ISSN 1386-7423, Volume 13, Number 3

Volume 13 No. 3 August 2010 ISSN 1386-7423

Medicine, Health Care and Philosophy

A European Journal

(*Continued on back cover*)

Official Journal of the European Society for Philosophy of Medicine and Health Care.

Springer

Med Health Care and Philos (2010) 13:279–286
DOI 10.1007/s11019-010-9248-1

SCIENTIFIC CONTRIBUTION

Documentation of torture and the *Istanbul Protocol*: applied medical ethics

Holger Furtmayr · Andreas Frewer

Published online: 25 April 2010

Abstract The so-called *Istanbul Protocol*, a Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhumane or Degrading Treatment or Punishment was adopted by the United Nations soon after its completion in 1999 and since then has become an acknowledged standard for documenting cases of alleged torture and other forms of severe maltreatment. In 2009 the "Forum for medicine and human rights" at the Medical Faculty at the University Erlangen-Nuremburg has provided the first German edition of this manual. The article traces back the development of the protocol taking into account the general background as well as the factual occasion of its initiation. The main ethical and legal principles of the manual are introduced as well as the projects for implementing the rules provided in the protocol that have been carried out so far. From this the urgent need for implementation of the Istanbul Protocol guidelines also in Europe and in German-speaking countries and here not exclusively but especially within asylum procedures becomes clear.

Keywords Asylum · Documentation · Human rights violations · Istanbul protocol · Mistreatment · Torture · United Nations

H. Furtmayr (✉) · A. Frewer
Institut für Geschichte und Ethik der Medizin, Friedrich-Alexander-Universität Erlangen-Nürnberg, Glückstr. 10, 91054 Erlangen, Germany
e-mail: holger.furtmayr@ethik.med.uni-erlangen.de

A. Frewer
e-mail: andreas.frewer@ethik.med.uni-erlangen.de

Introduction

There is almost nothing that can so utterly destroy the body and soul of a human being in the way torture can. Along with the pain and fear of death is the certainty that the agony one experiences is not due to an unavoidable and random natural catastrophe, but is deliberately perpetrated by fellow human beings. They expose and isolate the victim—even from his or her family and familiar surroundings. For this reason, torture never only affects the individual: it destroys the trust in others that is essential for every form of community, and therefore its consequences extend far beyond the lone torture victim. Just over 60 years after the Universal Declaration of Human Rights (United Nations 1948) was adopted on the 10th of December 1948 and almost 25 years after passing the convention against torture (CAT; United Nations 1984), two decades after establishing the United Nations Committee Against Torture for monitoring this agreement, torture still exists and at present is employed in over 80 countries on this planet (Amnesty International 2008).

Since the countries in question are themselves obviously hesitant to tackle the problem, it is all the more vital to insist on documenting cases in which torture has likely occurred. The most important tool for this task is the so-called *Istanbul Protocol* (United Nations 1999) which also has a central role to play in preventing the further use of torture. The *Istanbul Protocol* came into existence on the occasion of an international symposium initiated by the Turkish Medical Association in 1996 and with the support of forensic specialists, physicians, human rights observers and lawyers. The basic intention of the protocol is to establish guidelines for a thorough investigation of the facts in alleged torture cases so that the findings can provide valid evidence in a court of law as is clearly stated in the text:

> "The broad purpose of the investigation is to establish the facts relating to alleged incidents of torture, with a view to identifying those responsible for the incidents and facilitating their prosecution (…)" (United Nations 1999, p. 17, § 77).

Since they were developed from the daily work and the necessity of a careful documentation of instances of torture, the guidelines should not be understood as fixed rules, but rather as flexible recommendations for real life cases which have to be adjusted to the circumstances and available resources (United Nations 1999, p. 2). Besides the goal of making anyone responsible for torture accountable before the law, the documentation of torture cases according to the *Istanbul Protocol* could be useful in other circumstances as well, for instance in cases of human rights violations or the assessment of alleged torture victims applying for asylum. Furthermore, the manual is intended to provide recommendations for the treatment of torture victims and ultimately lead to redress for the victim and his or her family—as far as redress is possible for such a crime at all. The sum total of these possibilities not only makes it meaningful to apply the *Istanbul Protocol* in countries where torture is still systematically employed, but also in those where the victims of torture mainly appear as seekers for asylum.[1] That is why the "Forum for medicine and human rights" of the Chair of Medical Ethics at the Friedrich-Alexander-Universität Erlangen-Nürnberg has recently released a German version of the *Istanbul Protocol* (Frewer et al. 2009). The intention is thus to make this *Manual on the Effective Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* better known to a larger circle of practicing human rights activists, as well as to medical and legal professionals.

