

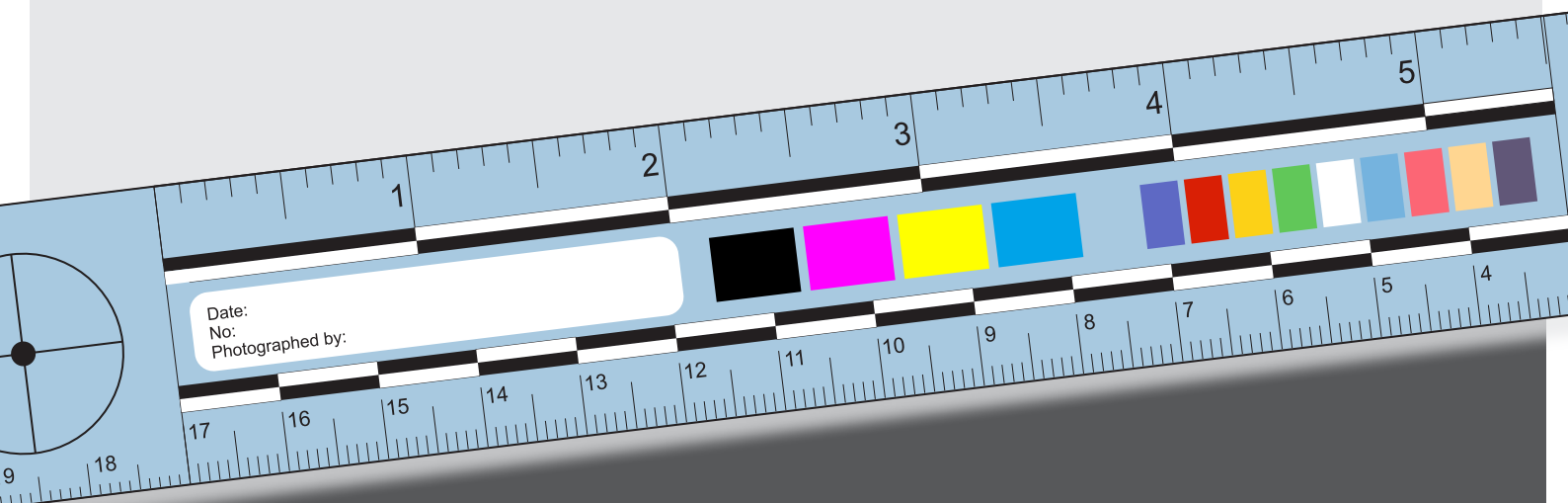


International  
Rehabilitation  
Council for  
Torture Victims

# Getting the evidence

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Countering torture through  
medico-legal documentation



## Contents

Preventing torture through documentation	1
The Istanbul Protocol: the standard for forensic documentation	3
Enhancing skills and knowledge	5
A hub of expertise: the International Forensic Expert Group	8
Reaching the wider professional community	15
Advocating for a better policy environment	18

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The International Rehabilitation Council for Torture Victims (IRCT) is an independent, international health-based human rights organisation, which promotes and supports the rehabilitation of torture victims, promotes access to justice and works for the prevention of torture worldwide. The vision of the IRCT is a world without torture.

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# Preventing torture through documentation

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International law obliges states to properly investigate all allegations of torture and to punish those responsible. States also need to provide reparations for victims of torture, including fair and adequate compensation, restitution and rehabilitation to the fullest extent possible.

Yet, torture often takes place in secret, and many torture methods are designed to be as painful as possible without leaving physical marks.

A key purpose of documentation is thus to make it impossible for perpetrators to deny their crimes.

One of the major challenges in proving torture, and thus fighting impunity is to obtain sufficient evidence in cases against alleged perpetrators. If there is no proof that torture took place, a climate of impunity can come to exist. In such a climate, perpetrators can continue to torture without risking arrest, prosecution or punishment. The perpetrators need not fear that they will have to face justice systems because of their crimes.

However, through the use of documentation, torture can be proved. Specialised health professionals can, through careful and thorough examination of physical and psychological sequelae, establish crucial medical findings and evidence that can be communi-

cated to the judiciary and other appropriate bodies.

Where documentation is carried out, it puts pressure on states to fulfil their obligations under international law to fully, promptly, impartially and thoroughly investigate allegations of torture and provide reparation to victims.

However, often the required forensic expertise<sup>1</sup> is not available to produce medico-legal reports of sufficient quality or the reports are not taken into account in legal proceedings due to flawed regulations or practice. Other constraints relate to limited awareness among relevant stakeholders, especially at the national level, on the important role that medical documentation can play in establishing evidence, and the frequent intimidation and harassment of victims and professionals involved in trials against alleged perpetrators.

For this reason, the IRCT has, for a number of years, worked to promote the value and use of medical documentation of torture according to the international standards contained in the Istanbul Protocol,

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1. The term “forensic expertise” embraces medical expertise as well as psychiatric/psychological expertise and expertise provided by forensic anthropologists.

Documentation is essential because of the obligations of the state with regards to torture. The state has many obligations, but each one of them is dependent on being able to document and prove that torture has happened. Unfortunately, torturers know of the difficulty of proving torture and therefore find ways of avoiding accountability.

— Juan Mendez, UN Special Rapporteur on Torture

I think it's very important to bring survivors of torture to speak out about how they have been able to go through these processes. What they say is not only incredibly powerful, but is what the torturers would like to never hear.

