason based on discrimination of any kind. • The prohibition of torture and ill-treatment is absolute; such acts cannot be justified in any circumstances, not even in times of war or other emergency situations; need to counter terrorism and superior orders cannot be invoked to justify torture and ill-treatment. • Prolonged incommunicado detention may per se constitute torture or ill-treatment. • The legal obligation of States are not limited to the prohibition of torture; States also have a positive obligation to protect individuals from torture and ill-treatment, including at the hands of non-state actors • States also have a duty to provide safeguards, to effectively investigate alleged or suspected acts of of torture, to prosecute and punish the perpetrators, to provide remedies and reparation to victims and/or their family members and to ensure non-repetition of such acts. 	
REFERENCES	
<ul style="list-style-type: none"> - Istanbul Protocol, Chapter I, Relevant International Legal Standards, para. 1- 47 - Legal Manual, Part II-A, General Measures to Prevent Torture - Combating Torture- A Manual for Judges and Prosecutors, Chapter I, The prohibition of torture in international law - Bringing the International Prohibition of Torture Home 	
IMPLEMENTATION	
<p>Summary of the implementation The trainers will present international and legal standards and an open discussion will follow.</p>	
<p>Presentations The participants should have a clear understanding of the international standards.</p> <p>1. International standards Presentation should include;</p> <ul style="list-style-type: none"> - Torture and ill-treatment in the world - Detailed description of "torture" as defined in CAT (and other instruments) - Absolute character of prohibition of torture and ill treatment - State obligations (positive and negative) as contained in regional and international treaties and elaborated in relevant jurisprudence and practice - Recent developments in the field which were not included in the IP Manual (EU Guidelines, UN Optional Protocol, etc) 	
	25'
<p>2. National legislation</p>	
	25'

¹ For purposes of this Module, the expression 'torture and ill-treatment' is understood to refer also to cruel, inhuman or degrading treatment or punishment .

<p>Presentation should include;</p> <ul style="list-style-type: none"> - Definition of torture and ill-treatment - Legislation regarding prohibition of torture - International instruments ratified and commitments made by state authorities - Similarities and differences between international standards and national legislation, including any implementation or implementation efforts 	
<p>Discussion The discussion might focus on the issues that need further clarification, such as;</p> <ul style="list-style-type: none"> - The intensity of suffering (torture, ill-treatment, degrading treatment,...) - Efforts to justify torture and ill-treatment in the country - Impact of prosecutions for ill treatment or "dereliction of duty" - The relation between torture-ill treatment and non-state actors such as armed groups, domestic violence and organized violence 	40'
TOOLS	
<ul style="list-style-type: none"> • PP Presentation on "international standards" • PP Presentation on "national legislation" • Multimedia projector 	

SESSION V
INTERNATIONAL STANDARDS AND NATIONAL LEGISLATION
ON THE ETHICAL AND LEGAL RESPONSIBILITIES OF MEDICAL PROFESSIONALS
General context of rights to health care of a detainee

Legal experts and health professionals will work together

Duration 1 hour

OBJECTIVES

- To familiarize participants with the general frame of rights to health care
- To enhance and deepen the knowledge of the participants on the ethical and legal responsibilities of the health professionals
- To strengthen the legal perspective on the ethical and legal responsibilities of health professionals
- To gain a better understanding of similarities and differences between international standards and national legislation

ESSENTIAL CONTENTS

- Detainee rights to medical/health care
 - o Immediate health needs of a detainee/victim
 - o Right to see a doctor
 - o Right to independent medical documentation of health condition
- Responsibilities of health professionals
 - o Legal responsibilities
 - International obligations
 - Relevant national legislation (criminal, administrative, disciplinary)
 - o Ethical obligations of health professionals (international and national)
 - Responsibilities of the physicians concerning prevention and elimination of torture
 - Meaning and value of the ethical responsibilities for a physician
 - Informed consent
 - Confidentiality
 - Emergency care
 - Documentaion of torture and ill treatment
 - Dual obligations

REFERENCES

- Istanbul Protocol, Chapter II- Relevant Ethical Codes, para. 48-73
- Legal Manual, Part I. A and Part II. B. 2 (b)
- Legal Checklist, p.11
- Medical Ethics Manual

IMPLEMENTATION

Summary of the implementation

The trainers will present international and national legal and ethical standards and legislation regarding medical rights and responsibilities of physicians. Discussion on these subjects will be held during the following session.

Explanation of the objectives and the flow

5'

Presentations

The presentation/s should cover:

A. Relevant international standards:

1. The general frame of the rights of health care of a detainee
 - immediate health needs of a detainee/victim
 - right to see a doctor
 - right to independent medical documentation of health condition
2. The frame of the responsibilities

25'

<ul style="list-style-type: none"> - Legal responsibilities - Ethical obligations of health professionals <ul style="list-style-type: none"> o Responsibilities of the physicians concerning prevention and elimination of torture o Meaning and value of the ethical responsibilities for a physician o Informed consent o Confidentiality o Emergency care o Documenttaion of torture and ill treatment o Dual obligations <p>4. The importance of these standards and their obliging value</p>	
<p>B. Relevant national legislation and regulations for medical documentation</p> <ol style="list-style-type: none"> 1. Rights, obligations and restrictions of the physician according to national legislation concerning the preparation of forensic reports <ul style="list-style-type: none"> - criminal procedures - administrative procedures - disciplinary procedures 2. Possible consequences of false reports for the patient and for the physician 3. Best practice of medical reporting and its impact in practice. 4. Legal status of alternative (non-governmental) reports 5. The problem of dual obligation 6. Ethical and legal responsibilities of the physician according to the above mentioned codes 7. The similarities and differences between the international (ethical and legal) and national codes. 8. Qualification of health professionals to conduct psychological and physical evaluations 9. The differences between national legislation and practice 10. Gender-based violence against women 	30'
TOOLS	
<ul style="list-style-type: none"> • PP presentations on "relevant international standards" • PP presentations on "relevant national legislation" • Multimedia projector 	

SESSION VI
RIGHT TO HEALTH CARE AS A PROCEDURAL SAFEGUARD

Legal and health professionals will work together

Duration 2 hours

OBJECTIVES

- To increase awareness of the importance of procedural safeguards to protect the physical and mental integrity of persons deprived of their liberty
- To deepen understanding of the medical aspects of the rights of a detainee
- To sensitise the participants to the importance of different levels of procedure regarding medical examination and reporting
- To highlight the preventive function of procedural safeguards
- To further elaborate on the responsibilities of health professionals
- To identify the role of legal professionals during the procedure regarding medical examination and reporting
- To underline the importance of alternative/independent reports

ESSENTIAL CONTENT

- Forensic medical evaluation of detainees should be conducted in response to official written requests by public prosecutors or other appropriate officials.
- Detainees themselves, their lawyers or relatives have an independent right to request a medical evaluation to seek evidence of torture and ill-treatment.
- It is mandatory that detainees undergo a preliminary medical examination at the time of detention; a further examination and evaluation should be made upon their release.
- The detainee should be taken to the forensic medical examination by officials other than soldiers or police working in the unit where the detainee is held.
- The officials who supervise the transportation of the detainee should be responsible to the public prosecutors and not to other law enforcement officials.
- The detainee must be:
 - independently and thoroughly examined by a qualified doctor, and,
 - without any police officer being present.
- The presence of police, soldier, warden, or other law enforcement officers in the examination room, for whatever reason, should be noted in the physician's official medical report. Notation of police, soldier, prison officer, or other law enforcement officials' presence during the examination may be grounds for disregarding a "negative" medical report.
- Medico-legal evaluations of detainees should include the use of a standardized medical report form.
- The report must include the story, details of injuries and psychological findings that may be attributable to torture or ill treatment together with explanations of the patient and the opinion of the doctor.
- Under no circumstances should a copy of the medical report be transferred to law enforcement officials; instead it should be transmitted to the official requesting the report, generally the public prosecutor.
- If the forensic medical examination supports allegations of torture or ill-treatment, the detainee should not be returned to the place of detention, but should instead be presented to the competent prosecutor or judge for purposes of determining the detainee's legal disposition.
- Access to the lawyer should be provided at the time of the medical examination.
- The medical examination should be free of charge.
- Forensic medical services should be under judicial or an independent authority and not under the same governmental authority as the police and prison system.
- Detainees have the right to obtain a second or alternative medical evaluation by a qualified physician also during his/her detention.

