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«TORTURES, CRUEL, INHUMAN OR DEGRADING TREATMENT TO REFUGEES
AND ASYLUM SEEKERS AT THE RECEPTION STATES»



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ASYLUM SEEKERS AT THE RECEPTION STATES»**

MASTER'S DISSERTATION

MASTER OF ARTS IN HUMAN RIGHTS AND MIGRATION STUDIES

DEPARTMENT OF BALKAN, SLAVIC AND ORIENTAL STUDIES

DEPARTMENT OF INTERNATIONAL AND EUROPEAN STUDIES

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To my beloved grand-father George

*Human rights are not a privilege conferred by government.
They are every human being's entitlement by virtue of his humanity.*

Mother Teresa

To deny people their human rights is to challenge their very humanity.

Nelson Mandela

PREFACE

In 2019, before leaving my home town Nafplio, I learnt about the “Human Rights and Migration Studies” master’s program at University of Macedonia, as I was considering the right next step to take for my career. Since then I was looking forward to apply, thrilled to attend and study Human Rights such an interesting - yet new for my background with a major in History and Byzantine Studies - academic field. The fact that at the same time I was hired by the Ministry of Migration and Asylum to work as a Caseworker at the Regional Asylum Office in Thessaloniki was a co-occurrence that I am really happy for. This post-graduate studying circle helped me a lot to deepen into the issues I was working on, whereas simultaneously my work contributed to see in practice such cases that I was studying for and comprehend them from a wider perspective. Human Rights are always on the top conversations of our time, especially since 2015, when the humanitarian crisis burst out in Greece and Europe. Violations of the international law and international human rights law increased as well. Even though the institutions prohibit such inhuman or degrading treatment, they still occur, and I think it is an issue which concerns all of us.

Thessaloniki, February 2022

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Except for my supervisor, I owe special thanks to the Dr. Zaikos Nikolaos, Associate Professor at the Department of Balkan, Slavic and Oriental Studies, for his guidance and valuable assistance even since we had our post-graduate courses. Moreover, I want to thank both him and Dr. Naskou – Perraki Paroula, Professor Emerita at the Department of International and European Studies, University of Macedonia, for accepting my suggestion and desire to be part of my committee.

I would also like to express my gratitude to Mr. Katsoulis Stefanos, who works at the Secretary Office of MA program "Human Rights and Migration Studies" at University of Macedonia, for our collaboration and his willingness to provide guidance and support during this whole academic process.

Last but not least, I would like to thank two more people for their psychological support; Dimitris, who believes in me and supports my every step and Eleni.

This work is dedicated to my beloved family - my father Nikos, my mother Georgia, my three sisters, Christina, Athanasia, Marina-Maria - and my supervisor Dr. Tsitselikis Konstantinos who are always by my side. This work is expressly dedicated to my dear grandfather, George, who recently passed away in the beginning of this year, to whom I owe my academic development up to a great extent.

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A. INTRODUCTION

The purposes of this current research paper are aligned with the reception conditions of international protection applicants from the beginning of their trip, shedding light to the reasons that made them migrate, the hardships facing during their trip and the conditions throughout the asylum procedure remaining at the detention centers or accommodating camps at the reception States.

Firstly, I looked up for the definition of the refugee term and the definition of torture. The refugee definition was given by the most comprehensive international treaty dealing with torture; the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which includes a series of crucial provisions regarding the complete prohibition of torture. It was found in the 1951 Convention and consists of: inclusion clauses, which set out the criteria used to determine whether an individual is considered as a refugee. These clauses form the positive basis on which a person's eligibility for refugee status is determined; exclusion clauses, which deny refugee status to a person who satisfies the criteria found in the inclusion clauses on the grounds that he/she is not in need, or not deserving, of international protection; cessation clauses, which describe the conditions under which refugee status comes to an end because it is no longer necessary or justified. As it stated in the Article 1A (2) of the 1951 Convention a refugee is any person who:

"... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

This provision identifies the five criteria, the inclusion clauses, that must all be met for a person to qualify as a refugee: i) well-founded fear, ii) persecution, iii) reasons of race, religion, nationality, membership in a particular social group or political opinion, iv) outside country of nationality/former habitual residence, v) unable or unwilling, for fear of persecution, to seek

that country's protection or to return back¹. As it is stated to the Article 1F of the Convention, the exclusion clauses, which deny refugee status to a person who satisfies the criteria, are: i) the case they committed a crime against peace, a war crime, or a crime against humanity; ii) the case of committing a serious non-political crime outside the country of refuge prior to being admitted to that country as a refugee; iii) been guilty of acts contrary to the purposes and principles of the United Nations².

Degrading treatment means treatment that is extremely humiliating and undignified. Whether treatment reaches a level that can be defined as degrading depends on a number of factors. These include the duration of the treatment, its physical or mental effects and the sex, age, vulnerability and health of the victim. Among degrading treatment and other ill-treatments, a human being can be subjected to the absolute form cruel manipulation or punishment, which is not other than the operation of tortures. Then it was a decisive next step to continue with an accurate definition for the term of torture, beginning with the Article 3 of the Human Rights Act which states that *"No one shall be subjected to torture or to inhuman or degrading treatment or punishment"*. We need to distinguish the term as it is used in general conversation from the legal definition of torture. Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines torture, containing three main elements; the intentional infliction of severe mental or physical suffering, by a public official, who is directly or indirectly involved, for a specific purpose. The legal definition of torture is internationally agreed as:

"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

¹ UNHCR, An introduction to International Protection, Office of the United Nations High Commissioner for Refugees, Switzerland 2005 (henceforth as UNHCR, An introduction to International Protection), p. 55-56

² UNHCR, An introduction to International Protection, p. 58-59

acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”³

This specific definition has only one limitation; that only tortures committed by or in some way involved agents of the States shall be restricted and are legally prosecuted with penalty. If non-government employees commit tortures the State cannot take any responsibility. The fact that in the Convention there is not enumerated specific acts as torture is one of the advantages of the treaty. A specific list of actions could never fully describe every possible method of torture that could be used later in the future.⁴

Then I continued with the legal framework which covers the prohibition of torture on chapter B. I focused on the Council of Europe and its European Convention on Human Rights (Article 3), because the right to seek asylum in another country is one of the most fundamental protections for anyone who faces the danger of persecution and it must be protected. International refugee law also provides an important source of international human rights law that it is highly relevant to the issue of torture. Other than the prototype treaties as sources, I used the very helpful and enlightening collective work by the Office of the United Nations High Commissioner for Refugees (Switzerland 2005), the *Introduction to International Protection*. It was used for the definition of refugee in the Introduction chapter of this paper work and I found it useful for the legal framework chapter which is devoted to the prohibition of torture and the Council of Europe’ European Convention on Human Rights (Article 3) as well. Not only it is an organized material, but also it contains a commentary perspective of international regulations respecting the human rights. Useful bibliography for the issue constitutes the Νάσκου – Περγράκη Παρασκευή (Παρούλα), *Δικαιώματα του άνθρωπου, Παγκόσμια και περιφερειακή προστασία – Θεωρία – Νομολογία*, by ΣΑΚΚΟΥΛΑΣ A publications in 2019. I used *Preventing Torture: An Operational Guide for National Human Rights Institutions*, APF, APT and OHCHR, Switzerland, 2010 and the Article 3 of the European Convention on Human Rights: A Practitioner’s Handbook.

³ *Preventing Torture: An Operational Guide for National Human Rights Institutions*, APF, APT and OHCHR, Switzerland, 2010 (henceforth as OHCHR, *Preventing Torture*) p. 12

⁴ OHCHR, *Preventing Torture*, p. 12

Following a sensible structure, this essay continues on the third chapter referring on tortures, cruel, humiliating, inhuman or degrading treatment that occur in their countries of origin. I focused on the case of Afghanistan and Iraq, due to my personal interest and because I think these are two countries where human rights are constantly violated. The material which was helpful for the completion of this chapter was certain country reports of USDOS for the recently past years 2019-2021, such as the US Department of State: “2020 Country Report on Human Rights Practices: Iraq”, the USDOS “2020 Country Report on Human Rights Practices: Afghanistan” and the Summary of the Report on Violence Against Women, The causes, context, and situation of violence against women in Afghanistan by Afghanistan Independent Human Rights Commission (AIHRC), published on March 2018. Unfortunately, ill-treatment continuous taking place at the reception States and during their trip until they reach land. Then in order to record what the Greek case law provides respecting the issue of this work there follows a sub-chapter “The Greek case and the law N. 4636/2019”, depicting all the relative points of Greek law N. 4636/2019. The sub-chapter after that “Living conditions of the asylum seekers at the reception states” is referring on such cases that human rights are violated at the reception States and the case of Greece. The main titles that contributed to this topic were: a factsheet of *Detention conditions and treatment of prisoners* by the series of factsheets published on December 2021, *Detention conditions and treatment of prisoners*, also *How Should Migrant Smuggling be Confronted?*, written by Carling J. and published by International Organization for Migration (IOM) in 2017. Moreover, I used a Greek report by METAdrasi NGO concerning victims of tortures written by Μπαμπασίκα Ι. and Ζάχου Φ., Έκθεση Συνηγορίας: «Θύματα Βασανιστηρίων: από την ανίχνευση στην προστασία», published on December 2021 as well. In addition to these, the Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published in 2019 was extremely useful.

Lastly, at the fourth and most crucial chapter of this essay *Preventing Violations and Combating Ill-Treatment*, solutions, suggestions and recommendations are provided according to the bibliography. The most important titles that helped me to record the relevant material were

the Combating Torture: A Manual for Action by Amnesty International, published in 2003 and the doctorate dissertation of University of Macedonia: Η ασφαλειοποίηση της μετανάστευσης στην Ελλάδα, written by Καλαντζή Φ., published in 2017. This research paper ends with the conclusions drawn by examining the given material.

B. THE LEGAL FRAMEWORK OF THE PROHIBITION OF TORTURE

Taking into consideration the entire legal framework respecting human rights, it is obviously ascertained that the prevention of tortures, cruel, inhuman or degrading treatment is a great issue, because it is globally prohibited with a number of international human rights treaties of almost all continents (Council of Europe, Organization of American States, African Union, Association of Arab States, Asia)⁵ and protected by regional instruments as well. In this chapter, all these international human rights bodies, treaties and regional mechanisms regarding the topic of prevention of tortures, cruel, inhuman or degrading treatment and other forms of ill-treatment have been collectively referred in a nutshell.

On international level, the absolute prohibition of torture enshrined in the Universal Declaration of Human Rights, more specifically at the Article 5, which states that *“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”* And also provides that people have the right to *“an effective remedy”* if their rights are violated. The Article 7 of the International Covenant on Civil and Political Rights states that no person *“shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”* Moreover, the article 10 declares: *“All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”* The Covenant provides that anyone express that their rights have been violated shall have access to legal remedy. Further, no derogation is allowed regarding this right.⁶

The most comprehensive international treaty dealing with torture is the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, due to the fact that it includes a series of crucial provisions regarding the complete prohibition of torture and authorizes the Committee against Torture to supervise the implementation of treaty obligations by States parties. Since 2010, 146 States had ratified the Convention. By the

⁵ Νάσκου – Περράκη Παρασκευή (Παρούλα), Δικαιώματα του άνθρωπου, Παγκόσμια και περιφερειακή προστασία – Θεωρία – Νομολογία, ΣΑΚΚΟΥΛΑΣ Α.Ε., 2019 (henceforth as Νάσκου – Περράκη, Δικαιώματα του άνθρωπου)

⁶ OHCHR, Preventing Torture, p.16

Article 1 it defines the term of torture, whereas the Article 2 states that each State party has the obligation to take preventive action, including legislative, administrative and judicial measures.⁷ Other important provision of the Convention is the Article 2.2 that declares that there is “no exceptional circumstances whatsoever”, which can justify torture, including war or the threat of war, political instability, combating terrorism or any other emergency. The Article 3 includes the principle of non-refoulement, which prohibits States to expel, return, or extradite an individual who has reasonable reasons to believe that they are in the risk of danger, illustrating in this way the ultimate prohibition of torture and other forms of ill-treatment, whereas the Article 4 directs States to include torture as a specific crime of their national legislation.⁸ Under the Convention the States are obligated to enact its jurisdiction over the crime of torture where the crime was committed inside or outside of its borders (Articles 5 - 9)⁹.