— Mostafa Hussein, El Nadim Center for Psychological Treatment and Rehabilitation of Victims of Violence, Egypt

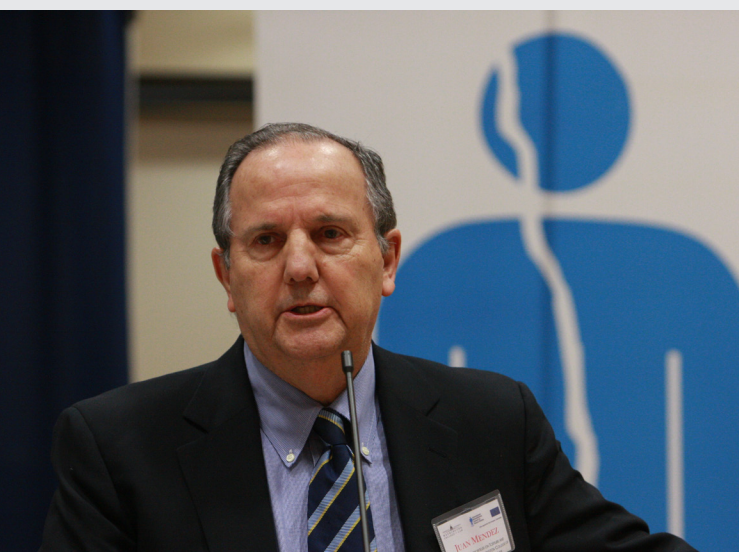
Without the proper evidence or documentation, it becomes extremely difficult or impossible really to successfully ensure justice in a case alleging torture. Forensic documentation written in the correct way becomes an invaluable tool in the successful prosecution of these cases.

— Rusudan Beriashvili, State Medical University, Georgia



For every single right the victim has — from being free from torture in the first place, to the rights after having survived torture, and even for the families of those torture victims who do not survive — documentation and evidence is just a very fundamental prerequisite, and unfortunately one that is not used as frequently or as effectively as it should.

— Juan Mendez, UN Special Rapporteur on Torture



the common name for *The Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment*.

In 2009, the IRCT Secretariat, in collaboration with the Forensic Department of the University of Copenhagen, set up an international focal point for forensic expertise. More than 30 eminent forensic experts from 18 countries have to-date joined the group, who provide support in examining torture victims in cases at the international, regional or national level to establish best practice examples.

Through this International Forensic Experts Group (IFEG), the IRCT has to-date provided support to more than 70 forensic examinations in torture investigations cases. Hundreds of lawyers, doctors and immigration officials, among others, have received training in the use of the Istanbul Protocol to produce medico-legal documentation of torture for use in judicial and administrative systems.

All of this work helps ensure that torture survivors gain access to appropriate medical documentation.

# The Istanbul Protocol: the standard for forensic documentation

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In any effort to prevent torture, it is of the utmost importance to have the right tools to guide human rights defenders as well as those responsible for investigating incidences of torture.

Since 1999, the Istanbul Protocol has become a crucial instrument in the global effort to eradicate

torture and has been endorsed by the United Nations as a standard for the proper investigation of torture.

It is the first set of international standards and guidelines for health and legal professionals on how to recognise and document symptoms of torture for use as evidence in court cases.

## The Istanbul Protocol enables medical and psychological experts to:

- Gather relevant, accurate and reliable evidence on torture allegations
- Reach conclusions on the consistency and the degree of support between the torture allegations and the medical findings
- Produce high-quality medical reports for submission to judicial and administrative bodies

## The Istanbul Protocol enables legal experts to:

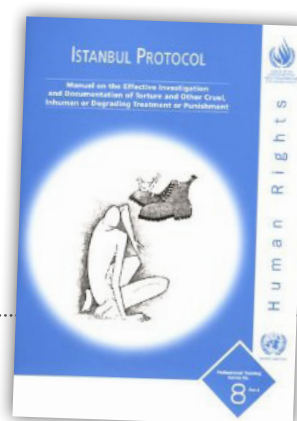
- Obtain relevant, accurate and reliable statements from torture victims and witnesses
- Recover and preserve evidence related to the alleged torture which will aid in the prosecution of those responsible
- Determine how, when and where the alleged incidents of torture occurred

Without the Istanbul Protocol, state authorities are able to make it up as they go along and seek to undermine the credibility of people who allege torture where it suits them; and it often suits the state to discount torture allegations.

So it is very important to have a document like the Istanbul Protocol to show to the court and say, “Look, the government isn’t complying with these standards. You shouldn’t rely on the government claims that these victims haven’t been tortured because the examinations have fallen so far short of the standards in the Protocol”. So it has been a really important document in increasing the standard of treatment and evaluation of torture victims in our cases, which is brilliant.

Forensic medical science allows torture allegations to be corroborated and is instrumental in countering the emerging loopholes facilitating impunity. The Istanbul Protocol of 1999 set an indispensable standard in this regard.

— Manfred Nowak, former UN Special Rapporteur on Torture



## History of the Istanbul Protocol

Initiated and coordinated by the Human Rights Foundation of Turkey (HRFT) and Physicians for Human Rights USA, the Istanbul Protocol was developed by 75 experts from more than 40 organisations, including the IRCT. It was submitted to the UN High Commissioner on Human Rights in 1999 and has since been referenced in numerous international documents and been applied in legal proceedings at national and regional courts.

The initial steps to work on a manual for the investigation and documentation of torture were taken at an international meeting in 1996 organised by the Turkish Medical Association and were inspired by the daily needs and practices experienced by the HRFT and the Society of Forensic Medicine Specialists in Turkey. In particular, the efforts to investigate the death of Baki Erdogan during custody became a decisive factor.

Baki Erdogan died during his 11th day in custody

after having been transferred to the state hospital in Turkey. The autopsy and official forensic report stated that as a result of a ten-day hunger strike that he died of acute pulmonary oedema.

The Turkish Medical Association carried out an independent investigation and submitted an alternative medical report, which disclosed numerous flaws in the autopsy and medical assessment made by the official medical experts. In light of the collected evidence and other findings, the cause of death was determined to be Adult Respiratory Distress Syndrome (ARDS), a result of the use of torture.