REFERENCES

<ul style="list-style-type: none"> - Istanbul Protocol, Chapter IV-B- Procedural safeguards with respect to detainees, para. 123-126 - Legal Manual, Part II. B. 2 (b) 											
IMPLEMENTATION											
<p>Summary of the implementation The participants will work on the procedural safeguards set forth in the IP. The big group will be divided into two groups to work on the same exercises with the same content.</p>											
<p>Preparation Procedural safeguards in the IP should be prepared as a one-page handout as 3 paragraphs in order to distribute the each working group. (see Annex II) DISTRIBUTE THE HANDOUTS ONE DAY BEFORE TO ENABLE THE PARTICIPANTS TO READ BEFOREHAND (MAY BE BEFORE THE BREAK).</p>											
<p>Forming the groups As the whole number of the participants is 50, it would be functional to work in 2 different mixed groups (composed of 25) in order to keep interaction and save time, with each of these two groups being divided into three smaller working groups.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Divide the group into 2 mixed groups of legal and health professionals</td> <td style="width: 33%;">1st mixed group (1 trainer will be responsible for facilitation)</td> <td style="width: 33%;">2nd mixed group (1 trainer will be responsible for facilitation)</td> </tr> <tr> <td rowspan="3">Form 3 small groups within the each group</td> <td>1st working group</td> <td>1st working group</td> </tr> <tr> <td>2nd working group</td> <td>2nd working group</td> </tr> <tr> <td>3rd working group</td> <td>3rd working group</td> </tr> </table> <p><u>Proposal to form the groups;</u> Determine the groups as trainers and put the lists on the doors/walls of the WG rooms beforehand.</p>	Divide the group into 2 mixed groups of legal and health professionals	1 st mixed group (1 trainer will be responsible for facilitation)	2 nd mixed group (1 trainer will be responsible for facilitation)	Form 3 small groups within the each group	1 st working group	1 st working group	2 nd working group	2 nd working group	3 rd working group	3 rd working group	
Divide the group into 2 mixed groups of legal and health professionals	1 st mixed group (1 trainer will be responsible for facilitation)	2 nd mixed group (1 trainer will be responsible for facilitation)									
Form 3 small groups within the each group	1 st working group	1 st working group									
	2 nd working group	2 nd working group									
	3 rd working group	3 rd working group									
<p>Explanation of the objectives and the flow within the two big groups</p>	5'										
<p>Working in the small groups Each mixed group divides into 3 smaller mixed WG's. Each small group will have been given the list of safeguards beforehand Groups will work on the safeguards regarding these questions: - What are the national legislation and the practice regarding the given procedural safeguards? - What are the possibilities in ensuring procedural safeguards? (what could the health professionals and legal professionals do?)</p>	45'										
<p>Presentations of the small groups to their big groups (1st and 2nd separately) Distribute the procedural safeguards to the participants to see them as a whole.</p>	30'										
<p>Discussion in each mixed group</p>	40'										
TOOLS											
<ul style="list-style-type: none"> • Copies of procedural safeguards from IP (2 copies for each paragraph for WG's) (See Annex II) • Procedural safeguards as whole • Flipchart materials for 6 small working groups 											

SESSION VII
GENERAL CONSIDERATIONS FOR INTERVIEWS
TAKING THE STORY

Legal experts will work together

Duration 2,5 hours

OBJECTIVES

- To enhance the capacity of participants to take and document the story of a detainee/victim in an accurate and detailed manner
- To strenght the understanding on the basic considerations of how to interview a suspected victim of torture or ill-treatment
- To familiarize the participants with problems relating to the taking of the story
- To help the participants identify relevant questions that should be put to the victims
- To help sensitize participants to the manner of asking questions
- To develop the skill of earning trust
- To explore the evidential value of a statement of an alleged victim of torture and ill-treatment, particularly where there is a lack of other evidence
- To increase awareness of the need to show empathy to alleged/suspected victims of torture and/or ill-treatment while retaining professional integrity

ESSENTIAL CONTENT

- General considerations for undertaking interviews with persons alleging torture or ill-treatment
- Confidentiality, informed consent, privacy, safety, objectivity, impartiality
- The importance of interviewing style, insight and empathy
- Establishing a private and appropriate setting; create a climate of trust, courtesy, honesty, empathy
- The course of an interview
- Effects of the interviewing style on the process and the detainee/victim
- Appropriate use of open-ended and closed questioning
- Risks of retraumatization and (how to minimize the risk of re-traumatization)
- Potential transference-countertransference reactions
- Vicarious trauma, burnout
- Difficulties of recalling and recounting the story for the patient/victim
- Possible reasons of inconsistencies in the story
- Language, terminology, gender and cultural issues
- Taking and documenting the story of a detainee/victim
- Quality of obtained information
- Accuracy and reliability of the information
- Value of quality of information in proving the allegations (first hand, detailed, internally consistent, corroborated from several angles, demonstrating a pattern, recent)
- Informed consent
- Value of interviews before the national and international bodies, especially in case of lack of physical evidence
- Evaluation of this evidence

REFERENCES

- Istanbul Protocol-Chapter IV-General Considerations of Interview and para. 57 – 65; 162 – 167; 236 – 240; 262 – 274 and Chapter III- 'Legal Investigation of Torture', para. 87-89; 97,99
- Medical Checklist/Guide p. 2-7
- Training Manual on Psychological Evidence of Torture
- Legal Checklist p. 9
- Torture Reporting Handbook, Part II - Documenting Allegations

IMPLEMENTATION	
<p>Summary of the implementation</p> <p>The participants will work on two different aspects of a case: how to make interviews with a detainee/victim and what to ask to her/him.</p>	
<p>Preparation before the role play</p> <ul style="list-style-type: none"> - Distribute the short case story to the participants the day before the role play. (<i>Pls. see below the "notes for THE TRAINERS" concerning the preparation of the case and also Annex III</i>) - Distribute the "GENERAL CONSIDERATIONS checklist" to one half of the participants and the "CONTENT checklist" to the other half. (Annex IV) - Ask the participants to be attentive to the issues indicated in their checklists. 	
<p>Explanation of the objectives and the flow</p>	5'
<p>Role play</p> <p>The trainers will act out an interview involving lawyer and victim of torture.</p> <p style="padding-left: 40px;">The trainer that plays the interviewer should mix best practice with flaws in interviewing: sometimes attentive sometimes not, sometimes asks open ended questions but sometimes the opposite and tries to be empathic.</p> <p>When the role play ends the trainers will ask the feedbacks from the participants.</p>	15'
<p>Feedbacks from the participants on general considerations of interview ("GENERAL CONSIDERATIONS" checklist)</p> <p>Ask the participants about the <i>negative</i> and <i>positive</i> aspects of the interview and have comments written down on flipchart to be seen.</p> <p>Ask the participants if they would like to demonstrate how they would like the questions to be asked to the detainee/victim.</p>	20'
<p>Presentation on general considerations of interview</p> <p>The <i>feedbacks from the participants should also be referred</i> during the presentation.</p> <p>The presentation should include;</p> <ul style="list-style-type: none"> - Confidentiality, informed consent, privacy, safety, objectivity, impartiality - The importance of interviewing style, insight and empathy - Establishing a private and appropriate setting; Create a climate of trust, courtesy, honesty, empathy - The course of an interview - Effects of the interviewing style on the process and the detainee/victim - Risks of retraumatization and (how to minimize the risk of re-traumatization) - Potential transference-countertransference reactions - Vicarious trauma, burnout - Difficulties of recalling and recounting the story for the patient/victim - Possible reasons of inconsistencies in the story - Language, terminology, gender and cultural issues - Taking and documenting the story of a detainee/victim 	30'
<p>Feedbacks from the participants on the content ("CONTENT" checklist)</p> <p>Ask the participants which points need to be asked/detailed more in accordance with the checklist and have comments written down on flipchart to be seen.</p> <p>Ask the participants if they would like to demonstrate how they would like the questions to be asked to the detainee/victim.</p>	20'
<p>Presentation on taking the story/content</p> <p>The <i>feedbacks from the participants should also be referred</i> during the presentation.</p> <p>The presentation should include;</p> <ul style="list-style-type: none"> - Value of the quality of the information obtained in proving the allegations (first hand, detailed, internally consistent, corroborated from several angles, demonstrating a pattern, recent) - Inconsistencies within the story do not necessarily mean that the person alleging torture 	40'

