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The experience of İstanbul Protocol: efficiency, quality, difficulties in practice

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ABSTRACT

Objectives: Physicians who witness torture and ill treatment can be placed in a difficult position if their evidence was not accurately documented. The guidelines and ethical codes of the Istanbul Protocol require doctors to attend first and foremost to the well-being of their patients and to remain bound by the principles of medical ethics. The objective of this study was to compare the efficiency and the quality of the examination of detainees or alleged torture cases by medical doctors and the difficulties encountered in this activity.

Methods: A questionnaire was developed and sent to physicians in Black Sea Shore region of Turkey before and 1 year after their receiving training according to the Istanbul Protocol.

Results: There were 42 physicians who had undergone training according to the Istanbul Protocol and had answered the questionnaire; 28.6% of these were women and 71.4% men. These physicians applied the Istanbul Protocol more frequently after having received training on the Protocol Manual as compared to before the training. The 52.4% of these physicians reported having been the object of violence or intimidation.

Conclusions: It was determined that the physicians' knowledge of physical and psychological examination increased following their training according to the Istanbul Protocol.

Keywords: İstanbul Protocol, human right, torture

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According to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, "torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity" [1].

Physicians who witness or diagnose torture or ill treatment are responsible for fully reporting physical and psychological findings and photographically documenting bodily lesions [2].

According to the 1975 World Medical Association (WMA) Declaration and the Professional Ethical Rules of the Turkish Medical Association, "The physician shall not participate in or help torture and similar practices using his medical knowledge or skill, and shall not originate false reports concerning the same. The physician witnessing cases in which torture is alleged shall use all professional knowledge and skills

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for discovering the facts" [3].

Many years of accumulating momentum resulted in 1996 in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("the Istanbul Protocol"). The Istanbul Protocol was prepared as a reference set of international guidelines for the assessment of persons who allege torture and ill treatment, for investigating cases of alleged torture, and for reporting such findings to the judiciary and any other investigative body [4-8].

Health care workers participating to the investigation of torture or ill treatment have to perform their examination following established and ethical medical practice standards; the resulting report must indicate the interview conditions, history, physical and psychological examination findings, and the opinion and identity of the preparer. The prepared report should be kept confidential and submitted in writing to the authority responsible for the investigation of torture or ill treatment [3-7].

The majority of cases requiring an investigation of torture or ill treatment in Turkey are seen under the titles of examinations at start or end of detention or examination of battery, by physicians working either in university and state hospital emergency services or in first-level health care facilities. Given the inadequacy of the conditions under which the examination is conducted and/or the absence of training for the satisfactory performance of an examination, these physicians are unable, in many cases, to perform complete and detailed examination and reporting.

One Hundred and twenty-eight physicians in Black Sea Shore Region of Turkey underwent training according to the Istanbul Protocol, designed to familiarize them with said Protocol within the framework of a common project of the Turkish Medical Association and the International Rehabilitation Council for Torture Victims (IRCT) in 2009. This study was designed to determine the problems experienced by physicians during the examinations at the start or end of detention or arrest, their compliance with the Protocol principles, their ethical tenets and general knowledge of examination methods, both before and after their Istanbul Protocol training, and to characterize any changes due to this training. The analysis of the questionnaire results intended to identify problems experienced by physicians in examining detained, released or arrested persons, and to develop proposals to solve such problems.

METHODS

Before the training and 1 years after the training session for non-forensic physicians on the Istanbul Protocol, which took place in Turkey, supported by European Union Forensic Medicine institutions and Ministries of Justice and Health and implemented by the IRCT, a questionnaire was replied by 42 physicians obtained from the eastern Black Sea Shore region state hospitals and first-level health care facilities who had undergone training.

The questions asked included the following, concerning the conditions and the physician performance before and after receiving the training. At the first part of questionary, questions related to the presence of an adequate room for examination; sufficient time for the examination; unshackling of the detainees during examination; keeping the security personnel outside the examination room; availability of the detainees' photographic identity documents; the obtaining of written or oral informed consent by the physician after having introduced oneself; presence of another health care professional at the examination; performance of a full examination after disrobing the patient; use of standard forensic medicine forms during the examination; eliciting exhaustive and correct history from the subject; performance of both bodily and psychological examination; the reaching conclusions by using the obtained information; availability of additional and radiologic examination or consultations; possibility of photographic documentation of observed lesions; transmission of reports to the prosecutor in sealed envelopes; and transmission of findings to judiciary authorities if findings of torture were present.