The Istanbul Protocol is published by the Office of the UN High Commissioner for Human Rights in its Professional Training Series in the six official UN languages. It has also been translated into a number of other languages.

# Enhancing skills and knowledge

With the Istanbul Protocol in place, ensuring that doctors, judges, prosecutors and lawyers as well as immigration officials around the world are aware of it and know how to use it in legal proceedings was a much-needed step forward in the prevention of torture.

Consider the case of Turkey:

In 2007, some 85,000 forensic reports were requested each year by courts and district prosecutors. However, as there were only 300 forensic medical experts in

the whole country, the majority of these reports were prepared by physicians who were not experts.

Studies had established that many of the problems relating to documentation of torture were partially caused by lack of awareness and competence in the detection of signs of physical or psychological torture. Similarly, many of the judges and prosecutors were found to be lacking in training and skills

## Training in Turkey: in the words of Sebnem Korur Fincanci, Human Rights Foundation of Turkey

The project started in 2007, but we could only start trainings at the end of 2009, and the project would end at 2010 in May. So we only had six months to have the trainings, but we could manage.

However, the schedule was extremely tight. Everybody, all the trainers, sacrificed everything: all their work, all their responsibilities and even their family members in a way. In five to six months, we held 120 trainings in 30 cities. Sometimes my colleagues or I would wake up in the morning not remembering which city we were in, what we should do, which day in the training we are, or if we were continuing with a training or just starting a new training. But, according to feedback from the participants, all the trainings were truly a success.

Afterwards, we were excited to see that the participants continued in other trainings. Many of them organised their own trainings in many cities after this project. This was also very important because these people didn't have the responsibility to organise trainings on their own or in their own regions. But they just believed that it was their responsibility to combat torture after these trainings. That meant we had achieved a change in the behaviour and the attitude of these people.

To change minds is not very easy of course. We had some sessions to build empathy. It was very important because, particularly in Turkey,

with my colleagues and with judges and prosecutors as well, they mix empathy with sympathy very frequently. And in order to deny sympathising — because then they would just lose their impartiality — they would also deny empathy. But empathy-building exercises during these trainings were very helpful, as they realised really what empathy means.

Empathy really never has anything to do with impartiality. You don't lose your impartiality when you empathise with some person; it is about understanding that person, understanding that pain, understanding that suffering. So the participants, step by step, learned about it, which helped a lot for the medical doctors and physicians.





Of course, it is very important not only for the public to get information that torture does exist today, but it is very important for the torture survivor him or herself. First of all, for psychological reasons, he or she can face what happened to him or her in the past. And if he or she can face it in a documented form, he or she gets a psychological permit to speak about it openly, and to share it with other persons and to the public and to fight for his own rights.

— Lilla Hardi, Cordelia Foundation, Hungary

to evaluate the reports. Consequently, many torture claims remained inconclusive within the Turkish judicial system and were referred to the European Court of Human Rights.

The investigation and documentation of torture is a challenging task that requires specialised knowledge and technical skills. Often, health and legal professionals lack sufficient knowledge about rights and obligations and the required technical skills and knowledge on the appropriate medical and legal procedures. Teaching doctors, mental health professionals and lawyers, judges and prosecutors is crucial in ensuring proper application of international standards.

The IRCT has worked with partners to carry out major training programmes for health and legal professionals in a wide range of countries including Ecuador, Egypt, Georgia, Israel, Kenya, Lebanon, Mexico, Morocco, the Philippines, Serbia, Sri Lanka, Turkey and Uganda.

The training pursues several interrelated purposes aimed at strengthening domestic efforts to combat torture and other forms of ill-treatment, namely to:

- Enhance the skills of health and legal professionals in how to document torture and how to establish evidence that can be used in legal or administrative proceedings against those responsible for torture through the use of the Istanbul Protocol and other relevant materials;
- Bring together key professionals, comprising both officials and civil society, and to develop strategies and practices on how best to docu-

ment and investigate torture cases with a view to ensuring accountability and reparation; and

- Raise awareness amongst concerned professionals and society at large on the role of documentation and its importance in broader anti-torture policies and initiatives.

The training seeks to reach out to key professionals working on the documentation and investigation of torture. The composition of professionals attending the training has varied from country to country, depending on who the professionals are who mainly deal with torture cases in the country concerned.

The main target groups are:

- Health professionals, typically: forensic pathologists, medico-legal officers, general practitioners, psychiatrists, psychologists, ministry of health officials and social workers;
- Legal professionals, typically: lawyers, state investigators, prosecutors, judges, prison officials, police officers, immigration officers, NGO activists, members of national human rights commissions and similar bodies, representatives of the ministry of justice, ministry of defence and ministry of the interior.

The training is conducted by a team of both national and international trainers who cover general and country-specific aspects of the medial and legal documentation and investigation of torture cases.





### **Training in Bogota, Colombia, March 2012**

*“Training course on the Istanbul Protocol for the effective medico-legal documentation of torture”*

We had 36 participants in total including 29 medical doctors from both clinical and forensic pathology sections, one odontologist and six psychiatrists and psychologists. We also had two prosecutors.

The first three days we included lectures and workshops, and on the last two days we asked the participants to bring their own cases and present them to the audience in order to have a discussion on the forensic approach and other related aspects. The evaluation of the participants after the training was excellent; they were very much satisfied with the four experts and strongly recommended to continue with these types of training and the feedback process. We have detected some medical doctors and psychiatrists to continue as trainers with the training in their regional offices.

— Maria Dolores Morcillo-Méndez, National Institute of Legal Medicine and Forensic Sciences, Colombia

# A hub of expertise: the International Forensic Expert Group

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The key benefit of a tool like the Istanbul Protocol is that it sets the standards for forensic documentation in investigations of torture. However, in these cases, experts are needed to determine whether or not reports are consistent with these established standards.