According to the Article 10, the State parties have the duty to constantly educate the associate personnel, such as lawyers, medical staff and public officials, in a continuous procedure in order to receive updated information on the prohibition and prevention of torture. Not only States have to act in alignment with the law respectively the detention centers, but also they have to systematically review - under article 11 of the Convention - if interrogation rules, instructions, methods and practices, as well as custody procedures operate in compliance to the United Nations Standard Minimum Rules for the Treatment of Prisoners and the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.¹⁰ The Article 12 requires further investigations whenever there is reasonable ground to believe that an act of torture has been committed in any territory under its legislation. The victims of tortures have the right to complain and ask promptly investigation of their case (Article 13) in order to claim for reparation or rehabilitation (article 14).¹¹ Last but not least, the Optional Protocol to the Convention against Torture - adopted in 2002 and into force in 2006 - reinforces the specific obligations for prevention of torture in articles 2 and 16 of the Convention

⁷ OHCHR, Preventing Torture, pp. 17-18

⁸ OHCHR, Preventing Torture, pp. 18

⁹ OHCHR, Preventing Torture, pp. 19-20

¹⁰ OHCHR, Preventing Torture, pp. 19-20

¹¹ OHCHR, Preventing Torture, pp. 19-20

by adopting a system of routinely visiting places of detention by international and national bodies.¹²

On protecting from tortures or ill-treated individuals, there are into force other international human rights treaties of similar context. The Convention on the Rights of the Child (Article 37) contains a torture and ill-treatment of children related provision and does the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in the Article 10 and the Convention on the Rights of Persons with Disabilities, as well as, under the Article 15.¹³

On regional level, there are four general regional human rights treaties – in Europe, Africa, Arab countries and the Americas. Each of them contains a clear prohibition of torture. There are also two regional treaties in Europe and the Americas that deal specifically with torture. In Europe, there is the European Convention on Human Rights, adopted in 1950. It is a regional treaty under the auspices of the Council of Europe with the most significant provision Article 3 – which is referred more analytically in the following sentences - declaring that *no one shall be subjected to torture or to inhuman or degrading treatment or punishment*. The Council of Europe has also adopted a treaty dealing specifically with torture: the European Convention for the Prevention of Torture (1987). This treaty does not create any new norms but does establish a visiting Committee.¹⁴ Under the auspices of the Organization of American States it was adopted in 1969 the American Convention on Human Rights, a regional treaty supporting the same as the European treaties regarding tortures under the Article 5; *every person has the right to have his physical, mental, and moral integrity respected. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person*. Inter-American Convention to Prevent and Punish Torture (1985) was the instrument to control such cases, giving its own definition of torture.¹⁵

The Organization of African Unity in 1981 adopts the African Charter on Human and Peoples' Rights which underlines the inalienable right of respecting with dignity - inherited in

¹² OHCHR, Preventing Torture, pp. 20

¹³ OHCHR, Preventing Torture, pp. 20

¹⁴ OHCHR, Preventing Torture, pp. 21

¹⁵ OHCHR, Preventing Torture, pp. 21

every human being - the recognition of legal status. It also prohibits all forms of exploitation and degradation of man, such slavery, slave trade and tortures; cruel, inhuman or degrading punishment. The League of Arab States adopted on March 2008 the Arab Charter on Human Rights, in which the Article 8 it is stated the no one shall be subjected to "*physical or psychological torture or to cruel, degrading, humiliating or inhuman treatment*" and each State party has the obligation to adopt in its jurisdiction effective measures to prevent from such practices. In such cases of torture and degrading treatment it is legally guaranteed redress for any victim and the right to rehabilitation and compensation.¹⁶

In addition to these arrangements, there are a number of common measures and general standards that are highly relevant to the prevention of torture. These soft law standards carry considerable weight in providing clear and sufficient guidelines for interpreting "cruel, inhuman or degrading treatment or punishment" terms, as well as implementing treaty obligations. However, they are not legally enforced in the same way as treaty obligations.¹⁷

There are two categories of these standards; the United Nations standards and the Regional standards; Council of Europe, Organization of American States and African Union standards. The United Nations criteria are about the conditions of detention centers or imprisonments, protection of juveniles, Medical Ethics, the Basic Principles on the Use of Force, a Code of Conduct for Law Enforcement Officials and the Istanbul Protocol; regarding principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment.¹⁸ Concerning the regional treaties standards, they are again related with regulations for prisons and the force of authority officials; the European Prison Rules, the Declaration on the Police, the European Code for Police Ethics, standards developed by the European Committee for the Prevention of Torture. In 2001, the European Union also adopted Guidelines on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹⁹ In 2008 was adopted a set of "Principles and Best Practices on the Persons Deprived of Liberty" in the Americas, whereas the African Union issued the

¹⁶ OHCHR, Preventing Torture, pp. 22

¹⁷ OHCHR, Preventing Torture, pp. 22-23

¹⁸ OHCHR, Preventing Torture, pp. 23

¹⁹ OHCHR, Preventing Torture, pp. 23

“Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa”.²⁰

Torture is prohibited under international law and can never be justified. The prohibition on torture is absolute and non-derogable. Cruel, inhuman or degrading treatment or punishment is also absolutely prohibited and non-derogable. Under the auspices of the Council of Europe, an inter-governmental body set up by the Treaty of London on 5 May 1949 – was drafted a regional treaty “the *Convention for the Protection of Human Rights and Fundamental Freedoms*, more commonly referred to as the “*European Convention on Human Rights*” and hereinafter as “the Convention” and it was adopted in 1950. The Convention, which was the first international legal instrument to safeguard human rights through an enforcement mechanism, entered into force on 3 September 1953. By the Article 3 it is stated: *No one shall be subjected to torture or to inhuman or degrading treatment or punishment*. The Council of Europe has also adopted a treaty dealing specifically with torture: the *European Convention for the Prevention of Torture* (1987). This treaty does not create new norms but does establish a visiting Committee.²¹

However every year hundreds of cases are noted for violations of Article 3 of the Convention dealing with a broad range of torture and ill-treatment in custody. The effort to investigate and to hold account perpetrators has been failed. It is difficult in this situation to maintain and develop effective international law against torture, cruel and inhuman or degrading treatment and bring justice to victims, amplifying the importance of the European Court of Human Rights.²²

The most significant provision of European Convention on Human Rights under the auspices of the Council of Europe, Article 3, is the prohibition of torture, cruel inhuman or degrading treatment. According to the Article 3, “*degrading treatment is when it arouses in its*

²⁰ OHCHR, Preventing Torture, pp. 24

²¹ OHCHR, Preventing Torture, pp. 21

²² Article 3 of the European Convention on Human Rights: A Practitioner’s Handbook; Ugur Erdal and Hasan Bakirci, OMCT Handbook Series Vol. 1; 2006 (henceforth as Article 3, Handbook Series Vol. 1)

*victims feelings of fear, anguish and inferiority capable of humiliating and debasing the victim and possibly breaking his or her physical or moral resistance or driving him or her to act against their will or conscience; or it does not attain the level of severe suffering and pain required for inhuman treatment but nonetheless reaches a threshold that exceeded the unavoidable level of suffering inherent in detention, arrest or any other situation where one is under the power of governmental officials".*²³ Prohibition of such treatments is the most fundamental value of democratic societies. In the Article 3 of the Convention there are no exceptions or limitations in its implementation and this is the reason that makes it so important among most other provisions. One other important characteristic about the Convention is the principle of non-refoulement, which is connected with the above. It was enacted in customary international law and defines that States are forbidden to expel, deport or extradite persons to countries where they would face torture or other forms ill-treatment. Thus, non-refoulement is a fundamental rule of refugee law, which is underlined by the European Convention under Article 3.²⁴

The Court has never given a precise, inclusive definition of the notions of torture, inhuman or degrading treatment or punishment. The meaning of these concepts has, however, crystallized in the Court's case law and the Court explicitly recognized that there is a difference between torture on the one hand and inhuman or degrading treatment or punishment on the other hand. And it stated *"In order to determine whether a particular form of ill-treatment should be qualified as torture, the Court must have regard to the distinction, embodied in Article 3, between this notion and that of inhuman or degrading treatment. [...] it appears that it was the intention that the Convention should, by means of this distinction, attach a special stigma to deliberate inhuman treatment causing very serious and cruel suffering"*²⁵ Court's case law analysis exposes another division between torture and other forms of ill-treatment; the intensity of the suffering inflicted. Accordingly, torture constitutes an aggravated and intentional inhuman treatment causing very serious and cruel suffering. Treatment or punishment is 'inhuman', if it causes intense physical or mental suffering. Degrading treatment or punishment arouses in the victims feelings of fear,

²³ Article 3, Handbook Series Vol. 1, p. 168

²⁴ Article 3, Handbook Series Vol. 1, p. 186

²⁵ Article 3, Handbook Series Vol. 1, p. 156-157

agony and inadequacy capable of humiliating and debasing. To fall within the scope of Article 3 of the Convention, ill-treatment must develop a minimum level of severity. The Court further explained that *“treatment, which humiliates or debases an individual, shows a lack of respect for, or diminishes, his or her human dignity, or arouses feelings of fear; anguish or inferiority capable of breaking an individual’s moral and physical resistance, may be characterized as degrading treatment and could thus also fall within the prohibition of Article 3”*.²⁶

Respecting to the scope of Article 3 of the Convention, there is another distinction for the term of inhuman treatment. If people commit suicide, the State has no responsibility (the example of United Kingdom). The reason of that suffering in this case is not caused by the State or it cannot do anything to avoid it; it is not the State’s jurisdiction. The Court held that *“suffering which flows from naturally occurring illness, physical or mental, may be covered by Article 3, where it is, or risks being, exacerbated by treatment, whether flowing from conditions of detention, expulsion or other measures, for which the authorities can be held responsible.”*²⁷

Summarizing, taking into account the entire human rights legal framework, it is obviously ascertained that the prevention of tortures, cruel, inhuman or degrading treatment is a main part of it. We saw that torture is prohibited in a number of international human rights treaties. The Convention against Torture contains a series of provisions on prevention measures. There are regional instruments in Africa, the Americas, Arab countries and Europe, which also prohibit torture. All in all, the ‘soft law’ standards, both international and regional, accommodate the prohibition of torture and other mal-treatment. Each States can have its own interpretation, regarding the Article 3 of the Convention.

²⁶ Article 3, Handbook Series Vol. 1, p. 158

²⁷ Article 3, Handbook Series Vol. 1, p. 158

C. TORTURES, CRUEL, HUMILIATING, INHUMAN OR DEGRADING TREATMENT

1) The case of Afghanistan

Afghanistan is an Islamic republic with a straightforwardly chosen president, a bicameral authoritative department, and a legal department; however, armed demonstrators control portions of the nation.²⁸ Three administrative substances share duty for law authorization and maintenance of order within the nation: the Ministry of Interior, the Ministry of Defense, and the National Directorate of Security. The Afghan National Police, under the Ministry of Interior, has primary responsibility for internal order and for the Afghan Local Police, a community-based self-defense force with no legal ability to arrest or independently investigate crimes. In June, President Ghani declared plans to subsume the Afghan Local Police into other branches of the security strengths given people can show a record free of charges of debasement and human rights mishandle. As of year's conclusion, the usage of these plans was underway. The Major Crimes Task Force, also under the Ministry of Interior, investigates major crimes including government corruption, human trafficking, and criminal organizations. The Afghan National Army, under the Ministry of Defense, is responsible for external security, but its primary activity is fighting the insurrection internally. The National Directorate of Security functions as an intelligence agency and has responsibility for investigating criminal cases concerning national security. A few regions of the nation were exterior of government control, and antigovernment strengths, counting the Taliban, foundations their claim equity and security frameworks. Civilian specialists for the most part kept up control over the security strengths, in spite of the fact that security strengths every so often acted autonomously. Individuals of the security strengths committed various manhandle.²⁹

In this country although there have been attempts for peace negotiations, armed conflicts continue to happen. There is no trust because during transactions, equipped agitators bunches conducted major assaults on government forces, open places, and civilians,

²⁸ USDOS, "2020 Country Report on Human Rights Practices: Afghanistan", US Department of State, Document 2048097, eoi.net (henceforth as USDOS, 2020 Country Report: Afghanistan)

²⁹ USDOS, 2020 Country Report: Afghanistan

slaughtering and harming thousands. There were moreover focused on assaults on the women, violent threats, killed journalists and activists in targeted killings and many unclaimed attacks for which the Taliban denied involvement³⁰.

