



The Istanbul Protocol 2022 Edition: What is New, Clarified, and Updated

Istanbul Protocol Editorial Committee
And Chapter Editors



Istanbul Protocol (IP) - 2022

- **IP-1999:** Established guidance for States to fulfil their obligation of effective investigation of torture and ill-treatment and to empower civil society to hold States accountable. The IP has been widely recognized by UN & regional human rights bodies and courts.
- **Reasons for 2022 Update:** To provide additional, relevant information developed during the past 20 years; clarify existing IP guidance to ensure understanding, adherence and prevent misuse; and include addition guidance on important topics identified by IP users in stakeholder assessments; No changes to IP principles.
- **Process for identifying IP updates, clarifications & additional guidance:**
 - Informed by 20 years of NGO experience using the IP for torture prevention, accountability and redress.
 - Key modifications to strengthen IP guidance identified by:
 - three regional meetings in Bishkek (2016), Mexico City (2016), Copenhagen (2017) of IP stakeholders
 - Survey of >200 IP users
 - Interviews with key informants including relevant UN and other officials
- **Drafting process:**
 - 8 Working Groups led by IP Chapter Editors and supervised by IP Editorial Committee conducted 2 rounds of revisions of 2004 edition of IP
 - Review & recommendations by OHCHR Publication Committee with subsequent approval and publication



Istanbul Protocol 2022 Contributors

- **Editorial Committee**

- Dr Vincent IACOPINO Physicians for Human Rights (PHR)
- James LIN International Rehabilitation Council for Torture Victims (IRCT)
- Dr Şebnem K. FINCINCI Human Rights Foundation of Turkey (HRFT)
- Chris ESDAILE REDRESS
- Dr Jens MODVIG UN Committee against Torture (CAT)
- Prof. Nora SVEAASS UN Subcommittee on Prevention of Torture (SPT)
- Nils MELZER UN Special Rapporteur on Torture (SRT)
- Dr Vivienne H. NATHANSON UNVFVT and the British Medical Association (BMA)

- **Chapter Editors**

- Prof. Juan E. MÉNDEZ Washington College of Law, American University
- Dr Vincent IACOPINO Physicians for Human Rights (PHR)
- Dr Lutz OETTE SOAS
- Dr Rohini J. HAAR University of California, Berkeley and PHR
- Dr Juliet COHEN Freedom from Torture
- Felicitas TREUE Colectivo Contra la Tortura y la Impunidad (CCTI)
- Prof. Nora SVEAASS SPT
- Dr Rusudan BERIASHVILI Tbilisi State Medical University

- **180 Istanbul Protocol Working Group Members and Additional Contributors from 51 Countries**
- **In collaboration with the UN Office of the High Commissioner for Human Rights (OHCHR)**



IP 2022 Content

- Chapter I: Relevant International Legal Norms and Standards
- Chapter II: Relevant Ethical Codes
- Chapter III: Legal investigation of Torture and Ill-Treatment
- Chapter IV: General Considerations for Interviews
- Chapter V: Physical Evidence of Torture and Ill-Treatment
- Chapter VI: Psychological Evidence of Torture and Ill-Treatment
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- Annex II: Guidelines for Documenting Torture and Ill-Treatment of Children
- Annex III: Anatomical Drawings for the Documentation of Torture and Ill-Treatment (UPDATED)
- Annex IV: Guidelines for the Medical Evaluation of Torture and Ill-Treatment



Important Considerations

- This summary of IP Updates & Clarifications is not comprehensive.
- It includes some of the most significant changes from the 2004 edition and identifies practical considerations for IP users.
- IP users are advised to read the 2022 edition thoroughly and be familiar with all updates, clarifications, and new IP guidance.
- IP 2022 Edition available at: <https://www.ohchr.org/en/publications/policy-and-methodological-publications/istanbul-protocol-manual-effective-0>.
- Note: This PPT includes paragraph citations in parentheses.
- Note: Some changes in terminology:
 - “Medical” was replaced with “clinical,” e.g. clinical experts, evaluations and evidence
 - “Istanbul Principles & guidelines” replaced with “the Istanbul Protocol & its Principles”



Chapter I - Relevant International Legal Standards

- Chapter I includes updates & additional information on:
 - Relevant legal standards, treaty bodies, mechanisms, & special procedures
 - Recognition of the IP as a legal standard for the effective investigation of torture and ill treatment
 - Jurisprudence on torture and ill-treatment in international and regional human rights mechanisms during the past 20 years
 - Relevant refugee law including non-refoulement
 - International criminal justice



Chapter I: Key Updates on Legal Standards

- Updates over the past 20 years include:
 - Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)
 - Revised UN Standard Minimum Rules for the Treatment of Prisoners – the “Nelson Mandela Rules”
 - Revised Minnesota Protocol on the Investigation of Potentially Unlawful Death (45)
 - UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (The Bangkok Rules)
 - Chapter I includes new sections on:
 - Relevant refugee law including provisions of *non-refoulement*
 - International Criminal Justice including relevant decisions by the International Criminal Court (ICC), the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the Special Court for Sierra Leone (SCSL).



Chapter I: UN Treaty Bodies, Mechanisms & Special Procedures Updates

- Subcommittee on Prevention of Torture (SPT) established in 2006 under OPCAT with a mandate to:
 - Prevent torture and ill-treatment by way of regular visits by independent international and national bodies to all places where persons are or may be deprived of their liberty. (17)
 - Make unannounced visits, have unrestricted access to all places of detention, and have full access to all documentation, including medical documentation. (18)
 - Include medically qualified members on delegations that can – and do, with consent – undertake physical examinations of individuals alleging torture or other ill-treatment. (19)
 - Advise & assist States parties regarding the establishment of their National Preventive Mechanisms (NPMs) - independent visiting bodies at the domestic level. (20)
- Committee on the Elimination of Discrimination against Women (24-27)
- Committee on the Rights of the Child (28-30)
- Committee on the Rights of Persons with Disabilities (31-32)
- Committee on Enforced Disappearances (33)
- Additional information on Special Procedures of the Human Rights Council, which replaced the Commission on Human Rights in 2006:
 - Special Rapporteur on the Right to the Highest Attainable Standard of Physical and Mental Health. (43)
 - Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. (43)
 - Special Rapporteur on extrajudicial, summary or arbitrary executions and the Revised Minnesota Protocol. (45)
 - Working Group on Arbitrary Detention. (46)
 - The Working Group on Enforced or Involuntary Disappearances. (47-49)
 - Independent Expert on Sexual Orientation and Gender Identity. (50)
 - Special Rapporteur on the rights of persons with disabilities. (51-53)
 - Working Group on discrimination against women in law and practice. (54-56)



Chapter I: Additional Recognition of the IP as a legal standard for the effective investigation of torture and ill treatment

- IP 2022:

- A State's obligation to investigate allegations of torture and ill-treatment in good faith and with due diligence can be measured by its compliance with Istanbul Protocol standards. (1)

- UN Committee against Torture:

- Under articles 12 and 13 of the CAT, investigations into torture should include a medical examination that complies with the Istanbul Protocol. (11)

- UN Special Rapporteur on Torture:

- In his 2014 thematic report, Special Rapporteur Juan Méndez stated that, “The Istanbul Protocol serves as a standard for evaluation of medical evidence, as a reference tool for experts delivering expert opinions, as a benchmark for assessing the effectiveness of the domestic fact-finding and as a means of redress for victims” and that, “[q]uality forensic reports are revolutionizing investigations of torture.” (IP Background section)
- Special Rapporteur Nowak emphasised the importance of forensic medical examiners in documenting and investigating torture and combatting impunity, recommending that “[a]n independent forensic expert should be part of any credible fact-finding or prevention mechanism”. (40)

- Inter-American Court on Human Rights (IACtHR)

- In its jurisprudence, the IACtHR has cited the Istanbul Protocol in several decisions involving torture and ill-treatment, drawing on the Istanbul Protocol to call attention to the necessity of adopting appropriate legal frameworks that will facilitate the effective investigation of grave human rights violations. (67)