At the second part of the questionary, additional questions were the physician's age, sex, specialty, length of professional practice; total and monthly number of detained and arrested subjects examined; the physician's having been victim of violence or intimidation as a consequence of examining detainees and, if yes, the author and the type of such violence or intimidation, and how the physicians had responded to it.

The Questionary was constituted by the close-ended questions with a list of possible answers(Yes/No) from which respondant must choose.

Statistical Analysis

The study findings were evaluated using the Statistical Package for Social Sciences (SPSS) 13.0 software. Descriptive statistics were calculated. But comparisons couldn't be performed with data at the second part of the questionary because respondant space was small. So the percentage or number of relevant answers had been shown.

RESULTS

A total of 42 study subjects undergone training according to the Istanbul protocol had answered the questionnaire before and after training. Of these, 12 (28.6%) were women and 30 (71.4%) male.

The facilities in which detainee examinations were performed were mostly public hospitals (n = 18), followed by public health centers (n = 9), chest and tuberculosis centers (n = 5), emergency services (n = 4) and family medical practices, village or neighborhood outpatient clinics, and teaching or research hospitals (n = 2 each).

The physicians or cases were specialized in general practitioner (n = 34), emergency medicine (n = 4), family practice (n = 3) and pulmonary disease (n = 1). Their length of professional practice was 8.1 ± 6 years (mean ± 1 SD), with a range of 1-20 years.

The number of cases in monthly examination performed were 25 in the 0-10 case range, while 10 in 11-25 range, 5 with 26-50 range and 2 physicians saw more than 50 cases. As for the number of cases examined in the entire professional life of any single physician, they totaled less than 20 for 6 of the respondents, 21-50 for 3, 51-100 for 10, 101-250 for 9, 251-500 for 6 and more than 500 for 8 of them.

The physicians who answered the questionnaire (n = 42) had applied the Istanbul Protocol guideline more frequently after having received training on the Protocol (Figure 1 and 2).

The 52.4% (n = 22) of these physicians reported having been the object of violence or intimidation, distributed as follows by type: 8 in psychological, 2 in both verbal and psychological, 8 in verbal, 1 in verbal and physical, 1 in verbal, psychological and physical, and 2 in sexual in total respondents (Table 1). Of the 19 physicians who had been the victims of violence or intimidation, reported that the authors of it were security forces, a colleague, the examined person, and a relative of the detainee (Table 1).

The study subjects or respondents reported experiencing, as a consequence of the past violence or

Table 1. Distribution (n) by author and type of the cases of violence and intimidation (n = 22)

Authors of violence/ intimidation (n) / Type of violence/ intimidation	Security forces	Both security forces and administrator or colleague	Both security forces and patient	Patient	Relative of patient	Unknown
Psychological			3	5		
Verbal	3			5		
Both verbal and psychological		1		1		
Both verbal and physical					1	
Sexual						2
Verbal, psychological and physical						1

