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Special Sections:

- Enforced Disappearance as Torture - Part II

- Dentistry and Torture

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TORURE

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Content

Learning from the past to face the challenges ahead: Celebrating 30 years of Torture Journal

Pau Pérez-Sales[1]

Torture Journal is celebrating its 30th Anniversary these days.

This journey has been a long one. Torture Journal has gone through different moments and periods that we would like to briefly review here with three objectives in mind: (a) to pay tribute to those who made the Journal possible, (b) to look at its trajectory and contents as a small part of the history of the anti-torture movement, and (c) to resituate the past in order to understand the present and better think about the Journal of the future.

Some points to highlight how challenging this small walk has been: (a) when we decided to scan and upload the complete collection of the Journal in a new website, we found out, to our big surprise, that no institution had a copy (to our knowledge) of the entire collection. My collection gathered through years with patience, covered more or less 60% of the Journal issues. We resorted to libraries (including Dignity), IRCT shelves at headquarters and the Danish National Library to no avail. We then contacted our oldest readers and contributors and, with the help of José Quiroga and others, have managed to recover 90% of the collection. After one year of searches, some issues are still (we hope for the moment) not found yet. Perhaps somebody reading these lines can help, (b) the Journal changed the number of volumes and issues three times, (c) some years we were even unsure that the Journal was published as there was no trace. To make the endeavor more complex, the persons that have been essential in the history of the Journal were difficult to locate due to health reasons or were not happy to be contacted.

To add a bit of emotion, while most issues in Torture Journal were published in English, there are two bilingual issues English/Spanish, one bilingual issue Danish/English (1995 5/1) and one issue entirely in Chinese (1997/ Supplm1) (Figure 1).

So, this editorial is part of the history of the Journal. The part we can write today. One of the many stories that can be told about the Torture Journal, for sure the medical and psychological point of reference for the anti-torture movement since 1988, when it first appeared.

If you are a hurried reader looking for something valuable and evidence-based on every read, perhaps this is not the text for you. It will give you a few strokes of sentimental knowledge about a frenetic and intense time and the people who inhabited it.

A bit of history

Torture Journal was not born as an academic medical journal.

In fact, it is not even clear when it was born. The first issue appeared in 1988 as the

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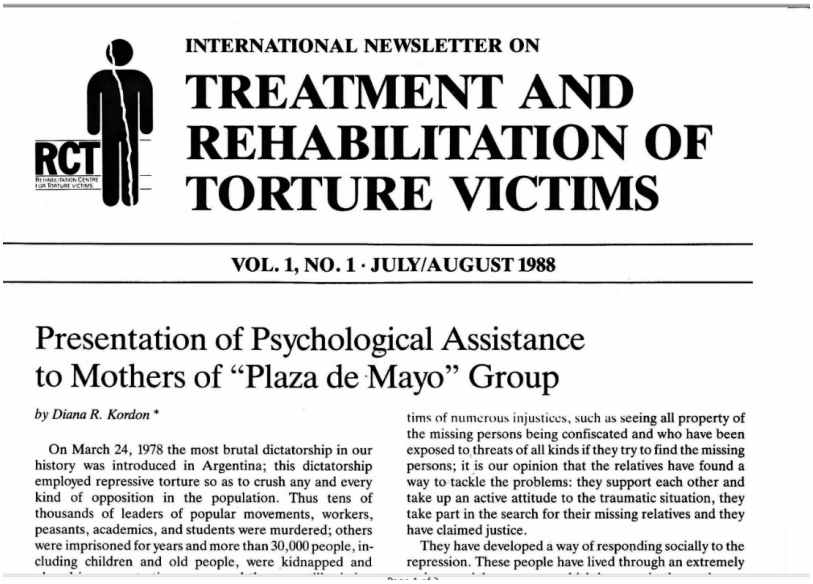
https://doi.org/10.7146/torture.v32i3.129373

Figure 1. International Torture Journal issues.

Figure 2. First issue of Torture Journal - 1988



INTERNATIONAL NEWSLETTER ON

TREATMENT AND REHABILITATION OF TORTURE VICTIMS

VOL. 1, NO. 1 · JULY/AUGUST 1988

Presentation of Psychological Assistance to Mothers of "Plaza de Mayo" Group

*by Diana R. Kordon **

On March 24, 1978 the most brutal dictatorship in our history was introduced in Argentina; this dictatorship employed repressive torture so as to crush any and every kind of opposition in the population. Thus tens of thousands of leaders of popular movements, workers, peasants, academics, and students were murdered; others were imprisoned for years and more than 30,000 people, including children and old people, were kidnapped and

tims of numerous injustices, such as seeing all property of the missing persons being confiscated and who have been exposed to threats of all kinds if they try to find the missing persons; it is our opinion that the relatives have found a way to tackle the problems: they support each other and take up an active attitude to the traumatic situation, they take part in the search for their missing relatives and they have claimed justice.

They have developed a way of responding socially to the repression. These people have lived through an extremely

International Newsletter on Treatment and Rehabilitation of Torture Victims. It changed format in 1991 to *Torture, Quarterly Journal on Rehabilitation of Torture Victims and Prevention of Torture,* and for some people, this is the "official" beginning ignoring the initial 4 years. The Journal has an uncertain age, as some of the refugees that we work with.

In those early years, the Journal was a Newsletter that barely reflected what the scientific and academic core of the publication is now.

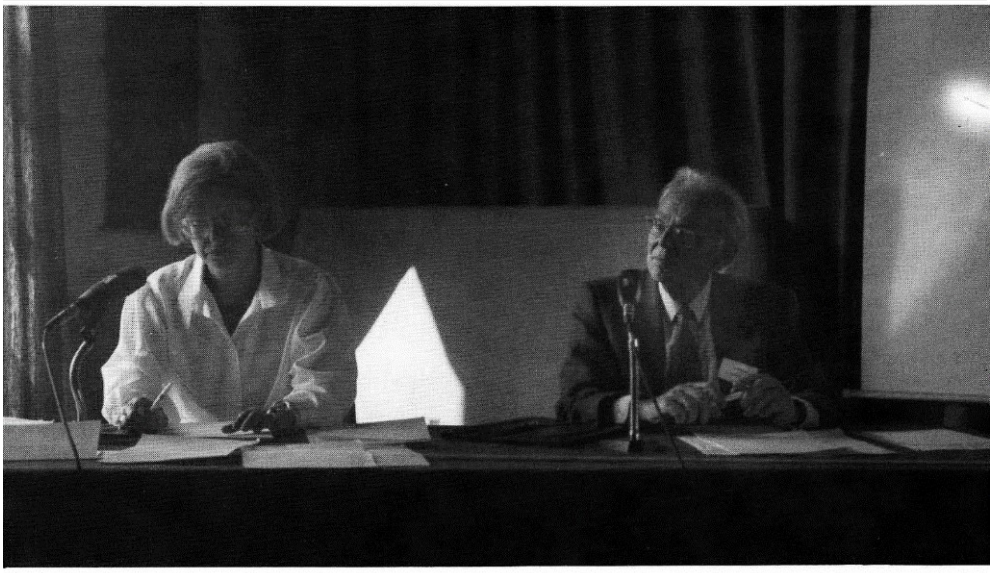
Torture Journal was structured, in those years, around three main topics: the involvement of doctors in torture, news around the beginning of the worldwide network that would become, years passing, the IRCT as it is now; and educational lectures based on RCT practices.

The birth of the IRCT network

A big part of the Journal was devoted to recognising and supporting the young **medical groups working with torture victims** that were appearing around the world and discussing the ethical aspects of the involvement of doctors in torture practices.

The first article in issue 1 of the Journal (the first paper ever in Torture Journal) was written by an Argentinian psychiatrist, Diana Kordon, to introduce the Mothers of Plaza de Mayo Team that was taking its first steps (Kordon, 1988). Moreover, in successive issues, other teams from Latin America, Europe, the Middle East or Southeast Asia were presented (Akhter, 1991; Berkovskaya & Korotaev, 1991; Dowdall, 1991; Editorial, 1991; Helvaci, 1990; Jaffe, 1989; Mehdi, 1990; San Julian, 1992; Sharma, 1991; Vidal, 1991).

Figure 3. Dr. Inge Genefke, Denmark, and Dr. Leo Eitinger, Norway, at the Tromso Meeting.



Slowly, these centres became part of a network with the help of the Danish cooperation, for which the anti-torture movement will never be sufficiently grateful. The vast majority were founded between 1985 and 1995. In the peak years, 25 new centres were opened each year around the world.

Involvement of doctors and psychologists in torture

Probably because a big part of the team at RCT came from the Danish section of Amnesty International, the core topic of concern for the editors of the Journal during the early years was the involvement of doctors in torture and the ethical elements of the profession. Ole Vedel Rassmussen was a leading figure and opened up this complex issue in The Lancet in 1988, in a paper also reproduced in Torture Journal (Rassmussen, 1988). It was followed by a series of articles denouncing the involvement of doctors in torture in most countries all over the world (Boyssen, 1991; Dadfar, 1990; Gotrik, 1992; Haskovcova, 1992; Jakohsson, 1992; Lök, 1989; Marcussen, 1990; Martirena, 1989; Medical Action Group, 1989; Pross, 1990; Rasmussen et al., 1990; Thorsig et al., 1993). A monographic issue was devoted to Uruguay, with names of doctors and perpetrators (Martirena, 1992) and Vesti and Lavik (1991) published a review of the literature. The interest in the topic has remained, to a lesser extent, until nowadays. The recent involvement of doctors and psychologists in designing and implementing torture in US extraterritorial detention centers put the topic again on the table as Torture reflected in its pages (Ahalt et al., 2017; Balfe, 2016; Crosby & Benavidez, 2018; Downie, 1993; IMP, 2013; Isaacs, 2016; Moodley, 2015; Miles, 2009, 2012).

Additionally, educational materials were devoted to stress reduction and care for caregiver's programs (Lansen, 1993; H. Larsen, 1988), working with translators (Pentz-Moller & Hermansen, 1991) and reports from symposiums.

The Chief-Editor was Michael Cotta-Schonberg, librarian at RCT, soon replaced by Henrik Docker, a journalist and communicator. Not to surprise that a significant part of the Journal was devoted to reporting on the books that had found their way into the legendary RCT library, now in Dignity. It took some time until the first Medical Advisory Board was put in place: Ole Vedel Rasmussen, Henrik Marcusen, Marianne Kastrup and Inge Bloch, four Danish doctors that acknowledged, from the very first moment, the need to incorporate a more representative international membership.

In times of globalisation and the Internet, it can be hard to understand what it means to edit a journal in which articles travel by post, taking weeks each way, in which telephone communications were not without risk, and the level of exposure of authors had to be measured. One has to go back to those times to realise how difficult the work was. The number of contributors was meagre, and the Journal established a network of 11 regional correspondents who seek to stimulate contributions and participation from their geographical areas and affiliated centres.

The Journal was a channel of expression for the centres, and the editorial team contacted them to ask for contributions and propose to make their work known. Papers were not peer-reviewed. It was more important to denounce the country's situation and give a general idea of the work being done than to publish medical or scientific research as we understand it now.

Becoming an accurate scientific journal

Within this panorama, the Journal published some pioneering articles by researchers who inaugurate what will become the field of scientific research on the documentation of torture. The first research paper ever published in the Journal was *The effects of total war on the duty to treat anybody* by the Medical Action Group, linked to Amnesty International (MAG, 1989).

In 1991, the name changed to *Torture: Quarterly Journal on Rehabilitation of Torture Victims and Prevention of Torture,* with a new A4 format that will remain for 20 years. The editors decided in 1991 to re-number the Journal and begin from Volume 1 again although nothing changed in the format nor the contents. They were similar to the 1988-1991 pre-launch phase: welcoming new centres, continuous education, news and summaries of conferences hosted by RCT/IRCT, besides the first very epidemiological studies on the prevalence of torture methods and impacts in selected samples of survivors (Fine, 1993; Larsen

Figure 4. Cover of the new formatted magazine

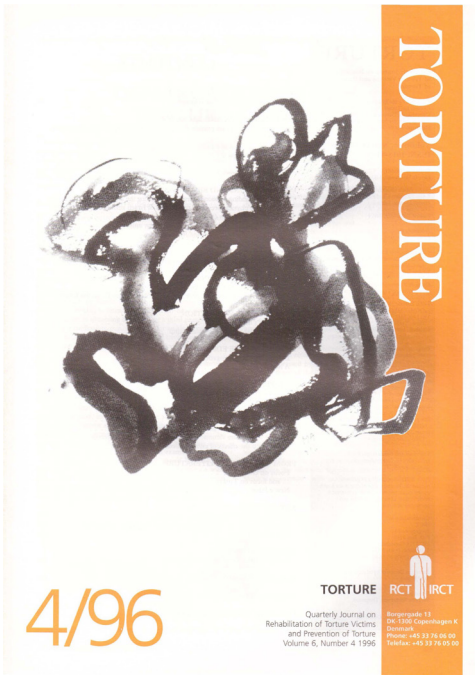
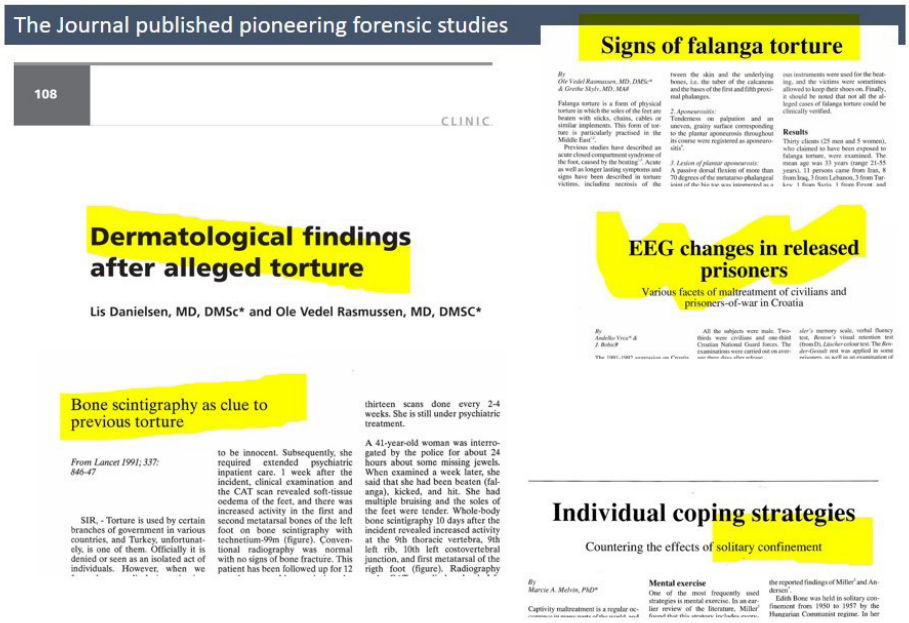


Figure 5. The Journal published pioneering forensic studies



et al., 1995; London & Dowdall, 1993). Particularly moving were the testimonies of doctors who had suffered torture first-hand (Marcelino, 1992; Tarakcioglu, 1992). Henrik Marcussen and Ole Vedel Rassmussen were the soul and body of the Journal at this new stage.