The problem of torture and documenting allegations of torture

In their recent 2008 annual report, *Amnesty International* documented cases of torture or other degrading and inhumane treatment in 81 nations (Amnesty International 2008). Especially in view of the 60th anniversary in the same year of the *Universal Declaration of Human Rights*, this number reveals the striking discrepancy between the states' official condemnation of any form of torture and its actual application. In the meantime most of the legally non-binding statutes of the *Universal Declaration of Human Rights* have been replaced by a series of international contracts that are in fact legally binding for the individual states. Prominent among them are the *International Covenant on Civil and Political Rights* ("UN-Covenant"), which was adopted on December 16th 1976 (United Nations 1966) and the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (United Nations 1984) with its optional protocol[2] which became binding in 2006 (United Nations 2002). Both documents contain a categorical ban on the use of torture that holds under any external circumstance whatsoever so that there can be no justification of any kind for the use of torture or other degrading practices.[3] And both contracts were signed and/or ratified by an overwhelming majority of states. That there can be such gross violations of the law despite such unanimity both in terms of the declaration against every kind of torture as well as in terms of the legal force of the contracts, has its source to a certain extent in the structure of the United Nations itself.

As an intergovernmental coalition of independent states, all members were concerned from the beginning to preserve their sovereignty in their respective territories. Despite a tendency visible since the 1990's, due to a broad interpretation of what counts as an "existence of any threat to peace" (UN-Charta, Art. 39), to resort even to military sanctions in the case of wide-spread and gross violations of human rights, and, for example, intervening in civil conflicts in non-aligned countries (Gareis and Varwick 2003, pp. 127–145), the principle of sovereignty is still largely upheld. This means that each state is itself responsible for abiding by the above mentioned contracts. There is no higher level sanctioning authority to punish violations of the law created by these contracts. Since the ban on torture is a right of defense of the individual against the state, and acts of torture, in accordance with Art. 1 para.1 CAT are defined precisely by the fact that they "are inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity" a dilemma ensues: There is a high probability that those organs of government entrusted with observing and

[1] On the various ways in which data can be used that was gained by the medico-legal documentation of torture according to the standards of the *Istanbul Protocol* (see Frewer et al. 2009 and Furtmayr et al. 2009), especially in treatment centers for torture victims, cf. Mandel and Worm 2007a, b.

[2] The optional protocol obligates contract states to establish national commissions to oversee the UN-Anti-Torture-Convention [CAT]. These commissions are given support by an international subcommittee. The commissions have the right to visit any place where human beings are being held against their will. This includes not only prisons, but also psychiatric wards and transit areas in airports. Furthermore, governments are under obligation to supply the commissions with all requisite information, as for example the reasons for an arrest. Cf. Mahler 2002.

[3] The CAT stipulates, for example, in Art. 2 (2): "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."

enforcing the ban on torture are close to those organs that are themselves responsible for the torture. But a state that resorts to torture will have little interest in an investigation, or in bringing to court the responsible parties.[4]

Despite this criticism, it must not be forgotten that the United Nations did indeed make a worldwide public condemnation of torture possible for the first time. And although the recent numbers released by Amnesty International are hardly encouraging, there are nevertheless promising developments: since torture has become outlawed the world over, and since in almost all states acts of torture are illegal (even where they occur *de facto*), almost no state can afford to publicly avow the use of torture. Even the United States, the only remaining global military power and "leading financial contributor" to the United Nations, which during its so-called "war against terror" resorted to certain forms of torture, is making every effort to re-define the concept of "torture" so that their techniques of "enhanced interrogation" or "harsh interrogation" do not count as such.[5] Today, wherever torture takes place, it must be kept secret. Nothing puts more pressure on torturers than being dragged into the public's eye, having their deeds revealed and carefully documented. This is the basic premise of the *Istanbul Protocol*. The *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* provides international guidelines, lays out standards and methods of investigation that make the precise documentation of cases of torture possible, in order to then make the results public and thus contribute to improved information about torture. The principles contained in the *Istanbul Protocol* are not legally binding, but are rather understood to be recommendations and detailed suggestions for the everyday practice of physicians, lawyers and other experts involved in the investigation of cases of torture. Nevertheless, as Battjes has pointed out these guidelines may have a semi-legal status since every state must abide by them if it wants to assert that a thorough and effective investigation of allegations of torture has indeed been carried out (Battjes 2006).[6]

