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Abstract: Sebnem Korur-Fincanci – Istanbul Protocol and effective documentation of torture

The international prohibition of torture is generally regarded as having the special status of a “peremptory norm” of international law. States are expected to act against torture and cannot choose to disregard or derogate the prohibition of torture. The example of Turkey shows, that this alone does not prevent torture from happening. Torture has long been a criminal act in Turkey and since 2005 the Convention Against Torture (CAT) is part of the Turkish criminal code. But perpetrators of torture can count on impunity in most of the cases. This failure to bring perpetrators of human rights violations to justice and, as such, a denial of the torture survivors’ rights to justice and redress interferes with the well being of these victims.

The establishment of the Istanbul Protocol offered several solutions to this problem. The Protocol, which was put on paper with great efforts of a wide circle of human rights activists, offers a manual on effective evaluation of torture cases. Effective investigation and documentation of alleged torture can generate reliable evidence that torture has taken place and is instrumental in bringing perpetrators to justice and in ensuring torture survivors’ access to justice and right to reparations. Investigation, documentation and a fair trial should be combined in order to handle with and struggle against impunity as well as combatting torture. They represent cornerstones for the evaluation of torture cases.

The Istanbul Protocol importance for the prevention of torture can as well be seen in its international influence. It has been endorsed by the UN and several other regional bodies, including the African Commission on Human and Peoples’ Rights and the European Union.