As a consequence, there are significant human rights violations. Such as killings by demonstrators; extrajudicial killings by security forces; forced disappearances by antigovernment personnel; reports of torture and cases of cruel, inhuman, or degrading punishment by security forces and antigovernment entities. Also, irrational arrests by government security forces and insurgents do happen often; serious abuse in internal conflict, including killing of civilians, enforced disappearances and abductions, torture and physical abuses, and other conflict-related abuses. Moreover, serious acts of corruption are witnessed; lack of investigation and accountability for cases of violence against women, including those accused of so-called moral crimes. In addition to this type of human right violations there are reported incidents of recruitment and use of child soldiers and sexual abuse of children, including by security force members and educational personnel; trafficking in persons; violence targeting members of ethnic minority groups; violence by security forces and other actors against people who participate in a special social groups; lesbian, gay, bisexual, transgender, and intersex persons; existence and use of laws criminalizing consensual same-sex sexual conduct; and the existence of the worst forms of child labor³¹. Serious ignorance for the rule of law and official impunity and human rights abuses continue to happen, when at the same time the government does not investigate or prosecute consistently or effectively abuses by officials, including security forces. Attacks to religious leaders and Islamic scholars, who were killed, are reported. Child recruitment under the age of 12 is increasingly take place in order to use them as suicide bombers. Antigovernment elements threatened, robbed, kidnapped, and attacked government workers, foreigners, medical and nongovernmental organization workers, and other civilians. The number of 5,939 civilian casualties in the first nine months of the year 2020

³⁰ USDOS, 2020 Country Report: Afghanistan

³¹ USDOS, 2020 Country Report: Afghanistan

is indicative. The Taliban are not taking responsibility for these actions, however they are referred to their attacks as “martyrdom operations”.³²

To be more specific, in Afghanistan maltreatment to humans is taking place in many aspects. As regards the respect for the integrity of the person, including freedom, there are cases reported concerning arbitrary deprivation of life and other unlawful or politically motivated killings. According to the USDOS 2020 Report, the government or its agents committed arbitrary or unlawful killings, which such cases are forwarded to the Supreme Court. There is a case of a young girl assassination in Kandahar Province and then her father her father, who approached the local army base apparently to condemn the killing, the security forces did not offer an explanation for the killings. Authorities who are supposed committed to investigate the killings, did not share any available update about the incident. Similar facts followed this, an imam and his son following evening prayers were killed and the same happened to unarmed civilians. During the year unknown actors carried out a number of targeted killings of civilians, including religious leaders, journalists, and civil society advocates³³. As regards the disappearances there were no reports such cases by the security forces. However, the corresponding number in abductions of civilians carried out by the Taliban increased five times and the number of casualties resulting from abduction increased six times compared to the analogous percentage of the last years’.³⁴

Although the constitution and law prohibit torture and other cruel, inhuman, or degrading treatment or punishment, there were numerous reports that government officials, security forces, detention center authorities, and police committed abuses. Credible individual reports by nongovernmental organizations (NGOs) claim that security forces continued to use excessive force, including torturing and beating civilians. Despite legislation prohibiting these acts, independent monitors continued to report credible cases of torture in detention centers. According to local media, lawyers representing detainees in detention centers stated that torture

³² USDOS, 2020 Country Report: Afghanistan

³³ USDOS, 2020 Country Report: Afghanistan

³⁴ USDOS, 2020 Country Report: Afghanistan

remained commonplace and that detainees were often questioned using torture methods³⁵. There were numerous reports of torture and cruel, inhuman, and degrading punishment by the Taliban, ISIS-K, and other antigovernment groups. The United Nations Assistance Mission in Afghanistan (UNAMA) reported that punishments carried out by the Taliban included beatings, amputations, and executions. The Taliban held detainees in poor conditions and subjected them to forced labor, according to UNAMA³⁶. A case of a woman being stoned to death has been recorded in a video stands-out. The Taliban denied involvement. Impunity prevails in the whole country is a significant problem in all branches of the security forces. Despite the testimony of numerous witnesses and advocates that authority members were among the most prevalent perpetrators of *bacha bazi* (the sexual and commercial exploitation of boys, especially by men in positions of power), the government had never prosecuted a security officer for these acts, although eight officers were arrested during the year in connection with *bacha bazi* incidents³⁷. Cases of promoted to the rank of marshal grade people are accused of gross violations of human rights, including the abduction and rape of a political opponent, but the government did not carry out an investigation.³⁸

As regards the prison and detention center conditions, it is observed to be harsh due to overcrowding, lack of sanitation, and limited access to medical services. Inhuman and degrading treatment is an often phenomenon to all kind of detention centers. The General Directorate of Prisons and Detention Centers (GDPDC), part of the Interior Ministry, has responsibility for all civilian-run prisons (for both men and women) and civilian detention centers. There are juvenile rehabilitation centers and other short-term detention facilities. The Ministry of Defense runs the Afghan National Detention Facilities at Parwan. There were credible reports of private prisons run by members of the Afghan National Defense and Security Forces (ANDSF) and used for abuse of detainees. The Taliban also maintain illegal detention facilities throughout the country.³⁹ The physical conditions are extremely inhuman

³⁵ USDOS, 2020 Country Report: Afghanistan

³⁶ USDOS, 2020 Country Report: Afghanistan

³⁷ USDOS, 2020 Country Report: Afghanistan

³⁸ USDOS, 2020 Country Report: Afghanistan

³⁹ USDOS, 2020 Country Report: Afghanistan

and continue to be an across-the-board problem. Widespread abuses often occur such as corruption, lack of attention to detainees' sentences, sexual abuse of underage prisoners, and lack of access to medical care. Prisoners in a number of prisons occasionally conducted hunger strikes or sewed their mouths shut to protest their detention conditions. Water sanitation and hygiene problems are also reported. The water was contaminated by an overflow of sewage at a nearby water company that was not adequately addressed due to low standards of safety and maintenance. Authorities generally lacked the facilities to separate pretrial and convicted ones or to separate young people according to the seriousness of the charges against them. Local prisons and detention centers did not always have separate facilities for female prisoners. According to NGOs and media reports, authorities held children under the age of 15 in prison with their mothers, due in part to a lack of capacity of separate children's support centers. These reports add to the argument that there is insufficient number of educational and medical facilities for these minors.⁴⁰

Due to severely limited budget of nationwide program to feed prisoners, access to food, potable water, sanitation, heating, ventilation, lighting, and medical care in prisons varied throughout the country and was generally inadequate. Most of prisoners relied on family members to provide food supplements and other necessary items. A total number of 7,237 prisoners and detainees were released from 32 facilities across the country in an effort to protect these individuals from COVID-19. The majority were given reduced sentences or qualified for bail and did not have to return to prison. Last but not least the human right of prisoners visiting family seems to have been violated in various cases. Authorities conducted some investigations of credible allegations of mistreatment. According to the law it must be provided to prisoners the right to leave prison for up to 20 days for family reasons visits. Most prisons did not implement this provision, and the law is unclear in its application to different classes of prisoners. Additionally, most prisons did not allow family visits in the detention centers.⁴¹

⁴⁰ USDOS, 2020 Country Report: Afghanistan

⁴¹ USDOS, 2020 Country Report: Afghanistan

The State of Afghanistan constitutes a case which pulls the trigger, regarding human rights violations for another reason; the woman's position among society. The social group of women faces many times challenging and abusing treatment. Prevailing conditions in Afghanistan is poverty, illiteracy, restricted access in legal support and non recognition women as equal human beings due to the Islamic law, which sets women subjected to a male relative of the family not able to study or work and remain restricted at their own homes, accordingly to the "constitution" of Taliban. Especially, after the facts of summer 2021 and the America's Exit from Afghanistan with all the last U.S. troops leaving Afghanistan after 20 Years of War the future foresees to be ominous and dark. Abandoned and helpless women suffer conditions of anachronistic constitution of Taliban and face inhuman or degrading treatment, many times violence and cruel actions. There was a survey from UN partners depicting that the cruel behavior on women originates from a deeper notion of Afghan men, grown up in a society full of prejudices against women. That survey displays that a 15% of Afghan men believe women should be allowed to work outside the home after marriage and two-thirds of men complain that Afghan women have already too many rights. According to that statistics it is explicated why violence against women is so widespread happening that almost every woman in Afghanistan will experience it in her life.⁴²

Cases of violence against women occurred mostly at home. The example of Afghan women accepting extremely high levels of violence shows that the home environment can be an unsafe place sometimes.⁴³ Domestic violence has become a regular feature of almost all households and shapes every aspect of women and girls' lives: their health, their livelihoods, their access to social and cultural resources and their educational opportunities. However, women's rights activists argue that only a small percentage of incidents are reported due to the social acceptance of such practices. Men who are harming or even killing women can be tolerated and enjoy impunity. The most important factors of violence against women are the existence of unacceptable customs and traditions, the lack of security and the rule of law in the

⁴² Afghanistan Independent Human Rights Commission (AIHRC), *Summary of the Report on Violence Against Women The causes, context, and situation of violence against women in Afghanistan*, March 2018 (henceforth as AIHRC, Report on Violence Against Women)

⁴³ AIHRC, Report on Violence Against Women, pp. 3-4

regions and provinces, the lack of serious activity of perpetrators and the continuing culture of impunity, corruption, not equal access in the case of women to the courts, legal support centers and lawyers. The State of Afghanistan lacks of adequate support for victims of violence. Illiteracy prevails on high levels in the society and that results in a repeating circle of poverty, high unemployment rate and increased drug addiction numbers⁴⁴. Government watch the victims remain helpless facing brutality and been deprived of their basic human rights. External factors should intervene, such as governments of other countries and NGO's. We do not need to continue the idea of "third world" notion.

⁴⁴ AIHRC, Report on Violence Against Women

2) The case of Iraq

Iraq is a country with many problems concerning human right violations, where its citizens are inhumanly treated in various aspects of their lives. Iraq is a constitutional parliamentary republic. The last parliamentary elections of 2018, while imperfect, generally met the international standards of free and fair elections⁴⁵. As regards its public administration, numerous domestic security forces operate throughout the country. Iraqi Security Forces are organized administratively within the Ministries of Interior and Defense, as well as within the quasi-ministerial Counterterrorism Service. The Ministry of Interior is responsible for domestic law enforcement and maintenance of order. Conventional military forces under the Ministry of Defense are responsible for the defense of the country but also carry out counterterrorism and internal security operations in conjunction with the Ministry of Interior. The Counterterrorism Service reports directly to the prime minister and oversees the Counterterrorism Command, an organization that includes three brigades of special operations forces. The National Security Service intelligence agency reports directly to the prime minister. Iraq's regular armed forces and domestic law enforcement bodies struggled to maintain order within the country, operating in parallel with the Popular Mobilization Committee, a state-sponsored umbrella military organization composed of approximately 60 militia groups, also known as Popular Mobilization Forces; such units operated throughout the country, often outside government control and in opposition to government policies.⁴⁶

The two main Kurdish political parties, the Kurdistan Democratic Party and the Patriotic Union of Kurdistan, each maintain an independent security apparatus. Under the federal constitution, the Kurdistan Regional Government has the right to maintain internal security forces. The constitution also allows for a centralized, separate Asayish internal security service; however, the Kurdistan Democratic Party and Patriotic Union of Kurdistan also each maintain Asayish forces. The Kurdistan Democratic Party and the Patriotic Union of Kurdistan also maintain separate intelligence services, nominally organized under the Kurdistan Region

⁴⁵ USDOS – US Department of State: “2020 Country Report on Human Rights Practices: Iraq”, Document 2048100 - ecoi.net (henceforth as USDOS, 2020 Country Report: Iraq)

⁴⁶ USDOS, 2020 Country Report: Iraq

Security Council.⁴⁷ Government civilian authorities did not maintain successful control over a few components of the security forces. Between the years 2019 – 2020 the country experienced large-scale protests in Baghdad. Poorly defined administrative boundaries and disputed territories between the Iraqi Kurdistan Region and the central government led to confusion over the jurisdiction of security forces and the courts. Members of the security forces committed numerous documented abuses. There were reports of more than 500 civilians killed and 20,000 or more injured. The government took minimal steps to bring to justice those responsible for the violence.⁴⁸

In this report of USDOS on Human Rights Practices in Iraq for 2020 there are mentioned significant human rights issues; such as unlawful or arbitrary killings, including extrajudicial killings. Forced disappearances happen often, whereas torture and cases of cruel, inhuman, and degrading treatment or punishment are not rare. Prison and detention center conditions are harsh and life-threatening. Arbitrary arrests and detentions do not lack, also there is unlawful interference with privacy such as the cases serious restrictions on free expression, the press, and the internet, including violence against journalists, threats of violence, unjustified arrests and prosecutions against journalists, censorship, site blocking, and existence of criminal libel.⁴⁹ As regards women's rights they are legally restricted and they lack of investigation and accountability for violence against them; not so rarely crimes involving violence targeting members of ethnic minority groups happen; for example violence targeting lesbian, gay, bisexual, transgender, or intersex persons. Lastly, same-sex sexual conduct between adults is criminalized.⁵⁰ Many times internally displaced persons bear forced returns to locations where they faced threats to their lives and freedom. Many threats of violence against internally displaced persons who perceived to have been affiliated with ISIS. Official corruption is a widespread phenomenon. Last but not least, concerning the worker's rights, there are restrictions on formation of independent unions and discrimination in employment of migrants.