<p>has not been subject to torture or other forms of ill treatment.</p> <ul style="list-style-type: none"> - Interviewing victims of torture /ill treatment (cautionary remarks - general considerations for undertaking interviews with persons alleging torture or ill-treatment) - Informed consent regarding legal proceedings - Value of interviews before the national and international bodies, especially in case of lack of physical evidence 	
TOOLS	
<ul style="list-style-type: none"> • Case story (Annex III) • GENERAL CONSIDERATIONS checklist (Annex IV) • CONTENT checklist (Annex IV) • PP on "General considerations for interviews" • PP on "Taking the story/content" • Multimedia projector 	
NOTES FOR THE TRAINERS	
<ol style="list-style-type: none"> 1. This sessions requires to be carried out together with a medical expert. 2. Please consider the issues below during the modification of the provided case or the preparation of a new case: <ul style="list-style-type: none"> • Consider the details set forth in the "essential content". • Be sure that the topics explained in the para. 88-101 in the Istanbul Protocol in details are included in the story; <ul style="list-style-type: none"> - The circumstances leading up to the torture, including arrest or abduction and detention, - Approximate dates and times of the torture, including when the last instance of torture occurred, - Testimonies, - A detailed description of the person(s) involved in the arrest, detention and torture, - Contents of what the person was told or asked, - Description of the usual routine in the place of detention and the pattern of ill treatment, - Description of the facts of the torture, including methods of torture used, - Whether the individual was sexually assaulted, - Physical injuries sustained in the course of the torture, - A description of weapons or other physical objects used, - The identity of witnesses to the events involving torture. • Detailed description of places should also be narrated. • Include narrations, regarding the topics you would like the participants to discuss, such as; access to a doctor and a lawyer; third person notification; registration procedures; procedures and practices during tranferres. • Consider to include legal procedures; i.e. warrant for search/arrest; authority to investigate; procedures and proceedings before a prosecutor and a judge and as such. • Keep in mind that it might be worthwhile to use the opportunity to discuss attitudes of judges, prosecutors and lawyers . • It is important that the cases should be unidentifiable or fictional. Consider the names and other information, that lead any person to identify the victim and witnesses uncovered in order to discuss the importance of the matter. 	

SESSION VIII
DEPRIVATION of LIBERTY and BASIC SAFEGUARDS

Legal experts will work together

Duration 1,5 hour

OBJECTIVES

- To familiarise participants with basic international legal standards regarding persons deprived of their liberty
- To familiarise participants with the specific legal standards regarding children
- To raise awareness that implementing safeguards is one of the key means of preventing/reducing the risk of torture and ill-treatment
- To illustrate the dangers of incommunicado detention

ESSENTIAL CONTENT

- Arrest and detention should;
 - be in accordance with both national and international law
 - not be arbitrary (be appropriate, just, foreseeable, comply with due process of law, be non-discriminatory)
 - be officially acknowledged (name of person arrested or detained, date, time and location of arrest and detention, as well as any release of the suspect should be registered; name of arresting officers should also be registered).
- *reasons for arrest and detention* should be notified
 - promptly; in a language the detainee understands; in sufficient detail.
- Basic custodial safeguards
 - *access to family or other third persons* should be provided without delay
 - access to a lawyer of one's choice
 - privacy of the visit by a lawyer should be provided
 - regular contacts by a lawyer and family members should be provided
 - access to a doctor and medical examination following arrest and upon release
 - *judicial review* on the lawfulness of the deprivation of liberty;
 - by a judge or an official having judicial power, including the power to decide on release,
 - promptly and periodically and effectively available.
- Prohibition of prolonged incommunicado detention both *as constituting* torture or other cruel and inhuman treatment and as facilitating torture
- Children
 - Authorities have to notify the child's parents or guardian of their detention, even if the child has not requested that this be done
 - Children shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances
 - Police officers are not entitled to interview a juvenile unless such an appropriate person and/or a lawyer is present
- Preventative measures- visiting mechanisms (including discussion of CPT and OPCAT as appropriate)

REFERENCES

- Legal Manual , Part II- B2
- Combating Torture, A Manual for Judges and Prosecutors, Chapter 2, Safeguards against torture for those deprived of their liberty, and Chapter 3, The role of judges and prosecutors in protecting detainees and criminal suspects from torture
- Legal Checklist, p. 5-8; 10-13
- Bringing the International Prohibition of Torture Home, p. 45-50
- (REDRESS) Committee against Torture, General Comment on article 2 (forthcoming)

IMPLEMENTATION

Summary of the implementation

The participants will discuss their country practice after a presentation.

<p>Presentation</p> <p>Presentation should include <i>the issues indicated above at minimum</i>;</p> <ul style="list-style-type: none"> - Conditions of arrest and detention - Basic custodial safeguards - Incommunicado detention - Standards concerning children - Preventative measures- visiting mechanisms 	30'
<p>Discussion</p> <p>Discussion might be done <i>during the presentation</i> by asking structured questions indicated below after relevant topics:</p> <p>Questions 1</p> <ul style="list-style-type: none"> - What problems relating to arrest and/or detention, if any, are you confronted with in the exercise of your daily work? - What do you do to address these problems? - Do you have prompt, easy and confidential access to your clients in all circumstances? - If not, what are the problems and how to you try to solve them? <p>Questions 2</p> <ul style="list-style-type: none"> - What safeguards against ill-treatment exist for persons (a) arrested; (b) detained; (c) imprisoned in your country? <p>Questions 3</p> <ul style="list-style-type: none"> - For how long can a person be deprived of his or her liberty without having the legality thereof determined by a judge? - Does the law in your country authorise <i>incommunicado</i> detention, and if so, for how long? - Have you encountered any specific problems with regard to detained women, children or other vulnerable groups? <p>Question 4:</p> <ul style="list-style-type: none"> - What preventative mechanisms are in place, if any, and how effective are they in practice? 	60'
TOOLS	
<ul style="list-style-type: none"> • List of questions prepared beforehand • PP presentation on the "basic safeguards - international standards" • Multimedia projector 	

<p>SESSION IX</p> <p>INVESTIGATION INTO TORTURE / ILL TREATMENT</p> <p>Features of an investigation</p>
<p><i>Legal experts will work together</i></p>