Thus, the IRCT and the University of Copenhagen have jointly established the International Forensic Expert Group, “the most experienced experts in the world”,

as described by Önder Özkaliççi, former IRCT forensic specialist and co-author of the Istanbul Protocol. The forensic group, also known as IFEG, is comprised of more than 30 experts from 18 countries; it is a historic achievement in the fight against torture.

The group serves as a reference point, providing technical advice on specific issues as well as participating in missions to examine alleged torture survivors and draw up impartial medico-legal reports. Furthermore,



I think that this group is fantastic. I think that for the first time we have a group of different experts with practical experience in this field and from different areas — people that work more in clinical forensic medicine, people that work more in forensic pathology, people from psychology and people from anthropology. It's very good to have this network because you get different perspectives and different experiences. It's very good when you can combine all these things together from independent, impartial persons that are there doing it on a voluntary basis, with no profit from it. So I think that it was a very good idea, and I hope this can mean the beginning of a bigger group, a bigger network, from people from all the continents, from people that are committed, and especially from people that know what they are doing.

— Duarte Nuno Vieira, National Institute of Forensic Medicine and Forensic Sciences, University of Coimbra, Portugal

the experts advocate for the increased use of medical evidence and continue to build a body of knowledge on the subject of forensic documentation.

For a complete list of the members of the IFEG please visit [www.preventingtorture.org](http://www.preventingtorture.org)

## Cases

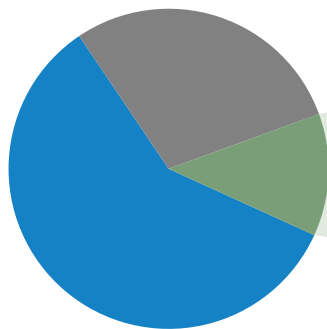
To intensify the efforts, the IRCT has facilitated direct medical and psychological support and high quality forensic documentation to some 70 strategically selected torture cases at national and regional courts and tribunals. The intended outcome is much-needed

new case law and good practice examples, which can create precedence for the future prosecution of alleged perpetrators and for victims' access to justice and reparations. The cases have provided clear indications that medical evidence can play a key role in corroborating allegations of torture and securing a successful outcome for the victim, in addition to setting precedent for related cases, including the recognition of medical evidence in future cases.

Cases were selected on criteria such as victim profiles and its ability to set wide-reaching precedent and thus impact future torture cases. Cases were also chosen for their wide-ranging character, such as asylum, judicial review, criminal and extradition, in addition to their geographic diversity.

### IRCT's support on torture cases (2009-2012)

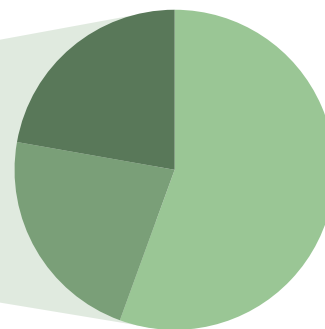
**Judicial outcome of the IRCT's support on torture cases**



- Complaint filed: 57% (43 cases)
- Preparation phase: 28% (22 cases)
- Judgment: 12% (9 cases)

The total number of cases equals 74 (2009 - 2012).

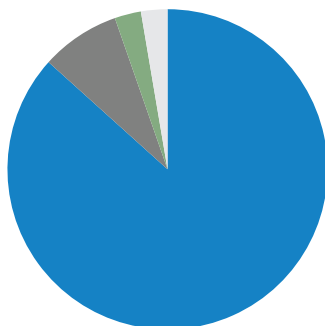
**Use of medical reports in judgements on torture cases supported by the IRCT**



- Medical report submitted to court and used as specific corroborative evidence in the judgement: 56% (5 cases)
- Medical report not submitted to court but efficiently used for advocacy and strengthening of legal arguments: 22% (2 cases)
- Medical report submitted to court but not used as specific reference. However, the report helped build evidenciary basis on the court to rule in favour of the plaintiff: 22% (2 cases)

The total number of supported cases which led to a judgement in court equals 9 (2009-2012).

**Type of support brought by the IRCT to torture cases**



- Examination and medico-legal report: 86% (65 cases)
- Evaluation of medical records: 8% (6 cases)
- IFEG expert statement: 3% (2 cases)
- Financial support: 3% (2 cases)

The total number of cases in this pie chart equals 75 (2009-2012). NB: One intervention consisted of both a medico-legal report and financial support and therefore one case is counted twice.

The cases involve the following countries: Afghanistan; Bahrain; Cambodia; Colombia; Denmark; Ecuador; Egypt; Georgia; Germany; Iraq; Israel; Kazakhstan; Lebanon; Mexico; Moldova; Morocco; Peru; The Philippines; Romania; Russia; Rwanda; Saudi Arabia; Somalia; South Africa; Sri Lanka; Syria; Thailand; Turkey; Uganda; The United Kingdom; The United States; Uzbekistan; Venezuela; Zimbabwe.



## 28-year old Khaled Said killed by Egyptian police

On 6 June 2010, 28-year old Khaled Said was brutally killed at the hands of policemen in the city of Alexandria, Egypt.

Egyptian police, however, denied any role in Said's death, claiming that he died from an overdose of drugs he swallowed before police approached him. But eyewitnesses, Egyptian NGOs and photographs of Said's face following his arrest tell a very different story.

His face – both the youthful image of an average Egyptian man, and the picture of his brutalised face after his death – spread throughout the country and the globe as Egyptians said they would no longer take the abuse and torture of the Mubarak regime.