Chapter I: Additional Information and Clarifications on Torture & Ill-Treatment

- **Additional Information on the prohibition on torture and ill-treatment:**
 - Jus cogens status: Binding on all States even if they are not party to treaties containing the provision. (1)
 - Non-derogable and cannot be limited under any circumstances. (1)
 - Prohibition applies extraterritorially and jurisdiction for the crime is universal. (1)
 - The prohibition on ill-treatment is also absolute under both treaty and customary international law. (1)
- **Clarifications on state responsibility for torture and ill-treatment:**
 - States' obligations include investigation, prosecution, punishment, and redress for torture. (1)
 - State responsibility extends to individuals acting in an official capacity, as well as to non-State actors acting with the consent or acquiescence of the State. (4)
 - The State bears responsibility when officials fail to prevent, investigate, prosecute, torture & ill-treatment. (4)
 - Lawfulness of sanctions (corporal/capital punishment) - international law takes precedence over national law. (5)
 - IACtHR: Explicitly rejects statutes of limitations, amnesty or other limitations on State liability for torture & ill-treatment. (66)
 - IACtHR: State authorities must not classify or withhold information about human rights violations from judicial or administrative authorities. (70)
 - IACtHR: Presumes State responsibility for torture & ill-treatment in absence of effective investigation – State has burden of proof. (71)
 - IACtHR: Has held States responsible for sexual violence as a form of torture committed by non-State actors when the authorities failed to prevent and investigate the crime. (76)
- **Distinguishing torture from ill-treatment:**
 - The CAT has identified purpose, intention and severity as relevant factors. (6-8)
 - IACtHR notes that the distinction rests partly on severity, but that this distinction is not rigid & can evolve. (63)
 - ECtHR also notes that severity & purpose are relevant, but the absence of purpose does not negate possibility of torture. (82-84, 86)



Chapter I: Clarification of Definition and Scope of Torture & Ill-Treatment

- Clarifying the definition and scope of torture based on practice and jurisprudence developed in the last 20 years:
 - Extra-custodial use of force. (41)
 - Gender-based violence: e.g. rape (25, 42, 76, 78, 85, 125, 128-129), female genital mutilation (25, 30), interference with reproductive rights (88), as well as virginity testing, forced sterilisation, widow-burning, & human trafficking. (41; 152 in Chapter II)
 - Violence based on sexual orientation & gender identity (50; 152 in Chapter II), including forced anal examinations of men (46)
 - Abusive healthcare practices. (41; 152 in Chapter II)
 - IACtHR:
 - Threats may constitute at least ill treatment. (84)
 - ECtHR:
 - Evidence of physical or mental injury is not necessary for a conclusion of torture or ill-treatment. (82)
 - Threats may constitute at least ill treatment. (84)
 - Failure to conduct effective investigations may lead to torture & ill-treatment – remedy includes effective access for the complainant to the investigatory procedure and payment of compensation where appropriate. (87)
 - Interference with reproductive rights may constitute ill-treatment. (89)
 - Deplorable conditions in detention may constitute torture or ill-treatment. (90)
 - ACtHPR:
 - Solidary confinement may constitute torture or ill-treatment. (100)
 - Committee for the Prevention of Torture in Africa established in 2002 advises States & African Commission on implementation of Robben Island Guidelines for the Prohibition and Prevention of Torture in Africa. (103)
 - Incommunicado detention constitutes in itself a gross violation that can lead to other violations such as torture [and] ill-treatment. (105)



Chapter I: Additional Jurisprudence on Prevention, Redress, and the Exclusionary Rule

- **Additional information on preventive measures and mechanisms**
 - OPCAT, SPT and NPMs seek to prevent torture and ill treatment through a system of international and national visits to all places where persons are or may be deprived of their liberty. (17)
 - SRT statements on: commissions of inquiry; conditions of detention and the Nelson Mandela Rules; the exclusionary rule; gender perspectives on torture; torture in health care settings; solitary confinement; the role of forensic expertise in combating impunity for torture; and extra-custodial use of force. (41)
- **Redress for Victims**
 - Victims should have access to comprehensive reparation defined by the CAT including “restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition”. (9k)
 - ACHPR General Comment 4. (97)
- **The exclusionary rule**
 - In compliance with the “exclusionary rule,” it is up to the state to ascertain “whether or not statements admitted as evidence in any proceedings for which it has jurisdiction... have been made as a result of torture.” Clear instructions must be given to the courts to enable them to rule that the statement is inadmissible. (16) See also statement by SRT referenced in para 41 & ECtHR recognition in para 88.



Chapter I: Relevant Refugee Law

- International refugee law on *non-refoulement*

- The Refugee Convention prohibits the return of refugees and asylum applicants to the country from which they fled, while CAT prohibits non-refoulement to any country where there are substantial grounds for believing they face a foreseeable, real, and personal risk of torture or ill-treatment. (115)
- UNHCR: States have a duty to ensure that all forms of forcible transfer are determined on an individual, case-by-case basis and in a manner that is impartial, independent, and in accordance with procedural safeguards (116) and that the risk of torture should be evaluated in light of the general human rights situation in the person's country of origin or any state where there is a risk of torture. (116)
- UN Committee on the Rights of the Child: has affirmed that unaccompanied and separated children outside their country of origin shall not be returned to a country where there are substantial grounds for believing that there is a real risk of irreparable harm to the child including female genital mutilation. (30)

- Examples of refoulement in regional human rights courts:

- IACtHR: Deportation of members of a family to their country of origin, with the knowledge that they were able to have protection as refugees in a third country. (113)
- ECtHR: Expulsion to countries with known procedural shortcomings in the asylum system. (113)
- ECtHR: Ill persons facing a real risk of being exposed to a serious, rapid and irreversible decline in his or her state of health resulting in intense suffering or to a significant reduction in life expectancy. (113)



Chapter I: International Criminal Justice

- International humanitarian law (IHL)

- All 4 Geneva Conventions & the 2 Additional Protocols unequivocally prohibit torture and ill-treatment in all situations of armed conflict & the prohibition extends extraterritorially to protect individuals in armed conflict. (117-118)
- International Courts and Tribunals have affirmed that torture is an international crime subject to universal jurisdiction, including the International Criminal Court (ICC) (119) and the Special Court for Sierra Leone (SCSL). (124)
- ICTY (International Criminal Tribunal for the former Yugoslavia) affirmed that torture & ill-treatment may constitute war crimes whether the conflict is international or non-international and whether such crimes are committed by State or non-State actors. (119)
- The ICRC (International Committee of the Red Cross) notes that while IHL applies to armed conflict, International Human Rights Law applies both in times of armed conflict and in peace. (122)

- International Criminal Justice

- Torture as a war crime is not limited to acts committed by or with the acquiescence of State officials; nor does it require a purpose, but it must be committed as “part of a widespread or systematic attack directed against a civilian population” and be committed “pursuant to or in furtherance of a State or organizational policy to commit such attack”. (125-126)
- The ICTY has also concluded that States & individuals can be criminally responsible for acts of torture under IHL. (127)
- ICTR (International Criminal Tribunal for Rwanda) found that rape could be prosecuted as torture and as an act of genocide. (128-130)



Chapter II - Relevant Ethical Codes

- Provides updates and clarifications on:
 - Relevant ethics of legal professionals
 - Ethical obligations of health professionals
 - Application of ethical principles in clinical evaluations of torture and ill-treatment
 - Additional guidance for health professionals with conflicting obligations
- Relevant Ethics of Legal Professionals: (132-144)
 - All legal professionals:
 - Have a duty to conduct themselves independently & professionally, treat people equally without discrimination, and respect & promote human rights
 - Judges:
 - Have a duty to prevent torture and may be responsible for human rights violations
 - Prosecutors:
 - Have a duty to investigate & prosecute torture and ill treatment and refuse illegal evidence such as that obtained by torture
 - All Lawyers:
 - Must treat their clients' interests as paramount and maintain confidentiality



Chapter II: Ethical Obligations of Health Professionals

- **Mandela Rules (Standard Minimum Rules for the Treatment of Prisoners – revised in 2015): (148)**
 - Mandela Rule 32 (1): same ethical and professional standards as those applicable to patients in the community:
 - Duty of protecting prisoners' physical and mental health.
 - Adherence to prisoners' autonomy.
 - Confidentiality of medical information.
 - Absolute prohibition on engaging, actively or passively, in acts that may constitute torture or other cruel, inhuman or degrading treatment or punishment.
 - Mandela Rule 46 (1): prohibited from having any role in the imposition of disciplinary sanctions or other restrictive measures (e.g. solitary confinement).
 - Mandela Rule 34: duty to document and report cases of torture and ill-treatment.
- **Bangkok Rules (Standard Minimum Rules for the Treatment of Women Prisoners – 2010): (149)**
 - Rule 10: All women are entitled to equal treatment and care for their gender-specific health care needs.
 - Rule 6: The duty of health personnel to document any signs of ill-treatment or torture during health screening examinations.
 - Rules 8 and 11: The right to medical confidentiality.
 - Rules 12-18: duties on specific gender-based physical and mental healthcare needs.