Fascinating as it is, in 1992, PIOOM Foundation (a Dutch NGO that disappeared in 2001) included paid advertisements in the Journal asking the readership to help build a worldwide database of torturers. That same year, Leo Eitinger (1992), a survivor himself, published a paper on Coping in Nazi Concentration Camps, complemented by Marcie Melvin's (1992) pioneering paper on Coping in Solitary Confinement.

There were efforts from RCT to foster medical experimentation related to torture, and the Journal published the pioneering work of Lis Danielsen on histopathological documentation of electrical torture (Danielsen & Aalund, 1991). Also, the works on bone scintigraphy as a form of medium and long-term documentation of physical torture (Lok et al., 1991), and the first reviews and series on medical documentation of falanga (Rasmussen & Skylv, 1993; Skylv, 1993) and the use of electroencephalography and evoked potentials in the documentation of torture (Vrca, 1993; Vrca & Bobic, 1993). There were also some of the first small series (for today's standards) of forensic examinations with torture survivors (Fine, 1993; M. Larsen et al., 1995).

The research was not without contest. The study on the documentation of electric torture involved skin from living pigs under anaesthesia, which was questioned by Amnesty International, although the study was finished and published in Torture (Danielsen & Aalund, 1991).

In 1994-1995 the Journal reflected the debate, nuclear at that moment, on whether torture survivors suffered PTSD, an academic way of debating the humanistic and political view of working with torture survivors versus the need to position the field in mainstream medical science. The position of the contributors, most of them from Europe and the US, was rejecting the idea of a specific Torture Syndrome and accepting PTSD as a proper diagnosis for working with survivors (Elsass, 1998; Kodaih & Psychologist, 1997; Peel et al., 2000; Quiroga & Jaranson, 2005; Reeler, 1994). Linking torture to PTSD was not well-accepted by everybody at that time, and some authors challenged this position in other journals (Summerfield et al., 1997).

From 1995 to 1997, most papers came from the famous 1995 Cape Town Symposium on Rehabilitation of Torture Survivors, a turning point in the IRCT's history. In 1996, the Journal published an important booklet on medical assistance in hunger strikes (Johannes Wier Foundation, 1996). The Journal was also the subject of an interesting polemic that shows how things have changed in the anti-torture sector in such a short time. The Journal published a paper by a retired Indian military officer on *Humanising interrogation* in which he defended the uselessness of using "torture" in interrogations (Makkar, 1996). Among the arguments, he wrote: "*I tell my people: there is no need to torture if you can threat the person with being strip naked (…) or tell a woman that you will rape her if she does not talk*". Such severe threats were, under the author's view, not to be considered torture. There were complaints from readers (Petersen, 1996), and the Journal had to write an editorial to fix its position (Markussen, 1996) reiterating that "*the views and conclusions expressed by the authors do not necessarily represent those of the Journal*". 25 years later, the Journal has recently published the two first reviews on specifically the medical and legal aspects of threats *as an undersearched form of torture* (Cakal, 2021; Pérez-Sales, 2021)

Figure 6. Estimated of the creation of new centres (IRCT, 1997).

Table 1. *Estimated global need for international funding of rehabilitation services for victims of torture. The individual countries, by their distribution in 1996, are shown in IRCT's 1996 annual report.*

Existing and expected number of centres and programmes worldwide				
	1996	1997	1998	1999
Africa	17	16	25	29
North America	21	22	24	25
Central America	4	4	6	6
South America	16	17	18	18
Europe	77	81	85	87
Asia and Oceania	22	27	33	37
Middle East	6	6	9	10
Global total	163	173	200	212

Table 2. *Existing and expected number of centres and programmes worldwide.*

	1996	1997	1998	1999
Centres in developing countries	55	60	82	91
Centres in Central and Eastern Europe	17	20	24	26
Centres in OECD countries (European Union)	91 (49)	93 (50)	94 (50)	95 (50)
Global total	163	173	200	212

The network grows, and so does the Journal

In 1997, the RCT and IRCT split was reflected in an editorial entitled "Towards a New Structure". From now on, the RCT would focus on the rehabilitation of victims. In contrast, the IRCT would focus on "advocacy", including "*to provide*

Table 1. Evolution of Torture as an academic journal

1988-1991	International Newsletter on the Prevention and Rehabilitation of Torture Victims
1991	Torture. Quarterly Journal on the Prevention and Rehabilitation of Torture Victims. Volume 1. Issue 1 *Ruled by Journalists. Reprints of papers by Danish Authors and Members of RCT/IRCT*
1993	Volume 3 Issue 2, relabeled to Volume 1, Issue 2.
2000	External contributors invited
2004	Change of Format – Formal adoption of the blind peer-review process
2006	Torture is accepted in Medline

resources for torture victims and the prevention of torture" (Markussen, 1997). Regarding *Torture Journal,* an editorial the same year established its aim "*to be the mouthpiece not only for RCT/IRCT but also, and even more pronounced, for the viewpoints of others, in order to further a dialogue*" (Henrik Markussen, 1997). Furthermore, for the first time, the Journal opened to external contributors: "*We welcome many, various and well-documented manuscripts (…) on government-sanctioned torture (…) and how it can be treated and prevented*" (Markussen, 1997).

That same year the Journal published an estimate of the creation of new centres in the following three years and the funds required to support the endeavour (IRCT, 1997).

In these early years, the role of the RCT/IRCT was to be the driving force that articulated and financed the consolidation of these centres. It was the most significant effort that any rehabilitation institution had ever made up to that date. An era-defining and epic effort.

However, this was also, as almost ever, not without polemic. Some of the centers were reluctant that paired to the financial help was the obligation of adopting Danish manuals with, allegedly, an individual and biomedical, clinical approach and a focus on physical rehabilitation that clashed head-on with the psychosocial and community conceptions practised locally for years. Especially in Latin America and South Asia, this allegedly biomedical approach meant asepsis and a depoliticization mismatched with the utopian and revolutionary vision at the root of the state terrorism that shook the world. If political reasons produced torture, treatment should have a political dimension[1]. Old polemics faded in the late 1990s as the RCT/IRCT began to internationalise its structure and reframe its role more as a body for institutional articulation and support than as a training and supervising centre, pushing for a specific unified work model for which the Journal could be instrumental.

Editorial policy of the Torture Journal

This shift in the way in which the IRCT envisioned its mandate was reflected in the pages of the Journal. In its 10th Anniversary, an editorial fixed policies stating that "*the*

1 Perhaps because of this early (and recurrent) polemic, other networks appeared, the most important grouped around the International Society for Health and Human Rights (ISHHR), which claimed more community-based models of rehabilitation for torture survivors.

conditions under which Torture Journal is produced differ from those of most other biomedical journals". "*The target group is heterogeneous*". Furthermore, "*in some cases, it is difficult to place the same strict demands on authors from countries with limited resources for training in scientific research and presentation*". Therefore, the Board had the policy to "*prioritise important documentation from such countries rather than insist on standardised requirements for biomedical journals*". This atypical way of working also includes "*providing support on editing and language editing*" and "*paying special attention to ethical considerations* [related to security issues]" (Markussen, 2001). At that time, the Board also expressed "*immediate plans to place future issues of the Journal as well as selected articles from earlier volumes of the Journal in the IRCT website*" and to include, in the assessment of manuscripts "r*ecommendations from referees*" (Markussen, 2001). The Journal, as we know it today, in 2021, was being shaped.

Paralel to the 25th Anniversary of Amnesty International medical groups, the Journal published a very relevant historical paper that is a must-read: *From AI's medical groups towards cross-disciplinary collaboration against torture* (Markussen & Genefke, 2000). The paper is a fascinating and detailed account of the origins and evolution of the medical documentation of torture written by Inge Genefke and Henrik Markussen. Also of great historical value is a long and influential paper by Maria Pinou-Kalli (1997), who passed away recently, which combines personal reflection and historical account, questioning how was it possible that 30 years after the Coup-d'Etat in Greece, nothing had happened with torturers.

The Journal published in 1997 a pioneering set of Guidelines on how to monitor conditions in prisons (Sorensen & Pounder, 1997). It included a shocking and worth-reading set of recommendations on coping with prisoners kidnapping the international observer during the visit.

From epidemiology and forensic science to rehabilitation

The focus of the Journal changed over time more to rehabilitation. Carlos Madariaga published a review of Rehabilitation practices in 26 centres of the IRCT network (Madariaga, 1997) and the Journal published, 4 years later, the first review on outcome and sustainability (Gurr & Quiroga, 2001), updated after 10 years (Jaranson & Quiroga, 2011) and precursor of a set of studies proposing systems of indictors and a comprehensive review following Cochrane methodologies (Hill & Everson, 2019; Horn & Keefe, 2016; Montgomery & Patel, 2011; Patel et al., 2016). These were the first of a series of break ground reviews and desk studies that the Journal would publish in the years to come (Jaranson & Quiroga, 2011; Kjærum, 2010; Quiroga, 2009; Quiroga & Jaranson, 2005). Progressively, the studies introduced the idea of a psychological approach and holistic care (Birck, 1999; NHHCP, 1998).

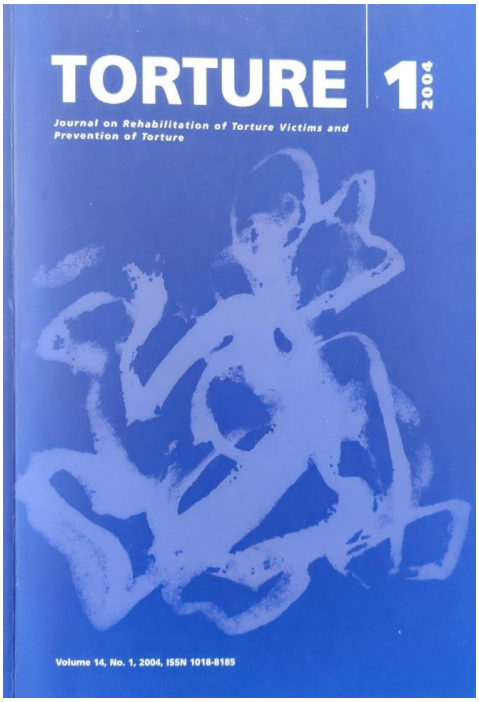
In 1999 the Journal published a monographic issue on Torture in Tibet, translated to Chinese and with a preface by the Dalai Lama (Elsass et al., 2009).

A series of three articles will appear with a comprehensive review on the medical examination of torture survivors, expanding concepts from the Istanbul Protocol (Rasmussen et al., 2004, 2005, 2006). The readership of the Journal has awarded this seminal review the first Convention Anti-torture Initiative (CTI) Prize as the most influential paper in the 30th year of the Journal.

New format and new times

At the end of 2004, the Journal changed its format and better defined its philosophy with

Figure 7. New format of the Journal.



an editorial *Torture: New Size, New Concept* (Marcussen, 2004). With the same Editor-in-Chief and a new Editorial Advisory Board, including medical doctors, psychologists and psychiatrists, who take the lead: Jim Jaranson, José Quiroga, Richard Mollica, Samir Quota, Derek Silove and Nora Sveass, people who raised Torture to the scientific Journal it is today.

Linked to this re-focusing, in October 2006, an event will change the future of the Journal: *Torture* is selected by the National Library of Medicine to be included and indexed in Medline, the world most extensive database of academic medical papers. At that moment, it was the endpoint of a long process of adjusting the Journal's standards to pass the most demanding of filters. It meant that *Torture* reached a global audience from that moment onwards. Its contents could be accessed from any medical institution, not only those working specifically in the field of rehabilitation of torture victims.