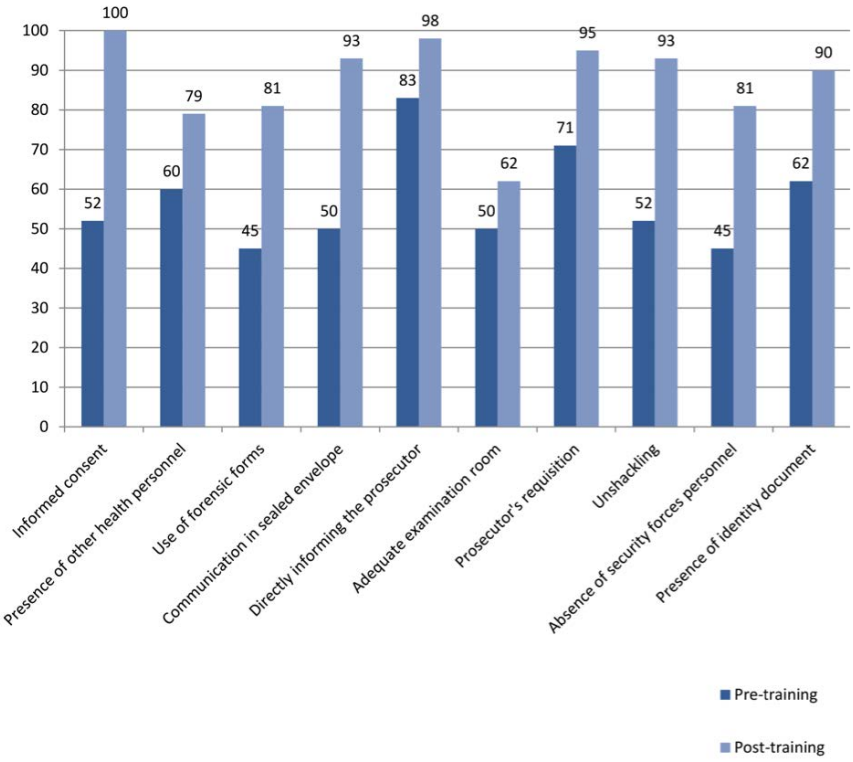

Figure 1. Compliance rates (%) of physicians (n = 42) with medical and ethical rules for the examination of detainees, before and after receiving training according to the Istanbul Protocol.

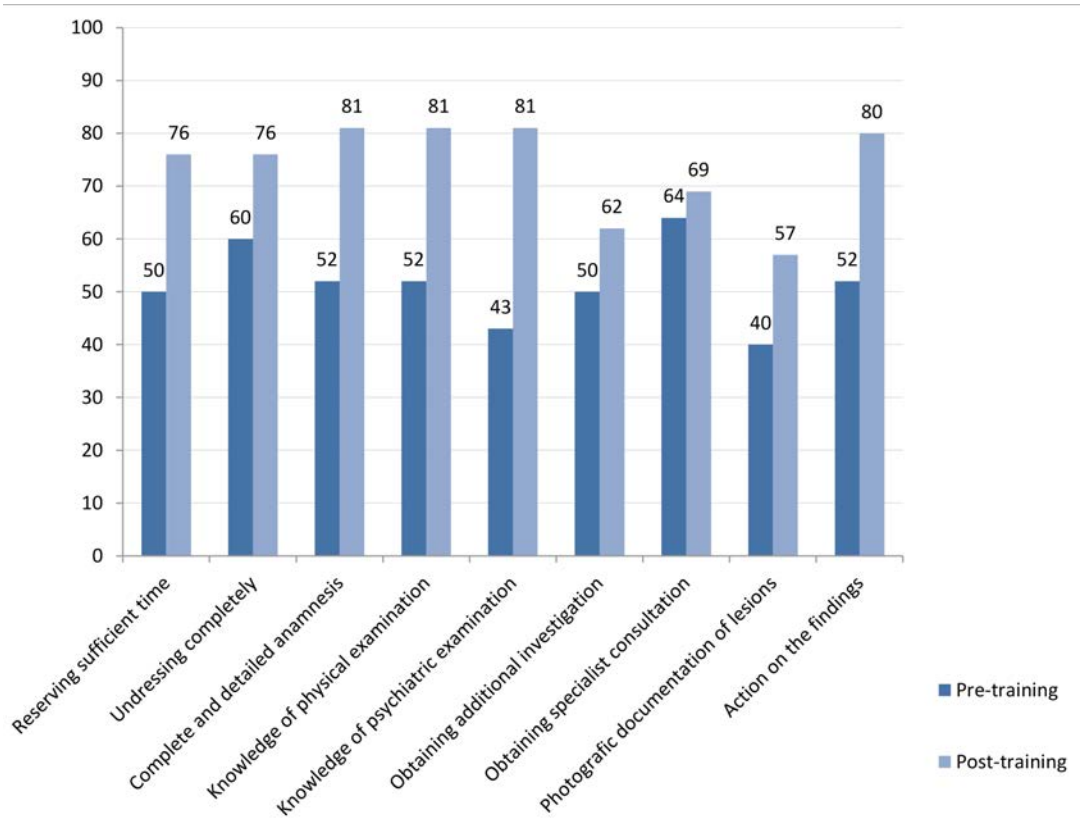

Figure 2. Knowledge, skill and thoroughness (%) in the examination of detainees by physicians (n = 42) before and after receiving training according to the Istanbul Protocol.