Chapter II: Ethical Obligations of Health Professionals

- Duty to document torture & ill-treatment and not to participate actively or passively extends to a wide range of abusive practices:
 - CAT & SRT: Abusive practices related to gender discrimination such as virginity testing, anal examinations to “detect homosexuality,” rape, forced marriage, child marriage, honour killing, widow-burning, human trafficking, female genital mutilation, “conversion therapies” to change sexual orientation, non-consensual gender reassignment surgeries, forced or coerced pregnancy testing, forced or coercive sterilization, medical determinations of gender without consent, and unnecessary surgery and treatment on intersex children without their consent. (152)
 - SRT: Abuses in healthcare settings such as force-feeding hunger strikers, the denial of pain relief, compulsory detention for medical reasons such as compulsory drug detention and “rehabilitation,” non-consensual medical interventions against persons with disabilities, including the non-consensual administration of psychosurgery, electroshock and mind-altering drugs such as neuroleptics, the use of restraint and solitary confinement for both long- and short-term application. (152)
 - WMA (World Medical Association): prolonged solitary confinement, forced body searches, force feeding competent individuals such as hunger strikers, forced anal examination to substantiate same sex activity, and female genital mutilation surgery (156).
- Updated statements by international professional bodies
 - WMA: Resolution on the Responsibility of Physicians in the Documentation and Denunciation of Acts of Torture or Cruel or Inhuman or Degrading Treatment establishes the duty of physicians to document and denounce acts of torture and ill-treatment and provides that a failure to do so constitutes complicity in such abuse (155).
 - WMA Recommendation on the Development of a Monitoring and Reporting Mechanism to Permit Audit of Adherence of States to the Declaration of Tokyo recommends support for doctors and national medical associations in reporting torture and ill-treatment and reporting mechanisms and referrals to the SRT. (155)



Chapter II: Application of Ethical Principles in Clinical Evaluations of Torture and Ill-treatment

- IP 2022 refers to 4 basic ethical principles as follows: (159)
 - Beneficence – acting in the best interests of one’s patient.
 - Non-maleficence – “do no harm”.
 - Autonomy – respect the decisions of one’s patient, e.g. informed consent.
 - Confidentiality – maintaining confidentiality of information.
- Clarifies that the principle of beneficence in children includes ensuring that children are protected from harm, are not exposed to risk of harm, and that any such risk is reported and addressed immediately. (164)
- Clarifies that informed consent is an imperative and requires comprehensible disclosure of all material information including the purpose of the evaluation, potential risks and benefits, the nature of the evaluation, including the possibility of taking photographs, limits on confidentiality including any mandatory reporting requirements of the clinician. (167-168)
- Health professionals have an obligation to recognize and respect the legal capacity of all adults, including persons with disabilities and persons with impaired mental capacity. (169)
- Children should be informed about the clinical evaluation in accessible terms and given the opportunity to consent. Informed consent should be obtained from parents, but informed consent does not absolve the duty to safeguard children and their best interest. (170)
- The autonomy of individuals who refuse to provide consent for an evaluation should be respected and, under no circumstances, forced to comply with an evaluation – for example, forced hymen examinations to detect virginity and forced anal examination of individuals to detect same-sex activity are examples of such clinical examinations – such examinations have no clinical value, represent forms of sexual assault and constitute ill-treatment and may amount to torture. (171)



Chapter II: Health Professionals with Conflicting Obligations

- Clarifies that the primary ethical obligation of health professionals is to act in the best interest of their patients regardless of employment considerations or third-party interests.
- “Conflicting obligations” replaces “dual obligation” in the IP 2022 to ensure that health professionals understand that there is no duty equivalent or greater than that to one’s patient. (173)
- Clarifies that clinicians who evaluate alleged victims who fear reprisals and refuse to consent to a clinical evaluation should not breach the primary ethical duties of "do no harm" and respect for autonomy over the obligation to document and report. (176-177, 179)
- Provides guidance on conditions and circumstances in which breaching confidentiality may be considered based on statements of international bodies: (178)
 - Severe or life-threatening harm to others is reasonably certain to occur imminently without health professional action
 - Disclosure of information will prevent imminent serious or life-threatening harm to others
 - The alleged victim & clinician deem the risk of reprisals to be low
 - There is significant clinical evidence to warrant a suspicion of torture or ill-treatment
 - Information can be provided to an independent body that will conduct a prompt, impartial and effective investigation
- Clarifies that health professionals in State institutions have same ethical obligations as other health professionals and should facilitate trust by identifying oneself, informing alleged victim of the purpose & content of the evaluation, disclosing any mandatory reporting requirements, and respecting the individual’s autonomy. (181)



Chapter III – Legal Investigation of Torture & Ill-Treatment

- Provides updates and clarifications on:
 - General Considerations
 - Principles of Investigations
 - Procedures of an Investigation
 - Commissions of Inquiry
- Additional IP guidance to two new sections:
 - The role of prosecutors, judges, national human rights institutions, and other actors
 - The use of evidence of torture or ill-treatment in other legal procedures



Chapter III: General Considerations & Principles of Investigations

- Clarifies that investigations of torture and ill-treatment may involve different investigative bodies, including commissions of inquiry, in a wide range of criminal, civil and administrative legal proceedings. (185)
- Notes that all investigations of torture and ill-treatment and legal proceedings should be conducted in accordance with IP standards. (185)
- Clarifies State obligations relevant to effective legal investigations including recognition of the role of non-State actors such as national, regional and international human rights bodies and human rights defenders who document torture. (188)
- Clarifies that facts must be determined in an investigation depending on the elements in the jurisdiction. (192)
- Clarifies the State's duty to establish mechanisms with full investigatory powers including principles for carrying out investigations. (193)
- Clarifies that individuals have a right to an effective remedy and reparation and to complain about such treatment and to have such complaint promptly and impartially examined. (196)



Chapter III: Procedures of an Investigation

- States must ensure that any investigation of torture is carried out by an independent and impartial body that has no institutional links to the alleged perpetrator(s). (201)
- States must provide training, adequate guidance, and instructions on IP standards. (203)
- Investigators need to be mindful of multiple (national and international) investigations and coordinate efforts to avoid retraumatisation. (205)
- Investigative bodies should plan the investigation (204) and obtain: testimonial evidence from the alleged victims, witnesses, and alleged perpetrators; physical evidence, including forensic evidence; digital evidence; and documentary evidence, in relation to specific allegations of torture or ill-treatment and broader patterns of torture and ill-treatment. (206)
- Seeking informed consent from children involves their parents or legal guardians, but also consideration of possible independent consent from the child. (209)
- Children should not be isolated from positive and supportive adult contact and investigators should have skills and expertise in interviewing child victims of torture or ill-treatment. (210)
- Children should not be expected to interpret for parents who allege torture or ill-treatment. (210)
- Interpreters who participate in interviews with children must have special training and prior experience of working with children. (219)
- Investigators with appropriate legal authority should obtain all physical evidence relevant to allegations of torture and perpetrators including material, biological, electronic, and trace evidence. (223)
- Crime scenes should be evaluated for evidence collected and analyzed by forensic experts who maintain appropriate chain of custody. (226)



Chapter III: Procedures of an Investigation

- Medico-legal evidence:

- Medico-legal documentation includes notes, medical charts (including body charts, such as those included in Annex III, to show location of injuries), official medical certificates, computer files, digital mobile files, recordings, photographs, reports, or a combination thereof. (228)
- Medico-legal evidence includes clinical evaluations and forensic specimens from the body. (228)
- Medico-legal evidence should only be collected & analyzed by trained health and forensic professionals. Investigators requesting medical records or patient information shall only do so where duly mandated, having the requisite legal powers, and by fully considering confidentiality, data protection, and informed consent. (228)
- Medico-legal evaluations require informed consent of the alleged victim and examination by a clinician of the gender of the alleged victim's choice, in a setting that is private and secure. (229)
- When alleged torture and ill treatment results in death, investigations should arrange for an autopsy conducted in accordance with the Revised Minnesota Protocol. (229)
- Clinicians are required to provide an "interpretation as to the probable relationship of the physical and psychological findings to possible torture or ill-treatment" and a clinical opinion on the overall possibility of torture and ill-treatment based on all relevant clinical evidence including, "physical and psychological findings, historical information, photographic findings, diagnostic test results, knowledge of regional practices of torture, consultation reports, etc." (230)
- The investigator shall respect the right of an alleged victim and family members who allege acts of torture or ill-treatment to request an independent clinical evaluation and report at any time. (231)



Chapter III: Procedures of an Investigation

- Digital, photographic and documentary evidence:
 - Investigators must seek to secure any probative information or data that is stored on, received or transmitted by electronic devices. (232)
 - Digital evidence includes electronic health records; videos recorded by CCTV cameras; pictures and videos of alleged crime scenes & physical injuries, pictures, videos posted on social media; information stored on computer hard drives memory cards, USB drives, CD-ROM; emails, texts and instant messages; aerial photos and satellite imagery; location information stored on cell phone or social media; and metadata (e.g. time and location when a digital photograph was taken). (232)
 - Experts on digital evidence should analyze relevant data and prepare a report or affidavit that can be used in court. (232)
 - Investigators should obtain digital open-source information in accordance with the Berkeley Protocol. (233)
 - Photographs should be taken using a digital camera that records the date and time. If a film camera is used, it should have a date & time function and the chain of custody of the film, negatives and prints must be fully documented. (234)
 - Official and non-official documents should be collected in particular from detention sites, official buildings, military bases, court records, hospital archives, historical archives or open sources. (235-237)