The official autopsy report supported the claim that Said died from asphyxiation after swallowing

a plastic bag with narcotics. So did a second autopsy report conducted, post exhumation, by three Egyptian forensic doctors forming part of a tripartite commission established as a result of national and international pressure. Upon request from El Nadim Center for Psychological Treatment and Rehabilitation of Victims of Violence and the lawyer of Said's family, two members of the IFEG – Professors Jørgen Lange Thomsen and Duarte Nuno Vieira – provided an expert opinion on the quality of the two official reports. The reports were submitted at the first court session.

The two experts stated that the “the first autopsy did not comply with minimum international standards for forensic autopsies and there were numerous significant deficiencies.” They further stated regarding the first report that, “the suppos-

We were just evaluating two reports: the first autopsy report and the second one. The quality was really very bad. The conclusions were not founded at all. So we tried to do our best, and especially we tried to underline these deficiencies, the discrepancies and the errors from these two reports. That was our main job because we were only working with papers, with documents, with photos. That was all we could do — just make a statement about the quality of those reports, about the nullity of the conclusions of those reports, and about the fact that they were not in accordance with minimum international standards from the reports themselves and to the documentation, the photograph documentation of the autopsies. It was totally unacceptable. And of course the conclusions that were produced were not scientifically sound. That was our main job - to point to that and to underline that.

— Duarte Nuno Vieira on the Khaled Said case



edly compelling diagnosis of death by asphyxia is not sufficiently supported by the data

provided, and most of the aspects described, such as cyanosis or congestion, are non-specific and inconclusive on their own.” Regarding the second report, the experts found that: “it continues to have the same weaknesses and deficiencies as the first report, and is much beneath the minimum international standards acceptable for forensic autopsies...” The experts concluded that:

*“As described, the deficiencies, inadequacies and incongruences in the reports of the two autopsies*

*performed on the cadaver of Khaled Mohammed Said Sobhi clearly make it impossible to reach any firm conclusions about the circumstances surrounding his death and the cause of it.”*

The two policemen charged were eventually convicted for their involvement in Said’s death. It contributed to raising awareness among citizens that any Egyptian was subject to being beaten and tortured. It is also one of the many contributing factors to demonstrations and the uprising that led to the ousting of Hosni Mubarak, which finally happened in February 2011.

See a short film on the use of forensic documentation in the Khaled Said case at:  
<http://www.irct.org/media-and-resources/multimedia/irct-videos/world-without-torture.aspx>

Hooding and other equivalent practices are intentional forms of sensory deprivation which constitute cruel, inhuman and degrading treatment or punishment and should be prohibited in interrogations and detention. When hooding is practiced in conjunction with other acts that may be considered cruel, inhuman and degrading treatment or punishment, it may constitute torture. In our experience, hooding is very often practiced in combination with other methods of abuse and typically, under such circumstances, constitutes torture.

— Excerpt from the IFEG Statement on Hooding, TORTURE journal, Vol. 21, No. 3, 2011

## Hooding banned forever in the UK

“Hooding,” the practice of fully covering the head of a person, has been internationally recognised as a form of torture by various human rights bodies. The British government forbid its use in 1972 after it was condemned by the European Court of Human Rights. Despite this, a 2003 inquiry into the death of Iraqi detainee, Baha Mousa, who died in custody, revealed that the practice was widespread by British troops in both Iraq and Afghanistan and authorised by military guidelines. A post-mortem found that Mousa sustained 93 external injuries and that hooding was a contributing factor in his death.

The IFEG provided an expert statement on the psychological effects of hooding, which was used by Public Interest Lawyers in the case of Alaa’ Nassif Jassim al-Bazzouni in the UK High Court, when the court outlawed the practice “forever”.

Writing in the scientific journal, TORTURE, the group of experts attested that hooding is associated with a number of physical and psychological effects.

The practice of hooding typically involves covering the head of a detainee in some manner. Hooding practices may vary and the effects of hooding may depend on a number of factors related to the application and context of its use including: the mate-

rial composition of the hood (i.e. the effectiveness of sensory deprivation and interference with air exchange), duration and frequency of its use, tightness of the hood around the head, the presence of contaminants (i.e. urine, feces and blood) in the hood, and the use of additional methods of torture and/or cruel, inhuman, or degrading treatment or punishment (CIDT). Mock executions, beatings and other methods of torture are often practiced in conjunction with hooding to maximise the infliction of physical and psychological pain.

In their statement, the international forensic experts assert that:

*“Interrogation personnel are rarely aware of such conditions and cannot reasonably be expected to be able to make an assessment of whether the use of a hood would pose a risk to health”.*

Public Interest Lawyers, acting for Alaa’ Nassif Jassim al-Bazzouni, an Iraqi national who says he was abused and hooded by British troops in 2006, successfully challenged the guideline issued by the UK government, which unlawfully authorised the hooding of prisoners.

The case illustrates how forensic expertise can play an important role in legal action at a national level, with international impact.

## Aiding asylum: documenting torture of asylum-seekers in New Zealand

The appellant in the case was seeking asylum in New Zealand after fleeing from Mexico. He had been a human rights and indigenous rights activist in Chiapas and was affiliated with the Zapatistas movement.

At one point during a protest, he was arrested and tortured by the Mexican police. During the torture, he was severely beaten and lost a lot of blood. The police later drove him to a forested area, threatened him and left him. A complaint with the National Human Rights Commission was “futile”, he was told.

After he returned to Veracruz to continue work with indigenous communities, the appellate was again arrested and detained after a police raid on a local community. During the detention, he was again tortured by being beaten, struck with a cattle prod and raped.

After a final incident in Mexico City, the appellate decided to flee Mexico. He was able to come to New Zealand on a temporary work permit and later filed for asylum.

During his immigration hearing, the tribunal in charge of hearing his case found that his “psychiatric condition, coupled with the lack of formal education, led to considerable confusion and perversity in the presentation of his evidence”. Because of the experience of torture and the resulting psychiatric condition, the tribunal had found his narrative and testimony problematic, disjointed and simply confusing.