History of the *Istanbul Protocol*

The actual event leading to the development of the *Istanbul Protocol*, and at the same time clear evidence of the dilemma mentioned above, was the Case of Baki Erdoğan.[7] On August 10th 1993 Erdoğan was arrested in his home province of Aydin in Turkey on suspicion of belonging to the illegal "Revolutionary Left." Ten days later laying in coma he was transported to a hospital where he died shortly thereafter. The official cause of death was reported to be a pulmonary edema resulting from a hunger strike. However, as family members washed Erdoğan's corpse, they noticed many traces of physical abuse. During the funeral, several family members distracted the police stationed there while others tore off the burial shroud, taking pictures and film of the corpse. On the basis of this evidence the Turkish Medical Association submitted an alternative report, naming acute respiratory failure caused by multiple traumas, especially electrical shock and torture by hanging. Furthermore, the medical association declared the official report to be invalid since it was not prepared according to the principles of the so-called *Minnesota Protocol*. This protocol, which was the reference point for the inquiry, contains guidelines for the investigation of extralegal and arbitrary executions (United Nations 1989). Subsequently the case went to court where the culprits were found guilty and convicted to a jail sentence of five and one half years for negligent homicide.

As the Turkish Medical Association held an international symposium on the topic of "Medicine and Human Rights" in March 1996, the Human Rights Foundation of Turkey (HRFT) together with the Physicians for Human Rights (PHR) took the initiative of putting together guidelines based on the *Minnesota Protocol* to be used in the investigation of cases of torture on victims still alive (Iacopino et al. 1999; Ucpinar and Baykal 2006). While these three organizations coordinated and organized the project, ultimately more than 75 experts representing over 40 organizations from 15 countries were involved in its production. The final version of the *Istanbul Protocol* is the result of a common effort by men and women who analyzed, researched, and painstakingly edited the text, work carried out by forensics specialists, physicians, psychologists, human rights observers and lawyers.

[4] In the case of Ismail Alan vs. Switzerland, the Committee against Torture determined that ratification alone of the CAT "does not yet state anything about the actual situation in the state in question." Cf. Weiß 1997.

[5] On the efforts the US Department of Justice undertook in this regard, see for example: Leyendecker 2005. In connection with this, the distinguishing characteristics of torture, inhuman and other cruel and degrading treatment are discussed in Nowak and McArthur 2006.

[6] Because the *Istanbul Protocol* is recognized as a UN-Document and because it is designated a "protocol," the impression can arise that it is a legally binding document. Cf. Haagensen 2007.

Beyond the actual legal obligation to investigate promptly and without bias every suspicion of torture, and to hold those responsible legally accountable, the manual can be accorded a kind of binding force under certain circumstances since it spells out the requisite measures for such procedures. Cf. Battjes 2006.

[7] German language information sources provide mutually inconsistent accounts about the circumstances surrounding the "Case of Baki Erdoğan." The authors are therefore especially grateful to Dr. Alp Ayan from the *Human Rights Foundation of Turkey* (HRFT) for additional information and several clarifications. See also: Rauchfuss 2006 and Amnesty International 1994, 1999.

Upon its completion the protocol was delivered in August 1999 to the United Nations High Commissioner on Human Rights at the time, Mary Robinson. On the recommendation of the United Nations Special Rapporteur on Torture, the protocol was adopted on the 4th of December 2000 by the General Assembly as well as by the Commission on Human Rights.[8] In the same session members discussed publication and the means of disseminating the guidelines for investigating and documenting torture. In March 2001 the *Istanbul Protocol* appeared in the United Nations Professional Training Series in the six official UN languages, and can be obtained in these languages on the website of the United Nations Office of the High Commissioner on Human Rights.[9] The European Union and the African Commission on Human and Peoples' Rights have also acknowledged the protocol as an effective and appropriate means for investigating and documenting allegations of torture.