Chapter III: Clarifications on Commission of Inquiry

- Commissions of inquiry, alone, do not fully satisfy a State's obligation to investigate torture and ill-treatment under international law. (238)
- Commissions of inquiry should be vested with adequate resources to fulfil their specific tasks. (239)
- The composition of the commission should ensure adequate representation of gender and persons with characteristics and experiences relevant in the specific context. (241)
- The commission's report should be published widely and accessible to the broadest audience possible, and States must ensure steps to expeditiously and effectively implementing the recommendations. (250)



Chapter III: Role of Prosecutors, Judges, National Human Rights Institutions, and Other Actors

- Prosecutors:

- Have a duty to investigate and prosecute crimes committed by public officials, particularly corruption, abuse of power, grave violations of human rights and other crimes recognized by international law. (253)
- Have a duty to refuse and make inadmissible evidence obtained through torture and ill-treatment and use such evidence in the prosecution of alleged perpetrators. (254)
- Must be professionally qualified and provided with regular training, adequate resources, independence, and protection to enable them to adequately discharge their duties in accordance with the IP & its Principles. (255)
- In response to torture or ill-treatment allegations or suspicions: immediately take measures to ensure prompt, impartial, effective, gender- and child-sensitive investigation is carried out in accordance with IP; ensure adequate protection of alleged victims & witnesses, bring appropriate charges and recommend punishment commensurate with the gravity of the crime(s) committed. (256)

- Judges:

- Judges must be provided with the requisite independence, training, resources, and protection that enable them to adequately discharge their duties in accordance with the IP & its Principles. (257)
- Judges have the judicial authority to order and ensure that suspects and detainees are not arbitrarily detained or detained/transferred to places where they could be tortured. (258)
- Judges should be held responsible for failing to investigate, prosecute and punish torture. (258)
- A judge must not admit any evidence alleged to have been obtained as a result of torture or ill-treatment in any proceeding. (259)
- If judges suspect torture, they should initiate investigations or inform prosecutors. (259)
- The outcome of legal procedures should not be dependent on a prior full investigation of allegations of torture or ill-treatment). (261)
- Judges should ensure that legal proceedings are conducted in accordance with the IP and its Principles. (261)



Chapter III: Role of Prosecutors, Judges, National Human Rights Institutions, and Other Actors

- **NHRIs & NPMs: (262)**

- National HR institutions that are, in accordance with the Paris Principles, vested with the competence to promote and protect human rights should be mandated to investigate all complaints of human rights violations, including torture or ill-treatment, using the non-coercive investigatory techniques, standards, and principles set out in IP.
- Monitoring bodies, such as national preventive mechanisms (NPMs), while not tasked with investigating complaints, should be also provided with IP training.
- NPMs bodies should be able to receive confidential allegations of torture or ill-treatment, and be mandated to identify issues of concern as part of their regular visits, which must be raised with the authorities concerned.

- **Other actors: (263)**

- Non-State actors, such as civil society organizations, play an important independent and complementary role by documenting torture or ill-treatment, representing victims, prompting investigations or other inquiries or legal proceedings resulting in investigations, providing evidence and/or expertise to investigative bodies, scrutinizing proceedings, and providing legal analysis of the adequacy of investigation.
- Non-State actors should seek documentation that is from a reliable and identifiable source, detailed, internally consistent, and collected as soon as possible.
- States are required to respect the role played by such actors and provide effective protection against any threats, harassment or other unwarranted interference.



Chapter III: The Use of Evidence of Torture or Ill-Treatment in Other Legal Procedures

- IP standards should be followed in proceedings relating to the exclusion of confessions or statements made under torture, civil and administrative cases to establish liability and identify adequate forms of reparation, truth commissions, and applications for asylum or non-refoulement. (264)
- Decision-makers, particularly in asylum and refoulement cases, must apply the correct standard of proof - of a reasonable likelihood or real risk of being subjected to torture or other forms of persecution - and adequately consider available evidence, particularly clinical evidence, in their decision-making (265)
- Decision-makers must not adopt opinions on clinical matters that are beyond their qualifications and must not dismiss clinical evidence on the basis of having made a prior negative credibility finding. (265)
- Clinical evidence of past torture or ill-treatment is typically a strong indicator of a real risk of persecution or torture upon return. The lack of clinical evidence does not establish that a person has not been tortured, or that the claim of a person alleging torture lacks credibility. (265)



Chapter IV – General Considerations for Interviews

- Overview:
 - Chapter IV has been restructured into four main sections:
 - Preliminary considerations
 - Conducting interviews
 - Content of interviews
 - Post-interview considerations (NEW)
 - Chapter IV has many additional sections that provide useful information & guidance on conducting effective clinical interviews.
 - Chapter IV includes important new guidance on:
 - Interviewing children
 - Interpretation of clinical evidence and conclusions on the possibility of torture and ill-treatment
 - Self-infliction and simulation
 - Reliability of clinical evidence and credibility
 - Limitations and misuse of the IP



Chapter IV: Preliminary Considerations

- In conducting evaluations of alleged torture or ill-treatment, clinicians should:
 - Be aware of essential conditions and interview skills and apply them in their documentation practices including: objectivity, impartiality, accuracy, essential knowledge, safety, privacy, timing, building trust & rapport, empathy, honesty, and explaining the purpose & content of the evaluation including any mandatory reporting requirements.
 - Anticipate and mitigate retraumatisation in seeking disclosure of ill-treatment, especially of sexual torture. (274)
 - Understand torture and ill-treatment based on gender, sexual orientation and gender identity and how the gender of the clinician may also influence the evaluation process. (283)
 - In interviewing children: (284-293)
 - Obtain specialized training
 - Take time to build rapport using clear & age-appropriate language, give breaks and opportunities for questions
 - Respect the right to informed consent of both parent/guardian and the child
 - Understand that trauma & parental separation may adversely affect memory formation
 - Understand age-related effects of trauma & potential beneficial and adverse role of parents/guardians in the interview
 - Use age-appropriate questioning techniques
 - Clinicians should have cultural humility and a transcultural perspective. (294)



Chapter IV: Conducting Interviews

- **Clinical qualifications:**
 - Conducting IP evaluations does not require certification as a forensic expert, despite normative State practices. (303)
 - Examples of clinical qualifications are listed in para 307.
 - Clinicians should have knowledge of regional prison conditions and torture methods. (307)
 - The most important clinical qualification is knowledge of how to apply the Istanbul Protocol and its Principles. (307)
 - All clinicians may acquire knowledge and skills to conduct a psychological evidence of torture and ill-treatment. (308)
 - Judges and legal experts should qualify forensic and other clinical expert witnesses in legal proceedings on the basis of their expertise, knowledge, experience and training, rather than on basis of a particular professional license or certificate. (305)
- **Integration of the physical and psychological evaluations:**
 - In legal cases, it is important to integrate the findings of multiple evaluations into one comprehensive evaluation. (309)
 - If there are separate clinical evaluations, the totality of evidence should be considered. (309)
- **Preparation for the interview:**
 - Familiarizing themselves with the case and potential topic areas to focus on. (323)
 - Building in flexibility for discussing other topic areas as they arise in the interview. (323)
 - Reviewing appropriate documents/affidavits prepared by the individual's legal counsel. (323)
 - Information in legal documents/affidavits should be independently verified. (323)
 - All information relevant to a clinical evaluation should be gathered by the clinician. (323)
- **Communication barriers:**
 - The clinician should anticipate and seek to address possible environmental, physical, psychological, sociocultural, & interviewer-specific barriers to effective communication. (325)



Chapter IV: Conducting Interviews

- **Building rapport:**
 - Clinicians should take the necessary time to build trust, show respect to the interviewee through attentiveness, effective communication, & empathy. (326)
- **Level of detail in the history:**
 - Clinicians should obtain as much relevant detail as possible (329), and alleged victims should be advised to qualify any uncertainty in their account of events. (330)
 - A lack of detail should not be considered as an indication of being untruthful as many factors may affect the ability to provide detailed information such as level of trust and rapport, gender alignment in the interview, age, social class, literacy and level of education, cultural factors, and clinical conditions affecting cognitive processes. (331-332)
- **Variability and inconsistencies in the history**
 - Variability and inconsistencies in the history does not necessarily indicate that the narrator is providing false or unreliable information, since memory may be affected by the physical and psychological effects of torture and ill-treatment, for example head trauma, disorientation to time and place, PTSD symptoms such as avoidance of painful thoughts. (a) The normal variability of memory can be exacerbated by torture and ill-treatment and (b) Individuals may be detained under conditions where they lose a sense of time and place. (343-345)
 - Clinicians should use judgment about how much specific detail is needed to document the alleged abuse. (346)
 - Clinicians have a duty to pursue possible explanations for inconsistencies by asking for further clarification and seeking other evidence that supports or refutes the account of events. (347)
 - Clinicians should keep in mind, however, that such fabrication requires detailed knowledge about trauma-related symptoms that individuals rarely possess. (348)