However, that ultimately did not matter in the face of overwhelming evidence provided through the medico-legal report conducted by Thomas Wenzel, Professor of Psychiatry at the Medical University of Vienna, Austria, and Sebnem Korur Fincanci, Professor of Forensic Medicine at Istanbul University. The two forensic experts were in New Zealand on behalf of the IRCT to provide training in New Zealand, but, in addition, conducted several forensic examinations in cases of alleged torture.

The tribunal recognised him as a refugee, writing:

*“The appellant has been fortunate that he has had the services of two world class professors in the preparation of a forensic evaluation report. The standard of this report is excellent. It has assisted in explaining to the Tribunal many of the problems in the presentation of his evidence. As noted, the report by Wenzel and Fincanci sets out his physical and mental situation and his recollection of key events, particularly as they related to his detention and torture. The diagnostic summary found that his symptoms were highly consistent with post-traumatic stress disorder (PTSD) and recurrent depressive episodes. The discussion on his mental health reached findings that showed consistency with memory impairment and highly increased PTSD during interviews relating to torture, together with disorientation.”*

I have wonderful news for you. This client was successful on his appeal and is recognised as a refugee. In the decision there is particular reference to the report you provided and how it was instrumental in clarifying very real issues about the evidenced provided ... Thank you for all your work. Your visit to this country helped change a man's life forever.

— Carole Curtis, Bird & Curtis, on the New Zealand asylum case

Collaboration with other colleagues, other experts from universities, from professional centres, from academic institutions, is very important because of the necessary exchange of information and the exchange of experiences. Also, supporting the countries where documentation is not quite so developed, where the forensic evaluations systems need some reforms, makes it very important to exchange information and support such countries.

— Mariam Jishkariani, EMPATHY, Georgia

## Support to tortured children

In 2010 a minor in Georgia was arrested after being accused of breaking into a grocery shop. He alleged that at the police station officers beat him with their fists and rubber clubs and threatened him with guns to extract a confession of a different unrelated crime. The child in question also has a mental disability, and his lawyer and parents were not called nor present during the court session.

Through collaboration with Georgian centre EMPATHY and the IRCT, the child received a physical and psychological examination by national and international forensic experts. The medical forensic documentation incurred as a result was used to fight for appeal.

After gathering domestic and international pressure, a presidential pardon was given to the minor, who had faced a 10-year sentence. The forensic evidence provided a solid evidentiary basis for international and domestic actors to intervene in the case and put pressure on the government to act. He is currently receiving rehabilitation and treatment at EMPATHY.

Mariam Jishkariani of EMPATHY presented this case at the February 2012 conference in Washington, D.C. on “Forensic Evidence in the Fight against Torture” as an example of cases involving marginalised groups – in this case, children.



# Reaching the wider professional community

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Of the utmost importance is making best practice in forensic documentation in cases of torture allegations available to the wider scientific community. Simply put, more health and legal professionals must have the awareness, knowledge and skills to conduct such specialised and critical examinations and reports and know how to use them in legal proceedings.

As such, members of the International Forensic Experts Group (IFEG), the IRCT Secretariat and other forensic experts working in the field of human rights attend and speak at conferences on related subjects in order to expand the knowledge to the wider community of medical and legal professionals.

For example, held once every three years, the International Association of Forensic Sciences (IAFS) meeting

and conference is the largest of its kind in the world, gathering approximately 1,600 forensic pathologists, academics and other practitioners of forensic science.

The documentation of torture featured prominently at the IAFS global conference in 2011 where the IRCT had the opportunity to hold several seminars on the issue in addition to being represented at the conference plenary.

At the conference, the IRCT also awarded Maria Dolores Morcillo-Méndez, a forensic medical doctor with the National Institute of Legal Medicine and Forensic Sciences in Bogota, Colombia, an award for the best human rights or torture related presentation.

Challenges are that, one, very few doctors do document cases of human rights violations. Second, if they do documentation, there are deficiencies in their documentation, meaning they don't document diligently. And third, some doctors don't even participate in this kind of documentation, and they don't even know that there is already a document called the Istanbul Protocol in the Philippines.

— Edeliza Hernandez, Medical Action Group, the Philippines



I think that human rights and torture issues have increased massively in visibility in this kind of big international meeting in the forensic medicine area. I have been so impressed and pleased that the forensic world has truly welcomed the inclusion of human rights and torture investigations in their programmes and meetings. Ten years ago this was not the case. And it indeed makes me optimistic for the future.

— Önder Özkalipçi, IRCT's former Senior Forensic Advisor

# Presentations at the IAFS Conference, September 2011

## Istanbul Protocol Based Investigations of Torture Allegations

At the world's largest forensic conference, IAFS, forensic documentation of torture featured prominently. Prior to the conference, the IRCT held a symposium titled "Istanbul Protocol Based Investigations of Torture Allegations" that provided a forum for forensic scientists and physicians, from disciplines

ranging from forensic pathologists to forensic anthropologists, to present their investigations using the Istanbul Protocol. These presentations exemplify a mere handful of the scientific and forensic research currently being conducted in cases involving torture allegations.