Under the leadership of Henrik Marcussen, *Torture* had a steady growth in the number and quality of papers. During 2009 and 2010, the Journal published between 5 and 7 research papers in each issue.

After 20 years at the Journal's helm, Dr. Marcussen retired in 2011 with an editorial compiling some of his previous writings (Marcussen, 2011). Prof Joost den Otter took the lead for a short time, followed by Dr. Lilla Hardi. Under their guidance, there were special sections on Forensic evidence against torture (2012), an incredible issue on Music in Detention (2013) and a study on Documentation of Torture in the Basque Country (2017). Some excellent state of the art and review papers also found their place (Bunn et al., 2016; Longacre et al., 2012; Patel et al., 2016; Persson & Rousseau, 2009; Weiss et al., 2016)

Victor Madrigal, Secretary-General, and Jorge Aroche, President of the IRCT, clearly opted for a journal that would have editorial independence from the publisher and that would try to be a "common house" for all those who work in the prevention and rehabilitation of torture victims, as a 2016 editorial stated (Pérez-Sales, 2016).

From 2016: A common/open house for reflection where everybody finds a place

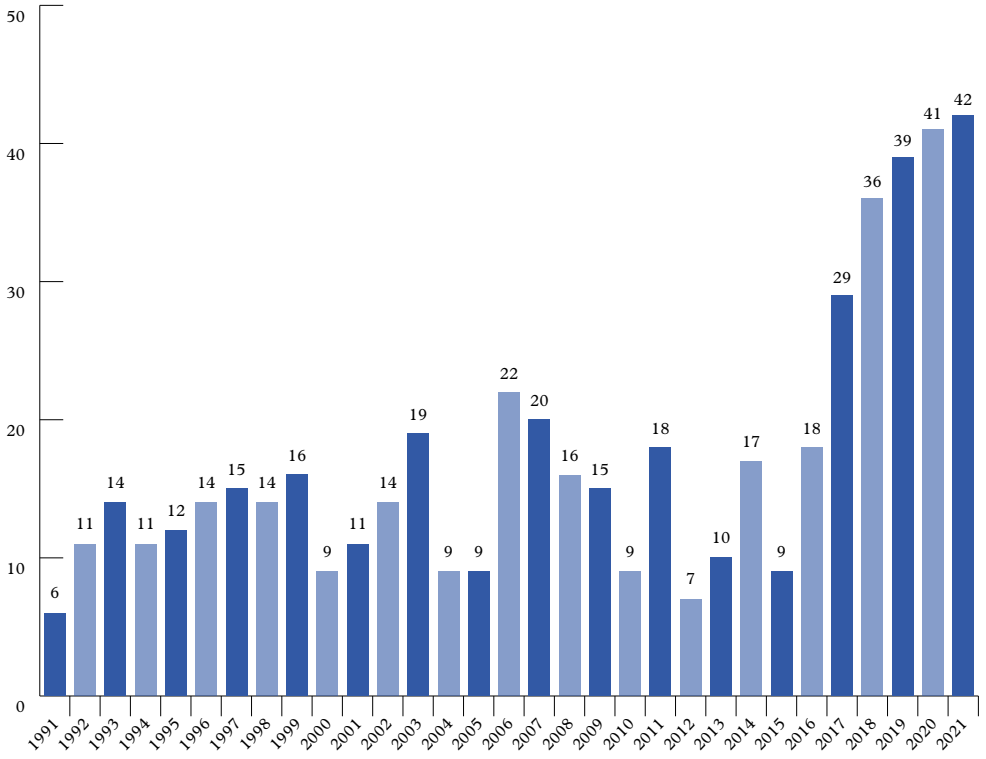
Torture conducted a Delphi study on research priorities in the field (Pérez-Sales et al., 2017) and has since tried to advance knowledge by opting for a style of being pro-active in gathering authors around new and challenging topics through the format of Special sections. Since then, seven Special Sections have seen the light: War on Terror (2017), Forced Migration

and Torture (2018), Sexual, gender-based and genderised torture (2018), Reflections and Learnings from the Istanbul Protocol (2019), Sleep deprivation (2019), Physiotherapy for Torture Survivors (2020) and Enforced Disappearance as Torture (2021) with the support of an incredible group of voluntary Guest Editors and a renewed advisory board.

A Special Issue commemorating this 30 anniversary will be published in early 2022 with a collection of essays on the past, present and future of the work in the prevention and rehabilitation of torture survivors, and forthcoming Special Sections on Racism and Torture and Torture in Prisons are to come for next year.

The Journal keeps loyal to its identity features: (a) The highest standard of quality in papers, including a strict blind peer-review process and extensive communications between authors and the editorial team. (b) Widespread diffusion, not only through Medline and other academic databases like Scopus and Scielo but through the promotion of the table of contents and best papers in social networks and a dedicated website. (c) Promoting young authors and helping first-time researchers and front-line workers express their ideas, understanding the difficulties in publishing from the global south. (d) Providing extensive support for those not

Figure 8. Evolution in the number of scientific papers published in Torture Journal by Year (1988-2021)



native in English in language and style edition. (e) Simultaneous publishing of the official English version of the paper with a version in the native language of the author, with an independent DOI identifier, also uploaded to the website. (f) Possibility to add to the text supplementary materials, including databases, documents or videos. (g) Making a constant effort from the Editorial Advisory Board to think on new challenges and promote cutting-edge research from the Journal.

Moreover, thanks to the support of donors, a journal free for authors and readers, in what seems a chimaera in times where science has become a private profit business and not a matter of public and universal interest. The paper version disappeared in 2020 and the Journal became an on-line electronic Journal with 3500 on-line subscribers and more than 1000 downloads every month from the Journal website plus databases that provide direct access to the contents. The impact factor has duplicated from 2016 to 2020, as the number of submissions, with an average time from receiving to acceptance of papers of 4 months. The Journal is in a healthy and promising stage. Big an enormous thanks must be given to peer-reviewers, a treasure hard to find nowadays, and acknowledged in the pages of this issue.

It is hard to know if the Journal has contributed at all to building a world without torture. However, these pages have made it possible to see that a whole generation of generous people have succeeded in bringing light into the darkness.

It is up to us to keep the candle burning. We rarely see cases of electric torture as French torturers in Algeria taught to their Argentinian colleagues in the 1990's, but we have widespread use of electric batoons and taser guns all around the world. We might not see as often as it was coercive interrogations using brutal force, but psychological torture and attacks to cognitive liberty are widespread and accepted as regular procedures. The legal contours of ill-treatment and torture need to be redefined to complex environments where the role of the State and the ways to inflict suffering are difficult to put in evidence. Torture changes and the anti-torture movements must have the ability to face these new times with new tools.

In this issue

In the celebration of the journal's 30th anniversary and pending the publication of the Special Commemorative issue, this last number of 2021 has two Special Sections.

On the one hand, the second part of the section on Enforced Disappearance as Torture published in our previous issue is complemented by four additional papers: Natalia Huerta and Edith Escareño examine the case of the 43 students who disappeared in Ayotzinapa (Mexico) in 2014. How the Mexican state's mistreatment suffered by the survivors and their families has provoked elements of suffering that the authors consider amounting to ill-treatment or torture. Anne Margrethe Sønneland publishes the results of several years of research with witnesses and victims of the trials of perpetrators of enforced disappearance in Argentina, pointing out those elements that could constitute elements of re-traumatisation or additional suffering adding to previous burdens. Mayra Eliana Nuñez analyses the decreasing role of relatives and witnesses in legal proceedings for enforced disappearance before the Inter-American Court of Human Rights. In an overburdened court, neither experts nor victims are allowed to speak. The process before the Court is progressively becoming more of a legal dialogue between the parties, while experts and victims are relegated to add through documentary contributions. In the authors' opinion, this means that much

of the reparatory value of the Court over the suffering of the victims is lost. Finally, Vesna Stefanovska reflects on the El Masri judgement in the European Court of Human Rights and its relevance for victims of enforced disappearance. The author elaborates on previous literature stating that cases of Extraordinary Rendition constitute forms of enforced disappearance and should be treated as such by international jurisprudence.

On the other hand, this issue includes a Special Section on dental care for torture survivors with two papers that complement each other. According to epidemiological data, about 35% of torture victims have suffered trauma to their mouth or teeth. Anne Catrin Høyvik and colleagues conducted a qualitative study with 10 torture survivors from different cultural backgrounds attending dental facilities. Karlsson and colleagues conducted semi-structured interviews with dentists and professionals from rehabilitation centres in Norway. Together, the two studies provide a unique perspective on the difficulties and risks of re-traumatisation of victims and the low detection capacity and knowledge of the professionals who should care for them. Important policy recommendations emerge from both studies.

Aisling Hearns and collaborators present a validation study of the International Trauma Questionnaire as an instrument for the early detection of Complex Posttraumatic Stress (CPTSD). Their data support the idea that PTSD and CPTSD are distinct entities and that both should be detected in torture survivors attending rehabilitation centres. Alongside this is the continuing education section, which discusses the forensic documentation of electric shocks as a form of torture.

We want to pay an extraordinary tribute to Dr June P. Lopez, a founding member of the IRCT and a key figure in the fight against torture in recent decades, who passed away this month. Along with an obituary by Dr Aurora Parong, friend and fellow, we include the text of an essay that Dr June Lopez was writing for the 30th anniversary of the Journal. Although she considered it an unfinished text, we have decided to publish it as the best tribute to a tireless fighter who leaves behind an indelible mark.

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Enforced disappearance as a form of psychological torture: evidence from the Ayotzinapa case (México)

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Key points of interest

- The enforced disappearance of the 43 Ayotzinapa students in Mexico shows how impunity and repeated lies and mistreatment of family members by the State are configured as an element of psychological torture and should be qualified as such.

Abstract

Objective: To analyse the impacts of enforced disappearance as a form of psychological torture in the enforced disappearance of 43 students known as the Ayotzinapa Case (Mexico). To make visible the effects of impunity.

Method: Historical and documentary analysis. Interviews with two groups of people affected: 1) relatives of the 43 young students who disappeared; 2) young students that survived. Analysis of the information obtained from the group and individual clinical interventions carried out during three months.

Results: In both groups, various impacts related to political violence were identified, in particular enforced disappearance, which leads us to consider that the criteria for torture are fulfilled and especially the elements derived from the subsequent re-victimising action of the State in the investigations and the impunity derived from the lack of access to justice and truth.

Conclusion: In addition to the enforced disappearance itself and its impacts, the suffering resulting from the State's subsequent processes must be analysed.

Keywords: Psychological torture, enforced disappearance, impunity.

Introduction

The context of serious human rights violations in Mexico has been reflected in numerous reports from national and international organisations that refer to instances of arbitrary detentions, torture, extra-judicial executions, enforced disappearances by authorities and organised crime actors under cover of the State. These violations have caused damage to numerous victims throughout the country.

Enforced disappearance is not a recent issue in Mexico. According to the latest figures offered by the Undersecretary of Human Rights Alejandro Encinas, there are **81617 missing persons and 8417 unaccounted for since 1964 (90.344 in total).** The vast majority happened after 2006, as a consequence of the so-called "declaration of war"

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that the then-President Felipe Calderon [1]made against drug trafficking in the name of national security. On the other hand, 3,978 clandestine graves have been registered throughout the country, where 6,625 bodies have been exhumed; of this total. More than 50.000 bodies remain unidentified in the country. (Secretaría de Gobernación, 2020).

In 2013, Human Rights Watch shared a report documenting the cases of 249 persons who disappeared in Mexico since December 2006. In 149 of these cases, they found evidence that state that actors participated in the disappearance, either on their own or in collaboration with criminal organisations, involving members of all security forces taking part in public security operations: the Army, Navy, Federal Police, and state and municipal police.

This paper aims to reflect on the impacts of the relatives of the case Ayotzinapa and the role of the State in their suffering as elements that fulfill the United Nations definition of torture, in this case, psychological torture (Pérez-Sales, 2017).

1. Enforced Disappearance: The Ayotzinapa Case

On the night of September 26th, 2014, a group of students from the Raúl Isidro Burgos Rural Normal School in Ayotzinapa (Guerrero), in southern Mexico, were attacked by municipal police while travelling in five buses in the city of Iguala, in the same State. The Ayotzinapa *normalistas* were attacked five times during four consecutive hours. As a result of several attacks, six students were killed (three students of the Normal, one of them tortured and skinned), firearms wounded twenty-four, four with severe consequences, and fourty-three disappeared (Hernández, 2016).

There were three scenarios.

On the first one, three buses were stopped by the local police at the city's exit, where the first attack with firearms took place. Fifteen students got off the first two buses and protected themselves between the first and second buses while police officers shot at them. The youngsters from the third bus were pulled out, with their hands up, subdued by the police and were left lying on the ground in a line while guns were pointed at them. They were then taken away in Iguala police patrol cars (GIEI, 2015). During this time, several *normalistas* made calls asking for an ambulance to attend to the wounded. One of the calls was disregarded as false, and in another, the students were informed that the police had prevented the ambulance from accessing the site. About half an hour after the calls, a university ambulance evacuated the injured (GIEI, 2015).