Chapter IV: Addressing Variability and Inconsistencies

- Reliability of clinical evidence depends on internal & external consistency:
 - **Internal consistency: Corroboration between elements of an individual case. Within the context of a clinical evaluation, it may be supported by (349):**
 - Consistency between the description of physical injuries and reports of subsequent acute symptoms, the healing process, and chronic symptoms and disabilities. (350)
 - Congruency between an alleged victim's observed affect (emotional state) during the interview and the content of the evaluation. (350)
 - The level of consistency between specific allegations of abuse and documentation of physical and psychological findings. (350)
 - The temporal relationship between the alleged abuse and onset of psychological symptoms. (352)
 - Fluctuations in psychological symptoms in relation to internal and external psychological stressors and mitigating factors. (352)
 - Congruency between an individual's emotions (both reported to and observed by the clinician) and the individual's coping mechanisms. (352)
 - The individual meaning assigned to the alleged abuse in light of an individual's psychosocial history. (352)
 - PTSD symptoms that corroborate specific allegations of torture and ill-treatment such as the content of nightmares, triggers for intrusive recollections & reliving experiences, as well as avoidance thoughts and behaviours. (352)
 - **External consistency: Corroboration between individual case findings and regional torture and ill-treatment practices and additional information. (349)**
 - Specific torture and ill-treatment methods or specific devices, body positions & methods of restraint used; perpetrator & detention facility information. (353)
 - Witness testimony, medical reports, treatment records, and photographs. (353)



Chapter IV: Content of Interviews

- IP Principles apply to all clinical evaluations except the formulation of an opinion on torture or ill-treatment in non-legal contexts. (354-355).
- If time is limited, clinicians should elicit the most critical information in accordance with IP Principles and report the time limitation. (356)
- Clinicians must introduce themselves and provide detailed information on the purpose, conditions & content of the evaluations before obtaining informed consent (358-359).
- Chapter IV clarifies & lists the components of evaluations of physical and psychological evidence of torture & ill-treatment in paragraph 373.
- At the closing of the interview, clinicians should assess & mitigate signs of stress, including self-harm and suicide, and make appropriate referrals. (375)
- The decision to report clinical evidence of torture and ill-treatment depends on informed consent not statutory or mandatory reporting requirements. (376)



Chapter IV: Post-interview Considerations (new section)

- Interpretation of findings (guidance unified in Chapters IV, V and VI)
 - Clinicians are required to provide an “interpretation as to the probable relationship of physical and psychological findings to possible torture or ill-treatment. (379)
 - Levels of consistency, used for interpretations and opinions, include: Not consistent with/Consistent with/Highly consistent with/*Typical of/*Diagnostic of. Note, psychological evaluations rarely use “Typical of” and “Diagnostic of”. (380)
 - The highest level of consistency of an individual finding often determines the level of consistency for all the clinical evidence. (381)
 - In some cases, the overall evaluation will report a higher level of consistency than each individual finding, especially when taken together. (381)
- Conclusions and recommendations (guidance unified in Chapters IV, V and VI)
 - The Istanbul Principles require clinicians to provide a clinical opinion on the overall possibility of torture and ill-treatment considering all relevant clinical evidence including, “physical and psychological findings, historical information, photographic findings, diagnostic test results, knowledge of regional practices of torture, consultation reports, etc.” as stated in Annex IV. (382)
 - A conclusion on all clinical evidence should be based on the highest level of consistency reported in one or more evaluations of physical and psychological evidence. (383)
 - Medico-legal evaluations that fail to assess and provide an opinion on the possibility of torture and ill-treatment are deficient. (384)
 - Clinical opinions on the possibility of torture are based on the probability that the totality of clinical evidence was caused by the alleged torture or ill-treatment as defined by the UN Convention against Torture or other applicable legal definitions”. (384)
 - Causation is expressed in terms of consistency rather than judicial standards of proof to avoid the conflation of clinical opinions with judicial determinations. (384)
 - Conclusions on torture in children should take into relevant legal thresholds, which may be lower for children, particularly those deprived of their liberty. (382)



Chapter IV: Post-interview Considerations (new section)

- Self-infliction and simulation:

- If the clinician suspects fabrication, another clinician should conduct additional interviews. Documentation of the possibility of self-infliction or simulation should be noted with the agreement of both clinicians in the interpretation of findings and conclusions. Clinicians do not have a duty, however, to consider these possibilities in the absence of an evidentiary foundation. (386)
- It is important to note that without medical knowledge of human anatomy and pathophysiology, most individuals would not be able to fabricate accurate historical information regarding the physical sequelae of specific forms of torture and ill-treatment. (351)

- Reliability of clinical evidence and credibility

- Clinicians are advised not to comment on the credibility of an alleged victim or suspect. If the clinician is asked by a legal expert to provide an assessment of credibility, the clinician should provide their assessment of the reliability of clinical evidence as it relates to credibility and be sure to distinguish their assessment and opinion from a judicial determination of credibility. (388-389)
- Note, the reliability of clinical evidence is often based on elements of internal and external consistency. (349-353)

- Limitations and misuse of the IP

- While the Istanbul Protocol and its Principles may aid in the discovery of clinical evidence of alleged torture and/or ill-treatment, the absence of physical and/or psychological evidence of torture or ill-treatment does **not** mean that it did not take place. (390)
- Many factors may account for the absence of physical and psychological findings and documenting these factors can be useful in corroborating specific claims of torture and ill-treatment. (390)
- The inherent value of the Istanbul Protocol is its capacity to discover clinical evidence that may support specific claims of abuse. It is not a tool to prove that a hypothetical act did not take place. (392)



Chapter V – Physical Evidence of Torture & Ill-Treatment

- Overview

- Chapter V includes updates and clarifications in section on:
 - Medical history
 - Physical evidence
 - Interpretation of finding & Conclusions and Recommendations
 - Examination & evaluation of specific forms of torture
 - Specific diagnostic tests
- New IP guidance on:
 - Assessment of functional disability
 - Clinical evaluations of children

- Medical History

- A full review of symptoms should be obtained including those related to possible sexual torture. (394)
- In those seeking asylum, medical records and reports from the country of origin may help corroborate allegations of torture or ill-treatment, but also may deliberately omit mention of torture or ill-treatment. (396)



Chapter V: The Physical Examination

- Conduct a complete examination of the whole body in sections, keeping as much of the body covered as possible. (400)
- Understand that the absence of physical finding does not mean that torture did not occur. (401)
- Follow local procedures for ensuring chain of evidence. (402)
- The clinician should obtain the best photographs possible, use rulers and colour scales, and supplement with detailed descriptions and body diagrams, then follow up with professional photographs as soon as possible. (402)
- Consider bone scintigraphy to detect non-fracture bone lesions following beatings, particularly when torture has been prolonged. (403)
- Note additional information on physical findings from strangulation by ligature or hands. (410-411)



Chapter V: Interpretation of Physical Findings & Conclusions and Recommendations

- Interpretation of physical findings

- The clinician should correlate the level of consistency between: (417-421)
 - The history of acute and chronic physical symptoms and disabilities consistent **and** the allegations of torture and/or ill-treatment.
 - The physical examination findings **and** the allegations of torture and ill-treatment.
 - The findings of the examination **and** knowledge of regional torture methods and their common after-effects.
- The clinician should indicate the level of consistency for each individual examination finding and consider possible causes of the physical findings as suggested by the evidence, for example, torture or other deliberate harm, medical conditions or procedures, accidental injury, ritual practices, and self-harm. (420)
- Accidental injuries are more commonly located on the extremities and individuals may not recall the cause, while multiple scars in the same location suggest intentional injury. (422)
- Self-injury: (423)
 - Usually caused by a single modality most commonly cutting within reach of the dominant arm.
 - Individuals may disclose these injuries readily or conceal them due to shame and stigma.
 - Consideration of self-injury and fabrication should be viewed in light of the sum total of clinical findings.