Duration 3 hours

OBJECTIVES

- | | |
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| | <ul style="list-style-type: none"> • To familiarize the participants with the purposes and principles of an investigation into torture and ill-treatment • To explain the basic principles for an effective investigation into alleged torture and ill-treatment • To illustrate the procedures of an investigation into alleged torture and ill treatment • To gain an understanding of the main aspects of the governments’ legal duty to investigate alleged or suspected cases of torture and ill-treatment • To highlight the role of law professionals other than those who conduct the investigation on the investigation of torture |
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ESSENTIAL CONTENT

- | | |
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| | <ul style="list-style-type: none"> • All detainees and prisoners, or lawyers or relatives acting on their behalf, have the right to complain to the authorities of torture or ill-treatment, in confidence. • Effective access for the complainant to the investigatory procedure must be ensured where appropriate. • The <i>purpose</i> of legal investigations into alleged or suspected incidents of torture is to establish the facts of these incidents and to identify the perpetrators in order to allow the competent authorities to take appropriate measures in response thereto. • States have a legal duty to investigate alleged or suspected crimes of torture whenever there is a <i>credible assertion</i> or an <i>arguable claim</i> that torture has been committed. • Investigation into torture/ill treatment must be <i>effective</i>; <i>this means that it must be:</i> <ul style="list-style-type: none"> ○ prompt, independent and impartial, thorough, and carried out by a competent authority • Minimum procedures for an effective investigation: <ul style="list-style-type: none"> ○ To seek to obtain statements from the victims of alleged torture ○ To take statements from alleged perpetrators ○ To recover and preserve evidence (including medical evidence relating to the alleged torture to help in any potential prosecution of those responsible for the acts) ○ To identify possible witnesses and obtain statements from them concerning the alleged torture; ○ To determine how, when and where the alleged incidents of torture occurred as well as any pattern or practice that may have been observed about the torture or ill-treatment. • States must also ensure that victims have legally enforceable right to reparation to victims of torture • The investigative authorities should inform the alleged victim or his/her next-of-kin in connection with the investigation of all the procedures, hearings and development by the investigative authorities • The State is responsible for protecting alleged victims, witnesses and their families from violence, threats of violence or any other form of intimidation that may arise pursuant to the investigation. |
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REFERENCES

- | | |
|--|---|
| | <ul style="list-style-type: none"> - Istanbul Protocol, Chapter III- Legal Investigation of Torture, para. 73-117 - Legal Manual, Part II C - Combating Torture- A Manual for Judges and Prosecutors, Chapter 4- Conducting investigations and inquiries into acts of torture - Fair Trials Manual- "A. Pre trial rights", "B. Rights at trial" - Taking Complaints of Torture Seriously, p.7-23 |
|--|---|

IMPLEMENTATION

Summary of the implementation	
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Features of an investigation will be elaborated through presentation and case examples. This session will provide a basis for the need of collecting and evaluation of evidence.	
<p>Preparation</p> <p>Identify a case, preferably from regional or international mechanisms regarding the country, and summarize the legal proceedings as applied with regard to:</p> <p>Aspect 1: investigation and prosecution Aspect 2: court proceedings</p>	
Explanation of the objectives and the flow	5'
<p>Presentation</p> <p>Presentation should include;</p> <ul style="list-style-type: none"> - Right to complain - Access to complaint mechanisms - The purpose of an investigation - States' duty to investigate allegations of torture promptly, impartially and effectively - The features of an effective investigation - Minimum procedures for an effective investigation - Reparation of victims - Rights of the victim during the investigation - Protection of victims and witnesses 	40'
<p>Case work in the small groups</p> <p>Divide the group into 4 small groups Distribute the case summaries to the groups (prosecution to 2 groups, court proceedings to 2 groups) Ask the groups to evaluate the case summaries;</p> <ul style="list-style-type: none"> - to what degree have the procedures followed by the authorities complied with international standards? - what could be done practically? 	45'
Presentations of the small groups	40'
Discussion	50'
TOOLS	
<ul style="list-style-type: none"> • Summaries of the case (regarding prosecution and court proceedings) • PP presentation on "Feature and rights in the context of an investigation" • Multimedia projector • Tools for flipcharts 	

SESSION X
INVESTIGATION INTO TORTURE / ILL TREATMENT
Securing and obtaining physical and psychological evidence
Interpretation of medical evidence

Legal experts will work together

Duration 3 hours

OBJECTIVES

- To strengthen the capacity of the participants to read medico-legal document
- To review the psychosocial and physical consequences of torture
- To increase awareness of the importance and central role of the psychological evaluation in medical investigation of torture allegations
- To equip participants with a sound understanding of the general considerations on psychological evaluation in the IP
- To increase awareness of the validity of psychological evaluations as medical evidence
- To familiarise participants with the features of a forensic report
- To introduce "alternative medical reporting"

ESSENTIAL CONTENT

- Specific forms of torture methods
- Physical examination and evaluation
- The importance of and general considerations for psychological evaluation
- Minimum requirements for a medical report
- Requests for further diagnostic procedures
- Evaluation of medical evidence
- Using anatomical drawings
- Alternative reports

REFERENCES

- Istanbul Protocol, 'Chapter VI-Psychological Evidence of Torture', 'Ch V-Physical Evidence of Torture' 'Ch. IV-General Considerations for Interview', 'Annex I-IV'
- Medical Checklist/Guide
- Training Manual on Psychological Evidence of Torture
- Training Manual on Physical Evidence of Torture
- Medical Screening Format
- Legal Checklist p. 14-16

IMPLEMENTATION

Summary of the implementation Two groups of legal professionals will work to identify aspects of medical evidence that are of concern in their country practice or where further information/debate is needed Identified issues will be discussed in the plenary with the participation of physicians (at least one physical, one psychological expert)	
Forming the groups The group will be splitted into three groups Trainers distribute the case used during the "general considerations of interview and taking the story" to the groups One facilitator and one rapporteur should be identified within the groups	5'
Group work in small groups The groups elaborate on the case seeking to identify particular challenges regarding medical evidence and areas where further information is needed The groups will write their questions onto flipcharts.	45'

<p>Presentation of the small groups in the plenary of legal professionals</p> <p>The physicians (at least one physical, one psychological expert) participate in the group The facilitator or the rapporteur will summarize the findings to the big group</p>	15'
<p>Presentations of the physicians (and discussion where needed)</p> <p>The presentations should cover the questions and requests of the participants and include at minimum;</p> <ol style="list-style-type: none"> 1. Physical <ul style="list-style-type: none"> - Physical examination of each body system, possible signs or results of torture, which can be determined in each body system - Specific forms of torture methods; physical signs and findings of specific forms of torture and the investigation of these findings - Sexual harassment - Consultations and possible diagnostic tests 2. Psychological <ul style="list-style-type: none"> - General considerations mentioned in the IP concerning psychological evaluation Such as; <ul style="list-style-type: none"> o Any evaluation of torture should include a psychological evaluation o All kinds of torture inevitably have psychological consequences o The absence of a finding of psychological symptoms does not mean the person was not tortured o - The central role of psychological evaluation in medical investigation of torture - Difficulties of recalling and recounting the story for the patient/victim - Possible reasons for inconsistencies in the story - Risk of retraumatization - Inherent connection between the goal of torture and its psychosocial consequences - Psychological findings and evidence of torture - Validity of psychological evaluations as medical evidence (including international and national examples) 3. Medical report <ul style="list-style-type: none"> - Circumstances of the interview - History - Physical and psychological examination - Opinion of the physician - Identity of those carrying out the medical examination and signature 4. Importance of using anatomical drawings for legal professionals 5. Alternative reports 	115'
TOOLS	
<ul style="list-style-type: none"> • Case story used during the "General considerations for interviews" and "taking the story" • Tools for flipchart (for 3 groups) • PP presentations • Multimedia projector 	

SESSION XI
INVESTIGATION INTO TORTURE / ILL TREATMENT
Remedies

Legal experts will work together

Duration 1,5 hour

OBJECTIVES

- To illustrate the importance of documentation and reporting of torture and ill-treatment
- To consolidate the participants' knowledge of existing national remedies against torture and ill-treatment
- Considering new approaches that challenge established practices and procedures in torture cases with a view to making investigations and remedies more effective
- To explore any best practices of national remedies against torture and ill-treatment
- Looking at national accountability mechanisms addressing the role of the perpetrators as well as/or the actors that collaborate torture /ill treatment.