⁴⁷ USDOS, 2020 Country Report: Iraq

⁴⁸ USDOS, 2020 Country Report: Iraq

⁴⁹ USDOS, 2020 Country Report: Iraq

⁵⁰ USDOS, 2020 Country Report: Iraq

Women and those people with disabilities are faced with negligence as well. The worst of all, in Iraq child labor forms flourish.⁵¹

In spite of a deterioration in numbers, ISIS kept on committing genuine mishandle and outrages, such as killings through suicide bombings and extemporized explosive devices. The government proceeded examinations and was prosecuting allegations of ISIS mishandle and abominations and, in a few occasions, publicly noted the conviction of suspected ISIS members under the counterterrorism law.

As regards the unreasonable deprivation of life and illicit or politically originated killings, there are credible reports for government and members of the security forces participating in unreasonable killings. More specifically, during the years 2019 - 2020 more than 480 protesters have been executed and 7.715 incidents of protesters have been injured. Various independent institutions for the human rights in the country notify for killings, kidnappings, and extortions throughout the country, notably in ethnically and religiously mixed provinces, whereas politically motivated violence occurs frequently at the whole region.⁵² Unidentified gunmen kill prominent activist men and women outside their homes, in the middle of the streets without punishment. The example of an activist woman, Reham Yakob, attracts the attention. She had previously led all-women protests in Basrah, had harshly criticized the government and pro-Iranian militias via social media before her death.⁵³

Government security forces committed extrajudicial killings. The “fact-finding committee”, which was announced to be assigned to investigate the use of violence in the southern provinces and would submit the final report to the caretaker prime minister, concluded the investigation unfinished. Ultimately the committee did not release its final report, and apparently no significant legal action was taken against the perpetrators. Although the body to pursue accountability for violence against protesters was one of the first things to do - if elected - the prime minister committed, violence during demonstrations continues; and at least 560 persons had been killed, including civilians and security personnel.⁵⁴ The situation

⁵¹ USDOS, 2020 Country Report: Iraq

⁵² USDOS, 2020 Country Report: Iraq

⁵³ USDOS, 2020 Country Report: Iraq

⁵⁴ USDOS, 2020 Country Report: Iraq

remained unstable throughout the years 2019 – 2020 and insecurity prevailed, due to the ISIS attacks. Several conflicts between the Iraqi Security Forces and ISIS continued happening, resulting in a great number of Iraqi Security Forces personnel found death. The terrorist violence led 88 people to death and other 174 were injured.

Another aspect that describes the situation in Iraq is the disappearances, which happen in a great frequency. Government forces are accused with forced disappearances or on behalf of them. There is credible report for 154 accusations of missing protesters and human rights activists presumed to have been abducted or detained. In addition to this, any official investigation is conducted by law enforcement authorities in order to locate those who are missing or to identify and prosecute the responsible ones. In secret Kurdistan Workers' Party (PKK) correctional centers 70 Yezidis are constrained and local authorities accused PKK fighters of capturing more than 400 Yezidi women citizens, whose fates remained unknown.⁵⁵

Howbeit the constitution and laws prohibit practices of torture and other cruel, inhuman, or degrading treatment or punishment, there are numerous reports indicating that government officials employed torture and other cruel, inhuman, or degrading treatment or punishment. For example forced confessions are accepted at the courts in a regular basis, when in some ISIS-related counterterrorism cases was the only evidence considered.⁵⁶ Individuals - severally Sunni Arabs - are routinely abused and tortured during arrest and pretrial detention and after conviction by the Federal Police and the National Security Service (NSS). Incidents of torture and other cruel, inhuman, or degrading treatment or punishment are documented by former prisoners, detainees, and international human rights organizations in Ministry of Interior-run prisons. NGOs report that both Ministry of Interior and Ministry of Defense employees have tortured detainees. More specifically UNAMI/OHCHR have reported that some detained protesters were exposed to various mistreatments during interrogation, including "severe beatings, electric shocks, hosing or bathing in cold water, being hung from the ceiling by the arms and legs, death threats and threats to their families, as well as degrading

⁵⁵ USDOS, 2020 Country Report: Iraq

⁵⁶ USDOS, 2020 Country Report: Iraq

treatment (such as being urinated on or being photographed naked)⁵⁷. According to the same report, women described being beaten and threatened with rape and sexual assault. Dozens of that kind of inhuman treatments were recorded in some specific areas: the detention centers of Ninewa, Salah al-Din, Kirkuk, Anbar, Dhi Qar, and Baghdad.⁵⁸ Government officials and security forces personnel are in the sphere of impunity, including the Iraqi Security Forces, Federal Police, Popular Mobilization Forces, and certain units of Kurdistan Regional Government Asayish internal security services.

Regarding the detention center conditions, the inmates are facing harsh and occasionally life threatening situations; low food shortages, overcrowded facilities, physical abuse, inadequate sanitary conditions and medical care, and the threat of COVID-19 and other communicable illnesses. An increase in the ISIS members detained during the past two years led to aggravation in the already overcrowded government-run prisons. COVID-19 commenced a health crisis and intensified the severe physical conditions; the juvenile prison holds more than two times its capacity - 600 inmates - and many times authorities occasionally held juveniles younger than age 18 in the same cells as adults; more than 50 minors are held in Erbil Women's and Children Reformatory Center with their convicted mothers. And even though UNICEF funded a separate annex to the prison for these minors, they continued to lack access to education. Adults are coping with the same conditions at the exclusively adult facilities as a result high death rates have been noted since 2018. Inmates with chronic disease died without getting proper medical treatment due to overcrowding of detention centers, due to the limited medical staff was unable to handle all cases and provide adequate medical services to all prisoners.⁵⁹

Detainees are not treated well, concerning their legal procedures as well. They are often delayed by administrative processing, and parole decisions were not made in on time. Moreover, international human rights organizations asserted that judges frequently failed to investigate credible allegations that security forces tortured terrorism suspects and often convicted defendants based solely on coerced confessions. Prison and detention center

⁵⁷ USDOS, 2020 Country Report: Iraq

⁵⁸ USDOS, 2020 Country Report: Iraq

⁵⁹ USDOS, 2020 Country Report: Iraq

authorities sometimes delayed the release of exonerated detainees or inmates due to lack of prisoner registration or other bureaucratic issues, or they extorted bribes from prisoners prior to their release at the end of their sentences. International and local human rights groups reported that authorities in numerous cases had denied the human right for family visits to detainees and convicts. Guards have been witnessed demanding bribes or beating detainees when the later ask to call their relatives or legal counsel.⁶⁰

All in all, it is stated that the State of Iraq failed to maintain basic standards at prisons and to safeguard the human rights of inmates. Procedures are needed to apply in order to address allegations of abuse. This report emphasizes in the need for new buildings and for laws to protect the rights and safety of prisoners. In June 2021 the government complied with a request from the IHCHR to allow alternative virtual methods to monitor Iraqi correctional centers and detention facilities. Iraqi Corrections Service prisons are in need of regular visits by independent nongovernmental observers, due to their failing in protecting human rights of the prisoners and they seemed unable to offer equal access to health care due to the spread of pandemic disease.⁶¹

In the State of Iraq inhabited a small secondary group of people, named Bidoon. Most Bidoon come from nomadic tribes native to the Arabian Peninsula who were in Kuwait when the country gained independence in 1961. Until the 1990s, around 80% of the armed forces of Kuwait were Bidoon, in the effort of the State to face the challenge of building a national army, when there was insufficient interest among the national population. They reside mostly in Kuwait and Iraq, Syria and Jordan. They were classified as *bidoon jinsiya*, meaning stateless, by the State of Kuwait, whereas they constitute one third of its population.⁶² In this special group of people it is not recognized the right of citizenship, because citizenship is usually transmitted through patrilineal descent in Kuwait. As a result, children of Bidoon parents do not have any claim to citizenship, despite being born in Kuwait.

⁶⁰ USDOS, 2020 Country Report: Iraq

⁶¹ USDOS, 2020 Country Report: Iraq

⁶² Minority Rights Group International, World Directory of Minorities and Indigenous Peoples - Kuwait : Bidoon, December 2017 (henceforth Minority Rights Group International, Kuwait)

Apart from nationality - or due to the lack of nationality - they are facing some other challenges in everyday life. They are deprived from a series of basic human rights. They are settled in special camps, because they do not have the right to access in property⁶³. Neither they are able to issue official personal documents of identification, such as birth certificates, death certificates, ID's and passports. They do not exist for the State of Iraq or Kuwait. They considered as illegal citizens for the Iraqi principals and all the local government bodies and authorities, due to their "transparency".⁶⁴ As a result, they do not have access to educational system; they are not treated as equals regarding the health system and they are not allowed to work and participate in the labor market of their country, even though this is something that could reinforce the economy of every country that follows this policy, of accepting everyone and gives the opportunity to each member to be assimilated in the society. They only own a card, called UNRWA,⁶⁵ with which they can buy things for their surviving in their restricted area and expect nothing for their future progress. In terms of medical care, Bidoon can purchase low-cost insurance healthcare plans. The government allows them to be treated in public hospitals. However, these healthcare plans exclude many types of tests, medications and operations. As a result, Bidoon without reference cards are refused healthcare altogether at government hospitals. The only other way for undocumented Bidoon to reach the appropriate medical care is to attend one of the private hospitals, which are prohibitively expensive for many.⁶⁶ Moreover, a suchlike solution is given to them by government, regarding their right in educational system. As long as they are not recognized as Kuwaiti citizens, Bidoon children do not have the right to equally attend public schools. However, most children are able to receive an education through private schools. It is rare though to continue their education in private educational institutions for the same reasons as with accessing private hospitals. Regardless of their level of education, Bidoon face discrimination in employment by virtue of their 'illegal' status.⁶⁷

⁶³ USDOS – US Department of State: "Country Report on Human Rights Practices 2019 - Kuwait", Document 2026425 - ecoinet (henceforth as USDOS, 2019 Country Report: Kuwait)

⁶⁴ USDOS, 2019 Country Report: Kuwait

⁶⁵ USDOS, 2019 Country Report: Kuwait

⁶⁶ Minority Rights Group International, Kuwait

⁶⁷ Minority Rights Group International, Kuwait

According to their constitution and laws, torture and other cruel, inhuman, or degrading treatment or punishment are prohibited. However, there are continuous reports of tortures. Police and security forces mistreat against detained members of minority groups and noncitizens.⁶⁸ There are credible testimonies for authority abuse of beating citizens and raping Kuwaiti women while in police custody. Several incidents are mentioned for security officers' abuse of power, who abduct, beat and rape. Even though the authorities issued arrest warrants and open criminal investigations for such cases of corrupted behavior officers, the perpetrators remain unpunished.⁶⁹ There are claims of a family who lost their relative while in custody at the drug control department as a result of the involvement in an episode torture him by the officers and policemen, who are suspended.⁷⁰

Concluding, there are several human rights violations in Kuwait and especially for the group the stateless Bidoon, despite all laws that prohibits them. The value of the human being is depreciated. Many violations occur due to the lack impunity of men in power, when they become abusive and mal behavioral. Their flexible regulations need to be kept under surveillance and closely monitoring in order to diminish cases of disrespect of human existence.

⁶⁸ USDOS, 2019 Country Report: Kuwait

⁶⁹ USDOS, 2019 Country Report: Kuwait

⁷⁰ USDOS, 2019 Country Report: Kuwait

3) i. Case of Greece and the law N. 4636/2019

Since the 1951 Convention and its 1967 Protocol do not determine an appropriate way on how the States should implement their obligations at the national level under these mechanisms, it is in their discretion in regulating the appropriate procedures and institutions for this purpose. The most efficient method seems to be that by adopting in the national asylum legislation the provisions of these treaties and incorporate them. Every country has its own legal framework depending on their traditions and existing provisions as regards to the refugees. Adopting provisions of the treaties in their national asylum regulation could vary from country to country. UNHCR has the important role to intervene between the national and the international legislation in order to ensure uniformity on how refugees and asylum-seekers are treated among the States by advising them on the international refugee protection to follow a common policy when drafting legislation and to assure the standards to be upheld.⁷¹

States could freely accept a broader refugee definition than that found in the international instruments to which they are Parties, particularly the 1951 Convention/1967 Protocol. However, States are not able to reduce their obligations through national legislation to fewer than those included in the treaties to which they have acceded or by which they are bound under customary international law. In such a case, they are violating their international obligations. Different approaches of States, in drafting their legislation and in their court decisions can vary quite a lot in practice, due to the absence of any binding enforcement mechanism under the 1951 Convention/1967 Protocol which could be triggered by individual refugees or asylum-seekers. That is why UNHCR's role is so important; to supervise and to ensure that these treaties are implemented.⁷² UNHCR contributes to the interpretation and application of the treaties' provisions in a number of ways; such as written comments on draft asylum legislation, opinions submitted to appellate proceedings in individual asylum cases and through the publication of guidelines on the interpretation of various aspects of the 1951

⁷¹ UNHCR, An introduction to International Protection, p. 39-40

⁷² UNHCR, An introduction to International Protection, p. 39-40

Convention, the UNHCR's *Handbook on Procedures and Criteria for Determining Refugee Status*.⁷³ This is used as an authoritative guide by States' courts when interpreting national legislation in accordance with the 1951 Convention.