Another scenario took place at the exit of Iguala on the way to Chilpancingo (Guerrero), where the fourth bus was going. All the *normalistas* (43) on it were detained and disappeared, so there are no direct testimonies of what happened (GIEI, 2015).

The fifth bus that followed was stopped and interrogated by the local police, and, amidst threats and shouts, they ordered them to get off and leave the place as best they could. The students also reported a presence of Federal and State police (Mónaco, 2015).

Some students regrouped and tried to protect the evidence where the events occurred and started to talk to journalists on the spot. While the press conference took place, they were attacked again by at least three people dressed in black and hooded (GIEI, 2015). Two students were killed (Daniel G. and Julio R.), and another (Edgar V.) was seriously wounded with a bullet in the mouth. The ter-

1 Former president of Mexico's National Action Party (PAN) who served from 2006 to 2012.

rified students ran in different directions to save their lives. Julio César M. was separated from the group while trying to escape. The *normalistas* did not hear from him again until the next day, his body was found with visible signs of torture and his face flayed (Antillón, 2016).

Some students went to the prison in the early morning hours to get information about their colleagues detained by the police. The police informed them that the students had not been there.

2. Impunity: a State response

Although it is not the purpose of this study to delve into the severe contradictions found by the Argentine Forensic Anthropology Team (EAAF) and the Interdisciplinary Group of Independent Experts (GIEI) concerning the official version issued by the Attorney General, it is essential to analyse situations that aggravated the psychosocial impacts on the relatives, increasing the mistrust and suffering of the parents.

The Attorney General of the Republic (PGR), on November 7th, 2014 (33 days after the events) publicised the conclusions of the official investigation claiming "that the *normalistas* were handed over by municipal police to the criminal group "Guerreros Unidos"[2] who incinerated them in the Cocula garbage dump and then threw their ashes in bags into the San Juan River (González, 2017). He mentioned an alleged link between the students and the criminal group that would have executed them.

The collaboration of the EAAF was decisive in the case. EAAF, an organisation of forensic anthropology, international prestige, and considered a reliable source of high technical qualification and neutral by the relatives, published a communiqué[3] in which it questioned the PGR's version based on the evidence they collected on the spot (González, 2017).

The lack of empathy on the attorney general at the time[4], and the late response of the president of Mexico[5], conveyed the message that the State did not consider this case relevant. The latter, reacting to the demands of the relatives, publicly expressed their weariness with the issue and recommended turning the page and "getting over the pain". Such response had a hopeless and painful effect on the relatives, who feared that the search would stop.

On January 25th, 2015, the PGR held another press conference, in which high-level officials indicated that the statement of a new detainee and the skeletal remains found in the Cocula landfill and the San Juan River confirmed the version of events disseminated in November 2014 and giving the case as closed (Antillón. 2016).

For seven years, the students and the relatives of the students who disappeared continued to demand an investigation into what happened that night and request information on the whereabouts of the 43 young people who have never been heard from again.

3. Ayotzinapa as an example of enforced disappearance in Mexico

The Ayotzinapa case is emblematic, as it reveals the characteristics of enforced disappearance in Mexico. It shows the participation

2 The Guerreros Unidos cartel is a criminal organisation that operates mainly in the states of Morelos and Guerrero, and was consolidated in 2011.

3 It is available on the EAAF website: http://www.eaaf.org/files/comuni-cado-eaaf_7feb2015.pdf.

4 Consult at: https://www.animalpolitico.com/2014/11/ya-canse-murillo-karam-explica-esa-frase-tres-dias-despues/

5 Available at: https://expansion.mx/nacional/2014/12/04/pena-nieto-guerrero-visita-plan-seguridad-ayotzinapa-43-normalistas

of various forces of law and order in collusion with organised crime in execution, torture and enforced disappearance against a student population, characterised by precariousness and linked to social movements in the region. Official investigations are a necessary auxiliary to guarantee impunity. (Illades, 2015).

Around Ayotzinapa, several exhaustive journalistic investigations have been carried out. The authors analysed the events in detail, explaining the participation of the different security forces and questioning the official version (Hernández, 2016). Texts and documentaries have also been produced to recover the voice of the victims through dialogue with the families and with some surviving and non-disappeared *normalistas*, bringing them closer to the reader with names and faces (Mónaco, 2015).

The role mentioned above of the EAAF has also been fundamental. A rigorous technical analysis concluded that there was no consistency between the forensic evidence and the testimonial evidence obtained under torture from the alleged perpetrators by the Attorney General's Office (PGR). Also decisive was the report of the Interdisciplinary Group of Independent Experts (GIEI), which came based on a technical assistance agreement signed in November 2014 between the Inter-American Commission on Human Rights (IACHR), the Mexican State and representatives of victims, as a result of pressure from the victims. Between March 2015 and April 2016, the GIEI compiled the progress of its investigation in two reports, formulating recommendations. The first report broadens and deepens the lines of investigation and documents part of the impacts on family members and survivors (GIEI, 2015). In the second, it focused on the elaboration of plans to search for the missing persons in the immediate hours after disappearance, while they were still alive, and on a technical analysis of the lines of investigation to determine criminal responsibility. Furthermore, they made a technical analysis of the official Plan de Acción Integral a las Víctimas (Plan of Comprehensive Attention to Victims), recommending a new and independent study of the psychosocial and health impact on the victims of the Ayotzinapa case[6] (Antillón, 2016). The State followed the recommendations by forming a multidisciplinary group that designed a new proposal of psychological care and reparation of damages[7], issued too many years after the events and due to public pressure.

Enforced disappearance of persons is a multiple and continuing human rights violation closely related to the prohibition of torture and other inhuman or degrading treatment.[8] The Declaration on the Protection of All Persons from Enforced Disappearance reiterates that "*any act of enforced disappearance places the victim outside the protection of the law and causes severe suffering to the victim and his or her family*[9]*. It constitutes a violation of the rules of international law, which guarantee to every human being, inter alia, […] the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment*. […]". (Alternative Report to the Committee against

6 Available at: https://www.oas.org/es/cidh/actividades/giei/GIEI-InformeAyotzinapa2.pdf

7 I just wanted it to dawn: psychosocial impacts of the Ayotzinapa case.

8 Human Rights Committee, General Comment No. 31 of 29 March 2004 Nature of the general legal obligation imposed on States parties to the Covenant, para. 18. In the same vein, Working Group on Enforced or Involuntary Disappearances (WGEID), Annual Report for 1982, doc. E/CN.4/1983/14 of 21 January 1983, para. 131.

9 Art. 1, para. 2 of the Declaration on the Protection of All Persons from Enforced or Involuntary Disappearances (1992).

Torture, 2012)[10]. For the family members, "*they suffer slow mental anguish, not knowing whether the victim is still alive and, if so, where he is being held, in what conditions and what his state of health is. Moreover, aware that they too are under threat, they know that they may face the same fate and that the mere fact of inquiring into the truth may expose them to even greater danger...*" (UN Office of the High Commissioner for Human Rights). In addition to the very traumatic impact associated with the experience, enforced disappearance and torture are distinguished from other traumatic events by the particular psychic and social disruptive effect of the involvement of State agents in them (Gravante, 2018).

On September 26th, 2014, with the enforced disappearance of the 43 students from Ayotzinapa, the execution of three others, and the physical and permanent injuries to two of them, the human rights crisis in the country, the impunity in the investigations, the abandonment of the victims by the State became visible. The case progressed in the hands of the relatives and their representatives, given the lack of real collaboration from the State, beyond empty promises and words.

4. Methodology

We analysed the information obtained from the therapy groups and from individual clinical interventions carried out during three months in the Ayotzinapa Normal School with the group of relatives of the disappeared and the surviving students to analyse the experience from the perspective of the victims themselves in their relationship with the State institutions involved.

The information was collected through therapeutical group interventions designed by an iNGO in a pre-fixed format used in emergencies. The objective was to accompany and mitigate the suffering of the families of the disappeared and the surviving students.

For reasons of confidentiality, no tape recorder or camera was used. Following the preferences of the interviewees, most of the interviews were conducted in informal spaces such as gardens, the schoolyard or a classroom.

Impunity was understood as a set of political and media strategies whose purpose is to deny the facts or implant versions that hide the responsibility of the perpetrators and demobilise social demands for truth and justice (Antillón, 2016). Within the study of the impacts of torture, particular relevance was given to (a) the elements of fear and terror, the loss of control and the feeling of helplessness and their relationship with the chronic psychological damage described in torture victims (Pérez-Sales, 2017); (b) the harm documented in relatives through the reports of the GIEI and independent experts' report. Both emphasise how impunity and the lack of truth and justice operate as traumatic stimuli for victims; (c) specific literature describing how enforced disappearance can provoke specific symptoms or chronicle previous problems and in particular the existence of depression, sleep disorders, somatic disorders, suspension or abandonment of vital projects, feelings of impotence, hopelessness, rage, among others (Diana Kordon, 1991).

4.1. Formation of intervention groups

Three group interventions were carried out with 1) fathers of missing students, 2) mothers and 3) student survivors (Table 1).

4.2 Couple and individual interventions

Four couple-therapy sessions were offered to relatives of the disappeared, with three sub-

10 Revised at: https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/MEX/INT_CAT_NGO_MEX_12976_S.pdf

Table 1. Intervention groups in Ayotzinapa

Group	Participants	Sessions	Topics
Parents of the missing students	38	10	• Identification of basic needs • Reconstruction of the facts: What happened to the students? • Sense of hopelessness in the face of the State's response • Emotional support when they received bad news
Mothers of the disappeared students	18	7	• Symptoms of stress • Stress reduction techniques
Student survivors	5	5	• Narrative of the events of September 26th • Emotions and fear concerning the disappearance of their classmates • Changes in family dynamics • Fear of being stigmatised by your community • The guilt of being alive

sequent follow-up sessions. Also, eight individual sessions were conducted with the three surviving students. In the first interviews, the objective focused on identifying the most basic needs, predominant symptoms, concerns, and support network. The following sessions focused on working with narratives and emotions.

5. Results

Group 1: Student survivors

The interventions with the group of students allowed us to identify seven categories of impacts related to the attacks of the night of September 26th and of which they were victims 1) terror derived from the events themselves, 2) subsequent fear derived from witnessing the execution of others, 3) post-traumatic stress symptoms (PTSD), 4) experiences of humiliation, 5) guilt for surviving, 6) fear of social stigmatisation, and 7) psychological damage. Taken together, they show the various forms of suffering that make up the psychological torture experienced by students. Some examples:

> *The shooting seemed to go on forever. I felt very scared when the bullets shattered the windows of the bus. I threw myself to the ground, covered my face for a few minutes and then I saw my companion bleeding. I thought they would kill us all, and then I would be next. I was paralysed for a long time, I wanted to go down to see the others, but fear got the better of me.* (Fear and terror)

> *I was on the first bus, and I was saved. I stayed hidden, waiting for the others to come, but they didn't. The police took my companions. The police took my friends away. Why them? What if it had been me? It doesn't seem fair. I slept with two of the people they took away, and I can't sleep anymore. I see them at night; I wait for them. (*Guilt, PTSD Symptoms)

The image of Cesar with his face disfigured was uploaded to the networks, and that's how his wife found out. He was my friend, and I could not get it out of my head why him. Why did I save myself? He had just become a dad. More than sadness, I find it humiliating that he died like that [tortured and flayed]. (Guilt, Humiliation, PTSD Symptoms)

One of the narratives tells of the psychological consequences of police control and abuse of power, emphasising the role of the State.

One of the things that hurts me the most is remembering the indifference of the police when my partner was in serious condition. He was shot in the head, and they would not let the ambulance in. I feel anger, pain, sadness and sometimes hatred. Now it's like he's dead; he's in a coma. His life has been destroyed, his life and everyone's, we are no longer the same as before. (Humiliation, Psychological Damage)

These emotions and impacts had repercussions on the students' later lives. Three of them mentioned that, after what happened, they had not been able to return to the Normal school, partly because of the fear of being interrogated, partly because of the response of the people at the school itself.

The following accounts show the impact on life change after the events, as well as the fear of stigmatisation and the guilt of still being alive:

We were afraid to come. We don't know how things would be here. Our families are terrified, afraid that something will happen to us again. Some people think bad things about us, and maybe we are not perfect, but we didn't deserve to live through what happened. (Fear, Social stigmatisation)

At times I feel guilty for still being here. Especially when the parents of the disappeared ask me questions. I feel powerless, I can't even look them in the face. (Guilt, Social Stigmatization)

The price of having survived is to carry the memories in your body and not to forget them. Something of me died that day. (Grief, Guilt)

I can't fail my school, the place that has given me the opportunity to be someone. I already failed my friends who left; now I want to finish what I started. I don't deny that sometimes I do feel paralysed by fear. (Fear, Guilt)

Group 2: Parents of the missing students

Within the interventions with parents, six main conclusions were identified: 1) humiliation, 2) impunity, 3) family/social breakdown, 4) distrust of authorities, 5) physical/psychological harm and 6) guilt.

The parents mentioned a radical change in the lives of all family members. On the one hand, they are in search, and, on the other hand, they cannot take care of the rest of their children as before:

"ife is harder for us now. We are not the same. We have two other children, but my wife is sad, she cries a lot and has much pain in her back, and I am in the group of dads in demonstrations. Our youngest son has isolated himself and eats little, and I think we neglect him. However, the truth is, we don't know how to be "normal" parents again. We are very hurt, and we want to keep looking for

our son [Family Breakdown, Physical and Psychological Harm].