ESSENTIAL CONTENT

- Criminalising acts of torture, including complicity or participation in torture;
- Ensuring that the alleged perpetrators are subject to criminal proceedings if an investigation establishes that an act of torture appears to have been committed;
- Effective remedies for victims of torture or their next-of kin to start a criminal investigation capable of leading to the prosecution and punishment of the perpetrators by a *judicial* body
- The right of survivors to claim reparations before a *judicial body*.
- The meaning of reparation
- The right to an effective remedy and adequate reparation:
 - Ensuring that victims of torture or their next of kin have effective remedies to claim reparation;
 - Guaranteeing that domestic law reflects the different forms of reparation recognised under international law to victims of torture and/or their next-of-kin and that the reparations afforded reflect the gravity of the violation(s).

REFERENCES

- Legal Manual, Part II E
- International Standards in the Istanbul Protocol, Section D, E and Annex I (Istanbul Principles)
- Combating Torture, A Manual for Judges and Prosecutors, Chapter 5- "Prosecuting suspected torturers and providing redress to the victims of torture"
- Legal Checklist, p.19-21
- Bringing the International Prohibition of Torture Home, p.79-88
- Implementing victims' rights

IMPLEMENTATION

<p>Presentation</p> <p>1. Right to an effective remedy and reparations</p> <p>International standards:</p> <ul style="list-style-type: none"> - Meaning of reparation - Effective procedural remedies, including the role of international remedies - Forms of reparation 	30'
<p>2. Accountability of alleged perpetrator/s of torture</p> <p>International standards:</p> <ul style="list-style-type: none"> - Criminalise torture - Responsibility for torture - Investigate, prosecute and punish <p>National legislation:</p> <ul style="list-style-type: none"> - Prohibition of torture in the Constitution and statutory law - Crime of torture - Criminal responsibility for torture - Criminal trial: Sentence / punishment - Disciplinary proceedings - Quasi-judicial remedies (e.g. national human rights commission / ombudsman, etc.) - Action to improve effective investigation and prosecution of perpetrators - Civil remedies, jointly or severally with criminal proceedings - Other administrative remedies 	30'
TOOLS	
<ul style="list-style-type: none"> • PP presentation on "prosecution of alleged perpetrator" • PP presentation on "right to have effective remedy and reparation" • Tools for pp presentations 	

**SESSION XII
FURTHER STEPS**

Legal experts and health professionals will work together

Duration 2 hours

OBJECTIVES									
	<ul style="list-style-type: none"> • To identify the needs and necessary steps to implement IP in the country • To identify some long/short term plans • To agree on a plan for further steps 								
ESSENTIAL CONTENT									
<ul style="list-style-type: none"> • Necessary steps and changes for the general implementation of IP in the country; <ul style="list-style-type: none"> ○ Possibilities to further implementation of Istanbul Protocol ○ The necessary steps and changes which need to take place for the general implementation of Istanbul Protocol in the country ○ Possible agents and roles. Responsibilities and opportunities/prospects. (Who can/should do what?) ○ The methods and materials; implementation strategies and plans 									
IMPLEMENTATION									
Summary of the implementation									
<p>The participants will work in small groups to identify their need and ways to implement the Istanbul Protocol. At the end of the session, a plan for the implementation will be provided.</p>									
Explanation of the objectives and the flow	5'								
Working in the groups	55'								
<p>The participants will divide into 5 mixed working groups</p> <p>Prepare and distribute a chart in order to facilitate the discussion process; such as;</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">What is required for the implementation of Istanbul Protocol?</td> <td style="width: 50%;">Whats steps should be taken ?</td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> </table> <p>All groups will be discussing suggestions concerning the implementation of the IP in the country.</p> <p>Discussions focusing on possible and necessary steps, distribution of responsibilities, things to be changed, necessary trainings, obstacles and possible solutions to overcome existing obstacles.</p> <p>The working groups will write their findings and suggestions on their chart.</p>		What is required for the implementation of Istanbul Protocol?	Whats steps should be taken ?						
What is required for the implementation of Istanbul Protocol?	Whats steps should be taken ?								
Presentations of the working groups	30'								
<p>Ask one of the group to present their outcomes.</p> <p>Invite the other groups to contribute to the presentation of the presenting group by adding further suggestions.</p> <p>One of the trainers will write all the suggestions on a chart by using a computer. The chart will also have "<i>responsibles</i>" and "<i>term</i>" columns.</p>									

<p>Identification of a plan of action</p> <p>Reflect the chart half full to a screen? by using computer and multimedia projector.</p> <p>Ask the participants <i>in which steps for the implementation of IP they would like take part and the timeframe for the implementation.</i> (e.g. forming a medico-legal coordination- in 3 months)</p> <p>Fill the “responsibles” and “term” columns upon the responses coming from the participants.</p> <p>To avoid confusion, the proposal is to ask the responses of the participants one by one.</p>	90’
TOOLS	
<ul style="list-style-type: none"> • Charts with “What is required for the implementation of Istanbul Protocol” and “What steps should be taken ?” column • Computer • Multimedia projector 	

SESSION XIII
EVALUATION OF THE TRAINING
Health professionals and legal experts will work together

Duration 1 hour

OBJECTIVES	
	<ul style="list-style-type: none"> • To generally go over the training and the module • To determine the strenghts and benefits of the training • To determine the aspects which should be improved • To receive feedback for further trainings • To provide a ground for the participants to share their emotions and evaluations face to face
IMPLEMENTATION	
<p>Summary of the implementation</p> <p>All the participants and the trainers will share their emotions and evaluations regarding the whole training.</p>	
<p>Sharing in the plenary</p> <p>Prepare one or two open ended questions such as:</p> <ul style="list-style-type: none"> - What do you take with you when you’re leaving this training? - What is the most important outcome of this training? - How would you describe the taste of the training as a whole if it would have been a meal? <p>Raise the question and ask for short responses.</p> <p>Give a chance to each participant to share their feedback and emotions.</p> <p>Be attentive to close the training with positive emotions and motivations.</p>	60 `

ANNEX I

GROUND RULES FOR EFFECTIVE MEETINGS

1. Stay focused.
2. Tell the truth as you see it without blame or judgment.
3. Combine advocacy of your position, opening it to question, with inquiry into others' beliefs.
4. Don't shy away from disagreements — use as opportunities for learning and breakthrough.
5. Test assumptions and inferences — explore the "thinking behind..."
6. Agree on the meanings of important words.
7. Use disagreements as opportunities for learning and progress.
8. Let differences coexist.
9. When experiencing a dilemma, express it publicly.
10. Identify and discuss "non-discussables."
11. Eliminate cheap shots and distractions.
12. Pay attention to what has heart and meaning — not just what is smart.
13. Understand underlying concerns before arguing over differing conclusions and actions.
14. Treat others' candor as a gift.
15. Keep group work in the group, versus the sidebars or breaks.
16. Conduct periodic checks of the meeting process.
17. Take risks, be comfortable with being ragged, and expect mistakes.
18. Learn from your mistakes.
19. Honor confidentiality: "What we say here stays here, unless we agree otherwise."