Moreover, on the national level UNHCR reinforce countries to advance their ability to provide international protection on their territory, by establishing and improving the processing of asylum claims, improving treatment of those recognized as refugees, and promoting durable solutions. Capacity-building strengthens the reception arrangements for those arriving and seeking asylum. National refugee policies and practices are built in accordance with the international legal framework in this way. They also strengthen the skills and knowledge of immigration authorities and help to promote greater awareness and more positive attitudes about refugees in the communities hosting them. Capacity building is a long-term procedure that requires the participation of the authorities of the host State, UNHCR, NGOs and refugees themselves.⁷⁴

At national level, Greece has issued the Greek law (N. 4636) in 2019 under the Directive 2011/95/EU of European Parliament concerning the recognition of third country nationals or stateless as international protection beneficiaries in order to fulfill its obligations to the treaties which have been acceded in an attempt for a common European system for the refugees or subsidiary protection beneficiaries. This law provides directions for all the stages from the application for international protection and the inclusion reasons through interview and evidence assessment; defines prosecution bodies and the risk of danger in the country of origin, refers on the exclusion reasons. Moreover, it determines all the details for issuing beneficiaries' residence permit (ADET) and their travel documents after recognition. It also contains important Articles such as for family unity (Article 23), access to education (Article 28), unaccompanied minors (Article 32), and detention of applicants (Article 46).⁷⁵

⁷³ UNHCR, *An introduction to International Protection*, p. 39-40

⁷⁴ UNHCR, *An introduction to International Protection*, p. 39-40

⁷⁵ Νόμος 4636/2019 - ΦΕΚ 169/Α/1-11-2019 (henceforth as Νόμος 4636/2019)

In relation to the issue of prohibition of cruel, torture, inhuman or degrading treatment, it provides sufficient medical care including therapy for those with special needs and disabilities under the same current framework for Greek citizens, according to the Article 31 (Article 30 Directive 2011/95/EU).⁷⁶ The Article 61 (Article 25 Directive 2013/33/EU), regarding the victims of tortures, provides that they need to be examined and certified by public hospital. Victims of tortures, rapes and other violent actions have access to appropriate medical care are supported physically and psychologically by specialized and on continuous training personnel.⁷⁷

The Article 68 (Article 9 Directive 2013/32/EU) secures the right of accommodation until the final decision is issued, examining the possibility of risking the danger of ill-treatment in the country of previous usual residence under the principle of non-refoulement and issuing a residence permission for humanitarian reasons.⁷⁸ During each personal interview according to Article 77 (Articles 14 - 17 and 34 Directive 2013/32/EU), specialized caseworkers recognize the signs of tortures taking into account a total consideration of their application (§12 a.).⁷⁹

Under the Article 87 (Article 36 and 37 Directive 2013/32/EU) it is determined what secure countries of origin are. According to the paragraph 3, a secure country is considered where in the implementation of its legal framework it is proved that no tortures, inhuman or degrading treatment, punishment and threatening resulting by indiscreet use of violence happen regularly during international or domestic armed conflict.⁸⁰

Subsidiary protection status is granted for those who are in danger of serious damage under the Article 15 (Article 15 Directive 2011/95/EU). Serious damage constitutes a) the death penalty or execution, b) tortures, inhuman or degrading treatment and punishment in the country of origin and c) severe personal threaten against the life or physical integrity of the civilian due to indiscriminate violence in international or domestic situations of armed conflict.⁸¹

⁷⁶ Νόμος 4636/2019, p. 4835

⁷⁷ Νόμος 4636/2019, p. 4848-4849

⁷⁸ Νόμος 4636/2019, p. 4852

⁷⁹ Νόμος 4636/2019, p. 4857-4859

⁸⁰ Νόμος 4636/2019, p. 4865

⁸¹ Νόμος 4636/2019, p. 4832

Particular solicitude is accorded for vulnerable groups - such unaccompanied minors, sinking survivors and their first grade relatives, persons with physical or mental disabilities, the elders, adolescents, pregnant women, single-parent families, smuggling victims, individuals suffering serious psychological disputes and victims of tortures or sexual assault, casualties of genital amputation - drafted at the §5 in Article 39 (Directive 2013/33/EU) regarding general regulations for the reception procedure and identification. Those affected individuals are referred to the supervisor in order to examine their application through the accelerated asylum procedure and in absolute priority, due to their vulnerability, as they continue their medical treatment in the cases needed.⁸²

Under the Article 58 (Article 21 and 22 Directive 2013/33/EU) concerning vulnerable persons as well, it is drafted that special reception condition are endured. These exceptional regulations operate in the case of vulnerable individuals who have been incurred the above traumatic experiences. These certain arrangements concern the identification procedure and only the official vulnerable persons are benefitted by special conditions of receptions.⁸³ Their cases are constantly observed throughout the procedure. The competent authorities are indebted to inform directly to the National System of Recognition and Referral of Smuggling Victims in the case of a new instance.

Regarding the Greek legal framework for torture operations, inhuman or degrading treatment and punishment the Article 137, § A - D of the Greek Criminal Code is referred at the penalties of torture operations.⁸⁴ Any official agent or military personnel who use torture during the procedure of interrogating detainees in order to a) extract information or testimony, b) punish and c) to intimidate must be imposed the penalty of imprisonment. The same punishment is imposed to any public official or military agent who usurp superior's duties and operates tortures. The sentence is at least ten years imprisonment. As torture is defined any in purpose intense physical or psychological pain or other dangerous act for the individual's

⁸² Νόμος 4636/2019, p. 4837

⁸³ Νόμος 4636/2019, p. 4847

⁸⁴ Νόμος υπ' αριθμ. 4619/2019, Κύρωση Ποινικού Κώδικα - ΦΕΚ 95/Α/11-06-2019, Article 137

health.⁸⁵ Inhuman or degrading treatment or insulting of human dignity is punished with three years sentence. Assault of sexual dignity or continuing isolation or the use truth detector are punished with three years sentence.⁸⁶

All in all, the Greek N. 4636 ratifies the international legal framework, accepting the international standards, interpreting them under the Directives of the EU in order to follow a common European policy regarding the application of the asylum seekers and fulfilling its obligations to the international treaties that acceded. The Greek Criminal Code with the Article 137 covers the variety of the penalties for all kind of torture operations, cruel, inhuman or degrading treatment. However, is it always possible to maintain the standards according to the provisions of the Greek law in its implementation? The existence of this current legal framework is solely enough in order to respectfully encounter all third country nationals and their right for seeking international protection and to combat violations?

⁸⁵ Νόμος υπ' αριθμ. 4619/2019, Κύρωση Ποινικού Κώδικα - ΦΕΚ 95/Α/11-06-2019, Article 137

⁸⁶ Νόμος υπ' αριθμ. 4619/2019, Κύρωση Ποινικού Κώδικα - ΦΕΚ 95/Α/11-06-2019, Article 137

ii. Living conditions of the asylum seekers at the reception states.

To begin with, asylum seekers are constantly being subjected to cruel, inhuman and degrading treatment even before they arrive at Greece's borders. During their trip usually face hardships, which are proved to cost their lives in many cases. They have been coping with smugglers who take advantage of them. The international definitions of smuggling and trafficking were not devised until the end of 1990s. Human smuggling is widely accepted by governments and academic communities as: "Smuggling of Migrants", meaning the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State party of which the person is not a national or permanent resident. Reasons of smuggling existence can be found on several approaches; due to an organized network of action, migration industry and market approaches, seeing 'smuggling as a business', gender approaches to human smuggling, partially based on criminological models, global historical comparisons, human rights responses which are concerned primarily with legal arguments. Migrant smuggling has undesirable consequences and must be eliminated. It's a huge humanitarian issue which results in large-scale suffering and loss of life. It is widely recognized that migrants can be extremely vulnerable as a consequence of being smuggled.

Illegal migration is linked with human smuggling for the reason that human smuggling plays a crucial role in shaping the labor markets in receiving countries. Although a main reason for massive waves of movements is the financial trigger and high unemployment rate with people who are pursuing a better future, there are times they become victims. They are convinced by smuggles that they could migrate illegally and be safe at the same time. That trip costs up to 50 hundred Euros and sometimes their own lives.⁸⁷ Massive refugee crisis, such as the one of 2015, contributed to this crime's flourishing. They provide fake documents and organized the trip which is very often dangerous for the people who are moved because the conditions are terrible; in vans with not enough air or they travel in small boats trying to pass the marine borders between Greece and Turkey. Smugglers sink the boats remain them helpless. They are well-organized in smuggling rings. Victims are difficult to escape.

⁸⁷ Baird T., *Theoretical Approaches to Human Smuggling*, Danish Institute for International Studies, 2013

Human smuggling exists and it is undisturbed in some areas of the globe progressed in industry. Smuggling is a form of massive ill-treatment and should be confronted for nine reasons: to reduce illegal immigration, to prevent unfounded asylum claims, to minimize protection obligations, to expand regular migration, to avert exploitation, to eliminate suffering and loss of life, to obstruct funding streams, to prevent terrorist infiltration, for showing political resolve and to secure resources or bargaining power⁸⁸. The effective actions to prevent and combat the smuggling of migrants by land, sea and air requires a comprehensive international approach, including cooperation, the exchange of information and other appropriate measures, including socio - economic measures, at the national, regional and international levels. An effective strategy against smuggling should be divided into a part that will seek to suppress the supply of smuggling services and a part that seek to suppress demand. The conventional law-enforcement approach concentrates on the elimination of supply.

In order to confront human smuggling actions in alignment with the anti-smuggling laws must be taken. The protocol against human smuggling of migrants declares that the State parties shall cooperate to the fullest extent to prevent and suppress the smuggling by sea in accordance with the international law of the sea. For example a State Party has reasonable grounds to suspect vessels without nationality flag and concern for smuggling of migrants by sea. Then they may request the assistance of other States Parties in suppressing the use of the vessels. In the case of suspicion of a vessel the State Party should request authorization from the flag State to take appropriate measures with regard to that vessel: to board the vessel, to search the vessel and if evidence is found that the vessel is engaged in the smuggling of migrants by sea, to take measures with respect to the vessel and the persons and cargo on board, as authorized by the flag State. Actions and measures that the States parties should take must be aligned with the international laws. However, this will not completely solve the problem. Sustainable solutions are only possible with a reduced demand for migrant smuggling services.

⁸⁸ Carling J., 2017, How Should Migrant Smuggling be Confronted?, International Organization for Migration (IOM), (henceforth as Carling, How Should Migrant Smuggling be Confronted) pp. 3

But demand-oriented policy approaches go to the heart of migration management and raise political, legal, economic, and ethical dilemmas⁸⁹.

As soon as they arrive safe, - if they manage so after all these hardships - government officials of the reception States has the obligation to support them, accommodate, give access to all the human rights that international human right law defines. First of all, the receiving county needs to act in a way to investigate and recognize if any third country nationals have been tortured or treated inhumanly, because in this case they need to be respected with a particular procedure, as the Greek law N. 4636 declares at several points. There are physical signs of torture, such as "beating and other blunt violence, broken bones, bruises, scars and tramline stripes, beatings on the sole of the feet, which can result in intermittent pain in the feet and legs, tingling, and "pins and needles" in the legs and feet, as well as hard, rough scars on the soles, burning, which can leave scars of varying shapes and sizes, suspension, which causes a burning sensation and sharp pains in the arms and legs, electrical torture, which can cause changes to the skin and splintering or loss of teeth, partial suffocation with water, which can lead to chronic bronchitis, sexual torture, which can result in injuries to the genital area, irregular periods, spontaneous abortions, testicular pain, anal itching, sexually transmitted disease and sexual dysfunction".⁹⁰ Medical professionals undertake the examination of victims of torture. It is useful to take photographs of the physical signs of torture - if the victim gives consent - in order to record all aspects of these physical signs.