Structure of the manual

The *Istanbul Protocol* is divided into the following sections[10]:

I. Relevant international legal standards

A. International humanitarian law
B. The United Nations
C. Regional organizations
D. The International Criminal Court

II. Relevant ethical codes

A. Ethics of the legal profession
B. Health-care ethics
C. Principles common to all codes of health-care ethics
D. Health professionals with dual obligations

III. Legal investigation of torture

A. Purposes of an investigation into torture
B. Principles on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment
C. Procedures of a torture investigation
D. Commission of inquiry

IV. General considerations for interviews

A. Purpose of an inquiry, examination and documentation
B. Procedural safeguards with respect to detainees
C. Official visits to detention centres
D. Techniques of questioning
E. Documenting the background
F. Assessment of the background
G. Review of torture methods
H. Risk of re-traumatization of the interviewee
I. Use of interpreters
J. Gender issues
K. Indications for referral
L. Interpretation of findings and conclusions

V. Physical evidence of torture

A. Interview structure
B. Medical history
C. The physical examination
D. Examination and evaluation following specific forms of torture
E. Specialized diagnostic tests

VI. Psychological evidence of torture

A. General considerations
B. Psychological consequences of torture
C. The psychological/psychiatric evaluation

Annexes

Main principles

Since the *Istanbul Protocol* was developed as a practical manual, the guidelines and regulations it contains are non-actionable, as was previously mentioned. Nevertheless, a multitude of international agreements and contracts together with the institutions and agencies connected to them provide a legal foundation on the basis of which the guidelines and principles of this manual can be implemented. A brief overview of these institutional and legal arrangements can be found in the first chapter, which treats the relevant international legal standards. It begins with the Geneva Convention, continues through the various bodies of the United Nations and includes the regional accords and organizations at Inter-American, European, and African levels.

For those who are professionally in contact with victims of torture (in particular lawyers, members of health professions, and especially physicians) not only the legal guidelines play an enormous role, but so do the ethical codes of the relevant professions. These are presented with requisite brevity in the second chapter of the manual. Besides the relevant statements of the professional associations, in particular of the World Medical Association

[8] Resolution 55/89 of the General Assembly for December 4th 2000 and resolution 2000/43 of the UNCHR on April 20th 2000.

[9] UN-Professional Training Series No. 8. http://www.ohchr.org/EN/PublicationsResources/Pages/TrainingEducation.aspx.

[10] We only reproduce here the main chapters (I–V) and the subchapters (A, B, C, etc.). The next subcategory of the chapter outline (1, 2, 3, etc.) does not appear here for reasons of space. For more, see UN-Professional Training Series No. 8, op.cit. FN 9.

(WMA), principles are set out in greater detail that are seen as largely independent of time and place, thus common to all codes of ethical obligations for members of health professions: the duty to provide compassionate care, to obtain informed consent, to protect confidentiality. Special attention is paid to the problem of "dual obligation" of health personnel who either work for the police, in prisons or in the military. It is emphasized that as a basic principle health professionals are always bound by international legal standards and their professional ethics, even if their employer or a government official demands actions directed against the rights and the well-being of the patients.

The third chapter of the manual discusses procedures and sets out guidelines for a legal or criminal investigation on the suspicion or charge of torture. Especially noteworthy in this regard are the "Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" that appear again in the first appendix to the protocol. They represent the essence and absolute minimum requirements that every serious investigation of allegations of torture must meet. In addition, numerous suggestions are provided for properly carrying out an investigation. These suggestions range from determining an appropriate investigative body, to the interrogation of witnesses and the preservation of evidence, to the use of photographs. The chapter concludes with detailed comments about membership criteria for and the proceedings of an independent commission of inquiry.

The fourth chapter not only addresses legal and medical experts, but also everyone involved in the investigation of human rights violations; its focus is the interview of torture victims. Of especial importance here are the suggestions for interviewing prisoners, since they will frequently fear (further) reprisals in the course of an investigation, as well as the considerations regarding the risk of re-traumatization of torture victims by an interview that will most possibly revive painful memories. Moreover, the chapter discusses interview techniques, problems in the use of translators, gender issues and a list of common torture methods.

Chapter five deals extensively with the physical examination of a torture victim, and catalogues expected symptoms in relation to the affected region of the body as well as to the type of torture employed. Diagnostic tools are included, as is a possible differential diagnosis.