intimidation, thoughts, feelings or nightmares of the fears caused by remembering the events, trying not to think about the experience of violence or intimidation and keep away from situations that may remind them of it, or feeling continually on the alert (in 1 case); feeling emotionally numb, petrified, having severed close ties or indifferent (in 3 cases); or nurturing rage, indifference, or the contrary feeling of exaggerated protectiveness with regard to judiciary cases (in 11 subjects). None of the subjects had sought or received medical assistance with relation to their emotional reactions.

Of the physicians experiencing violence or intimidation by the authorities, five (27.8%) were female and thirteen (72.2%) were male. Of these cases, ten physicians had been practicing during 1-4 years, five for 5-9 years, and four for 10 years or longer. Because of the small number of the physician sample experiencing violence or intimidation, comparison couldn't be made with gender, practice time.

DISCUSSION

Only 42 physicians could be reached among the 128 who received training according to the Istanbul Protocol, directed at non-forensic physicians who were in a position to examine detainees, arrested persons and subjects undergoing ill treatment. Even though the data obtained in this study remain insufficient due to the limited in number of participating physicians, they still manage to show both the need for training in the examination of forensic cases and the contribution of such training to the result. It was established that nearly half of the detainee examinations in our area are conducted in the emergency services of public hospitals. A large majority of the physicians who perform these examinations are general practitioners. It was determined that specialists only rarely conduct detainee examinations. Consultations are also rare among these examinations.

An evaluation of graphed and numeric data shows that training on the Istanbul Protocol is generally successful. Information relative to the examination of persons who had been detained, arrested or subjected to ill treatment and the resulting action was part of the study questionnaire. According to the results, the examination should be performed in a stress-free environment that allows easy communication between the doctor and the subject. A health care worker can also be present in the examination room together with the doctor and the patient. The subject's shackles, if any, must be taken off and no security personnel allowed into the room. The report must record the identity of the persons present in the examination room. The doctor must identify himself and the procedure to be performed, and obtain oral or written informed consent, which is to be appended to the report. Prior to the examination, a recent, official identity document bearing the subject's photograph must necessarily be available in order to compare the appearance and identifying data to the examined subject. The physician must also obtain the prosecution's written request for the examination. The use of forensic forms to record the examination is required in order to standardize examinations performed by different persons at different times and ensure the completeness of the examination. The reports are to be prepared in triplicate, which is also how standard forensic examination forms are usually printed. For examinations at the start of detention, one copy is given to the security forces for transmittal to the prosecutor and one to the examined subject or an empowered representative if available; the third copy is kept on file at the health care facility. As for examinations at the end of detention, two copies should be transmitted to the prosecution directly through the health care institution to which the examining physician belongs [4, 7, 9]. The following actions were performed clearly more frequently following the training as compared to before it: performance of the examination in an adequate environment; securing the written requisition from the prosecution and the subjects' picture ID and verification of identity; obtaining the subject's informed consent; unshackling the subject for the examination; keeping security personnel outside the room during the examination; use of forensic forms for the examinations; and transmittal of judiciary reports directly to the prosecution in a sealed envelope.

To achieve an exhaustive examination, the physician should record the following on the examination form in a wording compatible with the patient's own: the detention procedure and its follow-

up, the subject's allegations, complaints, past and recent medical history and family history. The physician must reserve enough time to the patient in order to obtain a thorough history, physical examination and psychological examination. A complete physical examination after taking off all clothing and a complete record of the examination in the report will be of primary importance in case of future allegations of additional or incomplete findings. The person examining cases in which torture is alleged must be familiar with the torture methods and the lesions caused by these; it must be kept in mind that physical lesions may be missing after the application of torture by several methods, or that some lesions may have healed if the patient has been brought late to the examination. Collecting the correct samples, ordering the correct examinations and obtaining photographs of any lesions must be achieved at the earliest moment possible. The importance of a psychiatric examination is beyond discussion in all cases in which torture is alleged [1, 4, 5, 7, 9-11]. Many cases can still be diagnosed by psychiatric signs and symptoms even years after the alleged events, when no physical signs are present [2, 12]. A mechanism to obtain the needed consultations is necessary in case the examining physician has doubts [11, 13, 14].