Source: adapted from Harry Hutson, with input from multiple sources by Vincent Iaccopino

ANNEX II

HANDOUTS for PROCEDURAL SAFEGUARDS

Please distribute each group of procedural safeguards to the related working groups beforehand

Procedural Safeguards with Respect to Detainees – Part I (Groups n. I)

Forensic medical evaluations of detainees should be conducted in response to official written requests by public prosecutors or other appropriate officials. Requests for medical evaluations by law enforcement officials are to be considered invalid unless they are acting on written orders of a public prosecutor. In addition, detainees themselves, their lawyer, or relatives have the right to request a medical evaluation to assess for evidence of torture and ill treatment.

The detainee should be taken to the forensic medical examination by officials other than soldiers and police since torture and ill treatment may have occurred in the custody of these officials and therefore place unacceptable coercive pressures on the detainee and/or the physician not to effectively document torture or ill treatment. The officials who supervise the transportation of the detainee should be responsible to the public prosecutors, and not other law enforcement officials. The detainee's lawyer should be present during the application for examination and post-examination transport of the detainee.

Detainees have the right to obtain a second, or alternative, medical evaluation by a qualified physician during and after the period of detention.

Please read and evaluate these procedural safeguards from two different perspectives:

- *What are the national legislation and the practice regarding the given procedural safeguards?*
 - *What are the possibilities in ensuring procedural safeguards? (what could the health professionals and legal professionals do?)*
-

Procedural Safeguards with Respect to Detainees – Part II (Groups n. II)

Each detainee must be examined in private. Police or other law enforcement officials should never be present in the examination room. This procedural safeguard may only be precluded when, in the

opinion of the examining doctor, there is compelling evidence that the detainee poses a serious safety risk to health personnel. Under such circumstances, security personnel of the health facility, not the police or other law enforcement officials, should be available upon the medical examiner's request. In such cases, security personnel should still remain out of earshot (i.e. be only within visual contact) of the patient.

Medical evaluations of detainees should be conducted at a location that the physician deems most suitable. In some cases, it may be best to insist on doing them at official medical facilities, and not on the prison or jail premises. In other cases, prisoners may prefer to be examined in the relative safety of their cell, if they feel the medical premises may be "bugged" for example. The best place will be dictated by many factors, but in all cases, investigators should ensure that prisoners are not forced into accepting a place they are not "comfortable" with.

The presence of police, soldier, prison officer, or other law enforcement officials in the examination room, for whatever reason, should be noted in the physician's official medical report. Notation of police, soldier, prison officer, or other law enforcement officials' presence during the examination may be grounds for disregarding a "negative" medical report. The identity and titles of others who are present in the examination room during the medical evaluations should be indicated in the report.

Please read and evaluate these procedural safeguards from two different perspectives:

- ***What are the national legislation and the practice regarding the given procedural safeguards?***
 - ***What are the possibilities in ensuring procedural safeguards? (what could the health professionals and legal professionals do?)***
-

Procedural Safeguards with Respect to Detainees – Part III (Groups n. III)

Medical-Legal evaluations of detainees should include the use of a standardized medical report form.

The original, completed evaluation should be transmitted directly to the person requesting the report, generally the public prosecutor. Where a detainee requests a medical report, or a lawyer acting on his or her behalf, they will be provided with the report. Copies of each medical report should be retained by the examining physician. A National Medical Association or a Commission of Inquiry may choose to audit medical reports to ensure that adequate procedural safeguards and documentation standards are adhered to, particularly by doctors employed by the State. Reports should be sent to such an organization, providing issues of independence and confidentiality have been addressed. Under no circumstance should a copy of the medical report be transferred to law enforcement officials.

It is mandatory that the detainees undergo a medical examination at the time when they are detained and an examination and evaluation on their release. Access to the lawyer should be provided at the time of the medical examination. An outside presence during such examinations may be impossible in most prison situations. In such cases, it should be ascertained that the prison doctors working with prisoners respect medical ethics and are capable of conducting their professional duties independent of any third party influence.

If the forensic medical examination supports allegations of torture, the detainee should not be returned to the place of detention, but rather should appear before the prosecutor or judge to determine the detainee's legal disposition.

Please read and evaluate these procedural safeguards from two different perspectives:

- ***What are the national legislation and the practice regarding the given procedural safeguards?***
- ***What are the possibilities in ensuring procedural safeguards? (what could the health professionals and legal professionals do?)***

ANNEX III

Please distribute the case one day before to the participants to read.

SAMPLE CASE STORY

This is the statement of Mazlum Sessiz, who was arrested on 15 May 2007 in Izmir, on the treatment he was subjected to while he was detained at Hayal Police Station, gathered during the interview :

I'm 35 years old, born in Mardin / Midyat and father of one daughter and three sons.

Ahmet is 12 years old and in 6th grade, Ayse is 10 years old and in 4th grade, Yusuf and Seyhmus are 4 and 6 years old and not going to school yet. Ahmet has the first place in class. I am primary school graduated. I make my living by selling pastries on a stand in the Cankaya district, at the electricians' mart, where street 943 and street 947 meet. My address is; Kadifekale, street number 23.

That day I was just trying to fulfill my morning service (the mornings are pretty busy, workers buy pastries), when two plain-clothes men approached me at 8.30 a.m., asking if I am Mazlum. I said, "yes, that's me". They said, "we need to talk to you". I replied, "let me just hand over these pastries, then we can talk". I gave them to Leyla and Mesude, who work at the manufactory at the back street. While I was giving them their change, the taller one said, "we are from the police, we don't have time to waste". So I gave all the money back to Leyla, told her to pay later and send her away. The white Renault of the police was blocking the street entrance; the streets in our mart are pretty narrow, a pickup can block the whole traffic. Yahya, the electrical outfitter called out to us and said, "could the friends remove the car, we need to load down our goods". The middle sized policeman said to the other, "Ahmet wait here, give me the keys, I'll park the car" and drove the car to the side street. The taller one, Ahmet, said to me, "we have some business with you; you have to come to the police station". I said, "my stand is full, let me finish the morning service, I'll come", but he insisted and assured me that I would come back in no time. So I turned to my neighbor Bilal and said "I will go with these policemen to the police station, it won't take long, let your assistant Kerim look after my stand". He accepted and Kerim came over. I took off my napkin, gave it to Kerim and followed Ahmet, the policeman into the car. We arrived at Hayal Police Station.

I was taken into a room at the right end of a corridor. The room had a high ceiling, the floor was covered with old pavement, there was a table and two chairs, the wall at the back yard side was painted blue. Policeman Ahmet and the middle sized policeman, whose name I don't know, surrendered me to two uniformed policemen. They said, "blindfold and bring him to the guest room". The uniformed policemen immediately blindfolded and handcuffed me on my back and led me down a stairway at the left side to the lower floor. The building is old, so the floors are quite high; we had to go down approximately one and a half floors. We arrived at the lower floor and I was led on a straight way, similar to the corridor upstairs. They just turned me back at the end of the corridor and made me walk back the same distance to leave me in a room, which was probably just under the room upstairs. The sound of the opening door made me think that it was iron bolted, heavy and iron plated. I was saying all the time, "what have I done, why have you brought me here, my stand is ruined", but they never responded.

I couldn't see the so-called guest room because my eyes were covered. I waited for some time out of pure anxiety. The room was filled with the nose burning stench of excrements of former "guests". I started to get scared and to shiver when I entered the room.

One and a half hours later I heard a dreadful noise, coming from the door. I thought a bomb detonated or something like that. Then I realized that they were hitting the covering plate with an iron shovel or something similar. I supposed for a moment that I got deafened.