The sixth chapter on the assessment of psychological evidence for torture is the most detailed chapter of the entire manual. First of all, the central role of a psychological evaluation of torture victims is given special emphasis before the possible psychological consequences of torture are named and described. Extensive suggestions for conducting a psychological or psychiatric evaluation come next. These again include problems surrounding the interview process, as well as the possibility of transference and countertransference effects. The necessary components of a psychological investigation are explained and neuropsychological test procedures are discussed. This chapter concludes with remarks concerning the psychological impact of torture on children.

The annexes II through IV are especially relevant to physicians. The second annex returns to the application of different radiological diagnostic procedures as well as the possibility of biopsy in cases of torture by electrical injury. The third annex provides a series of sketches of the human body that can be used in the documentation of torture and other kinds of ill treatment. The fourth annex offers an example template ready to be filled out in a medical inquiry, thereby once more giving physicians involved in the evaluation guidelines for the documentation of the various steps of such an inquiry in a convenient form.

That the *Istanbul Protocol* can clearly be utilized in numerous contexts, but above all is directed to members of the medical and legal professions, can clearly be seen from the chapter headings. Of the six chapters and four annexes that make up the manual, the two most extensive chapters (on the physical and psychological examination of torture victims) and three of the annexes are directed to doctors. Two chapters—on the legal investigation of torture and the chapter on the relevant international legal standards—as well as the first annex, which again repeats the most important principles of a (criminal) legal investigation, are directed to lawyers. The chapter on ethical codes deals with the professional ethics of lawyers and of members of the health professions. That leaves only the chapter with the general suggestions for interviewing torture victims (and to a certain extent the chapter on international legal standards) to address a larger circle of human rights workers. The outstanding importance of medical and legal professionals in the investigation of cases of torture as well as the necessity of a close cooperation between these two professional groups is also mirrored in the efforts surrounding an implementation of the guidelines and standards urged by the *Istanbul Protocol*.

Use and implementation

Immediately after its publication there were many attempts, above all in Turkey, to disseminate the guidelines and standardized procedures to a larger circle of medical and legal professionals. By means of training units composed of physicians and legal experts the intent was to allow knowledge about the protocol and its application in daily routine to take root. Moreover, an effort was made to motivate people

to change their attitude towards torture. Instead of ignoring signs of torture, they should actively investigate these signs according to the guidelines of the *Istanbul Protocol*. These training seminars were conducted in tandem by the TMA (Turkish Medical Association) and the SFMS (Society of Forensic Medicine Specialists), the Turkish team that had already participated in the initial development of the protocol (Ucpinar and Baykal 2006, pp. 264–265).

In the time span from 2003 to 2005 the first phase of the "Istanbul Protocol Implementation Project" (IPIP) took place. This project, sponsored by the European Commission, was brought into being by the International Rehabilitation Council for Torture Victims (IRCT) and the World Medical Association (WMA). Its goal was to train workers in the health and legal fields in the application of the *Istanbul Protocol* in five pilot countries with the help of further national and international partners, and in this way to successively create a framework for the general introduction of the protocol. Besides this, a series of materials were created for implementing the protocol in different countries and professions. During the first phase of the project 244 members of the health profession and 123 lawyers and employees of the court in Sri Lanka, Georgia, Uganda, Morocco and Mexico visited the training seminars. A second phase of the project is also funded by the EU. The IPIP was continued from 2005 to 2007 by the "Prevention through Documentation Project" which had as an additional goal even broader promotion of the cooperation between medical and legal professionals in the implementation of the *Istanbul Protocol* as well as improving the dissemination of knowledge concerning the effective prevention of torture in the rehabilitation centers for torture victims. Besides the countries already mentioned, Egypt, Ecuador, Kenya, the Philippines and Serbia participated as well. Whereas in the latter countries medical and legal professionals were trained in the implementation of the protocol, members of countries which already participated in the IPIP received instruction in "training the trainers" and disseminating the relevant information (Ucpinar and Baykal 2006, pp. 266– 267).[11]

Besides the use of the *Istanbul Protocol* in countries where torture is still systematically applied or at least is still prevalent, the protocol also offers effective assistance to human rights organizations and psychosocial centers in their work with survivors of torture. Moreover, the protocol's guidelines can be used within asylum procedures to assess fugitives and possible victims of torture and to possibly corroborate evidence of alleged torture which may even have taken place long ago. In the United States in 2001 the Physicians for Human Rights (PHR) prepared their own manual for the investigation of asylum seekers based on the *Istanbul Protocol*. The sections of the *Istanbul Protocol* relating to the evaluation of alleged torture victims were retained, while two new sections were added. One treats specifically the situation of asylum seekers in the United States, while the other new section contains a series of sample affidavits (Physicians for Human Rights 2001).

