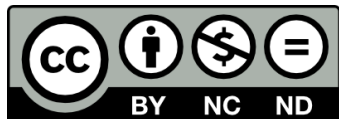




Relevant international legal standards

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**ARTIP: Awareness Raising and Training Measures
for the Istanbul Protocol in Europe**


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Education and Culture DG

Lifelong Learning Programme

Introduction



This chapter is about examining what the legal framework is in relation with torture and ill-treatment, and to which obligations States are bound to. Specific UN, regional or domestic bodies, in charge of monitoring the respect of these obligations by States, will be reviewed as well.

Relevant international legal standards

A. INTERNATIONAL HUMANITARIAN LAW

A. International Humanitarian Law

The four **Geneva Conventions** of 1949 and their three Additional Protocols are the core of international humanitarian law, also called “the law of war”.

They grant protection to people who do not take part in a conflict, such as civilians, wounded soldiers or prisoners of war.



A. International Humanitarian Law

The four Conventions prohibit the use of torture, and their Common Article 3, which applies the same rules to non-international conflicts, similarly prohibits torture.

It stresses that “...the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;(b) taking of hostages;(c) outrages upon personal dignity, in particular humiliating and degrading treatment...”

Relevant international legal standards

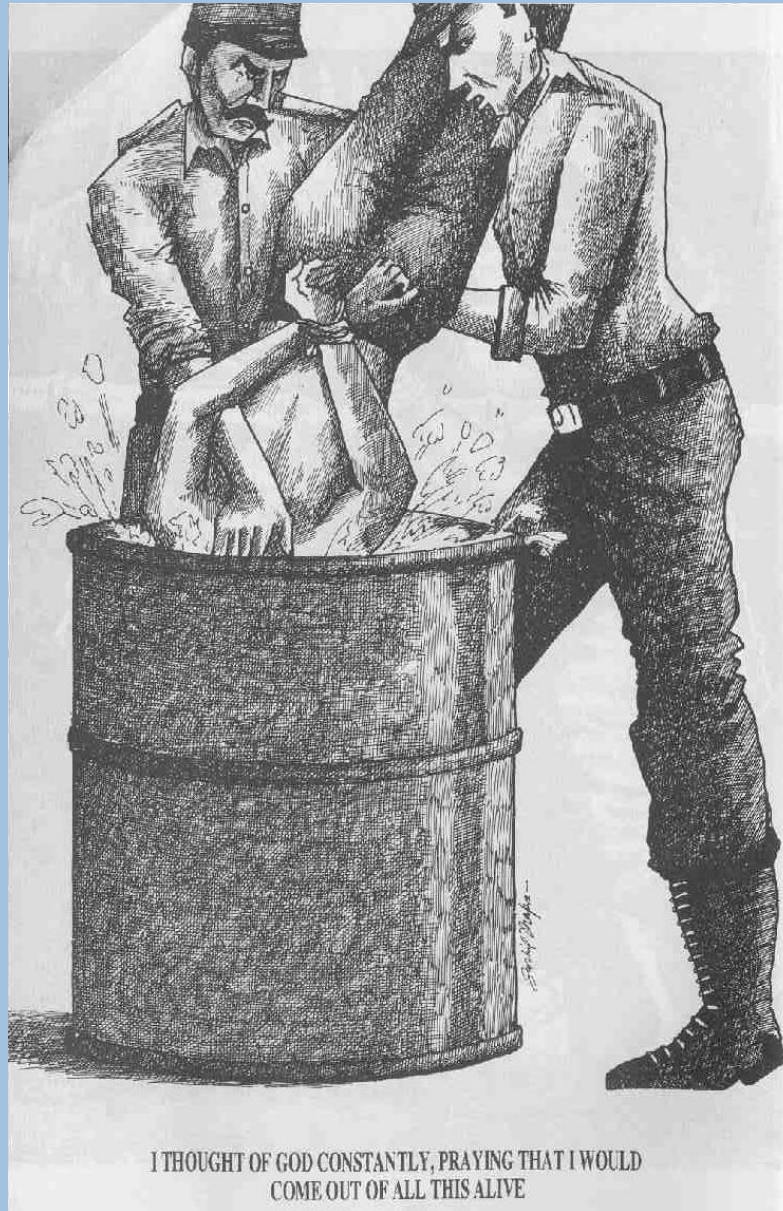
B. THE UNITED NATIONS



B. United Nations

Binding international Conventions of the UN for the prohibition and prevention of torture and ill-treatment:

- Universal Declaration of Human Rights (UDHR) Art.5: *“No one shall be subjected to torture”*
- International Covenant on Civil and Political Rights (ICCPR) Art.7: *“No one shall be subjected to torture”*
- Convention against Torture (CAT) main binding UN treaty specifically focusing on the prohibition of torture



I THOUGHT OF GOD CONSTANTLY, PRAYING THAT I WOULD
COME OUT OF ALL THIS ALIVE

B. United Nations

- Optional Protocol to the Convention against Torture (OPCAT) establishes a system of monitoring and preventive measures
 - Subcommittee on Prevention of Torture (SPT)
 - National Preventive Mechanisms (NPMs)
- Convention on the Rights of the Child (CRC) Art. 37:
“No child shall be subjected to torture”
- Convention on the Rights of Persons with Disabilities (CRPD) Art. 15: *“prevent persons with disabilities ... from being subjected to torture”*

B. United Nations

- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Regional Instruments:
 - European Convention on Human Rights (ECHR)
 - African Charter on Human and People's Rights (ACHPR)
 - American Convention on Human Rights (ACHR)

C. Soft Law Standards



These standards are not legally binding, but they represent directions, common thoughts of the States which developed them. Their impact is very important and some of them constitute references, such as the SMRT.

C. Soft Law Standards

Standard Minimum Rules for the Treatment of Prisoners (SMRT)

Declaration on the Protection of all Persons from being subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Code of Conduct for Law Enforcement Officials

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

Principles of Medical Ethics

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

C. Soft Law Standards

Basic Principles for the Treatment of Prisoners

UN 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

European Prison Rules

UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)

Guidelines on the Role of Prosecutors

1. Legal obligations to prevent torture and ill-treatment

States are bound by certain obligations in regard to torture and ill-treatment, inter alia:

Taking effective legislative, administrative, judicial or other measures to prevent such acts

Non-refoulement (no expelling, returning persons at risk to be tortured)

Criminalising acts of torture

Promptly and impartially investigating allegations

Training law enforcement and medical personnel

Prohibiting the use of evidence obtained under torture

Ensuring the right of victims to redress/compensation

2. UN bodies and mechanisms

UN Treaty Bodies:

UN Committee Against Torture

UN Subcommittee on the Prevention of Torture

Human Rights Committee

Committee on the Rights of the Child

Committee on the Rights of Persons with Disabilities

The Committee on the Elimination of All Forms of
Discrimination against Women

2. UN bodies and mechanisms

UN Charter-based Bodies :

UN Human Rights Council

UN Special Rapporteur on Torture

UN Special Rapporteur on Violence against Women

Working Group on Arbitrary Detention

UN Voluntary Fund for Victims of Torture

Relevant international legal standards

C. REGIONAL ORGANISATIONS

C. Regional Organisations

- European Court of Human Rights
- European Committee for the Prevention of Torture

- African Commission on Human and Peoples' Rights
- African Court on Human and Peoples' Rights
- Committee for the Prevention of Torture in Africa
- Special Rapporteur on Prisons and Conditions of Detention in Africa

- Inter-American Commission on Human Rights
- Inter-American Court on Human Rights
- Special Rapporteur on the Rights of Persons Deprived of their Liberty in the Americas

Relevant international legal standards

D. THE INTERNATIONAL CRIMINAL COURT (ICC)

D. THE INTERNATIONAL CRIMINAL COURT

The **Rome Statute** of the International Criminal Court (ICC) was adopted in 1998 in Rome and entered into force in 2002.

It establishes the *first international permanent tribunal* investigating and prosecuting individuals for genocide, war crimes, crimes against humanity and the crime of aggression when national courts are unable or unwilling to do so.

D. THE INTERNATIONAL CRIMINAL COURT

- In Article 7 (1) (f), torture is listed amongst crimes against humanity and also echoes the definition of torture as spelt out in the CAT (Article 7 (2) (e)).
- Article 8 (2) also includes torture as a possible war crime.