### Added value of functional imaging in forensic medicine

Dr Siroos Mirzaei, Department of Nuclear Medicine and Ludwig Boltzmann Institute of Nuclear Medicine, Vienna, Austria

### Structural brain abnormalities common to posttraumatic stress disorder and depression

Mr Marijn Kroes, Donders Institute for Brain, Cognition and Behaviour, Centre for Cognitive Neuroimaging, Netherlands

### General information on asphyxiation methods and experience, issues on forensic documentation of asphyxiation allegations

Dr Jonathan Beynon, International Expert on Monitoring Detention and Prevention of Torture, Geneva, Switzerland

### The External Examination in Asphyxial Death

Dr Anny Sauvegeau, MD MSc, Chief Medical Examiner, Alberta, Canada

### Value of bone scintigraphy in investigations of torture allegations

Dr Ümit Unuvar, Forensic Pathologist, Human Rights Foundation of Turkey, Istanbul, Turkey

### Molecular biomarkers for stress-related disorders

Prof Witte Hoogendijk, Erasmus University Medical Center, Rotterdam, Netherlands

### Neuropsychiatric Evidence of Waterboarding and Other Abusive Treatments

Dr Stephan Xenakis, M.D. Brigadier General (Ret), U.S. Army

Carlos R. Mauricio, Executive Director of The Stop Impunity Project, is joined by (left to right) Lilla Hardi, Director of Cordelia Foundation of Hungary, Brita Sydhoff, Secretary-General of the IRCT, and Carlos Jibaja, Director of Centro de Atención Psicosocial, Peru, during a conference on "Forensic Evidence in the Fight Against Torture" at the Washington College of Law at American University. The conference was among many attended by experts and partners of the IRCT to emphasize the use of medico-legal documentation in cases of torture allegations.



## Fighting impunity: Dismemberment - Cause of Death in the Colombian Armed Conflict

Maria Dolores Morcillo-Méndez, MD; Isla Yolima Campos, MA

Medical forensic documentation of torture is of the utmost importance in the historical and political context of Colombia. In 2005, the government passed the Justice and Peace Law that allowed former paramilitary soldiers to come forth with immunity if they confessed to their crimes and provided information on the whereabouts of mass graves, which remained hidden in the countryside. However, immunity was not provided if it could be proven that the crimes included sexual violence or torture.

In looking at the skeletal remains in mass graves, Morcillo-Méndez and Campos, of the National Institute of Forensic Sciences in Bogota, found that some exhibited signs of torture and ill-treatment through dismemberment. Her findings supported that torture through dismemberment was the cause of death in several remains discovered in mass graves.

Although typically dismemberment has been used to conceal a body after death, many victims and demobilised paramilitary members, through art and testimony, have described this as a common form of torture and murder.

More than 4,000 mass graves were exhumed and 1,400 human remains were examined. The following findings were noted:

- Mass graves often contained remains of one to five individuals; skeletons were often disarticulated and incomplete;
- Remains have evidence of multiple, linear and sharp-edge cut marks, often in a 'V' shape, single or multiple cut marks. The marks are

mainly located along the limb joints – knees, elbows, shoulders, hips, and the collar bone and sternum.

- The fractures are consistent with a machete and some cases an axe;
- In most cases, no other traumatic injuries are present that could explain death;
- Most remains were found with no clothing or only traces of underwear. Many were exhumed with ties or binds around wrists and ankles, or gags and blindfolds over mouths and eyes.

In a closer examination of 28 remains, forensic examinations could not find other injuries that would cause death in 18 of those cases, other than the injuries and marks consistent with the dismemberment pattern.

Dismemberment would cause death through massive bleeding. Sectioning limbs would cut through major vessels and victims would suffer hypovolemic shock after more than 20% of total blood volume is lost. The heart is incapable of pumping enough blood through the body to keep organs functioning.

The findings are consistent with reports that dismemberment was a cruel practice of torture and murder during the Colombian armed conflict.

“The expert opinion is critical in order to avoid disparity and inconclusive results, therefore it is necessary that dismemberment as a cause of death is included as such in the forensic reports in order to contribute to the real understanding of violent practices during the war.”

Read the full report in TORTURE journal, Vol. 22, Supplementum 1, 2012. Available online at [www.irct.org/torture-journal](http://www.irct.org/torture-journal)

# Advocating for a better policy environment

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While at the forefront of expertise on the Istanbul Protocol and its use in the prevention of torture, another aspect of the IRCT's work on this field is to ensure the best possible policy environment.

The advocacy towards the UN human rights mechanisms, especially the UN Committee against Torture, the UN Subcommittee on Prevention of Torture and the Universal Periodic Review (UPR), holds great potential of promoting medical documentation and the application of the Istanbul Protocol as a standard in countries around the world. Using the UN system as a platform to promote implementation of anti-torture measures, although a long-term advocacy activity, provides a greater impact. Through the specific data and information gained in the examination of victims and documentation of torture, human rights mechanism can be provided with the much needed case examples and solid facts on this situation for assessing state compliance with international obligations in preventing torture.

In November 2010, a team of experts comprising two staff of the IRCT Secretariat and a psychological expert from an IRCT member centre briefed the UN Committee against Torture on the importance of using medical reports based on the Istanbul Protocol.

Throughout the work of the Committee in the past years, it can be seen that it is increasing its initiative to promote the implementation of the Istanbul Protocol on a broader scale. For example, the Committee's concluding remarks of the third periodic reports of Turkey and Ecuador in November 2010 refer several times to the importance of the Istanbul Protocol. They acknowledge that a lack of independence for many of the world's medical doctors is a key obstacle to combating impunity for perpetrators.

In working with the Subcommittee on Prevention of Torture (SPT), the IRCT is aiming at supporting the Subcommittee to address a number of obstacles to an effective application of standardised forensic medical evaluations of torture victims in detention. These relate especially to the independence and competence of the persons who conduct these in the context of persons deprived of their liberty.

The regional mechanisms, especially in Europe, Africa and Latin America, also play a central role in ensuring that cases of torture victims are taken seriously. They also play a central role in ensuring that the right structures and funding are in place to hold perpetrators accountable and provide torture victims with redress and reparations – including as full rehabilitation as

We are very encouraged by the engaged involvement of the Committee against Torture in implementation of the Istanbul Protocol, which is clearly illustrated by the high number of constructive questions and comments made during the sessions and in the concluding observations. We hope that we can keep an ongoing dialogue with the Committee on ensuring that forensic medical evidence of torture is more effectively used in the countries they review to prove allegations of torture to the benefit of torture victims around the world.