The active role of women mothers, both to guarantee the economic income and care of their children and to participate in the search for their child, represents extra burdens that add to the emotional and physical impacts that each member of the family experiences (Martínez, 2006).

It is tough to go on with everything. My other children know I'm sick, but I don't know what to do. We live in Normal, and my other children are with me, but I want to leave them with my mom, but my husband says no. I can't take care of them now. I can't take care of them now.

The authorities' treatment of and response to the relatives increased confusion and uncertainty. The "historical truth" as the supposed endpoint of the investigation increased distrust and deepened the psychological damage generated by impunity. Added to this are the feelings of humiliation and pain in the face of the indifference they perceive on the part of State officials:

It has been less than a month, and the Attorney who lives comfortably, says he is tired. If I could tell him to his face that we leave our home, sleep where we can, and neglect our work. What is he tired of? Of seeing us demand our rights?

The president [of Mexico] *says that we should get over the pain. How will we do that if they haven't returned our children and they make up stories for us? I am deeply humiliated to get that message from the one who supposedly governs. They don't care about our pain. Does he think we can move on with our lives? He's a father; he should understand the suffering for a child.*

Out of respect for our families and for us who live in communities, we didn't want the information to be public yet. We asked the Attorney General not to give his version in the media since the investigation was still open, and he did not respect it, he didn't care how we felt. I feel humiliated. Do they want to hurt us more?

According to the authorities' version, the students were deprived of their freedom, deprived of their lives, incinerated and thrown into the San Juan River, in that order. The parents say they feel humiliated and hurt, knowing that this is not a credible version. There is a rupture with the State, and they associate the guarantee of impunity to perpetrators with their social background and poverty:

I feel hurt when I hear the prosecutor's version of events. He is mocking our pain. Showing a version that is not possible without sufficient evidence, as the EAAF says. I no longer trust the authorities in this country, and it hurts me that they speak in public about our children without knowing what happened. They are hurting us even more.

It makes me very angry and impotent that they have invented a version for us, just to calm us down. I feel humiliated. What would they feel if one of their children disappeared? They don't care what happens to us because we are poor. I used to think that being poor was the hardest thing in my life, but now I see that there are more painful things.

Some family members mentioned that approximately one month after the events, they received visits from government agents

at their homes, with a proposal to "repair the damage" in which they were offered an agreement to have them stop making demands and not to form an organised group, in exchange of money. This was not perceived as a form of reparation but as bribery and an additional humiliation as they understood that a price was being put on their children.

I felt humiliated. Money in exchange for silence? To sell my son? I thought they were coming to support us, to give me another kind of message, but no. The authorities want to shut this down, to stop looking. The authorities want to shut this down, to stop looking. Shut us up in exchange for cash.

Fortunately, my wife and I weren't there," my son told us. My son told us that some well-dressed gentlemen had come to make an offer of money. It's a good thing I wasn't in front of them. Do they think that because we are poor, they can continue to offend us?

The independent search by the parents thus became a form of psychological coping and resilience. Weeks after the events, they organised themselves to search for their children in hospital morgues and places where there might be graves. The search confronted the relatives with the possibility of death and generated distressing fantasies about the torture that their relative might have suffered before being disappeared (Antillón, 2016).

When my husband told me they found other graves, he was speechless. He cried and told me that he hoped our son wouldn't be in that condition, that he couldn't get over it.

I don't know why I feel so affected after learning about the bodies in the graves. I have nightmares about it, and I think about what would happen if my son was in a grave and years went by and he was there. I think about how they made them suffer before they killed them, which fills me with rage. They all hurt me, even if I don't know some of them.

As seen in the above testimonies, enforced disappearance, as a traumatic experience, generates a rupture in the life project and a break in basic beliefs about the self, others, and the social world, which can preserve a sense of security to a certain extent and provide a sense of belonging.

Group 3: Mothers of the disappeared

With the mothers, a critical rapprochement was generated through group sessions, since at first, it was impossible to talk about the emotions related to the events. There was an emotional disconnection as a mechanism of protection. So the focus was on what was tangible: talking about physical pain as a way of expressing emotions (Van der Kolk, 2009).

I come to the workshop to relax, to distract myself a little from so much suffering. Personally; I don't want to talk about anything, no questions.

I feel good here. I like the place; I feel good in my body thanks to our activities. I can relax a bit. I haven't slept for more than a month. It's as if sometimes I don't feel my body.

An essential element in the emotional impact on relatives is the existence of impossible mourning. The enforced disappearance implies a suspension of the person who is absent between life and death and for his or her relatives a constant uncertainty, guilt and fear of confirming the possibility of that death that is at the same time denied. In this context, "to consider him dead is equivalent to killing

him" (Antillón, 2016). Two fundamental elements for the development of a mourning process are not possible: a) direct knowledge or adequate information about the death of the person and its probable causes; b) the existence of certain symbolic elements among which we could include funeral rituals, community practices and the social answer towards the mourner (Pelento, Braun, 1985).

As can be seen in the narratives, mothers no longer feel comfortable in their own spaces. The possibility of thinking their children dead generates anguish and guilt:

> *I moved away from the village because some neighbours tell me that maybe they are no longer alive. Sometimes I think about it, but then I feel guilty, I think there is still hope, and I shouldn't think he is dead. Moreover, I think about whether he's eaten, whether he's hungry, whether he's being treated well. Furthermore, if it's true that my son is already with God, I want to see his body.*

> *I will continue to wait for my son until I am proven otherwise. Don't ask me to kill my hopes.*

A fundamental element was identifying the presumed skeletal remains as a space to confront the idea of death. For reasons of neutrality and credibility, the family members agreed that the Argentinian EAAF should accompany the identification process of the remains found in the Cocula River. Due to the deterioration of the fragments, only three were selected to be sent to the genetics laboratory at the University of Innsbruck in Austria. According to the EAAF coordinator, the results confirmed the link to the mother of the student Alexander Mora, with the reservation that the EAAF did not see where the remains handed over by the Attorney General's Office came from.

> *Although if we believe the EAAF, I doubt that my son is dead. They couldn't see where the bones were, and I think the government put a piece of bone in the garbage dump. I feel sad at the same time, because I think about how he lost a part of him. Will they make him suffer? Besides, what do the authorities think that I will bury a piece of my son? No. I want him alive.*

As observed in the narratives, the difficulty in the face of life is maintained over time (Antillón, 2016). Traumatic experiences are often intrinsically impossible to put into words and are sometimes unthinkable because of what this entails (Pérez-Sales, 2007). Trauma, which cannot be symbolised through language, persists in survivors through the repetition of symptoms - especially pain - and the experience that there is a dead part of themselves.

6. Discussion and conclusions

The Ayotzinapa case has been a watershed in Mexican society, adding to the history of enforced disappearance in Latin America (GIEI, 2016) through a continuum of life experiences marked both by the events of violence and by the expressions of institutional and structural violence added to the conditions of social marginalisation, poverty and racism (Hernández, 2017).

The results of the group and individual interventions show severe physical, psychological, family and social deterioration due to the events that occurred on September 26th. The events provoked alterations in family dynamics, making it difficult to continue living in their communities. It has been impossible for the family members involved to carry on with their lives as before. The parents continue, years later, with the active search for their children. In addition to the above, the dimension of the impact derived from the lack of

justice, criminalisation and impunity on State officials contribute to the moral damage on the surviving parents and students. The disappearance of their children resignifies marginalisation and poverty, while these conditions explain the lack of effective search and mistreatment by the authorities (Antillón, 2016).

It is important to emphasise that for the victims, impunity is experienced as a second trauma that relieves the pain and triggers the appearance of symptoms and emotions of anguish and permanent feelings of sadness, rage and impotence. From a psychosocial point of view, it has been documented how legal or political measures that promote impunity generate further harm in the victims (Kordon et al., 1995).

On the other hand, the Inter-American Court repeatedly affirmed that witnessing the torture and execution of others and the immediate and credible desperation and fear of being tortured with extreme cruelty and subsequently executed must be recognised in itself as a form of torture (Pérez-Sales, 2017, Alternative Report to the Committee against Torture, 2012).

Added to the different traumatic events and the magnitude of the damage in the lives of the victims, the action of the Mexican State has generated painful experiences of humiliation, shame and guilt, and they aim to the ultimate purpose of demobilising, provoking the resignation of the relatives. The psychological pain is then engraved in the body and mind of the relatives and ends up becoming part of the victim's identity (Pérez-Sales, 2017). Therefore, trauma is not only an event that occurred at some point in the past; it is also the imprint marked by the subsequent experience and the environment in which this experience had to be faced.

There is a complex relationship between the disappearance and the survivors' attempt to give meaning to life afterwards, marked above all by multiple feelings of guilt, sometimes explicit, sometimes denied or repressed. What underlies is the pressing feeling that their life was made possible by the death of others and the injustice of enjoying life (Gómez, 2013). The traumatic experience of enforced disappearance generates a rupture in the life project and basic beliefs about the self, others and the social world, which have the function of preserving a sense of predictability, control and security (Pérez-Sales, 2006).

In sum, the impact on the direct victims and relatives of Ayotzinapa has unquestionable criteria to be considered torture. It is necessary to see if and how the new reparation mechanisms and the positioning of the Ayotzinapa case on the current government's agenda[11], at least in words, different from the previous one, will manage to reduce or mitigate the suffering of the victims.

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Survivors' experiences with testifying in trials after gross human rights violations in Argentina

Anne Margrethe Sønneland[1]

Key points of interest

- Testifying in court for survivors of gross human rights violations entails hardships that should be considered in the work of psychosocial accompaniment

Summary:

In this article the witnesses' experiences with testifying in court trials after enforced disappearances and torture in Argentina during the last dictatorship (1976 – 1983) are explored. The article is based on qualitative semi-structured interviews with 23 survivors of torture and illegal detention.

The study suggests that while witnesses considered the trials to be important, there were several challenges and hardships involved in testifying. These are discussed in relation to Judith Herman's writings about victims in trials. Herman discusses challenges related to being questioned in court, encounters with perpetrators, and fear for the safety of the witness. The present study suggests that having to testify in more than one trial represents still another challenge for witnesses. A main finding is that the interviewees place emphasis on a strong sense of responsibility related to testifying, both towards those who did not survive and towards society at large. Testimonies confirm that the crimes were intentional and systematic, and to testify is a way of contributing to justice for those who remain disappeared.

Keywords: Enforced disappearances - trials - testimony - Argentina

Court trials are among the main ways of dealing with crimes against humanity committed in the recent past. In Argentina, such trials mainly deal with the systematic use of torture and enforced disappearances committed by the last military dictatorship, which ruled the country between 1976 and 1983. Survivors from clandestine detention centres and prisons, who have endured torture and ill-treatment and seen others be subjected to such treatments, are central witnesses in the legal proceedings. In this article their experiences with testifying in court are explored, both regarding the continuing(ed) enforced disappearances of others, and the violations that they themselves have endured[1].

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Enforced disappearances were used systematically during the last military dictatorship in Argentina. The National Commission on the Disappearance of Persons, CONADEP, identified 8961 persons who remain forcefully disappeared, yet, the number of victims is uncertain (CONADEP, 1984; Crenzel, 2012). In addition, many were held incommunicado in clandestine detention centres for a period before they were released or imprisoned in ordinary prisons. Those who were detained were subjected to different forms of torture and ill treatment: the use of torture was systematic (Calveiro, 2008; CONADEP, 1984). The military regime mainly targeted persons who were engaged in social or political activities or in the labour movement.

Since 2005, trials related to crimes against humanity were re-opened in the federal court system in most Argentine provinces after almost two decades of amnesty laws, partly due to the insistence of organisations of survivors and relatives of disappeared. The majority of these trials deal with the responsibility of the armed forces and security forces for kidnapping, enforced disappearances, executions and torture; some also with sexual violence and civilian complicity. By August 2021, 20 cases were open in eight provinces (Secretaria de derechos humanos, 2021). There have been 265 sentences, in which 1030 persons have been convicted (Ministerio Fiscal Público de la República Argentina, 2021). The trials last an average of two and a half years (Secretaria de derechos humanos, 2021).

The testimonies of persons who were held detained-disappeared are central in the trials as there is often little evidence besides their testimonies (Varsky, 2011). Testimonies provide critical information where physical and documentary evidence is scarce, and victim testimonies provide narratives of the direct experience with human rights violations (Walling, 2018). The central role of victim-witnesses thus renders it important to gain further knowledge about the victims' experiences with testifying. This article is based on interviews with 23 survivors of illegal detention and torture, and on participation in court hearings. Herman's (2003, 2005) descriptions of victims in trials after violence is chosen as a framework for analysing the experiences of survivors who testify.

Enforced disappearances in Argentina during the dictatorship

Enforced disappearances were a main method of repression during the last military dictatorship in Argentina (Calveiro, 2008; CONADEP, 1984). The truth commission that was established in 1984 to look into the disappearances - CONADEP (1984) - identified 8961 persons who remained forcefully disappeared. The Commission established the existence of numerous clandestine detention centres all over the country, and in its report, *Nunca Más,* it published information about these centres as well as names of persons who remained disappeared.