However, in the absence of physical signs of torture, there can be other psychological signs that witness the operation of torture, which are depicted on somebody's mind and soul. Specialized personnel are in the position to recognize them. They can be: constant distressing recollections of the event, experience recurrent nightmares of the event, feeling distress at things that remind them of their torture, effort to avoid situations that will remind them of their torture, be unable to remember aspects of what happened, feeling detached from the world around them. These responses result in a number of physical symptoms, such as: difficulty in

⁸⁹ Carling, How Should Migrant Smuggling be Confronted pp. 1-7

⁹⁰ OHCHR, Preventing Torture p. 39-40

sleeping, irritability or anger, difficulty in concentrating, hyper-vigilance, exaggerated startled response.⁹¹

There are recordings of violations of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights by the European Court of Human Rights even since 1994 regarding an applicant, heroin addict, who was arrested at Athens Airport on drug-related charges. These recordings stated that the conditions of the applicant's detention in the separation unit of the Delta wing of the Koridallos prison had amounted to degrading treatment by sharing a small cell with one other inmate, with an open toilet, which often failed to work, in hot, cramped conditions with little natural light and no ventilation, practically confined to his bed each 24-hour period.⁹²

Since then not a lot seems not to have been improved, respecting the living conditions of refugees and asylum seekers. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) is the most authoritative mechanism for monitoring the member states of the Council of Europe, investigating if there is any violation of the legislation of universal and complete prohibition of torture (Article 3 of the European Convention on Human Rights). As part of its audit visits, it has consistently stated that Greece is failing to implement the recommendations of the committee's successive reports, and that there is serious ill-treatment of vulnerable groups of third-country nationals, including victims of torture, due to inadequate conditions. As a result, victims of torture often remain invisible in reception and identification services as well as in the asylum service.⁹³ CPT conducts every year audit visits aiming to inspect living condition of refugees and asylum seekers. According to the latest reports of CPT since 2018 Greece needs to accomplish some actions and follows some steps in order to complete its obligations under the treaties. A first step it would be to cooperate and ensure that, in future, CPT's visiting delegations will provided in good time

⁹¹ OHCHR, Preventing Torture p. 39-40

⁹² Factsheet – Detention conditions and treatment of prisoners, Detention conditions and treatment of prisoners, December 2021

⁹³ Μπαμπασίκα Ι., Ζάχου Φ., Έκθεση Συνηγορίας: «Θύματα Βασανιστηρίων: από την ανίχνευση στην προστασία», ΜΕΤΑδραση, Δεκέμβριος 2021 (henceforth as Θύματα Βασανιστηρίων, ΜΕΤΑδραση), p. 11

with credentials and with accurate information allowing them to accomplish their task. CPT will indicate to Greece know their visit in a timely manner. The Committee urges the Greek authorities to ensure effective and efficient coordination among the ministries concerned in the preparation of and follow-up to CPT visits.⁹⁴

According to the latest report of METAdrasi non-governmental organization on December 2021, not much have changed. Most findings after a series of CPT's visits since 2018 have shown that Greece has violated many times the legislation and has unsuccessfully complete the implementations of its obligation under the treaties.⁹⁵ In 2018, CPT reported incidents of ill-treatment to third-country nationals; physical and mental violence by police authorities, especially against those who are under restriction for deportation. A detainee in the pre-departure center of Moria claimed that on the 1st of April of 2018 four police officers entered his cell and beat him and another inmate, due to their shouting of headache. There were witnesses to describe the event and abrasions and bruises to testify this incident.⁹⁶ Another incident regarding an unaccompanied minor happened in Orestiada; again police officers bruised and kicked him. The unaccompanied minor had tried to escape on the 9th of April 2018 and this was his punishment. This incident was proved by witnesses too.⁹⁷ A numerous related claims of police violence to third-country nationals at detaining centers have been testified to the Committee. CPT recommended to the Greek authorities to be more organized, to investigate such cases and to train the police personnel respecting their behavior. CPT underlined detainees' right to be informed about the reason they are under arrest, to have access to medical care and lawyer. Greek authorities did not comply, even after CPT's recommendations.

In the 2020 report, same practices of ill-treatment migrants or refugees and asylum seekers are observed to continually happen at the detainee centers.⁹⁸ Remarkable progress has

⁹⁴ Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 19 April 2018, CPT/Inf (2019) 4, February 2019 (henceforth as Report to the Greek Government, CPT 2019) p. 7

⁹⁵ Θύματα Βασανιστηρίων, ΜΕΤΑδραση, p.11

⁹⁶ Θύματα Βασανιστηρίων, ΜΕΤΑδραση, p.12

⁹⁷ Θύματα Βασανιστηρίων, ΜΕΤΑδραση, p.12

⁹⁸ Θύματα Βασανιστηρίων, ΜΕΤΑδραση, p.13

not been noted two years later and many of the detainees claim that they were deprived of their right to notify a related person of them about their arrest. There were no interpreters and no possibility for communication their needs and rights regarding their official documents procedure at the detainee centers.⁹⁹ CPT underlines the obligation for keeping an electronic record of each applicant's international protection case, providing interpretation services in order to have them correctly completed.¹⁰⁰

In addition to the above recommendations, CPT's emphasizes on the living conditions and protection of vulnerable groups. Under the Committee's report there was stressed out the need of families being transferred in open receiving centers, taking into consideration their cases.¹⁰¹ Moreover, Greek authorities need to examine if it is necessary women and children be in custody and if so, they are highly suggested to be very careful to keep them in cells without foreigners or separated from other male inmates, due to rapes and sexual assault incidents have been recorded into the detainee centers. Existence of special centers for protection of children and women is pointed out.¹⁰² Last but not least, another main recommendation of CPT's directions is about the health care system in the hostage centers. It is mandatory to increase the medical personnel in order to respond adequately at the inmates' needs, notably for those who have any vulnerability or the existence of external associate doctors visiting the centers alongside with the essential interpretation service.¹⁰³

CPT's reports on the case of Greece conclude that there is not much effort put from the receiving State side. According the audit visits allegations, Greece needs legislative action for the implementation of the rules; investigation of police officers' brutality, disciplinary and criminal confronting, special training of all the government personnel, who passes the lines and violate the rules.¹⁰⁴ It is disappointing that after a series of CPT's audit visiting and its reports, Greece's main characteristics regarding its refugee policy and their living conditions remain

⁹⁹ Θύματα Βασανιστηρίων, ΜΕΤΑδραση, p.13

¹⁰⁰ Θύματα Βασανιστηρίων, ΜΕΤΑδραση, p.13

¹⁰¹ Θύματα Βασανιστηρίων, ΜΕΤΑδραση, p.14

¹⁰² Θύματα Βασανιστηρίων, ΜΕΤΑδραση, p.14

¹⁰³ Θύματα Βασανιστηρίων, ΜΕΤΑδραση, p.14

¹⁰⁴ Θύματα Βασανιστηρίων, ΜΕΤΑδραση, p.14-15

uninterrupted. The cooperation with Greek official lacks of communication, making the work of the Committee extremely difficult. Due to this inconvenience, CPT was forced to a public statement in order convene Greek government and reveal its unacceptable cooperation and lack of confronting with the legislation. That is a remarkable movement of CPT, because in its history only seven other times it was enforced to take such an action (in the case of Bulgaria, Belgium, two times for Turkey and three times for Russia respecting case of Chechnya).¹⁰⁵

After extensive research conducted, CPT concludes that there is no appropriate official mechanism to certify torture victims, according to principles and methods of Istanbul Protocol - enacted 1999, responsible for the investigation and reasoning of tortures and other cruel, inhuman or degrading treatment. In States which have been recognized the need of the adoption of a procedure in order to officially characterize a person or group as “vulnerable” during the asylum procedure. Certain officers have unsuccessfully tried to recognize asylum seekers as vulnerable, which is not a surprise. Vulnerable people are a difficult distinct group among other asylum seekers; it demands specialized personnel. CPT underlined this lack of that type government instrument.¹⁰⁶ The final observations and recommendations of CPT are that there is a clear difference of between the whole procedures of identification (terms and prerequisites which are demanded) and the procedure of recognition under the European Union legal framework. There is a clear difference between the role of State authorities during the identification of vulnerability procedure and the role of independent scientific groups responsible for implementing the Istanbul Protocol principles, investigating and certifying cases of torture operations. Independent scientists who participate in these groups contribute to impartial results, the fundamental principle of Istanbul Protocol. These reports are not in favor of the applicant. They are precise texts of scientific accuracy impartiality in opposition to anyone.¹⁰⁷

¹⁰⁵ Θύματα Βασανιστηρίων, ΜΕΤΑδραση, p.15

¹⁰⁶ Θύματα Βασανιστηρίων, ΜΕΤΑδραση, p.15

¹⁰⁷ Θύματα Βασανιστηρίων, ΜΕΤΑδραση, p. 26-27

The above information lead to the conclusion that the law case of 4636/2019 does not respond to the requirements of two EU Directives and it constitutes an incorrect interpretation. Therefore, certain law amendments are mandatory for the better function. First of all, replace the term “certification” with the term “recognition-identification”. Then, it is recommended to remove the role of “recognition-identification” victims of tortures from military hospitals and cooperate with organizations with experienced independent interdisciplinary personnel accordingly to other party States, ensuing to sustain the requirements of Istanbul’s Protocol. Finally, at this point it is needed training of the persons involved with the executive services of recognition and identification victims of tortures, medical examination and asylum procedure.¹⁰⁸ We have seen in the recent past what the consequences are when fundamental human rights are violated and federation mechanism has proved ineffective to maintain its obligations under the treaties. It was universal breaking news what happened in Moria refugee camp on Lesvos Greek Island on September 2020. The overcrowded facility was housing nearly 13,000 people - three times its capacity - was destroyed in a two night massive burning.¹⁰⁹

Many times Greece was before the European Court of Human Rights in Strasbourg due to massive violations. The case of Zontul c. Grèce, 12294/07 was the most widely known case respecting human rights violations operated by a government agent who is supposed to protect and maintain the law provisions. It was a case concerning a Turkish asylum seeker who in June of 2001, while in immigration detention center of Crete was raped with a truncheon and beaten by officers from the Greek Coastguard.¹¹⁰ The European Court of Human Rights tried the case of Mr. Necati Zontul’s on the 17th January of 2012. A 50000€ fine was imposed to Greece, whereas the main perpetrator and his accomplice were punished only with some months imprisonment as a penalty, which was finally commuted to fines. The incompatibility of the definition of torture in Greece with international law led the naval tribunals to qualify the applicant’s rape with a truncheon not as a torture but as an affront to the victim’s sexual dignity. In the criminal code of Greece that is an offence, under Article 137A§3, which is sanctioned with imprisonment

¹⁰⁸ Θύματα Βασανιστηρίων, ΜΕΤΑδραση, p. 28

¹⁰⁹ <https://www.politico.eu/article/moria-refugee-camp-lesvos-fires/>

¹¹⁰ Information Note on the Court’s case-law, No. 148, Rape of illegal immigrant by coastguard responsible for supervising him: violation, January 2012 (Zontul v. Greece - 12294/07)

of at least three years, while tortures are punished with at least five years' imprisonment. The Strasbourg Court found a violation of Article 3, noting that a detainee's rape by a state official has been considered as torture in its own case law as well as by other international courts.

Except for Zontul's case, there are several similar cases of the Article 3 violations dated back to the previous decades until the recent past. The Legal Centre Lesvos filed a new complaint before the European Court of Human Rights regarding "pushback" operations in the Aegean Region by the Hellenic Coast Guard, where eleven Syrians nationals, part of a group of 180-200 people, were violently expelled from Greece to Turkey on 20-21 October 2020. Some others cases are briefly referred: *Affaire E.K. v. Greece*, *Affaire Kaak v. Greece* (No 34215/16), *H.A. v. Grece* (application no. 19951/16) in 2019, case of *S.Z. v. Greece* (Application No. 66702/13) in 2018, *J.R. and Others v. Greece* in 2018.

D. PREVENTING VIOLATIONS AND COMBATING ILL-TREATMENT

This chapter examines which are the outlets for making it possible to cope with violations against human rights and fundamental terms of surviving; who is responsible to take measures in order to avert ill-treatment and abusive behavior to refugees and international protection applicants and how we could combat tortures, cruel, inhuman or degrading treatment and punishment in order to extinguish such practices.