To me, the value of documentation is the ability to present the stories of the people. You're able to know the effects of torture through documentation, and therefore, because you know the details of the sequelae and the effects, you are putting forth a face of the victim, especially if you are using such documentation in advocacy.

In our experience in the Philippines, documenting the effects of torture — including the effects to the family — has helped others to understand better who these torture survivors are. Before, we could just say, “These are the torture survivors,” without the benefit of giving them the face. Right now, because of torture documentation, we know who these people are, we know their names, we know what happened to them and we know the effects. Therefore, we can tell the public, “These are the torture survivors, and these are the effects to them”.

— Josephine Acuna-Lascano, Balay Rehabilitation Center, the Philippines

possible – that they are entitled to. For this reason the IRCT and its member centres around the world lobby the European Union, the African Commission for Human Rights and the Inter-American Commission and take cases to the regional human rights courts.

## Example from our partners: using cases to advocate in the Philippines

The United Against Torture Coalition — a network of human rights organisations in the Philippines, including two IRCT members — brought cases supported by the IRCT to the attention of the UN's Universal Periodic Review in 2012.

As a result, torture in the Philippines was among the primary focuses of the UN Human Rights Council during the country's UPR.

More than 15 states focused on torture in their recommendations to improve human rights in the Philippines. These recommendations included:

- that the Government of the Philippines effectively implements the 2009 Anti-Torture Act, with a particular focus on ensuring that all investigations and prosecutions of allegations of torture

and ill-treatment fully cover the possibility of command responsibility as stipulated in section 13 of the Act; and that all alleged victims of torture and ill-treatment have effective access to a medical evaluation of their injuries by institutionalising the use of the Istanbul Protocol, including by providing guidelines to judges, prosecutors, forensic doctors and medical personnel dealing with detained persons, to detect and document physical and psychological trauma of torture;

- that the Government of the Philippines effectively implement the Anti-Torture Act with a special focus on responsibility of superior officers, access to a medical examination and the establishment of a sufficiently resourced rehabilitation programme for torture victims.

Advocacy in relation to forensic documentation is a two-way street: documented cases of torture are much more effective and useful to use in advocating for change, yet at the same time, advocacy is necessary to produce a conducive policy environment for improved documentation of torture.

# Resources

## IRCT Documents:

Available at [www.irct.org/media-and-resources/library](http://www.irct.org/media-and-resources/library)

### **Forensic Examination Missions by Medical Teams Investigating and Documenting Alleged Cases of Torture: Operational Manual**

2011 (Available in Spanish, French, Portuguese and English)

### **TORTURE Journal on Rehabilitation of Torture Victims and Prevention of Torture, especially:**

- Vol. 20, No. 3, 2010. Desk study: Combating torture with medical evidence

- Vol. 22, Supplementum 1, 2012. Forensic Evidence Against Torture

### **Shedding light on a dark practice: Using the Istanbul Protocol to document torture**

2009

### **Working with the UN Subcommittee on Prevention of Torture: A practical guide for NGOs engaging with the process of SPT country visits**

2012 (Available in Spanish, French, Arabic and English)

### **A Practical Guide to the UPR: How NGOs can influence the Universal Periodic Review process**

2012 (Available Spanish, French, Arabic and English)

### **Practical guide to the Istanbul Protocol**

- for medical doctors: **Medical Physical Examination of Alleged Torture Victims**

- for psychologists: **Psychological Evaluation of Torture Allegations**

- for lawyers: **Action Against Torture**

2009 (Available in Spanish, French and English)

## Web:

### **International Rehabilitation Council for Torture Victims**

[www.irct.org](http://www.irct.org)

### **IRCT's Preventing Torture website**

[www.preventingtorture.org](http://www.preventingtorture.org)

### **Model Curriculum on the Effective Medical Documentation of Torture and Ill Treatment.**

Iacopino V, Özkaliççi Ö, Dandu M, Wong G, Moreno A.

Available at: <http://istanbulprotocolmodelcurriculum.org>

## How to support the IRCT

We need your support to fight torture and to help torture survivors rebuild their lives. By donating even a small sum, you can assist us to put an end to torture and to ensure that torture survivors and their families receive much-needed treatment and other services. Donations can be made in the following currencies: Danish kroner (DKK), Euros (EUR) and U.S. dollars (USD).

### By credit card

Please visit [www.irct.org](http://www.irct.org) to make a donation using a credit card. All transactions are guaranteed safe and secure using the latest encryption to protect your personal information.

### By cheque

Cheques made payable to the International Rehabilitation Council for Torture Victims (IRCT) should be sent to:

International Rehabilitation Council for Torture Victims

Borgergade 13  
P.O. Box 9049  
1022 Copenhagen K  
Denmark

### By bank transfer

Danske Bank  
Holmens Kanal branch  
Holmens Kanal 2  
1090 Copenhagen K  
Denmark  
SWIFT code: DABADKKK

#### Danish Kroner (DKK) account

Registration No.	3001
Account No.	4310-821152
IBAN	DK90 3000 4310 8211 52

#### Euros (EUR) account

Registration No.	3001
Account No.	3001-957171
IBAN	DK69 3000 3001 9571 71

#### U.S. Dollars (USD) account

Registration No.	3001
Account No.	4310-005029
IBAN	DK18 3000 4310 0050 29



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The International Rehabilitation Council for Torture Victims (IRCT) is an independent, international health-based human rights organisation, which promotes and supports the rehabilitation of torture victims, promotes access to justice and works for the prevention of torture worldwide. The vision of the IRCT is a world without torture.