Some time later two men came. I couldn't see their faces. One had a rotund and tense voice, while the other had a light and merciful voice. The rotund voiced (the other once called him "Sword") Sword slapped me twice suddenly. I first bumped into a wall and fell on the ground afterwards. Sword said, "you son of a bitch, where have you hidden the stuff". I said, "brother, which stuff, I don't know what you are speaking about", which led directly to a couple of kicks in my belly. I felt truncheons on my back severely... After a while they stopped and grabbed me by the arms and set me on foot and said "think of it, now I will bring your wife and let her watch you, and I will talk with the school director, to fire your kids from school"...

The one with the lighter voice said, "brother, wait outside and let me try to speak with him". Sword left and closed the door. The remaining policeman said, "look Mazlum, this guy called Sword is a dishonorable, merciless psychopath. If you don't confess, he won't let you leave alive, will torture you with electrical shocks and falanga. He will even bring your children and let them watch while you are tortured, he'll ruin your life. Think a bit about it, while I try to calm him down" and left the room. I couldn't think of anything and was just shaking in fear. I was already ruined, so I said to myself, that I would accept anything, in order to protect my children. I don't know how long I was alone there; it felt like years... while I was thinking what to say (because I had no idea what stuff they were referring to; who took it, for what). What would happen to my wife and children because of me? How would I be able to look in their eyes? What if they really did what they said and bring them here? I tried to understand what was going on, but couldn't concentrate. Well, I still can't... Then, the door got suddenly opened. Sword spat in my face and punched my chest several times. I couldn't breathe and dropped to the floor. They kicked my stomach and chest there...

"Undress, it's time to dance." I undressed my trousers and my shirt. They wanted me to undress my underwear too, but I didn't. They assaulted me and forcefully undressed me. I was completely naked in front of them... I was very ashamed... They started to make fun of my genitals and made dirty jokes about me and my wife... They said, "it is impossible for you to make your wife happy with these, we will teach her happiness when we bring her here"... My world collapsed... I begged, "please don't bring her here, I will make whatever you want me too". Their laughter and noises were clamored around me... I couldn't hear or think of anything anymore. All I was thinking about were my wife and my children...

They laid me down on a wet surface and tied me up. Then one of them started to squeeze my testicles. It was a horrendous pain. I heard my own scream, it sounded like a suffering animal. They said, "now your manhood died, the ones who will be the ones to make your wife happy". One said, "pour the acid now". They poured something cold on me, I was terrified and expected to get burned, but nothing happened. Then they attached something; at my right foot and at my right hand. Then they started to give me electrical shocks. My whole body was shaking, every bit of me was covered with an unbearable pain. They were laughing, "now you can't be considered a man anymore, but you will make men happy"... I wasn't myself anymore... I don't remember how long this lasted, what else they did... and what happened to me...

I recall that I was in my cell again. I tried to stand up but my whole body was in pain and I couldn't move. But it wasn't important, nothing was important... All I could think of was "death". I wished to die and leave everything behind. I still feel that way. What difference would it make if I continued to live or not? After I fell so low...

Later on, Sword came, accompanied by two other men. He said, "set this son of a bitch on foot". I said, "brother, I made it all, I accept whatever you say".

Another thing I recall is, that the policeman with the light voice came and brought me a sandwich and water. He unlocked the handcuffs. I couldn't eat anything, I had a tremendous pain in my stomach, which is still continuing. Then he handcuffed me again, but not on my back. I asked for the toilet and he said, "son, there is no such thing like a toilet here, just do it" and left. I went to a corner of the room and urinated there. I squatted down and leant on the wall. They continued to hit the door vehemently time and time again. The noise was so unexpected, so it made me leap in horror every time. I felt like my ears were bursting and something was squeezing me inside. Each time, I was startled and trembled with fear: "Yes, they will once again devastate me or they bring my children and my wife... Please let it be me, my god... I can't take it..."

Finally, Sword and the merciful policeman came again. I started to shiver and recalled what happened the day before. I wished, I would have died, instead of going through this. I wanted to die, but my hands were tied, there was no possibility and no material to kill myself... Now, I know, what it means to be desperate; even now, I get confused when I speak of that moment... I don't now what to say... Sword once again started his questions; "where have you brought the stuff? To whom have you delivered it? How many packages where there?" I started begging, "brother, I accept everything you say, please spare my life for my family". "You son of a bitch, so you try to save yourself from our treatment, while you also try to cover your friends, eh?" He spat in my face and punched my belly. I writhed and dropped down and I couldn't stand up again. Then... (*the client/victim gets silent and cries for 15 minutes*), well then... however... they just left me lying there and locked the door. He said "you are nobody" before he left and added, laughing... "we will come back soon, we have surprises for you"...

I could only think about the security of my children and my wife, omitting all the beating, electrical shocks and everything. I said that I am ready to accept anything, but no one listened. I got confused on how to go on. I was on one hand afraid, while I was wishing I could commit suicide, but

my hands were tied. I thought that I couldn't face the people outside again and I longed to die whenever I imagined my wife here too....

I don't know how much time I was lying there on the ground, I lost my attention to time, I actually lost attention to everything... I was only thinking continuously on ways to commit suicide... *(At this point, the client folded his hands between his legs, bent his head down and was continuously looking at his hands. He said 4-5 times "well, then" and tried to continue to speak, but couldn't.)*

I don't know how much time passed, the door got opened. Sword, mimicked anger to the others, saying, "have you given our guest a meal? Why don't you show interest?" He continued, "take our brother Mazlum upstairs, order a soup, satisfy his needs, we should at least do what we can to offer an apology." I was taken out of that dirty room. They untied my eyes in the adjacent room, unchained me, gave me my clothes and helped me get dressed.

But when I opened my eyes Sword was gone. I wasn't feeling anything anymore... I was like an empty box. And I still am. There is no feeling anymore, just a big void and pain... I can't even think.... It's like I am in another world.

The policeman with the light voice was uniformed. I couldn't notice his number, but I remember that he was approximately 40 years old, short, with grayish eyes and a 2-3 cm scar on his forehead, but I can't recall if it was on the right or left. The other policeman was 25 years old, middle sized. I was brought upstairs (the stairs were old-style mosaic) after I got dressed, my watch showed 3.20 PM. I was brought upstairs after I got dressed. I had to drink something, they said it was soup, but it smelled strongly like urine. I wanted to decline, but they forced me to drink it... One policeman delivered and asked me to undersign some papers. I signed without reading and thinking. Then we went once again downstairs, walked the corridor to the last room. He locked me in and left... Then everything gets mixed up again... I was left there for a while and lost myself in thoughts... "What if they bring my wife and do to her what they have said? "When will they take me again, what else will they do to me? Have they called at my sons' school?" and hundreds of such questions... I felt like going mad. Meanwhile I was sweating all the time, wiping my sweat on my sleeve, but it wasn't hot, on the contrary, the custody room was underground and it was cooler than outside.

After a while, they took me and brought me to the room where I got dressed. A lawyer came and said, "I'm in charge on behalf of the lawyers bar association, I will help you". Who could possibly help me anymore? To trust somebody after so many things I went through... I saw what is possible. Neither myself, nor my manhood could be restored anymore.

After the conversation, he told me that they would bring me to the hospital and then to the public prosecutor. The lawyer said that I need not to be afraid anymore and that he will be there, too. But, ...

No place is safe anymore. Who can save me from them? What if they take me in again? Who will protect my wife and my children? How will I look in their faces? I can't even imagine speaking with them, to touch them. Whatever I live or might happen to me from now on, doesn't matter, anymore.

I told him what I've gone through and he said, "now it's not the time for this, we should leave at once, concentrate on your testimony". The door was open while we were speaking, policemen were coming and going. Then we were taken to an adjoining typewriter room. There was a table, three chairs, a portrait of Atatürk behind the table and a typewriter on a little furniture between the table and a coffee table. The floor was covered with a thin carpet and there was a wall-clock. The policeman using the typewriter was uniformed and typed my testimony. I answered the questions as far as I knew the answers. The lawyer intervened once or twice. Afterwards he said that we'll meet at the public prosecutor and left.