The military regime used enforced disappearances systematically (Crenzel, 2012). Enforced disappearances were carried out through clandestine operations (Crenzel, 2018), and became the paradigmatic form of repression (Kersner, 2002). Violence was exercised by groups that were not identified, although it was clear that they belonged to or were authorised by the regime. Victims were chosen by criteria that were difficult to predict (O'Donnell 2010:187). State repression targeted broad segments of society seen as contaminated by subversion (Malamud-Goti 1998:107).

Persons who were detained were usually held in clandestine detention centres, where practices like replacing a person's name with

a number, blindfolding the person detained, forcing them to live under poor conditions, and using insults as way of addressing them, all formed part of the de-humanisation processes. Death was a constant possibility, and persons detained would not know what would happen to them (Calveiro 2008

Trials related to the enforced disappearances in Argentina

Argentina has stood out for its policies of dealing with past atrocities since the transition to democracy in 1983 (Crenzel, 2020). Already in 1985, the military Juntas were tried in court, based on information from CONADEP. Five of the nine former junta leaders were convicted and sentenced, two were sentenced to life imprisonment and loss of military rank. Four were acquitted (Ciancaglini and Granovsky 1995:298-299). The trial of the nine leaders was important, as it was the first time that civilians in Latin America held military men accountable for crimes committed by a regime installed through a coup (Bartolomei 1994:292). Following this trial, cases were initiated against personnel from the police and the armed forces. These trials ended with two amnesty laws passed in 1986 and 1987, due to strong pressure from the armed forces. During the 1990s, some trials were nevertheless held related to the kidnapping and later illegal adoption of children of persons who remained forcefully disappeared. Some provinces carried out 'truth trials', which established facts about what had happened and about the fate of the disappeared, but these had no mandate to convict those responsible (Skaar 2005:166). Trials were re-initiated in 2005, after the Supreme Court annulled the amnesty laws from the late 1980s (Guembe, 2005). The trials have wide support in society (Arnoso Martinez et al., 2017).

Studies of victims in trials after gross human rights violations

Several studies exist addressing the experiences of victims in international trials after wars or armed conflicts. In Argentina, trials are national, and deal with crimes committed by an authoritarian government. The violence can be described as vertical, that is, from the state towards the population (see Roht-Arriaza, 2013).

The most comprehensive study is that of Eric Stover (2005), who interviewed witnesses appearing before the International Criminal Tribunal for the former Yugoslavia (ICTY). The ICTY had a witness section, which included psychologists. Most witnesses described testifying as a moral duty, to ensure that the truth about the deaths of others was duly recorded and acknowledged. The majority described their overall experience of testifying as being positive; Stover discusses the possibility that this may be related to whether those who were charged were later convicted.

In a survey study of 300 ICTY witnesses Kimi King and James Meernik (2017; 2019) found that few of the witnesses experienced re-traumatisation due to testifying. Charters and Vahidy (2009) and Stepakoff et al.(2005) found that the majority of the witnesses – and particularly the victim-witnesses - in the Sierra Leone tribunal had positive experiences from testifying. Among the positive aspects were the possibility to tell the truth and break the silence, and to be listened to and believed. One-fifth of the interviewees reported feeling less anxiety and sadness after testifying (Stepakoff et al., 2005). Two studies indicate that around 20% of the witnesses felt less safe after testifying in international courts (Horn, Charters, and Vahidy 2009; Stepakoff et al. 2005). Witnesses who are not worried about testifying and who feel respected by the court personnel are more likely to report positive experi-

ences (Charters & Vahidy, 2009); further, the relationship between the witness and the legal teams matters (Horn, Charters, and Vahidy 2009).

Nevertheless, studies from the Truth and Reconciliation Commission in South Africa also show that testifying is not necessarily helpful for witnesses (Hamber et al., 2000; Stein et al., 2008; Wilson, 2009). In an overview of trials and truth commissions in the aftermath of gross human rights violations, Martín-Beristaín and colleagues (2010) found that testifying in trials and in truth commissions increases negative emotions and symptoms, and that it cannot be confirmed that testifying helps in healing individual suffering. Yet, participation can contribute to empowering individuals and restoring dignity and trials and truth commissions can reinforce respect for human rights.

Victim witnesses in court trials

Court trials after crimes against humanity are criminal trials that deal with gross and systematic violations of human rights. Thus, literature about trials after gross human rights violations in particular, as well as literature about victims in criminal trials in general, is relevant for understanding experiences related to testifying in court.

Judith Herman (2003, 2005) describes the legal system as a high-risk environment for victims. Her writings are based on her work with victims of the Holocaust and female survivors of rape and sexual abuse in the US. According to Herman, several aspects of court hearings present challenges for victims: Victims have to endure public challenge to their credibility, while they need social acknowledgement and support. Courts have a complex set of rules and procedures, which victims may not know and over which they have no control, while what the victims need is to establish a sense of control and power in their lives. As witnesses, victims often have to respond to questions that do not leave the possibility to construct a meaningful and coherent narrative and do not make it possible for victims to tell their stories in their own way. Courts require victims to relive traumatic experiences by directly confronting the perpetrator, whereas victims need to control or limit their exposure to specific reminders of the trauma. Victims may also fear for their safety because of the risk of retaliation from perpetrators (Herman 2003).

Still, there may be mental health benefits for crime victims in participating in judicial proceedings, Herman (2003) argues. Legal interventions can provide victims with public acknowledgement of their suffering, and restitution for the harm done. A validation and intervention by the legal system can restore victims' trust in the community, which is not possible as long as there is impunity for the perpetrators. Also, it might provide them with greater safety and protection, and may enhance the victims' sense of power to protect others by deterring the perpetrator from committing similar crimes again (Herman 2003:160-161). In contexts of trials and other mechanisms in the aftermath of gross human rights violations, Martín-Beristain and colleagues (2010:6) similarly argue that active participation in trials can enhance self-esteem and perceived control in the long term. For example, Elisabeth Jelin (2010) found that in the trial against the military Junta in 1984, the voice of the victims acquired testimonial value and could be heard and recognised by judges and by society.

There is an assumption in some of the literature written about trials after gross human rights violations that testifying in court has therapeutic or psychological healing effects for victims (Martín-Beristain et al., 2010:2). Political sponsors of international courts

often promote criminal trials as a way to meet victims' needs, a platform for victims to share their stories, and help focus due attention to their suffering (Ciorciari & Heindel, 2016). Yet, most of the academic work that refers to similar ideas merely state that such pretence is based on simplistic ideas about healing (Fletcher & Weinstein, 2002) do not have support in empirical data (Hamber, 2009; Minow, 1998; Stover, 2005) and that trials are not designed for therapeutic impact (Ciorciari & Heindel, 2016). There is also a wish to establish knowledge about how testifying in trials influence psychological symptoms and whether victims consider the experience of testifying as being positive (see, among others, Charters & Vahidy, 2009; Horn et al., 2009, 2011).

This said, it may be argued that ideas of testifying in court as healing for the individual victim may be based on our wish for trials to have such a function. Fletcher and Weinstein (2002:592 - 593) suggest that the ideas of trials as a way to meet victims' needs for truth, acknowledgement of suffering, justice and healing come from the literature on treatment of trauma survivors as well as anecdotal evidence. They hold that some legal scholars cite such studies to support their arguments that criminal trials will serve a similar healing function for survivors. However, academic literature on victims in such trials challenge or nuance ideas of trials as healing for victims (see Herman, 2003, 2005; Stover, 2005; Walling, 2018).

Testimonies in court trials form part of the process of gathering proof used in determining whether the defendants are guilty as charged, and the psychological well-being of the witness is not at the centre of what the court is interested in (Herman, 2003; Walling, 2018). Witnesses can contribute with elements that can prove the facts, because they were present at the moment of a crime (Varsky, 2011) and testimonies in court are valued for their ability to prove that specific legal violations were committed: witnesses offer insights into the guilt or innocence of the accused (Walling, 2018). The court decides who will testify, mainly on grounds of whether, or how much, a testimony can be used to determine the guilt or innocence of individual defendants (Varsky, 2011). Thus, testimonies in court are not about the needs of the individual victim; they establish the responsibility or lack of responsibility of the defendant. This shapes the ways in which the testimony can be given: Courts are interested in what Stover (2005) refers to as 'restrictive facts'.

The study: victims' perceptions of court trials related to crimes against humanity

Victims' experiences with court trials after gross and systematic human rights violations is at the core of this project. The aim of the study was to explore how survivors of such crimes and relatives of victims of enforced disappearances perceive and experience trials. Central questions included whether some form of justice has been achieved through the trials, how trials impact on everyday lives of survivors and relatives of persons who were killed or remain forcefully disappeared, and whether the trials are perceived as important for them.

Methods

The present study represents part of a larger investigation, 'Dealing with the past', where the authors applied a variety of research approaches, including field work, in depth-interviews with survivors of torture and relatives of persons who remain forcefully disappeared, interviews with persons who work professionally in the field, and a review of relevant documents. This article analyses interviews done with survivors of torture and detention, and who have testified in court in

cases related to crimes against humanity. Interviews were carried out by the author and by mental health professionals affiliated with the Equipo Argentino de Trabajo e Investigación Social (Argentine Team for Psychosocial Work and Investigation (EATIP), a non-governmental organisation that is engaged in work with survivors of illegal detention and relatives of persons who were forcefully disappeared or killed during the last dictatorship in Argentina (1976 – 1983). The EATIP team has extensive experience supporting persons affected by human rights violations and has accompanied witnesses in the ongoing trials related to crimes against humanity (see Kordon et al., 2010). Their advocacy against impunity and for human rights imply that their position in relation to the issues in question is not neutral.

In addition to the interviews, the author has been present in court hearings in four trials, and have listened to numerous testimonies in court between 2010 – 2014.

1. *Participants*: This article is based on interviews with 23 persons, 9 women and 14 men, who were between 50 and 65 years old at the time of the interviews. All had testified in one or more of the trials that were re-opened after 2005. The selection was strategic and aimed at exploring the experiences and reactions of survivors who were involved in legal process, both in the larger Buenos Aires area and in a province in the centre of the country. Interviewees were recruited in two ways: In court hearings or in gatherings related to the court hearings, as well as through the broader network of the EATIP team.
2. *Interviews:* The interviews were carried out between February 2010 and December 2014. Informed consent procedures emphasised confidentiality and the option of withdrawing from the study at any time. The interviews were semi-structured, and were conducted in Spanish, taped, and later transcribed. Each interview lasted between one and two hours.
   The interviewees were asked about their thoughts and experiences regarding the trials and individual economic reparations, as well as whether they felt that trials led to any sense of justice (Sveaass & Sønneland, 2015). It was established whether the interviewees were survivors, relatives of persons disappeared, or both.
3. *Data analysis:* The transcribed interviews were coded and systematised through thematic analysis, through which the author could familiarise herself with the data, coded, and identified themes (Braun & Clarke, 2006). Among the themes identified were the human rights violations endured and the formal role that the participants held in trials as witnesses and complainants. Discussions with the project leader and the EATIP team helped identify and elaborate on themes, as the researcher has an active role in finding and being open to emerging themes (Braun & Clarke, 2006).

Findings: experiences with testifying in trials after crimes against humanity

A short description of what a court room looks like is in order before describing the findings. While court buildings were different, court hearings were organised in similar ways. The four judges were seated in a central space of the room[2], the defendants were present,

2 In Argentine trials related to crimes against humanity, there are always four judges in order to ensure that the trial can continue if one of the judges become unable to attend.

there was seating for the public, and there were formal rules as to how a court hearing is to be conducted. There were always security measures surrounding a court hearing; how strict they were, varied. Court hearings could begin late or be suspended or postponed, and the witnesses would often not know beforehand at what time they would testify.

In the following section, we will explore how the five aspects described by Herman as being challenging for victims in trials are present in the interviews. In addition, two topics will be addressed, namely the fact that the majority of the witnesses testified in more than one trial, and testimony as a responsibility towards those who remain disappeared and society at large.

Being questioned in court

The two first points mentioned by Herman (2003, 2005) – that witnesses have their credibility publicly challenged and that witnesses encounter a complex set of rules and procedures – are interrelated. For many of the witnesses, the rules and procedures of the courts were unknown during the first trials. At the time of the interviews, the witnesses had some knowledge of how trials were conducted.

How strict the rules were for how witnesses could give their testimony varied between courts and judges. Witnesses could be interrupted, asked questions, and confronted with previous testimonies.

The witnesses interviewed planned their testimonies in advance. Many had read through their testimonies from earlier instances, and they had made sure that they remembered names, dates, and important details. In some courts, witnesses were allowed to testify almost without interruptions. In other cases, witnesses received questions from the judge or the legal representatives of the accused, sometimes frequently. Questions could be general or very specific. Which questions were asked and how they were posed influenced on how stressful it was to testify.

Many interviewees had participated in political groups prior to their detention, and were detained because of this activity. For many, it was important to frame the military regimes' use of repression within a political framework. In some courts, witnesses were allowed to give a political analysis of the context in which the enforced disappearances were committed, and to testify as to the damage caused to society at large, not only to individual victims. A few of the interviewees expressed surprised that they were allowed to give a political interpretation. Such political interpretations can contribute to emphasising the political character of the repression, and also the political identity of many of those who remain forcefully disappeared.

Confronting the perpetrators

Usually, the defendant would be in court when the witness testified. In addition, witnesses could sometimes encounter the defendants outside of the regulated setting of the court.

