



PROHIBITION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

→ No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

The prohibition of torture stands as a foundational value in democratic societies and international human rights law. This principle, holds the status of a *jus cogens* norm—a peremptory norm of general international law.

Historically, the interpretation of torture has been framed from a male-centric perspective, wherein a prisoner “deprived of freedom” faces torture at the hands of the State. This focus has inadvertently perpetuated the public/private divide, sidelining women’s experiences of violence.

The United Nations Committee against Torture’s General Comment No. 2 underscores specific forms of violence against women and girls - such as domestic violence, female genital mutilation, rape, and human trafficking - as falling within the legal framework of the the Convention against Torture (CAT).

Non-State Torture (NST), as defined by

Sarson and MacDonald¹, expands the scope of the understanding of torture emphasising that it is not solely a state-perpetrated crime but occurs across various contexts, including within families, human trafficking, and the pornography industry.

The pervasive influence of pornography platforms in normalising extreme forms of violence against women, as evidenced by studies and expert testimonies, further complicates the discourse. This normalisation extends beyond pornography, infiltrating legal and societal perceptions, as seen in cases where the abuse and torture of women, comparable to the atrocities committed in settings like Abu Ghraib prison, are trivialized or misinterpreted.

¹ The authors define this concept on the following terms: Non-State torture (NST) is torture committed by non-State actors, in public or private, in relationships, perpetrated within families, in human trafficking, in prostitution, in pornographic exploitation, by violent groups and gangs, dismissed as socio-cultural, traditional, or religious acts or norms, and can be committed during migration, displacement, in humanitarian and civil unrest, for example. Besides leading to secondary revictimisation, this disregard can also contribute to silence, abandon, and isolate the victims.

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Relevant norms from international legal documents

Universal Declaration of Human Rights (UDHR):

Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

International Covenant on Civil and Political Rights (ICCPR):

Article 7: Prohibition of torture and cruel, inhuman, or degrading treatment or punishment.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT):

Article 1: Definition of torture.

Article 2: Obligation to take measures to prevent torture.

Article 3: Non-refoulement (prohibition of returning someone to a country where they would likely face torture).

Article 4: Criminalization of torture.

ECtHR, *Bevacqua and S. v. Bulgaria* (Application no. 71127/01), 12th of June 2008

ECtHR, *Opuz v. Turkey*, (Application. No. 33401/02), 9th of June 2009

ECtHR, *E.S., and others v. Slovakia*, (Application No. 8227/04), 15th of September 2009

ECtHR, *Valiulienė v. Lithuania*, (Application. No. 33234/07), 26th of March 2013

ECtHR, *Eremia v. Moldova*, (Application No. 3564/11), 28th of May 2013

ECtHR, *T.M and C.M v. Moldova* (Application No. 26608/11), 28th of January 2014

ECtHR, *Rumor v. Italy*, (Application. No. 72964/10), 27th of May 2014

ECtHR, *Talpis v. Italy*, (Application. No. 41237/14), 2nd of March 2017

ECtHR, *Bălșan v. Romania*, (Application No. 49645/09) 23rd of August 2017

ECtHR, *Kurt. v Austria*, (Application no. 62903/15) 15th of June 2021

ECtHR, *Volodina v. Russia*, (Application No. 41261/17) 4th of November 2019

Jurisprudence

European Court of Human Rights

ECtHR, *Selmouni v France*, (Application 25803/94), 28th of July 1999

ECtHR, *Z, and others v. United Kingdom*, (Application no. 29392/95), 10th of May 2001

ECtHR, *MC v. Bulgaria*, (Application No. 39272/98), 4th of March 2004

ECtHR, *Kontrová v. Slovakia* (Application No. 7510/04), 31st of May 2007

European Court of Justice

ECJ², *NS and Others v. Secretary of State for the Home Department* (Case C-411/10 and C-493/10), 21st of December 2011

ECJ, *Aranyosi and Căldăraru* (Joined Cases C-404/15 and C-659/15 PPU), July 2016

² The European Court of Justice (ECJ) does not have a significant jurisprudence on the prohibition of torture and violence against women. Cases concerning these matters are typically brought before national courts or the ECtHR rather than the ECJ.