There was an incident, but I can't remember if it was before or during the testimony. The lawyer and the police officer were discussing. The lawyer demanded to see some documents. I wasn't in the room while they were discussing.

After a while the young policeman came and said, "we can go now". I heard Sword's voice, coming from a room on the right side at the midway of the corridor, when we left the room. I glanced inside when we were passing by and saw Sword sitting behind a brown big table. I could see Atatürk's portrait behind him and a wireless on the table. He was massive, bald on top of his head and white-haired on the flanks. He was 40-45 years old and dressed in plain clothes. The policeman with the light voice noticed that I was glancing inside and pushed me forward. We left the police station, I looked at my watch, it was 4.30 p.m. in the afternoon.

They drove me to the polyclinic, which is quite near inside the market district. The doctor asked for my complaints. The door was open and the policeman with the light voice was looking at us. I could only say to the doctor, "my whole body is aching". He saw no need to examine me, said "okay, you are fine, you can go now", undersigned some papers and gave them to the policeman.

Then, we went to the public prosecutor. There, I tried to tell him that I got beaten and received electrical shocks... He didn't even listen to me... The same thing happened also with the judge... Then, they sent me to the prison.... I'm here since two days.

I still can not eat anything. Everything everywhere smells disgusting. I couldn't get rid off the urine stench for two days. I have stomachache. I have pain in my whole body, specifically my back, chest and... I can not get out of the bed. I do not want to anyhow... I have difficulties sleeping at nights and suffer from nightmares. I feel like being there as soon as I close my eyes and everything starts from the beginning. I feel as if I'm there even when I am awake. There is no reason to live on.. They ruined me. I can't eat, I smell urine and dirt in everything and anywhere. Is it worth to continue to live in this situation... I wish...

I demand the lawyers from Contemporary Lawyers Association to undertake the necessary legal steps to punish my torturers. (DATE)

Interviewer

Client

Observation: Mazlum Sessiz was averting his eyes while he was speaking about the one and a half day of mistreatment. He was looking at corners at the ceiling or the floor, making constantly changing rhythmic moves with his fingers. He had 7-8 cm scratches on his wrists. There were ecchymosises on his cheek. (DATE)

ANNEX IV

HANDOUTS for GENERAL CONSIDERATION FOR INTERVIEW AND TAKING THE STORY

GENERAL CONSIDERATIONS checklist

Interviewer:	
Able to enter the role	
Makes arrangement at interview place	
Establishes eye-contact	
Introduces her/himself	
Provides sufficient information on purpose, context, procedure and limitations of the interview	
Receives informed consent which is based on adequate disclosure and understanding of the potential benefits and adverse consequences	
Uses proper body language	
Formulates the questions in a non-leading, open-ended manner	
Formulates the questions in an understandable and clear manner	
Asks questions in an appropriate manner (not judgmental, not disturbing the person, not resembling an interrogation, etc.)	
Structure the interview in compliance with the purpose	
Collects information for the methods of torture- ill-treatment in appropriate manner (e.g. not method-listing approach)	
Provides feedback to the interviewee	
Creates opportunity for the interviewee to express her/himself	
Shows attention, give time-space to the needs and questions of the interviewee	
In general, acts attentively; shows attention to the potential risk of retraumatization	
Gives appropriate priority to the critical information in the limited time frame	
Records the narration in person's own words	

CONTENT checklist

CONTENT	
Name and identity of the interviewee	
Description of physical and visible characteristic	
Exact time and date of the interview	
Location, nature and address of the institution where the examination is being conducted	
Context of the interview (e.g. who informed, who requested the visit, by which documents, etc)	
Name, affiliation of those present at the examination	
Name, profession (and other identity information) of the interviewee	
Summary of detention and abuse (including dates, places, duration of detention, frequency and duration of torture sessions)	
Circumstances of apprehension (What time, from where, by whom (with details, if possible); other persons around witnesses/bystanders; interaction with family members; violence/threats used during the apprehension; use of restraints or blindfold, etc.)	
Place and conditions of detention (What happened first, where, any identification process, transportation, distinctive features; other procedures; condition of the cell/room; size/dimensions, ventilation, lighting, temperature, toilet facilities, food; contact with third persons (family members, lawyer, health professionals); conditions of overcrowding or solitary confinement, etc.)	
Methods of torture and ill-treatment (Assessment of background: Where, when, how long, by whom; special features of the environment, perpetrators, devices/instruments; usual "routine", sequences and other information -For each form of abuse; body position, restraint, nature of contact, duration, frequency, anatomical location, the area of the body affected and how and other information -Sexual assaults -Deprivations (Sleep, food, toilet facilities, sensory stimulation, human contact, motor activities); threats, humiliations, violations of taboos, behavioural coercions and other methods. -Previous medico-legal reporting process (if any)	
Complaints (-Physical complaints, Injured bodily areas; location, frequency and duration of each symptom; initial and late onset of symptoms; healing processes -Psychological problems, complaints, symptoms -Treatment or lack of treatment)	
General background information (age, occupation, education, family composition, etc.)	

ANNEX V

LIST OF REFERENCE MATERIALS INDICATED IN THE MODULE

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- World Medical Association, Medical Ethics Manual <http://www.wma.net/e/ethicsunit/resources.htm>
- Ucpinar, H., Baykal, T. (2006) "An Important Step for Prevention of Torture: Istanbul Protocol and Challenges" Torture Journal, Volume 16., No. 3, pg 252 – 267

SOURCE MATERIAL FOR BACKGROUND RESEARCH ON INTERNATIONAL STANDARDS ON THE PROHIBITION OF TORTURE

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- Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law, UN Doc. E/CN.4/RES/2005/35, Annex, 20 April 2005
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, G.A. Res. 43/173 of 9 December 1988
- Code of Conduct for Law Enforcement Officials, Adopted by General Assembly resolution 34/169 of 17 December 1979
- Principles of Medical Ethics relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Detainees and Prisoners against Torture and Other Cruel, Inhuman or

Degrading Treatment or Punishment, General Assembly resolution 37/194 of 18 December 1982

- Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), Adopted by General Assembly resolution 55/89 Annex, 4 December 2000
- Standard Minimum Rules for the Treatment of Prisoners, Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, Economic and Social Council Res. 663 C (XXIV) (31 July 1957) and 2076 (LXII) (13 May 1977)

Copies of these documents are available in English at <http://www.ohchr.org/english/law/index.htm>

2. Jurisprudence

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- Arana v. France, Communication No. 63/1997, UN Doc. CAT/C/23/D/63/1997
- Sadiq Shek Elmi v. Australia, Communication No. 120/1998, UN Doc. CAT/C/22/D/120/1998
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- Radivoje v Yugoslavia, Communication 113/1998, UN Doc. CAT/C/26/D/113/1998
- Slobodan Nikolić and Ljiljana Nikolić v. Serbia and Montenegro, Communication No. 174/2000, U.N. Doc. CAT/C/35/D/174/2000
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- Kepa Urra Guridi v. Spain, UN Doc. CAT/C/34/D/212/2002,

The cases of the Committee against Torture can be found as follows =

<http://www.unhchr.ch/tbs/doc.nsf> , open, then click on Committee against Torture, then click on jurisprudence, the following list contains all the cases mentioned above according to country and document number

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- *Ogur v. Turkey* (2001) 31 E.H.R.R. 40
- *Veznedaroglu v. Turkey* (2001) 33 E.H.R.R. 59
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[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.C.21.Rev.1.Add.13.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CCPR.C.21.Rev.1.Add.13.En?Opendocument)

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 - Combating Torture: A Manual for Action,
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 - Optional Protocol to the UN Convention against Torture, A Manual for Prevention,
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