- Conclusions and recommendations

- Clinicians should formulate a clinical opinion on the possibility of torture and ill-treatment based on all relevant clinical evidence, state current symptoms and disabilities, and likely effects on social functioning, and provide any recommendations for further evaluations and care for the individual. (424-425)



Chapter V: Examination & Evaluation Following Specific Forms of Torture

- Skin damage
 - The colour of bruises does not indicate the age of injury. (428)
 - Blunt force injury may result in a laceration rather than a bruise depending on the force applied, the object used, and protective barriers. (429)
 - The evolution of a scar depends on many factors - usually, it is not possible to give an exact opinion on the date of a lesion; it may be possible to state that the appearance is in consistent with the timeline stated. (434)
 - Scars caused at the same time and by the same mode of injury may heal at different rates. (434)
- Head trauma:
 - Minor traumatic brain injury even without loss of consciousness may affect memory and concentration and brain injury from asphyxia torture may also lead to cognitive deficits. (437)
 - Late effects of brain injury can be detected with specialized radiological techniques. (437)
- Suspension:
 - The reported time of suspension is often inaccurate as victims are disoriented or lose consciousness. (445)
 - Brachial plexus injuries may manifest in complex and subtle findings that often warrant referral to a specialist. (446)



Chapter V: Examination and Evaluation Following Specific Forms of Torture

- Sexual torture including rape: (455-479)

- There is considerable variability in victims' recall of events; disclosure of sexual torture may be difficult and delayed.
- The absence of physical injuries should not be considered evidence of consent.
- A full review of symptoms may aid in disclosure of sexual violence.
- Violent and repeated rape or sexual assault by anal penetration with an object can cause significant physical damage with long lasting effects.
- Examination of ano-rectal injuries may need to be performed under sedation.
- Examination should proceed at a pace dictated by the alleged victim and stopped if too stressful.
- Most injuries heal within a few days and are not present at the time of examination.
- Sexually transmitted infection may be detected but does not necessarily confirm torture as the cause.
- Sexual dysfunction may occur in those who have not suffered sexual torture, or it may be that they have not yet disclosed sexual torture.
- Men who experience sexual arousal during anal rape should be reassured that this is a physiological reaction that does not reflect their sexual orientation.
- Symptoms of sexual dysfunction include profound effects on the psyche.
- Small lacerations or tears of the vulva normally heal completely but can scar.
- Genital examination findings may include scarring from cigarette burn or cutting injuries.



Chapter V: Specialized Diagnostic Tests & Assessment of Functional Disability

- Specialized diagnostic tests (480-484)
 - Not essential for clinical evaluations of physical evidence of torture or ill-treatment.
 - Have limitations in specificity and reliability that clinicians should be aware of.
 - May not be useful following the healing of acute injuries.
 - MRI may detect bone contusion and stress or occult fractures before these can be imaged by x-rays, CT or scintigraphy.
 - Open scanners and sedation may be helpful in alleviating anxiety and claustrophobia.
- Assessment of functional disability (485-487)
 - The World Health Organization Disability Assessment Score version 2.0 - six domains of function:
 - Cognition (understanding and communication)
 - Mobility (moving and getting around)
 - Self-care (hygiene, dressing, eating and staying alone)
 - Getting along (interacting with other people)
 - Life activities (domestic responsibilities, leisure, work and school)
 - Participation (joining in community activities).
 - Scale: “None” (1), “Mild” (2), “Moderate” (3), “Severe” (4), “Extreme difficulty or Cannot do” (5).



Chapter V: Children

- Medical examination should be carried out in a child-friendly setting by trained clinicians with experience in assessing and documenting physical injury in children including sexual assault. (488)
- Consent should be obtained from the child's guardian and as appropriate from the child. (488)
- Clinicians may need to seek additional information from other children, young people, and their caretakers. (488)
- Children victims must have access to trained, competent pediatric examiners, whenever possible, who can provide medical assessment and recommendation for care. (489)
- The evaluation must safeguard for the prevention of further torture and ill-treatment, recommend resources for recovery and reintegration, and reduce exposure to experiencing or witnessing violence. (489)
- Examination of the genital and anal areas should be conducted only when necessary, and by experienced clinicians & under general anaesthesia. (490)
- Scar formation in children may be different from that in adults as wounds might heal faster. Bony injuries, depending on their position related to the growth plate, may not be apparent on initial x-rays or months after a fracture has healed.
- Radiological techniques should be used scrupulously in children given the anxiety they may cause and potential after-effects of childhood radiation. (490)



Chapter VI – Psychological Evidence of Torture & Ill-Treatment

- Overview

- Chapter VI includes updates and clarifications in sections on:
 - General considerations
 - Psychological consequences of torture and ill-treatment
 - The psychological/psychiatric evaluation
- New IP guidance on:
 - Clinical evaluations of children
 - Clinical evaluations of LGBT and intersex persons

- General Considerations

- Clarifies the centrality of the psychological evaluation in evidencing torture, holding perpetrators responsible and achieving redress and notes that such evidence is often more persistent than physical evidence. (491)
- Clarifies that the variability of prevalence of PTSD (23-88%) and depression (28-95%) is likely due to differences in population samples, assessment methods, co-existing stressors. and other factors. (493)
- Notes the importance of considering culture-specific ways of experiencing, expressing and describing psychological distress. (494)
- Also notes importance of documenting post-traumatic conditions that may affect the victims' recall of experiences, which in turn may affect their ability to participate and testify in legal proceedings. (495)



Chapter VI: Psychological Consequences of Torture and Ill-treatment

- Clarifications: (498)
 - Intensity of trauma-related psychological symptoms changes over time depending on personal trauma processing, effectiveness of available coping strategies, and external factors.
 - The absence of a formal diagnosis does not exclude severe mental suffering and disability and is not inconsistent with torture or ill-treatment.
 - The psychological assessment should document multiple short- and long-term psychological, psychosomatic and psychosocial reactions beyond and not limited to a possible psychiatric classification.
- Updates in sections on common psychological responses including: (500-511)
 - Re-experiencing the trauma
 - Avoidance
 - Hyperarousal
 - Damaged self-concept
 - Feelings of guilt and shame (new)
 - Symptoms of depression
 - Dissociation, depersonalization and atypical behaviour
 - Somatic complaints
 - Sexual problems
 - Psychotic symptoms
 - Substance misuse
 - Neuropsychological and neurocognitive impairment
- Updates on diagnostic classifications in DSM V and ICD 11 for depressive disorders, acute stress disorder, substance use disorder, and others. (512-523)



Chapter VI: The Psychological/Psychiatric Evaluation

- Clarification on the Psychological/Psychiatric Evaluation:
 - Observations of verbal and non-verbal communication, emotional reactions, affective resonance, and behaviour are important components of a psychological evaluation. (524)
 - The pursuit of detailed information should not result in retraumatisation of the alleged victim. (526)
 - Assessment of social functioning should include multiple dimensions: behavior, social skills, feelings, and overall wellbeing. (538)
 - Psychological testing is optional, and personality tests are not appropriate. (539)
 - The levels of consistency for psychological evidence are the same as those for physical evidence, noting that “typical of” and “diagnostic” are rarely used for psychological evidence. (540-545)
 - The clinician has an obligation to formulate a clinical opinion on the possibility of torture and ill-treatment based on all relevant clinical evidence and should reiterate current symptoms, disabilities, and likely effects on social functioning and provide recommendations for further evaluations and care for the individual. (546-547)



Chapter VI: The Psychological/Psychiatric Evaluation: Children

- Conducting the evaluation:

- Wherever possible, collect relevant information from parents, teachers, caretakers, and others. (556)
- Establish a trustful and welcoming setting, especially for unaccompanied children. (556)
- Provide comprehensible & age-appropriate information and explanations about the evaluation. (557)
- Schedule adequate time to ensure rapport building and time for breaks. (557)
- Include the parent or guardian in the assessment process when in the best interest of the child. (557)
- Understand that trust may be undermined by age and power imbalances. (558)
- Introduce interpreters, explain their role, and the meaning of confidentiality. (558)
- Limit access to any recordings of the interview to the assessment team only. (559)
- Begin the assessment with neutral subjects on matters related to the child's everyday life to reduce psychological distance and formality. (559)
- Assessment instruments should have established validity & reliability for the population being assessed. (560)



Chapter VI: The Psychological/Psychiatric Evaluation: Children

- Clinical considerations:
 - Psychological assessments of children should include information on: (581)
 - Child's age, developmental status, current and past psychological and medical functioning (including cognitive, communication and language abilities, special needs, social and school functioning, behavioral adjustment and emotional disorders).
 - Chronological personal and family history of life events, residences, etc.
 - Description of the alleged torture or ill-treatment, its frequency, and duration.
 - Information regarding whether the child witnessed the death and/or torture of others.
 - The alleged torturer's identity and what it represents for the child.
 - Protective factors and indicators of resilience.
 - The availability of family and other caregivers to provide psychosocial supports.
 - The legal status of the child.
 - The provisions in place for treatment and support.
 - Clinicians must rely more heavily on observations of the child's behavior than on verbal expression. (582)



Chapter VI: The Psychological/Psychiatric Evaluation: Children

- Diagnostic classification:

- Post-traumatic stress disorder (586-587)
- Separation anxiety disorder (588)
- Specific phobia (589-590)
- Disorders of social functioning with onset specific to childhood and adolescence (591)
- Conduct disorder (592)
- Oppositional conduct disorder (593)
- Disruptive mood dysregulation disorder (594)

- Family context and Role of the Family:

- Parents who are torture survivors may fear overwhelming their children with their emotions and have associated feelings of guilt and shame. (596)
- The effect of torture on parents may raise concerns over parental functioning, including child neglect and physical, sexual and emotional abuse and addressed within appropriate legal and social frameworks. (597)
- Alternatively, the child can be expected to care for parents which can hamper development and result in a depressive symptomatology or in aggressive behaviour. (598)
- Parents may show outbursts of anger and violence against a child as well as other forms of domestic violence, which the child might experience in a traumatic way. (598)



Chapter VI: LGBT and Intersex Persons and Torture and Ill-Treatment

- LGBTI persons are frequently stigmatized, dehumanized and subjected to persecution, criminalization, imprisonment, torture and ill-treatment. Providing a sense of safety and respect will help the person reveal torture and ill-treatment.(599)
- Clinicians should provide a sense of safety and respect to individuals by: (600)
 - Recognizing that diversity is normal and not a mental illness.
 - Understanding physical & psychological effects of LGBTI persecution experiences.
 - Understanding how social, cultural and political factors affect the physical & mental health of LGBTI individuals.
 - Enquiring about abuse related to sexual orientation and gender identity.
 - Creating a supportive environment to allow for disclosure of relevant information.
 - Understanding that information may represent the first disclosure of sexual orientation, gender identity, and sex characteristics.
 - Using proper names and pronouns chosen by the individual.
 - Understanding how one's own biases may affect the clinical evaluation.
 - Understanding that LGBTI people may experience additional stigma from being HIV+, a refugee, a sex worker, etc.
 - Not attempting to change the individual's sexual orientation or sexual identity.
 - Not seeking to "explain" sexual orientation or sexual identity.
 - Not assuming a person's sexual orientation or sexual identity on the basis of appearance.



(New) Chapter VII - The Role of Health Professionals in Documenting Torture and Ill-Treatment in Different Contexts

- Clarifies the role of health professionals in both legal and non-legal contexts and provides guidance to States & civil society on the effective investigation and documentation practices in these contexts. (603)
 - Note, Chapter VII is not intended to serve as comprehensive guidance for clinical evaluations of torture and ill-treatment. Health professional should be familiar with all relevant Istanbul Protocol chapters and annexes, particularly Chapters II, IV, V and VI and Annexes I-IV.
- Contexts in which documentation may be necessary: (607)
 - Police and military custody or prison
 - Immigration contexts (whether deprived of liberty or not)
 - Healthcare, psychiatric and social institutions
 - Ad-hoc national and international settings
 - Healthcare facilities, emergency rooms and urgent care centers
 - NGO investigations and individual evaluations of alleged victims
 - Rehabilitation and treatment centers for torture victims



Chapter VII: Documentation Challenges & Mitigation Strategies

- Fear of reprisals: (612-613)
 - Be aware of documentation duties & essential procedural safeguards and work with independent monitoring and investigation bodies as well as national and international professional organizations
- Lack of training: (614-615)
 - Obtain IP training
- Lack of time, heavy workload burden, and inadequate number of health professionals: (616-617)
 - Take the necessary time, reschedule if necessary
- Lack of adequate professional space or conditions: (618-619)
 - Contact appropriate authorities and document any limitations on your evaluation
- Non-disclosure: (620)
 - Develop skills to facilitate disclosure of torture experiences; see Chapter IV
- Vicarious trauma and burnout: (621)
 - Acquire knowledge on professional wellness and implement a mitigation plan for vicarious trauma & burnout



Chapter VII: Implementing Ethical Obligations

- **Conflicting Duties: (622-623)**
 - The ethical duty to document torture and mandatory State reporting requirements may conflict with the ethical duties of non-maleficence (“do no harm”), autonomy (“informed consent”), and confidentiality. (see also 159-172)
 - Clinicians should not breach the primary ethical duties of "do no harm" and respect for autonomy over the obligation to document and report. The clinician’s capacity to respect autonomy and confidentiality establishes a foundation for trust that is essential in conducting an effective evaluation. (see also 167-168)
- **IP guidance for clinicians who suspect torture and ill-treatment, regardless of the setting or purpose of a clinical encounter: (624)**
 - Seek to obtain informed consent.
 - Disclose any mandatory reporting obligation.
 - Document and report torture and ill-treatment when informed consent for an evaluation and reporting is given.
 - In the absence of informed consent, consider all ethical obligations & only consider breaches in confidentiality in limited circumstances, e.g. anonymous reporting. (see also 177 -178)
 - Document patterns of abuse anonymously and report such patterns of abuse to international and national human rights institutions.
 - Consider the need for referrals, either for treatment purposes or for further documentation by other clinicians.



Chapter VII: Implementing Ethical Obligations

- Real or perceived obligations to third parties: (625)
 - Whatever the circumstances of their employment, health professionals cannot be obliged by contractual or other considerations to compromise their professional ethical obligations or independence
- Implicit and explicit bias: (626)
 - Clinicians need to recognize and mitigate these biases in working with patients, clients, and alleged victims, to avoid acting upon such biased conceptions
- Limited opportunities for referral: (627)
 - This may arise due to lack of experts to refer to, resistance in the system to refer cases, economic hindrances, problems of access, inadequate transfer and examination standards in health facilities.
 - The initial documentation of torture and ill-treatment is more urgent and necessary in this case



Chapter VII: Summary of Guidance and Procedures for Clinical Evaluations in Legal Contexts

- The State's duty to investigate includes clinical assessments in accordance with the Istanbul Protocol including formulating an opinion on the possibility of torture or ill-treatment. (629)
- States should establish policies and procedures for State-employed health professionals to perform evaluations in accordance with the Istanbul Protocol and its Principles. (630)
- The duty of health professionals to examine potential victims and document torture and ill-treatment supersedes any limitations that may be imposed by statutory considerations, the scope of a legal inquiry, and/or specific questions that prosecutors and judges may ask of clinical and forensic expert witnesses. (631)
- Clinicians who conduct any health assessments of persons deprived of their liberty should be trained and have the capacity to conduct clinical evaluations in accordance with the Istanbul Protocol and its Principles given the high likelihood of possible torture and ill-treatment. (631)
- When non-governmental experts provide a medico-legal opinion on torture and ill-treatment in legal cases, their evaluations should conform to the minimum standards contained in the Istanbul Principles. (632)



Chapter VII: Clinical Evaluations in Non-Legal Contexts

- For alleged or suspected torture or ill-treatment, the clinician should (633-637):
 - Obtain informed consent.
 - Exclude any third parties from the evaluation room.
 - Inquire about the cause of any injuries or psychological distress.
 - Document physical and/or psychological symptoms or disabilities related to the alleged abuse.
 - Conduct a directed physical examination including a brief mental status examination and a risk assessment for harm to self and to and from others.
 - Document all injuries with body diagrams (see Annex III), and photographs if possible.
 - If ill-treatment is alleged or suspected, make appropriate referrals and notify appropriate authorities and inform the individual of his or her right to clinical evaluations by independent, non-governmental clinical experts.
 - Clinical interpretation of findings & conclusions on the possibility of torture may be considered by clinicians who have knowledge and experience applying the Istanbul Protocol and its Principles, but is not required.
 - Provide a copy of the documentation/evaluation to appropriate legal authorities and the patient, if requested, and/or the patient's legal representative but not to law enforcement officials. Health Professionals should keep one copy of the evaluation and documentation for themselves in secure medical files.
 - If clinician does not conduct an evaluation, document reasons.
 - Take measures to prevent return of alleged victims to the place of alleged abuse.



Chapter VII: Clinical Evaluations in Non-Legal Contexts

- Although independent health professionals conducting clinical evaluations in non-legal settings do not have the same formal evidentiary requirements as in legal settings, it would be reasonable for clinicians to follow the Istanbul Principles and note any departures from the required elements of these Principles where applicable (635).
- Individuals may not disclose the full extent of his or her torture and ill-treatment experiences and the individual's ability to recall fully the details of their experiences may be affected by many factors including the stress of the situation. (636)
- Clinicians who are unfamiliar with recognition and documentation of physical injuries may underreport physical findings compared to more experienced clinicians. (636)
- Clinical evaluations in non-legal settings should strive to provide all of the information inherent in a full medico-legal evaluation as described elsewhere in the Protocol. (638)



Chapter VII: Reporting & Monitoring

- Reporting and regulation
 - Clinicians have an ethical obligation to report torture & ill-treatment & States may have mandatory reporting requirements (638)
 - The core ethical obligation of informed consent must be respected even when in conflict with the law (638)
 - National health professional associations and national human rights institutions should take an active role in identifying documentation and reporting procedures for cases of alleged or suspected torture and ill-treatment (640)
- Monitoring and ensuring the quality of all official evaluations
 - States need to monitor and ensure the quality of all official evaluations where torture and ill-treatment is alleged or suspected and take remedial action for non-compliance and ensure compliance with IP and its Principles (641)