The defendants were normally present in the court room and would listen to the testimonies presented by survivors. Sometimes, witnesses recognised the defendants as perpetrators of violence towards themselves of others. Some of the interviewees had decided to follow other court cases where the same defendant is present to get used to their presence.

One of the survivors said that seeing the accused in court

> *made me feel anger, disgust […]. But satisfaction of seeing them there, too, in addition to the anger.*

Such ambivalence was present in many of the interviews: On the one hand, the defendants were in court because they were being tried for crimes they were accused of committing. On the other hand, there was discomfort in encounters with those who were responsible, and their presence could lead to fear and other reactions.

How witnesses reacted to the presence of the accused when they testified, varied. Some chose to make eye contact with the accused during their testimonies, others tried to ignore them or decided not to look at them. Some addressed the accused directly in their testimony, to let them know that they recognised them or to remind them of their responsibility for torturing the witness or others.

Some witnesses told the authors about encounters with the defendants outside of the courtroom. One had met the defendant in a hallway; another had met the defendant when they were entering the court room. Such encounters were described as being unsettling.

Threats and fears

Fear for the security of the witness and their families is one of the topics that is present in many interviews. Fear was instilled during the dictatorship, and the existence of threats towards some witnesses confirm that there are reasons to be cautious. Indeed, as one witness indicated:

> *You do take precautions. Every time I go to the trial, I open the door to see which cars are driving around. Not like a paranoid thing, but like a certain degree of attention. I would even say it is not very useful* (woman, survivor)

Only a few interviewees had received threats related to the ongoing trials; one witness had to be moved out of the province before testifying. Threats seem to have been more common during the trials in the 1980s, and during the first trials that took place after 2005. The disappearance of Jorge Julio López, a key witness in the first court case opened after the amnesty laws were annulled, was mentioned by many during their interview. López disappeared on the day of the verdict, and his whereabouts have not been established since (Rosende & Pertot, 2013). Still, the majority of the interviewees say that they are not scared. One explained:

> *What more can they do to me? I am afraid that they might torture me, that frightens me. But that they might kill me? Not anymore. Yes, that they take someone in my family […], that scares me – but they have not bothered the families* (woman, survivor)

A few interviewees emphasised that the families of witnesses and claimants had not been bothered. Some felt protected by the participants in their political groups or the human rights movement. A few had police protection during some periods. Many witnesses received cell phones from the Secretariat of human rights and could get in touch with them if something happened.

Reactions to testifying

During the trials that were analysed as part of the current study, the testimonies of survivors were always detailed and rendered with calm. While strong feelings and pain could be described in words, it was seldom shown neither in voice nor in body language. One of the women interviewed explained that:

> *At some point during the testimony, no matter how much you have prepared for the situation, at some point you're back inside the clandestine detention centre. And you have to be aware of that, to protect yourself so*

that it doesn't hurt you more than necessary (woman, survivor)

After the testimony, and off the stage of the trial, some had strong reactions: The majority described feelings of unease, nervousness or guilt after testifying in court. Some described having problems sleeping or eating, or felt absent; a few wanted to cry all the time. In addition, a few describe physical reactions, such as bleeding or pain. While some witnesses had strong reactions, others did not. Some said that testifying brought relief: finally, they had told what they knew and could allow themselves to forget.

The interviewees describe several ways of coping with testifying in court: Family and friends were mentioned as being important elements of psycho-social support, and several survivors noted how they helped them to cope with the discomforts or distress of trials.

Gaining experience: Testifying in more than one trial

The majority of the witnesses have testified in several trials. Some have been in several detention centres; some provided information about the disappearance or maltreatment of many others. Some had testified in different courts, and before different judges. The second and third time that they were going to testify, they were more prepared for the situation and for the impact that such a situation has on them. Some felt safer testifying in later trials than in the first one, while others found it harder.

To testify about the same events on several occasions has been said to have been tiring and time-consuming for the witnesses. It takes time to prepare a testimony, practically, regarding the testimony itself, and emotionally. On the other hand, testifying in numerous trials involves a learning process: witnesses gain experience and legal knowledge, and may become more confident. After testifying several times, one survivor remarked that 'I am almost a lawyer by now'.

One concern was that testifying to the same crime in several courts could contribute to the trials taking longer: As the trials are extended in time due to the amount of testimonies, some expressed concern that the defendants can remain unpunished as long as the trials go on and there are no sentences.

The responsibility of testifying in court

The testimonies of survivors are central in these trials. Survivors have often witnessed some of the crimes that are tried in court, and may recognise one or more of the accused as those responsible for detention, torture or ill treatment that they themselves or others have been subjected to. One survivor described the responsibilities that this entailed:

Once I have said whatever little I know, it doesn't matter if I die or not. I think I have lived for this. […] I've always known that I could not forget, I had no right to forget (woman, survivor)

Many survivors describe a feeling of moral obligation to testify, an obligation to those who did not survive. One of the survivors explained that:

You do not testify on behalf of yourself. You speak for those who were with you (woman, survivor)

This is a point that many of the witnesses addressed in the interviews: Those who survived have a responsibility to maintain the memory of those who were killed or remain disappeared. Several survivors described testifying as a way of elevating to the judicial sphere the memory of those who did not survive, and

thereby contributing to achieving justice for them through the court trials.

In addition, testimonies in court contribute to establishing and confirming truths about the crimes committed by the last military regime, about what happened to individuals as well as about the repression. In the trials, those accused contributed with little information about the fate of those who were forcefully disappeared. Thus, survivors may be the only persons who could contribute with information about what happened to persons who remain forcefully disappeared. They contributed to confirming that the enforced disappearances did take place, and that the use of enforced disappearances was similar all over the country.

Witnesses testified on behalf of those who did not survive. For the disappeared who were politically active, recalling their activism implied that they could be remembered not only as victims of serious violations of human rights, but also as active persons who were targeted because of their beliefs and activities.

Testimonies can contribute to convictions, and they can contribute to giving or confirming information about individuals who remain forcefully disappeared. Some survivors recognised faces, or voices, or they had other information that could help to identify those responsible and could give specific information about individual perpetrators. This placed pressure on the survivor-witnesses to get the details right. Remembering the details may be even more difficult in the context of a court hearing, with the defendants present, and the lawyers and judges asking questions. Many of the interviewees described a feeling of having forgotten something important after the testimony. Some felt guilt related to not having given a testimony that was 'good enough', or to forgetting some information. A good testimony should serve to perpetuate the memory of those who remain forcefully disappeared: To testify about what happened is mainly about preserving the memory of those who remain disappeared and yield them some justice.

Discussion

Herman (2003, 2005) describes five aspects of trials that represent challenges for victim-witnesses: 1) witnesses have to endure public challenge to their credibility; 2) they are submitted to a complex set of rules and procedures in court; 3) they often have to answer questions that do not give them the possibility to construct a coherent and meaningful narrative, 4) courts require victims to re-live traumatic experiences by directly confronting the perpetrator, and 5) they may fear for their safety.

In trials related to past serious human rights violations, victims are publicly challenged as to their credibility in court (Herman 2003, 2005), by the questions posed by the lawyers of the defendants. As Walling (2018) notes, the veracity of testimonies are often challenged during cross-examination. Those interviewed emphasised the importance of giving a *good testimony*, a testimony that complied with the court's need for facts, dates, and locations (see Walling 2018:387) and which could contribute to collective memory and to get a conviction of those responsible. Several interviewees gave what they refer to as *political testimonies*, with a political interpretation of the enforced disappearances. Such testimonies could depict them as persons with agency, defined by more than their status as a victim, and contributed to describing the violence as a deliberate attempt at ending the victims' involvement in political activities rather than as irrational acts of senseless brutality (Snodgrass Godoy, 2018).

Confrontations with perpetrators are an important challenge in trials (Herman 2003, 2005). Witnesses are prepared to see the defendants in court, within the formal limits

of the court hearings. Seeing the defendant in court is described as being distressing, although some also express content at seeing them on trial for their crimes. Encounters with perpetrators outside of the formal frames of the court are described as being more distressing and is not something that witnesses are prepared for.

Many of the witnesses mentioned fear and concerns about their security. Most stated that they were not afraid, yet take precautions and we aware both of the disappearance of a key witness in an earlier trial and of threats received by others.

In addition to the aspects described by Herman and the discomforts and waiting related to testifying, two topics were particularly salient in the interviews: Experiences with testifying in several trials, and the emphasis on the responsibility towards society at large and towards those who remain forcefully disappeared.

Most of the interviewees had testified in several trials after 2005. They gained experience and legal knowledge. While some said that experience made them more secure about testifying in court, Edelman (2010) suggests that testifying can become increasingly re-traumatising over time. Testifying to the same events on several occasions is time-consuming, and several of the interviewees described the distress that they and other witnesses felt at having to testify on numerous occasions. There was also the concern that so many witnesses testifying to the same event on many occasions might make trials longer, which the defendants might benefit from as it would take more time before they were convicted.

To testify was described as an obligation towards those who remain disappeared, to get them some justice, and to remember them. To testify was also regarded as a responsibility towards society at large, so that these crimes will not be forgotten – and never repeated (see also Arnoso et al., 2012; Arnoso Martinez et al., 2017). Each testimony would contribute to confirming that the enforced disappearances, detentions, and the use of torture were systematic and formed essential parts of the policies of the military regime in Argentina, as Mariana Lagos (2010) also notes in her text about witnesses in the trials.

There is an assumption in some of the literature that testifying can be good or healing for victims, that telling the truth is restorative (Minow, 1998). This aspect was rarely mentioned when interviewees spoke of their experiences in court: testifying seems to be understood not as something that one does for oneself, but as something that was mainly a part of the struggle for truth and justice, for those who remain disappeared, and for society as a whole – for it never to happen again.

Conclusion

The efforts of survivors and relatives of persons who remain forcefully disappeared have been crucial in getting these cases tried in court in Argentina. Still, to testify in court in cases of enforced disappearances and torture involved both hardships and challenges for survivors-witnesses. Some had to do with confronting the defendants, and with encountering fears and threats. However, testifying in court was described as meaningful and important: Testimonies confirm that the crimes were intentional and systematic, and to testify is a way of claiming and contributing to justice for those who remain disappeared.

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Enabling a transformative dialogue in cases of enforced disappearances: voices of the families of the missing in the Monitoring Compliance with Judgments stage of the Inter-American Court of Human Rights

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Key points of interest

- Disappearance has social, political and cultural connotations that impact on the social fabric of communities and on families of victims. In this sense, in the course of the search process, families build social and political networks that transform their passive role as victims into active agents that use their presence in hearings before the Court to stress their claims and needs.

Keywords: Reparations, Victims, Inter-American Court of Human Rights, Enforced Disappearance.

Introduction

This research, through the analysis of the case-law of the Inter-American Court of Human Rights (IACtHR), seeks to shed light on the nexus between families of the missing' claims, their agency and State compliance with reparations. The IACtHR has a unique follow-up system in the area of reparations, where victims can directly address the judges during hearings. This paper suggests that victims' participation — before and after the judgment— pervades the legal rigidity of international jurisdictions and contributes to a better understanding of reparations.

Methodology

The aim of this article is to analyse the importance of the participation of victims of enforced disappearance in the stage of supervision of compliance with judgments before the IACtHR. To this end, a desk review was conducted on legal sources (jurisprudence, rules of procedure of several international jurisdictions, treaties and national laws), and relevant doctrine.

Additionally, the information used to compile the list of cases of enforced disappearance listed in Table 1 was obtained through the database of the Inter-American Court, filtering the jurisprudence under the theme of "enforced disappearance". This first search provided the number of cases, (manually separated from Court orders related to provisional measures on cases before the Inter-American Commission of Human Rights, hereinafter IACmHR). Afterwards, the number of implemented or pending reparations in each of these cases was manually identified in the "Compliance with Judgment" section of the Court website.

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Table 1: Judgments of the IACtHR concerning enforced disappearances.

Case	Country	Year	Monitoring with Compliance Resolutions	Reparations	
				Implemented	Pending or partially implemented
Godínez Cruz v. Honduras	Honduras	1989	1	1	0
Velásquez Rodríguez v. Honduras*	Honduras	1989	1	1	0
Caballero Delgado and Santana v. Colombia*	Colombia	1997	7	2	2
Castillo Páez v. Perú*	Perú	1998	7	3	1
Bámaca Velásquez v. Guatemala	Guatemala	1999	10	4	3
Blake v. Guatemala*	Guatemala	1999	5	1	1
Cesti Hurtado v. Perú*	Perú	2001	7	0	6
Trujillo Oroza v. Bolivia*	Bolivia	2002	5	7	2
19 Merchants v. Colombia	Colombia	2004	7	5	8
Molina Theissen v. Guatemala	Guatemala	2004	9	6	4
Gómez Palomino v. Perú	Perú	2005	6	2	7
Blanco Romero and others v. Venezuela	Venezuela	2005	1	0	10
Goiburú and others v. Paraguay	Paraguay	2006	5	6	5
La Cantuta v. Perú	Perú	2006	2	2	8
Cantoral Huamaní and García Santa Cruz v. Perú	Perú	2007	6	0	7
Ticona Estrada and others v. Bolivia	Bolivia	2008	2	3	4
Tiu Tojín v. Guatemala	Guatemala	2008	2	3	2
Heliodoro Portugal v. Panamá	Panamá	2008	4	7	2

*Year of the judgment on reparations; decision on the merits is registered in separate judgment.