It was determined that the physicians' knowledge concerning the physical and psychological examination of the cases increases following the Istanbul Protocol training, as does also their self-reliance. The physicians evaluated the examination findings and acted on these with increased efficacy following their training [10, 11, 15].

It was found, however, that there was no similar increase of the following: photographic documentation of the observed lesions; examination after completely undressing the patient; and availability of the required additional examinations including radiology and other specialized consultation. Meaningful change is observed after training in the attitude and activity of the physicians as far as their personal sphere of responsibility, especially for their adherence to ethical principles. The absence, however, of any improvement in the conditions and the environment of the examinations, which are the responsibility of the administration, remains a problem. It was observed that nearly half the physicians examining detainees experienced violence or intimidation.

The proportion of male physicians who encountered violence or intimidation was higher than among the women but, due to the fact that the overwhelming majority of physicians participating in the study were men, the number of women was insufficient to test for a correlation. Different publications on medical communications and violence against physicians reported, however, that while female physicians experience sexual violence more often than their male counterparts, they also command better communication skills and more confidence in the patients, and have a smaller probability of being victims of violence [16-18].

Approximately half our cases experienced violence or intimidation while examining detainees; the abuse consisted in verbal intimidation in a majority of cases [19-21]. On the other hand, a study by Franz *et al*. [22] in Germany found that health care workers were most frequently subjected to both verbal and physical attacks. In a majority of cases in our study, the parties exerting violence and intimidation were security forces and/or the examined subjects. Ayranci *et al*. [21] report a similar finding in a study of health care workers, in which most violence against physicians was perpetrated by patients and their relatives. Several reports indicate that violence against physicians happens mostly in emergency services and psychiatry clinics [19, 20, 22, 23]. Forensic examinations in our country are performed in emergency services and other outpatient clinics. The need for the physicians to attend to forensic cases, for which the operating procedures mandate immediate attention, simultaneously with cases of emergency, put them in the middle of a conflict between security forces and patients [22, 23].

It was shown that of the physicians who were subjected to verbal intimidation those who did not become insensitive to forensic cases developed an overprotective attitude to the patients. One physician who had stated having been victim of physical and sexual violence reported having thoughts, emotions and nightmares recalling the event, its place and its actors with resulting fears and anxieties, being continually on the alert and having to make an effort in order to avoid reminding oneself of the violence [19]. Even though this participant experienced the

symptoms of post-traumatic stress disorder, no medical aid was sought or obtained by this person [20]. The decrease in violence and intimidation against physicians in an inverse relationship with the duration of their professional life has been thought to be due to a growing experience of detainee examination, increased coping skills in the face of pressure by authorities and better stress management [21].

The Istanbul Protocol is an international guideline for the ethical and comprehensive examination of detainees and arrested persons. This study determined that the examination of detainees and arrested persons following the Istanbul Protocol training did comply better with the international standards [10, 24]. As long as administrative measures are not taken to regulate the environment and the conditions, the physicians themselves seem to be held responsible of this dysfunction by the patients, patient families, and all concerned authorities; this increases the likelihood of the physicians becoming victims of violence or intimidation. For the application of the Istanbul Protocol, not only physicians but also the police, gendarmerie and prison personnel as well as prosecutors, judges and administrators must also be included in the training and acquire awareness of human rights [25].

CONCLUSION

Physicians must be protected from all administrative and official pressures in their examination of detainees and arrested persons in order to improve the conditions for examination and obtaining additional investigations and consultation. This study, realized with a limited number of physicians, has the character of a pilot study. A comprehensive study of all physicians who took part in the training and an exhaustive evaluation are indicated.

Conflict of interest

The author disclosed no conflict of interest during the preparation or publication of this manuscript.

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