There is also the Dutch project *CARE FULL* that is concerned with the application of the protocol in asylum procedures. It was initiated by Amnesty International Netherlands, the Dutch Council for Refugees, and Pharos ("Knowledge Centre on Refugees and Health"). It arose from the concern that the victims of torture and ill-treatment no longer receive sufficient hearing under the EU's ever stricter practices regarding right of asylum (Bruin et al. 2006). One aspect of the project was the investigation of the extent to which the *Istanbul Protocol* is already being applied in asylum procedures within the EU and how it is to be employed in such procedures. The clear result of the investigation: medical and psychological opinions that can at least largely confirm or refute torture claims, must be given proper weight in asylum procedures. Furthermore, these opinions are to be carried out according to the criteria developed in the *Istanbul Protocol* (Bruin et al. 2006).

A pilot project by the Danish "Rehabilitation and Research Center for Torture Victims" studied the extent to which medico-legal documentation can be carried out according to the standards of the *Istanbul Protocol* in the context of the therapy and rehabilitation of torture victims. The study concluded that there are considerable synergistic effects since most of the data necessary for legal purposes is already acquired during the rehabilitation process. However, since still more data is required, and the data already acquired must be restructured and made accessible, a greater expenditure is also involved. This makes it necessary to develop a new conception for data storage. Because the benefits of medico-legal documentation of torture have not been extensively studied with scientific rigor, it remains an open question whether the expected higher expenditures are justified (Mandel and Worm 2007a, b).

Concluding remarks

Despite the recognition by the United Nations as well as by other international bodies[12] and despite the many activities

[11] More information is available on the website of the International Rehabilitation Council for Torture Victims: www.irct.org.

[12] For example, the Special Rapporteur on the question of torture pointed out once more in its general recommendations the importance of the principles put forth in the *Istanbul Protocol* (E/CN.4/2003/68, § 26). Furthermore, the Commission on Human Rights made the request in its resolution on human rights that states employ the manual as a helpful tool in the fight against torture (Human Rights resolution 2003/33 on April 23rd 2003; E/CN.4/2003/L.11/Add.4). See also Ucpinar and Baykal 2006, pp. 256–257.

for disseminating knowledge about the protocol,[13] the manual has yet to achieve the status it deserves.[14] Even in Germany, Austria, and Switzerland medical and legal experts are much too unfamiliar with it. And since there are no agreed upon regulations about the qualifications physicians must possess in order to give a medico-psychological evaluation—in case one is requested at all—in a legal proceeding concerning asylum seekers, the protocol and the guidelines it contains are rarely used in Germany. Help in the matter of unified guidelines for evaluations in asylum procedures has been available for some time in the "Standards for the Evaluation of Psychologically Reactive Consequences of Trauma" developed by the group around Dr. Gierlichs (Aachen) and Dr. Wirtgen (Munich).[15] These recommendations lay out the professional qualifications a doctor must possess who wishes to participate as an expert witness in an asylum proceeding in order to fulfill the task carefully and in proper form. Advanced certified training programs are currently being offered throughout Germany, developed with the help of medical and psychological associations according to a strict training curriculum. Moreover, a manual devoted to the psychological evaluation of asylum seekers has been prepared under the editorship of Dr. Haenel and Dr. Wenk-Ansohn (Haenel and Wenk-Ansohn 2005).