A theory develops that the first step to face this issue is to act in its origin; illegal migration is condemned and it should be eliminated.¹¹¹ Irregular migration is a type of trade and human trafficking, which in turn is associated with international organized crime. Taking into consideration all these continuous shipwrecks and overcrowded sinking boats with migrants and often refugees in the Mediterranean waters, intense and direct measures should be enacted to punish whoever is occupied with this illegal and dangerous people transportation by stricter patrolling the sea and mainland borders. In the occasion of a shipwreck near the Italian island Lampedusa, there was established a group of action for the Mediterranean sea, Task Force Mediterranean. Its responsibility was to stop irregular migration and the better surveillance of Europe's sea borders.¹¹² It would work at a parallel time through five prospects: a) act in cooperation with other countries, b) build regional protection and reinstallation of legal flows to Europe, c) combating human trafficking, irregular migration and organized crime, d) reinforced frontier scrutiny in order to reimburse maritime image and e) help and solidarity to the States which are charged with high migratory pressure, due to their geographical location.¹¹³ FRONTEX and Eurosur would have the most important role to this procedure. FRONTEX is the instrument which established control and inspect of European boundaries. It was authorized with the regulation 2007/2004 Council of the European Union within an anti-terrorist policy and it turned into a detective body against irregular migration. It started operations one year later

¹¹¹ Καλαντζή Φ., Η ασφαλειοποίηση της μετανάστευσης στην Ελλάδα, Διδακτορική διατριβή, Πανεπιστήμιο Μακεδονίας, Τμήμα Βαλκανικών, Σλαβικών και Ανατολικών Σπουδών, Θεσσαλονίκη 2017 (henceforth as Καλαντζή, Η ασφαλειοποίηση της μετανάστευσης)

¹¹² Καλαντζή, Η ασφαλειοποίηση της μετανάστευσης p.109

¹¹³ Καλαντζή, Η ασφαλειοποίηση της μετανάστευσης, p.110

based in Warsaw.¹¹⁴ The institutionalization of European migratory policy has affected the evolution and transformation of the Greek migration policies. The New Pact on Migration and Asylum encloses two keystones of migration policy; the social coherence and the protection of the external boundaries with the expanded role of FRONTEX, which demonstrates that the common measures of the EU migration policy are based to security issues, frontier patrol and the combating of irregular migration. This European policy respecting migration has affected the Greek migration policy.¹¹⁵ In the attempt to place the elimination of illegal migration and strictly securitize the borders, we run inevitably the risk of using violence, which is the opposite result of the expected; the international protection of human rights. It is the opposite direction of preventing and combating incidents of violation. The securitization of the borders could function as a first safety valve, but it would not be possible to act without any violations of fundamental human rights, when pushbacks are happening. In this chapter of the research paper it is examined how to avoid such incidents and protecting human rights at the same time.

After the entrance of massive amounts of migratory flows, these people are protected by the international legal framework, the European and the regional regulations which were analyzed at the beginning of this research paper. As long as they are on the territory of a certain receiving State, Greece's territory in this case, there is the obligation under the treaties complying with the regulations respecting and promoting effectively the legal framework.¹¹⁶ The way to maintain the implementation of the legal framework is to investigate allegations of tortures. A testimony is an important element that can support allegations of torture, to keep a medical documentation, as well physical or psychological signs of torture can provide further evidence of torture and of course formally recording the evidence gathered is crucial¹¹⁷. By interviewing victims and adopting an official system for recognition and recording tortures, cruel, inhuman or degrading treatment is important for a number of purposes, such as collecting information, assessing its credibility and cross-checking. A preparation is crucial to be done before an interview and set clear what the expected achievements are. Victims of tortures

¹¹⁴ Καλαντζή, Η ασφαλειοποίηση της μετανάστευσης, p.110

¹¹⁵ Καλαντζή, Η ασφαλειοποίηση της μετανάστευσης, p.125-126

¹¹⁶ OHCHR, Preventing Torture, p.29-31

¹¹⁷ OHCHR, Preventing Torture, p.36

poses trauma which is a challenging situation; an interviewer needs to be prepared for this and know how to respond appropriately. Lastly, another way to face violations of human rights as regards the inhuman or degrading treatment is to train public officials to conduct legal research, coordinating efforts with other departments of an agency, drafting reports, gathering information from parties involved in reported violations informing legislation, policies, and practices, reviewing, monitoring, and evaluating practices, supporting the work of official and informal groups, training and supervising staff. An effective control mechanism requires cooperation with international mechanisms. It is mandatory to collaborate between nations in order to address the global problems of human rights violations and therefore to support a variety of efforts to protect human rights. Firstly, in national level by assisting governments in fulfilling their obligations, speaking out against violations offering a forum for identifying and responding to issues of ill-treatment.¹¹⁸ Monitoring places of detention through regular visits respecting basic principles and specifically the principle of “do no harm”, conduct visits to places of detention reviewing available information and lastly reporting on visits and preparing recommendations is crucial as a follow-up mechanism and for establishing an ongoing dialogue with the relevant authorities.¹¹⁹ Promoting public awareness about the prohibition and prevention of torture by campaigns and awareness-raising activities focused on persons deprived of liberty is another measure to cope with ill-treatment situations.¹²⁰

National Human Rights Institutions (NHRIs) are instruments contributing in facing tortures, inhuman or degrading treatment. NHRIs can promote an effective legal framework and contribute to the procedural reforms. Their role is important because they constitute the key components of national and international human rights protection systems. They also function as counseling foundation to governments and promote and protect human rights. In other words NHRIs perform as a bridge between civil society and the state, linking the responsibilities of states to the rights of citizens. NHRIs act in order to protect and promote human rights by several ways; they promote legal reform, in particular making torture a crime

¹¹⁸ OHCHR, Preventing Torture, p.62

¹¹⁹ OHCHR, Preventing Torture, p.82

¹²⁰ OHCHR, Preventing Torture, p.93

under domestic law, they also promote ratification of relevant international human rights treaties, such as the Convention against Torture and its Optional Protocol and lastly, NHRIs can promote reform of detention procedures.¹²¹ More specifically, handling individual complaints of human rights violations; identifying protection gaps in national human rights systems and providing recommendations on how to address them; conducting human rights education; and engaging with international human rights mechanisms. From this aspect, NHRIs are able to contribute to public officials training by developing and delivering training courses containing practical content, involving relevant participants and including evaluation. They connect national laws to regional and international human rights treaties. They have strong cooperation and interaction with United Nations Human Rights Council, in particular the universal periodic review, treaty bodies, in particular the Committee against Torture, Special procedures, in particular the United Nations Special Rapporteur on Torture, regional complaints mechanisms, visiting mechanisms at the international level, such as the Subcommittee on Prevention of Torture, and the regional level. The connection between NHRIs and the above mechanisms is crucial for the prevention of torture and ill-treatment: The minimum standards and requirements for establishing effective NHRIs have been outlined in the Paris Principles adopted by the UN General Assembly in 1993.¹²²

What is more, respecting the issue of combating of fundamental human rights violations it is mandatory to examine cases of impunity. At the reception States, unfortunately, due to the lack of monitoring detention centers and public official many times violations remain unpunished. On such a history of impunity, certain situations continue to happen. Under the World Conference on Human Rights, Vienna Declaration and Programme of Action (1993), Part II *“States should abrogate legislation leading to impunity for those responsible for gross violations of human rights such as torture and prosecute such violations thereby providing a firm basis for the rule of law.”* Almost always the operators of torture act with impunity; no person to intervenes and stop the torture and no one afterwards confront them. As a result the victim suffers twice, when subjecting the cruel treatment and knowing the perpetrators are free and may be exposed in

¹²¹ OHCHR, Preventing Torture, p.98

¹²² OHCHR, Preventing Torture, p.98

danger again in the future.¹²³ Overcoming impunity which is one main reason for which tortures and ill-treatments are happening, would be another measure suggested in this essay combating ill-treatment.

Torture is a gross violation of human rights and one of the most serious crimes. States are responsible to brought perpetrators to justice in a court of law in order to apply punishment. States are obligations to respect and ensure the right not to be subjected to torture or ill-treatment. Impunity arises at any stage; at investigating the crimes, at bringing the suspected operators to trial and reach a verdict or convicting them, sentencing those convicted to derisory punishments and at the stage of ensuring that victims and their families are afforded satisfactory reparation.¹²⁴ Not only at the profound stages the impunity arises, but also in a number of laws, decrees, or other official measures providing that certain officials or others carrying out official duties will not be brought to justice. There are cases of security personnel and others in authority position are ensured that if they are convicted of torture do not serve their sentences. Justice may also be blocked by placing human rights cases under the jurisdiction of military courts that lack independence and impartiality.¹²⁵

To eliminate operations of torture it is need to overcoming impunity. The key element to successfully fulfill this is to ensure that public officials are not above the law. When someone is accused of such a treatment, place the law by conduct prosecution and demonstrate that torture will not be tolerated. It would strengthen the rule of law and it would contribute to the rehabilitation of victims, giving a sense that justice has been done. Also, it would promote a public morality based on human rights values by emphasizing that human rights violations must not go unpunished. A conviction or a finding of state responsibility can provide the basis

¹²³ Combating Torture: A Manual for Action; Amnesty International; 2003 (© Amnesty International Publications, 1 Easton Street, London WC1X 0DW, United Kingdom; www.amnesty.org) (henceforth as Amnesty International, Combating Torture), p. 130

¹²⁴ Amnesty International, Combating Torture, p.130

¹²⁵ Amnesty International, Combating Torture, p.131

for financial compensation and other forms of reparation. In addition, a formal finding of state responsibility can lead to important reforms.¹²⁶

Mechanisms for overcoming impunity for gross human rights violations, including torture are the most significant recent advances in the field of human rights. The entry into force of the Convention against Torture, judgments of regional human rights courts and decisions of the UN Committee against Torture and the UN Human Rights Committee establishing state responsibility for torture and other ill-treatment in individual cases, of international tribunals empowered to try people accused of grave crimes in the former Yugoslavia and in Rwanda, Rome Statute of the International Criminal Court (Rome Statute), providing for the establishment of an international court to try people accused of war crimes, crimes against humanity and genocide and the initiation in several countries of legal proceedings against alleged torturers from abroad, based on the principle of universal jurisdiction.¹²⁷

All in all, to combat inhuman and degrading treatment, whenever there is reason to believe that torture or ill-treatment may have been inflicted, the case must be investigated. If through investigation it is revealed that ill-treatment or other cruel behavior has been done, then it must follow prosecution of the torturers and other remedial actions, including reparation to the victims. International human rights law imposes on states the obligation to investigate all complaints and credible reports of torture, such the UN Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Principles on the Investigation of Torture) and the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions contain standards on the investigation of deaths in custody and on the operation of commissions of inquiry.¹²⁸

¹²⁶ Amnesty International, *Combating Torture*, p.132

¹²⁷ Amnesty International, *Combating Torture*, p.132

¹²⁸ Amnesty International, *Combating Torture*, p.134

E. CONCLUSIONS

After the analysis on the previews chapters, this research paper reached at some conclusions. Human rights protection is great issue in the discipline of law which is covered by the related legal framework with a number regulation at international, regional and national level. Regulations protect all the aspects of human dignity. Two universal refugee instruments are the starting point for any discussion on human rights; the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, which ratifies the former. All the State parties are obliged to protect human rights according to the provisions of these treaties by adopting the regulations through its interpretation. Due to the fact that it is not provided the way that countries need act in order to apply these provisions, there are international instruments, regional treaty bodies and treaties which define the way each State party should act. Every country interprets the provisions of the 1951 Convention / 1967 Protocol with a different way. To oversee the implementations and to investigate violations of human rights obligations there have been established various international human right bodies and treaties, universal and regional institutions functioning as mechanisms against violations. As regards the universal mechanisms, they are created under the United Nations system to monitor the protection of human rights.

Human right law focuses on retaining the dignity of every individual and it is complementary to the international refugee law. The principle of non-refoulement is the most important; it declares the prohibition under customary and treaty-based human rights law on returning a person to a territory he or she is at risk of torture or cruel, inhuman or degrading treatment or punishment. Regional treaties reinforced the strength of human rights law, operating as supervisory mechanisms. To oversee the implementations and to investigate violations of human rights obligations there have been established various bodies. Respecting human rights legal framework, it is obviously ascertained that the prevention of tortures, cruel, inhuman or degrading treatment is a great issue, because it is globally prohibited with a number of international human rights treaties of almost all continents (Council of Europe, Organization of American States, African Union, Association of Arab States, Asia) and

protected by regional instruments as well. In Europe, there is the European Convention on Human Rights, adopted in 1950. It is a regional treaty under the auspices of the Council of Europe - an intergovernmental body - with the most significant provision Article 3, declaring that *no one shall be subjected to torture or to inhuman or degrading treatment or punishment*. Also, torture is prohibited under international law, it can never be justified and it is absolute and non-derogable, as well as cruel, inhuman or degrading treatment or punishment. However every year hundreds of cases are noted for violations of Article 3 of the Convention dealing with a broad range of torture and ill-treatment in detention centers. Prevention of tortures, cruel, inhuman or degrading treatment is a main part of human rights law. There are numerous international human rights treaties. The Convention against Torture contains a series of provisions on prevention measures to which each State party has to comply. Each States can have its own interpretation, regarding the Article 3 of the Convention. Moreover, there are regional instruments in Africa, the Americas, Arab countries and Europe, which also prohibit torture. All in all, the 'soft law' standards, both international and regional, accommodate the prohibition of torture and other mal-treatment.