Chapter VIII – Istanbul Protocol Implementation

- Provides guidance to States and civil society about the necessary steps for effectively implementing the Istanbul Protocol & its Principles.
 - Note: Chapter VIII guidance is based on 20 years of international IP implementation experience.
- Conditions for effective Istanbul Protocol implementation:
 - Official recognition of Istanbul Protocol standards. (646)
 - Political will. (647)
 - State acknowledgement of the nature and extent of torture and ill-treatment practices and commitment to a policy of "zero tolerance" through comprehensive and sustained action through a national plan of action.
 - Note: Limited remedial actions, such as training for one or more target groups in the absence of other substantive policy reforms, represents an inadequate commitment.
 - An effective criminal justice system. (648-649)
 - Adequate financial and human resources. (650)
 - Good governance. (651)
 - Cooperation. (652)
 - Active civil society participation. (653)



Chapter VIII: IP Implementation Phases

- **Phase I: Developing a common understanding among stakeholders by: (655)**
 - Assessing prevailing country-specific conditions and challenges.
 - Raising awareness about Istanbul Protocol standards among relevant government and civil society stakeholders.
 - Developing partnerships among government stakeholders, civil society, and international human rights organizations.
 - Phase II: Transferring knowledge and skills and implementing policy reforms.
- **Phase II: Transferring knowledge and skills and implementing policy reforms: (656)**
 - Developing sustained capacity to use Istanbul Protocol standards by targeted groups (state forensic experts, civil society clinical and forensic experts, other health professionals, prosecutors, lawyers, and judges).
 - Instituting policy reforms to ensure effective investigation and documentation.
 - Developing a national anti-torture plan of action that includes Istanbul Protocol implementation.
- **Phase III: Transferring implementation activities to local civil society and state actors, institutionalizing IP standards & practices, and monitoring the outcome of implementation efforts: (657)**
 - Transferring capacity building and policy reform activities to local civil society and state actors.
 - Integrating best practices into government and professional institutions.
 - Enhancing regional networking and collaboration.
 - Monitoring the implementation process including the quality and accuracy of forensic and medico-legal evaluations of alleged torture and ill-treatment.



Chapter VIII: Legal, Administrative and Judicial Reforms

- States should establish a normative framework and institutional safeguards to prevent torture & ill-treatment (658-659):
 - Define and criminalize acts of torture
 - Ratify and ensure effective implementation of the OPCAT including NPMs.
 - Ensure that lesser statutes such as “abuse of power” don’t preclude prosecution of torture.
 - Ensure appropriate rules on admissibility of evidence (exclusionary rule).
 - Ensure safeguards and effective complaint mechanisms for persons deprived of liberty (658; see bulleted list with safeguards that should be taken for persons deprived of liberty).
- States have a duty to conduct prompt, impartial, independent, effective, and thorough investigations of all allegations of torture and ill-treatment with victim participation at all phases of the investigation (660).
 - States should implement a system of mandatory health evaluations of detained persons.
 - States should ensure the right of alleged victims to one or more health professionals of the detainee’s choice for clinical evaluation at any time.
 - Evaluations by non-governmental clinicians must be admissible in court and given consideration equal to that of governmental medical experts.
 - Clinicians, should have prompt access (<24 hours) to alleged victims of torture and ill-treatment to assess physical and psychological evidence.



VIII: Legal, Administrative and Judicial Reforms

- States should develop a strong legal framework to provide reparation for torture and ill-treatment, including civil proceedings independent of outcome of any criminal proceedings, and the right of victims to rehabilitation. (661)
- States should ensure that all relevant personnel (law enforcement officials, prison officials, State forensic experts and other health professionals, prosecutors, lawyers, and judges) receive training on the effective legal and clinical investigation and documentation of torture and ill-treatment in accordance with the IP. (662)
- States should ensure that law enforcement personnel receive specific training on internationally accepted interrogation methods and effective measures to prevent torture and ill-treatment. (662)
- States should also ensure respect for legal and medical ethical duties as described in Chapter II. (663)



Chapter VIII: State Forensic and Health Profession Reform

- States should:

- Ensure effective policies, practices, and capacities for the effective investigation and documentation of torture and ill-treatment by State-employed forensic experts and clinicians. (664-665)
- Support non-governmental clinicians and grant alleged victims of torture the right to access to independent health professionals and clinical experts given the critical importance of independence and impartiality in achieving accountability for State crimes. (666 & 673)
- Vest independent State forensic institutions and health agencies with the authority and funds to train and oversee provision of medico-legal and other relevant clinical evaluations and have adequate financial and human resources to conduct effective medico-legal evaluations of alleged torture and ill-treatment. (667)
- Ensure prompt (<48hr) evaluations by qualified, independent clinicians in accordance with IP in all cases of alleged or suspected torture or ill treatment. (668)

- State forensic institutions and health agencies should:

- Review and reform policies and practices that are not consistent with Istanbul Protocol standards. (665)
- Ensure procedural safeguards for effective evaluations. (669)
- Ensure respect for relevant ethical principles. (666)
- Ensure clinical independence. (para 645)
- Conduct prompt investigations including objective medico-legal evaluations by qualified independent governmental experts in accordance with the IP. (668)
- Ensure that procedural safeguards for the effective medico-legal documentation of alleged torture and ill-treatment are included in domestic law, relevant regulations, and standard operating procedures for all health personnel who evaluate or may encounter alleged victims of torture and ill-treatment. (669)
- Respect and facilitate an individual's right to be evaluated by one or more non-governmental health professional(s) of his or her choosing anytime and inform an alleged victim of this right. (670)
- Ensure that all relevant personnel receive training on the Istanbul Protocol and its Principles. (671-672)



Chapter VIII: IP Implementation Monitoring and Accountability

- It is essential to monitor implementation efforts and measure meaningful outcomes in order to evaluate the effectiveness of efforts to eradicate torture and ill-treatment, or the lack thereof. (674)
- States should mandate and support an independent monitoring body to monitor implementation of IP standards and conditions necessary for effective investigation and documentation of torture and ill-treatment.(674)
- The findings of independent monitoring bodies should be public. (674)
- The organizational structure of an independent monitoring body may be informed by OPCAT guidelines for establishment and function of a national preventive mechanism and follow Principles Relating to the Status of National Institutions (“Paris Principles”). (675)
- Monitoring functions should include all relevant norms, procedures and practices (675) and seek to provide accountability for torture and ill treatment. (677)
- States should encourage and support monitoring activities of UN anti-torture and other human rights bodies, regional anti-torture and human rights bodies, and international and domestic human rights organizations (678) and ensure “whistleblower” protections that include medico-legal and health personnel. (679)



Chapter VIII: Cooperation and Civil Society

- **Cooperation, coordination and technical assistance**
 - States should coordinate IP implementation activities in cooperation with multilateral institutions. (680)
 - States should provide foreign assistance for IP implementation, particularly in emerging democracies and in the aftermath of longstanding torture and ill-treatment practices. (681)
- **Civil society**
 - While States have primary responsibility for implementing IP standards and necessary conditions for the effective investigation and documentation of torture and ill-treatment, civil society often plays the most critical role in facilitating IP implementation. (682)
 - States can and should encourage and support collaboration with civil society in their remedial anti-torture actions, but members of civil society should not only rely on State initiatives to take independent remedial action. (683)
 - Members of civil society, including human rights experts, attorneys and health professionals, among others, should organize and work together with international and regional human rights bodies and organizations to develop necessary capacities within civil society to implement IP standards and other anti-torture activities. (683)



Key Practical Considerations

- All IP users should be aware of and apply the updates, clarifications and additional guidance contained in the 2022 edition:
 - Clarifying the definition and scope of torture based on practice and jurisprudence on torture and ill-treatment and relevant mechanisms for torture prevention, accountability and redress. (chap I)
 - Current, relevant ethical obligations for legal & health professionals including guidance on addressing conflicting obligations. (chap II)
 - Best practices on legal investigations of torture & ill-treatment including new guidance for judges, prosecutors & other actors. (chap III)
 - Integrating updated practices on the clinical evaluations of physical and psychological evidence and applying new guidance on evaluations of children and LGBTI persons. (chaps IV, V, VI)
 - Applying clear and consistent guidance on the interpretation of physical and psychological evidence of torture and ill-treatment and the obligation to provide a conclusion on the possibility of torture. (chaps IV, V, VI)
 - Recognizing limitations of the IP and preventing misuse. (chap IV)
 - Recognizing challenges of conducting clinical evaluations of alleged or suspected torture or ill-treatment in non-legal contexts, including duty to follow Istanbul Principles – except in interpreting level of consistency between findings and allegations of torture and ill-treatment and making opinion on the possibility of torture. (chap VII)
 - Need for States to undertake comprehensive and sustained action to implement the IP and its Principles in collaboration with international actors and members of civil society. (chap VIII)