Nevertheless, it can still be meaningful to use the *Istanbul Protocol*, especially when it is understood to complement other tools, since it goes beyond establishing standards. For example, it contains detailed suggestions for employing translators, and alongside a chapter on the psychological investigation of alleged victims of torture, there can be found, as was already mentioned, a detailed description of possible somatic symptoms of specific kinds of torture, the tools of diagnosis required and a possible differential diagnosis. Of course guidelines and sections not pertinent to the Western European context or to asylum procedures are also included in the manual. We only mention the comments on the international legal regulation of the ban on torture and the description of measures for legal proceedings against perpetrators of torture. However, since in Germany and most parts of Europe the protocol will foreseeably be used primarily within asylum proceedings where the concern is merely to determine if the legal requirements for political asylum are met rather than for prosecution of perpetrators, these comments are currently of less significance.[16] For this reason the original intention was to publish in the German translation of the *Istanbul Protocol* only the sections relevant to asylum proceedings (the model for such a procedure would be the volume edited by the PHR "Examining Asylum Seekers"), and then to add articles dealing with the concrete practice of asylum right in Germany, Austria and Switzerland. In the end, however, it seemed more sensible to first of all deliver the protocol in its entirety in order to make it more familiar in Germany without regard to a specific purpose, thus hopefully leading to broader use. In any case it is quite possible when needed to draw together the required guidelines and principles from the text, for instance in the case of a psychological evaluation of an alleged torture victim. Ultimately, the German translation of the *Istanbul Protocol* should contribute to a heightened awareness among medical and legal professionals of the problems of torture victims. Such problems will arise not only during a possible asylum procedure or evaluation connected to it, but just as likely in the context of a "normal" medical treatment of a torture survivor who either is still awaiting the result of his or her asylum procedure, or whose request was perhaps already granted.

Acknowledgments We would like to express our gratitude to the Staedtler-Foundation in Nuremberg for its support in creating an edition of the *Istanbul Protocol*. We would also like to give special thanks to Dr. Kerstin Krása (Erlangen), Prof. Thomas Wenzel (Wien) and Thomas Oberschmidt (Berlin) for the splendid cooperation in carrying out the project. We thank the administration of the Friedrich-Alexander-University Erlangen-Nuremberg and the Medical Faculty for their support of the "Forum for Medicine and Human Rights" connected to the Professorship for Medical Ethics at the Institute for the History of Medicine and Medical Ethics at the University of Erlangen-Nuremberg.

[13] In September 2003, the World Medical Association issued a "Resolution on the Responsibility of Physicians in the Documentation and Denunciation of Acts of Torture or Cruel or Inhuman or Degrading Treatment." It contains the recommendation in para. 20[3] to national doctors organizations to "disseminate to physicians the Istanbul Protocol." Cf. Weltärztebund 2004, p. 251.

[14] On possible reasons for this, cf. Mandel and Worm 2007a, pp. 18–19.

[15] The project group calls itself "Standards zur Begutachtung psychotraumatisierter Menschen"(SBPM). Further information is available on their website: www.sbpm.de/.

[16] In a paper that draws together the articles cited above, Lene Mandel and Lise Worm have presented anew the possible implementation of the medico-legal documentation of cases of torture in accordance with the standards of the Istanbul Protocol even in states where torture is not practiced. Besides asylum procedures, possible uses include: to fight against unpunished perpetrators (through national or international criminal proceedings); to research the consequences of torture and the possible strategies that can be carried out against torture; to support lobbying activities; to support advocacy activities for torture victims; and to further develop methods of documentation. Cf. Mandel and Worm 2006, p. 6 and pp. 11–12.

References

Amnesty International. 1994. *Jahresbericht 1994. Länderbericht Türkei*. http://aidrupal.aspdienste.de/umleitung/1994/deu03/002?lang=de%26mimetype%3dtext%2fhtml. Accessed 17 Oct 2009.

Amnesty International. 1999. Turkey—the duty to supervise, investigate and prosecute. http://asiapacific.amnesty.org/library/Index/ENGEUR440241999?open&of=ENG-376. Accessed 17 Oct 2009.

Amnesty International. 2008. *Amnesty International Report 2008: The state of the world's human rights*. Frankfurt a. M.: S. Fischer Verlag.

Battjes, H. 2006. Legal effects of the Istanbul protocol. In *CARE FULL. Medico-legal reports and the Istanbul Protocol in asylum procedures,* eds. Bruin et al., 16–29. Amsterdam: Utrecht.

Bruin, R., M. Reneman, and E. Bloemen (eds.). 2006. *CARE FULL. Medico legal reports and the Istanbul protocol in asylum procedures*. Amsterdam: Utrecht.

Bruin, R., Reneman, M. and Bloemen, E. 2006b. *CARE FULL. Medico-legal reports and the Istanbul protocol in asylum procedures: Principles and recommendations*. Amsterdam: Utrecht. www.pharos.nl/uploads/_site_1/Pdf/Documenten/Care%20Full%20PenR.pdf. Accessed 17 Oct 2009.