Asylum seekers and refugees are already ill-treated at their countries of origin or in many cases during their trip. They have faced many hardships, cruel, inhuman or degrading treatment. In the research case of Afghanistan, there have been attempts for peace negotiations, but armed conflicts continue to happen. There is no trust because there are reported that equipped agitators conduct major assaults on government forces to, harming and slaughtering thousands of civilians. Assaults against women, violent threats, killing journalists and activists are not missing, as well as targeted killings and many unclaimed attacks under the Taliban, who deny involvement. Significant human rights violations are conducted on a daily basis; killings by demonstrators; extrajudicial killings by security forces; forced disappearances by antigovernment personnel; reports of torture and cases of cruel, inhuman, or degrading punishment by security forces and antigovernment entities. In addition, irrational arrests are deported by government security forces. There are recorded serious abusive treatments in internal conflict, including killing of civilians, enforced disappearances and abductions, torture

and physical abuses, and other conflict-related abuses. Moreover, serious acts of corruption are witnessed; lack of investigation of and accountability for cases of violence against women, including those accused of so-called moral crimes. In Afghanistan maltreatment to humans is taking place in many aspects. As regards the respect for the integrity of the person, including freedom, there are cases reported concerning arbitrary deprivation of life and other unlawful or politically motivated killings. Although the constitution and law prohibit torture and other cruel, inhuman, or degrading treatment or punishment, the government officials, security forces, detention center authorities, and police are the ones who commit abuses remaining unpunished due to the lack of superior monitoring mechanism. The situation prison and detention center is dramatic; terrible conditions, due to overcrowding, lack of sanitation, and limited access to medical services. Inhuman and degrading treatment is an often phenomenon to all kind of detention centers. Cases of violence against women occurred mostly at home and men who are harming or even killing women enjoy impunity, because they are covered under of the existence of unacceptable customs and traditions, which are the most important factors of violence against women along with the lack of security. A survey displays that 15% of Afghan men believe women should be allowed to work outside the home after marriage and two-thirds of men complain that Afghan women have already too many rights. The State of Afghanistan lacks of adequate support for victims of violence. High levels of illiteracy prevail in the society, results in a repeating circle of poverty, high unemployment rate and increased drug addiction numbers.

In the case of Iraq there are noted significant violations of human rights. Although the constitution and laws prohibit practices of torture and other cruel, inhuman, or degrading treatment or punishment, there are numerous reports indicating that government officials employed torture and other cruel, inhuman, or degrading treatment or punishment. The USDOS 2020 report records significant human rights issues; unlawful or arbitrary killings, forced disappearances, torture and cases of cruel, inhuman, and degrading treatment or punishment. Prison and detention center conditions are harsh and life-threatening. Arbitrary arrests and detentions are not rare; cases of serious restrictions on free expression, the press,

and the internet, including violence against journalists, threats of violence, unjustified arrests, censorship and prosecutions against journalists. As regards women's rights they are legally restricted. Lack of investigation and accountability for violence against them worsens the conditions. In Iraq, crimes and violence take place especially against LGBT community or targeting members of ethnic minority groups. In spite of a deterioration in numbers, ISIS kept on committing genuine mishandle and outrages, such as killings through suicide bombings. Government security forces commit extrajudicial killings, enjoying impunity; disappearances happen frequently and remain unpunished. Detention center conditions are harsh and occasionally life threatening for the inmates who are facing low food shortages, overcrowded facilities, physical abuse, inadequate sanitary conditions and medical care. Inmates with chronic disease died without getting proper medical treatment, limited medical staff is unable to handle all cases and provide adequate medical services. The State of Iraq has failed to safeguard fundamental human rights. In Iraq resides a small stateless group of the so-called Bidoon, originated to Kuwait. Due to the lack of nationality, they are deprived of basic human rights and face massive violations. They are not able to issue official personal documents of identification; they do not have access in property, medical care and education, because they are "transparent" citizens for the State of Iraq.

Flows of people are forced to migrate, due to a variety of reasons regarding their dignity and their fundamental human rights violations. In many cases, they do not stop facing the exact conditions with those left behind at the places they go. After they enter the receiving State territory - in this research case Greece - there are not few times that incidents of cruel and degrading treatment have been recorded. They face human smuggling which is linked with illegal migration and feeds an industry in some areas of the globe. In order to confront human smuggling, massive cruel and degrading treatment, actions in alignment with the anti-smuggling laws must be taken and international cooperation. All the State parties shall cooperate to the fullest extent to under the protocol against human smuggling of migrants in order to prevent and suppress the smuggling.

Regarding the regional case of Greece and the law N. 4636/2019 adopted and incorporated the provisions of the treaty 1951 Convention and its 1967 Protocol - as it was an obligation - in its national asylum legislation. UNHCR has the important role to intervene between the national and the international legislation in order to ensure uniformity on how refugees and asylum-seekers are treated among the States by advising them on the international refugee protection to follow a common policy when drafting legislation and to assure the standards to be upheld. UNHCR contributes to the interpretation and application of the treaties' provisions and reinforces countries to advance their ability to provide international protection on their territory. The Greek N. 4636/2019 ratifies the international legal framework, accepting the international standards, interpreting them under the Directives of the EU in order to follow a common European policy regarding the application of the asylum seekers and fulfilling its obligations to the international treaties that acceded. However, sometimes this remains on theoretical level. It is not always possible to maintain the standards according to the provisions of the treaties by implementation of Greek law. The solely existence of this current law is not enough in order to respectfully encounter all third country nationals and their right for seeking international protection and to combat violations.

As soon as they arrive at the Reception State, a number of medical examinations for physical and psychological signs should be conducted in order to record and certify tortures. The Reception State is responsible to take measures to locate, name and diminish violations in fundamental human rights. Asylum seekers and refugees who have survived tortures and cruelty or suffered by inhuman and degrading in their countries of origin are at least in need of a safe place, where they can recover their traumas. The reception States are obligated to act so that international protection seekers overcome their traumatic experiences and maintain their human rights by offering to the applicants living conditions with dignity as long as their application is being proceeding to examination.

In order to apply the provisions of the treaties and undertake its obligations, Greece enacted the case law N. 4636/2019. The information analysis at the related chapter leads to the conclusions that the law case N. 4636/2019 cover protection over fundamental human rights of

refugees and asylum seekers, according to its treaty obligations. There are times though, that violations reported at its implementations. According to CPT's report, it seems that provisions of the law remain on theoretical level many times and the requirements of two EU Directives do not respond in practice. N. 4636/2019 constitutes an incorrect interpretation. Therefore, CPT's recommends certain law amendments under its reports, which are mandatory for the better function. It suggests that there is much place of improvement. First of all, replace the term "certification" with the term "recognition-identification". Then, it is recommended to remove the role of "recognition-identification" victims of tortures from military hospitals and cooperate with organizations with experienced independent interdisciplinary personnel accordingly to other party States, ensuing to sustain the requirements of Istanbul's Protocol. CPT concludes that it is needed training of public officials who are involved with the executive services of recognition and identification victims of tortures, medical examination and asylum procedure.

The last chapter of this research paper examines in which ways cruel, inhuman and degrading treatment could be prevented and combat violations of fundamental human rights. The attempt to eliminate illegal migration by strictly securitization and maintaining the border (pushbacks) runs the risk of fundamental human rights violations, which is the opposite intention of the expected. Irregular migration is a type of trade and human trafficking, which in turn is associated with international organized crime. Government has to take measures in order to avert ill-treatment and abusive behavior to refugees and international protection applicants by stopping those who conduct illegal human transportation. After the entrance of massive amounts of migratory flows, these people are protected by the international legal framework. Since there are located at Greece's territory, there is the obligation under the treaties to comply with the international regulations. The way to maintain the implementation of the legal framework is to investigate allegations of tortures, whenever there is reason to believe that torture or ill-treatment may have been inflicted. To combat inhuman and degrading treatment, if through investigation it is revealed that ill-treatment has been conducted, a series of prosecution and punishment of the torturers must follow. Other remedial actions, including reparation to the victims should be provided. International human rights law imposes on states

the obligation to investigate all complaints and credible reports of torture or deaths in custody operating commissions of inquiry, such as the UN Principles on the Investigation of Torture.

We become witnesses of an on-going situation for refugees accepting ill-treatment beginning from their country continuing at the receiving country. Cruel handle and tortures are a commonplace during their trip and during their accommodation at camps. Third country nationals originate usually from a country which is undeveloped, hoping for finding a better and safer place to settle seeking asylum in a west world country in vain. They are facing the exact same treatments. We should combat tortures, cruel, inhuman or degrading treatment and punishment in order to extinguish such practices.

A personal estimation for the future is that by offering chances for integration in the society of the reception States, positive results could have been noted for both sides. States' attempts could successfully comply with the provisions of the treaties respecting international human rights protection as at the same time they serve their obligations by offering not only the basic and fundamental human rights which refugees are entitled in any case, but also boost refugees or asylum seekers and ensuring a life of chances. Chances for career development, equal access to education and offering them the possibility of purchase property in the Reception State, affirm a positive imprint in the economy of the receiving country. In this way they can be productive for themselves and the society. Integration is a path to go across through which - alongside with the investment in an educational system which incorporates refugee and migrant children or adults - we can only be benefited as a society on financial and ethical level. Therefore, integrated refugees will reinforce country's economy by being independent and would not "burden", if chances given. They will contribute with their knowledge, qualifications and culture, resulting in the creation of something new, an up-to-date society. However, this is a concept for another further research.

All in all, the precise aims of this master's dissertation are hopefully met.

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APPENDIX – IMAGES

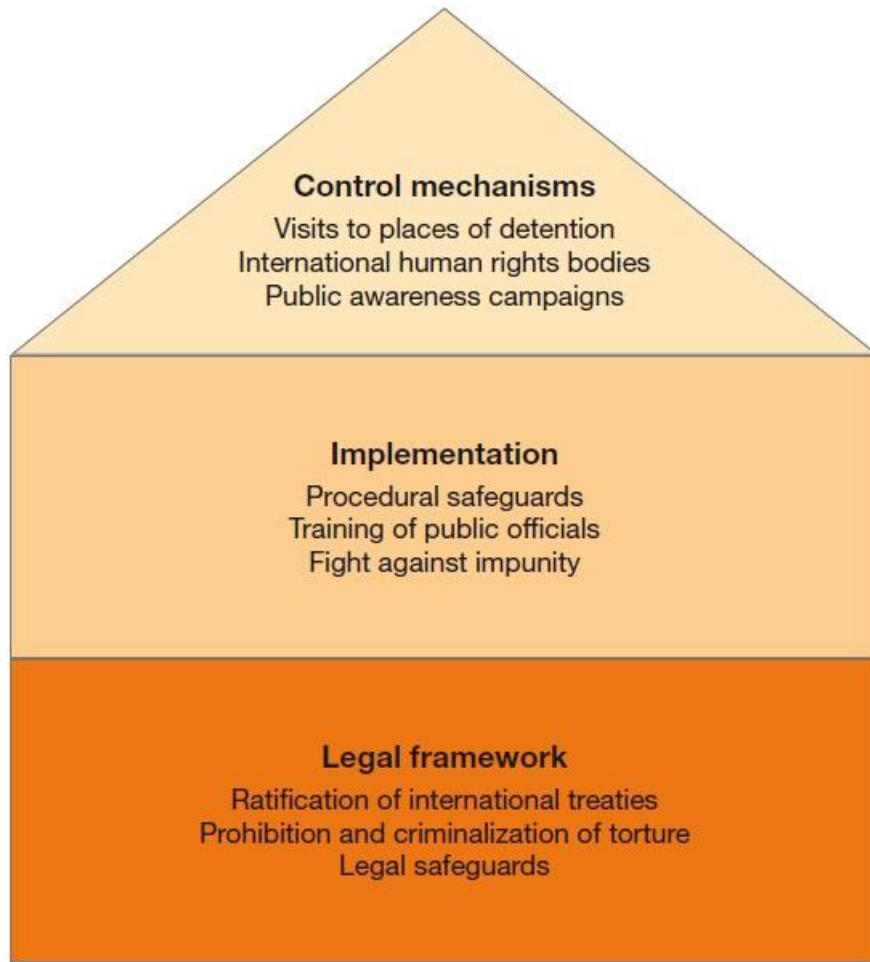


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