Frewer, A., H. Furtmayr, K. Krása, and T. Wenzel (eds.). 2009. *Istanbul-Protokoll. Untersuchung und Dokumentation von Folter und Menschenrechtsverletzungen*. Göttingen: V & R unipress.

Furtmayr, H., K. Krása, and A. Frewer (eds.). 2009. *Folter und ärztliche Verantwortung. Das Istanbul-Protokoll und Problemfelder in der Praxis*. Göttingen: V & R unipress.

Gareis, S., and J. Varwick. 2003. *Die Vereinten Nationen*. Stuttgart: UTB.

Haagensen, J. 2007. The role of the Istanbul-protocol in the uphill battle for torture survivors being granted asylum in Europe and ensuring the perpetrators pay. *Torture* 17(3): 238.

Haenel, F., and M. Wenk-Ansohn (eds.). 2005. *Begutachtung psychisch reaktiver Traumafolgen in aufenthaltsrechtlichen Verfahren*. Weinheim: BeltzPVU.

Iacopino, V., Ö. Özkalipçi, and C. Schlar. 1999. The Istanbul protocol: International standards for the effective investigation and documentation of torture and ill treatment. *The Lancet* 354: 1117.

Leyendecker, H. 2005. Die Lügen des Weißen Hauses, *Psychosozial*, 100, II:15.

Mahler, C. 2002. Das Fakultativprotokoll der Konvention gegen Folter und andere grausame, unmenschliche oder erniedrigende Behandlung oder Strafe (CAT-OP), 183–186. *MenschenRechts-Magazin*, 3. Potsdam.

Mandel, L. and Worm, L. 2006. *Implementing the Istanbul protocol*, Praxis Paper No. 3, Copenhagen.

Mandel, L., and L. Worm. 2007a. Documentation of torture victims. Implementation of medico-legal protocols. *Torture* 17(1): 18–26.

Mandel, L., and L. Worm. 2007b. Documentation of torture victims, assessment of the start procedure for medico-legal documentation. *Torture* 17(3): 196–202.

Nowak, M., and E. McArthur. 2006. The distinction between torture and cruel, inhuman or degrading treatment. *Torture* 16(3): 147–151.

Physicians for Human Rights. 2001. *Examining Asylum Seekers. A health professional's guide to medical and psychological evaluations of torture*. Boston. http://physiciansforhumanrights.org/library/documents/reports/examining-asylum-seekers-a.pdf. Accessed 17 Oct 2009.

Rauchfuss, K. 2006. Das Istanbul-Protokoll und die Folter. In *Infobrief des Republikanischen Anwältinnen- und Anwältevereins,* No. 97. http://www.rav.de/publikationen/infobriefe/archiv/infobrief-97-2006/beweise-fuer-das-unfassbare-das-istanbul-protocol/. Accessed 17 Oct 2009.

Ucpinar, H. and Baykal, T. 2006. An important step for prevention of torture. In *Torture* 16 (3), 252–267.

United Nations 1948. *Universal declaration of human rights*. UN-Doc. A/810, 71–79.

United Nations 1966. *International covenant on civil and political rights*. UN Treaty Series Vol. 999, 171.

United Nations 1984. *Convention against torture and other cruel, inhuman or degrading treatment or punishment (CAT)*. UN Treaty Series Vol. 1465, 85.

United Nations 1989. *Manual on the effective prevention and investigation of extra-legal, arbitrary and summary executions*. http://www.mnadvocates.org/4Jun20046.html.

United Nations 1999. *Istanbul protocol—manual on the effective investigation and documentation of torture and other cruel, inhuman and degrading punishment or treatment.* United Nations Professional Trainings Series, No. 8. http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf. Accessed 13 Oct 2009.

United Nations 2002. *Optional protocol to the convention against torture and other cruel, inhuman or degrading treatment or punishment*. UN-Doc. A/RES/57/199, Annex.

Weiß, N. 1997. Auswertung der Rechtsprechung des Ausschusses gegen Folter (CAT). *MenschenRechtsMagazin*, 2. Potsdam, 15–22.

Weltärztebund: 2004, *Handbuch der Deklarationen, Erklärungen und Entschließungen*. www.bundesaerztekammer.de/downloads/handbuchwma.pdf.