Case	Country	Year	Monitoring with Compliance Resolutions	Reparations	
				Implemented	Pending or partially implemented
González and others (Campo Algodonero) v. México	México	2009	1	8	6
Radilla Pacheco v. México	México	2009	5	5	5
Anzualdo Castro v. Perú	Perú	2009	2	1	9
Ibsen Cárdenas e Ibsen Peña v. Bolivia	Bolivia	2010	1	3	5
Gomes Lund and others (Guerrilha do Araguaia) v. Brasil	Brasil	2010	1	2	9
Chitay Nech and others v. Guatemala	Guatemala	2010	3	3	4
Torres Millacura and others v. Argentina	Argentina	2011	2	1	4
Contreras and others v. El Salvador	El Salvador	2011	2	6	7
Gelman v. Uruguay	Uruguay	2011	2	4	7
González Medina and family v. Dominican Republic	Dominican Republic	2012	1	0	9
García and family v. Guatemala	Guatemala	2012	1	2	9
Gudiel Álvarez and others (Diario Militar) v. Guatemala	Guatemala	2012	2	1	7
Río Negro Massacre v. Guatemala	Guatemala	2012	4	2	9
Afro-descendant Communities displaced from the Cacarica River Basin (Operation Genesis) v. Colombia	Colombia	2013	1	1	7
Osorio Rivera and family v. Perú	Perú	2013	3	4	6

Case	Country	Year	Monitoring with Compliance Resolutions	Reparations	
				Implemented	Pending or partially implemented
Rodríguez Vera et al. (The Disappeared from the Palace of Justice) v. Colombia	Colombia	2014	1	0	8
Rochac Hernández and others v. El Salvador	El Salvador	2014	2	5	7
Peasant Community of Santa Barbara v. Perú	Perú	2015	1	1	6
Tenorio Roca and others v. Perú	Perú	2016	3	4	5
Hacienda Brasil Verde Workers v. Brasil	Brasil	2017	1	2	3
Vereda La Esperanza v. Colombia	Colombia	2017	1	2	7
Vásquez Durand and others v. Ecuador	Ecuador	2017	0	1	5
Gutiérrez Hernández and others v. Guatemala	Guatemala	2017	1	1	2
Isaza Uribe and others v. Colombia	Colombia	2018	1	1	7
Alvarado Espinoza and others v. México	México	2018	0	1	11
Terrones Silva and others v. Perú	Perú	2018	1	1	8
Munárriz Escobar and others v. Perú	Perú	2018	3	3	4
Gómez Virula and others v. Guatemala	Guatemala	2019	0	0	4
TOTAL	46		133	118	252

Own elaboration. Source: IACtHR Library. Available at https://biblioteca.corteidh.or.cr/

Results

Victims

A petition to regional or international human rights jurisdictions is the last opportunity for victims — in many cases, after decades of litigation— to find redress for mass human rights violations.

Therefore, it is essential for them to have a protagonist role in the proceedings, as the opportunity to express themselves about the suffering they experienced is itself a contribution to the recovery of their dignity (Minow, 2009, p. 93). Moreover, families of the missing can bring to the attention of judges details of a context that they are unaware of: what victims highlight as relevant while describing their stories, which aspects of the disappearance are not being addressed by courts, what justice is for them and what they need to obtain redress.

Although human rights jurisdictions generally argue that they implement a "victim-centered approach", many victims only participate through their legal representatives. As established by Nagy, "(t)here is a privileging of legal responses which are at times detrimentally abstracted from lived realities" (Nagy, 2008, p. 276). Moreover, depending on each case, victims' needs differ, change, and what they need to feel redressed can vary significantly depending on each context.

Victims of massive human rights violations have articulated different litigation strategies to obtain justice and reparations before different international forums when national authorities have failed to respond effectively to their needs and claims. As indicated by Jacqmin, "(t)he struggles for the legalization of victims' claims often recurs to the narrative of human rights to achieve through the legal discourse what could not be gained through political debate" (Jacqmin 2017, page 1253).

Robins claims that legalism serves to interpret "thick issues", deeply rooted in the history and culture of a context, into "thin legal" concepts (Robins 2013, page 159). While the universality of human rights succeeds in bringing victims' claims into a neutral legal domain, in contrast, it encounters difficulties to address human rights embedded in unique social and political contexts (Jacqmin 2017, page 1254). Nonetheless, the experience of the IACtHR has evidenced that comprehensive interpretations in terms of legal rights serve to incorporate unique contextualised needs.

The Inter-American Court of Human Rights

The IACtHR examines cases that are submitted by the IACmHR, which in turn assesses whether a case should move to the contentious phase if there is no agreement on a friendly settlement between the State and the applicants or if the State has failed to comply with the provisions of such agreement.[1]

The institutional authority of both, the Court and the Commission, is such that their decisions and reports respectively, are taken into account by the highest courts in the region, prosecutors, political parties, legislative bodies and civil society organisations (Cavallaro & O'Connell, 2020, p. 58).

Within the contentious phase, victims did not always enjoy the possibility of being part of the adversarial process in the Inter-American system. It is indeed since the entry into force of the Court's Fourth Rules of Procedure in June 2001 that individuals have had the opportunity to stand as autonomous parties with full legal capacity before the Court (Cançado Trindade, 2005, p. 33).

1 IACmHR, Rules of Procedure of the Inter-American Commission on Human Rights, 28 November 2009, art. 44.3 and 45.

A key element in the Inter-American system are hearing sessions. At this stage of the process victims can address judges directly. By doing so, they put in words their experiences of trauma, grief, anger, sadness and helplessness (Karstedt 2016, page 50). The emotional content of the victims' testimonies during the hearings before the Court produces emotional responses from the audience, the representatives of the parties and even the judges (Karstedt 2016, page 50).

With this regard, hearings are crucial in cases of enforced disappearances. They illustrate the role of corporeality as power: disappearance not only implies the use of bodies as manifestations of the power of repressive structures (biopower). Families themselves use their own bodies as a mechanism of claim (biolegitimacy) (Ruiz-Estramil, 2020, p. 63). The presence of family members at the hearings is one of the very best demonstrations of this biolegitimacy: people literally position their bodies to underline the presence of those who cannot physically be there.

Families of victims of enforced disappearance are themselves victims. This has been established in the jurisprudence of the IACtHR.[2]

Family members need not only psychological support, but also other remedies to alleviate the pain they have experienced. Among these measures, one of the most urgent ones is the search for the remains of their loved ones, as well as the restoration of the public image of their loved ones. Regarding this last reparation, we can find the creation of projects related to the social causes that victims supported, the public recognition of the facts, the construction of monuments, among others.

Victims' needs at the Monitoring Compliance with Judgments stage

Judgments may include reparation orders, which are designed to restore the right injured or compensate for the harm suffered by the victims. Reparations are regulated in article 63 of the American Convention on Human Rights (ACHR) and the fulfillment of these reparations are addressed by international jurisdictions in a posterior phase to the judgment: the monitoring with judgment stage.[3]

In the Inter-American system, the monitoring process is based on the periodic submission of reports by the State and the representatives of victims concerning progress in the implementation of reparations. The Court can request the IACmHR to present its own observation. In this stage, the Court might require information from third parties and conduct hearings. Once the Court has gathered information from the parties, it passes a decision regarding the state of compliance.[4]

Notably, the IACtHR sometimes conducts visits to States to monitor the stage of compliance of the contentious case. In the context of the El Mozote case, the Court conducted a visit to El Salvador in 2018 to assess compliance with the reparations ordered in the judgment (Alessandri, 2020, p. 4). A private hearing was held during the visit so that victims could express their main concerns about the implementation of the decision.[5]

2 IACtHR, Case 19 Merchants Vs. Colombia. Merits, Reparations and Costs. Judgment, 5 July 2004. Serie C No. 109, §§210, 212; IACtHR, Case Gómez Palomino Vs. Perú. Merits, Reparations and Costs. Judgment, 22 November 2005. Serie C No. 136, §61.

3 American Convention on Human Rights, 22 November 1969, entry into force 18 July 1978, Art. 63.

4 IACtHR, 'Rules of Procedure of the Inter-American Court of Human Rights', approved by the Court on 30 June 1980 and last modified on 28 November 2009, Art. 69(3) and 69(4).

5 IACtHR, Massacres of El Mozote and

Currently, the IACtHR is monitoring compliance in 222 cases.[6] Many of these proceedings have been open for more than twenty years. Although most of the States do not comply with every reparation ordered by the Court, the implementation of many of these measures have had a profound impact on local courts and national legislative bodies. The actions that the State undertakes in virtue of that judgment produce root changes at the local level, particularly in terms of internalisation of international standards by local courts (Huneeus, 2011, p. 505).

Nonetheless, States often resist the implementation of reparations, specially those that affect national policies and promote structural changes (Bell, Campbell, & Aoláin, 2004, p. 308). For instance, in April 2019, the governments of Chile, Argentina, Colombia, Paraguay and Brazil sent a communication to the Executive Secretary of the IACmHR to raise their concerns about the broad scope of the reparations awarded in contentious cases, highlighting at the same time the subsidiary nature of the Inter-American system (Chilean Ministry of Foreign Affairs, 2019). The communication requested the IACHmR to respect the margin of appreciation that States enjoy concerning measures to guarantee and promote human rights. Furthermore, these States expressed that the Court should take into consideration the principle of proportionality in relation to the extent of the reparations and the respect to the national constitutional order (Chilean Ministry of Foreign Affairs, 2019).

To illustrate the importance of the participation of victims in the monitoring stage of the Court, the following section will address hearings in the Monitoring with Compliance stage of the Molina Theissen case.

A case study on the Monitoring with compliance stage: Molina Theissen v. Guatemala

The case refers to the illegal detention and enforced disappearance of Marco Antonio Molina Theissen in 1981 in the city of Guatemala, in the context of an authoritarian regime and civil war. His sister Emma was part of the Patriotic Labor Youth group ("Juventud Patriótica del Trabajo"), an organisation linked to the Guatemalan Labor Party (PGT).[7] On September 27, 1981 she was illegally detained by the Armed Forces and remained for nine days in a military facility in Quetzaltenango.[8] She was subjected to physical and psychological torture. By the ninth day, she was so thin she managed to release herself from her handcuffs and escaped.[9] The next day, October 6, 1981 two persons carrying automatic weapons arrived at Molina Theissen's home, searched the house and kidnapped the youngest of the Molina Theissen siblings, Marco Antonio, who was fourteen years old.[10] The boy's fate remains unknown. The detention and subsequently enforced disappearance of Marco Antonio were perpetrated by the Armed Forces, allegedly in revenge for Emma's escape.[11]

In this period, enforced disappearance was a common practice by security forces, justi-

surrounding areas v. El Salvador. Compliance with judgment order, 18 November 2018, §§5-6.

6 IACtHR, Cases at the Monitoring Compliance with Judgment Stage, available at https://www.corteidh.or.cr/casos_en_supervision_por_pais.cfm?lang=en

7 IACtHR, Case of Molina Theissen v. Guatemala. Merits. Judgment of May 4, 2004. Series C No. 106, §40(9)(iv).

8 Ibid.

9 Ibid.

10 Ibid, §§40(10)-40(11).

11 Ibid, §40(12).

fied by the government as a necessary measure to fight "insurgent" individuals.[12] Under the "National Security Doctrine" anyone who dared to question the government was targeted as a "subversive person".[13]

During the proceedings before the IACtHR, the State recognised its responsibility and acknowledged the facts. Consequently, the Court found Guatemala internationally responsible for the violation of article 4 (the right to life), article 5.1 and 5.2 (right to humane treatment), article 7 (right to personal liberty), article 8 (right to a fair trial), article 17 (right to family), article 19 (rights of the child) and article 25 (judicial protection) in connection to articles 1.1 (obligation to respect rights) and article 2 (domestic legal effects) of the American Convention on Human Rights, and articles I and II of the Inter-American Convention of Enforced Disappearances of persons in relation to the detention and enforced disappearance of Marco Antonio. The Court also found the State responsible of the violation of article 5.1 and 5.2 (the right to humane treatment), article 8 (right to fair trial), article 17 (right to family) and article 25 (judicial protection) in connection to articles 1.1 and 2 of the ACHR in relation to Marco Antonio´s family: her sisters Emma, María Eugenia and Ana Lucrecia and her mother Emma Theissen Alvarez De Molina.[14]

The judgment on reparations was issued in 2004.[15] Since then, progress concerning compliance by the Guatemalan State has been slow but constant, largely due to the tireless work of victims and human rights organisations, both locally and regionally.

By the time that the first compliance with judgment resolution was issued in 2007, the State had fulfilled its obligations regarding reparations on monetary compensation (2004), a public act recognizing the violations determined in the judgment (2006) and the naming of a school as "Martyr Marco Antonio Molina Theissen", where a commemorative plaque was placed (2006).[16] The Court requested the State to submit regular reports concerning the implementation of the rest of the reparations. Two years later, the reparation regarding the publication of part of the judgment was considered fulfilled.[17]

It is worth mentioning that, while considering the overall jurisprudence of the Court, reparations on compensations and formal apologies are the most implemented ones, whereas measures related to structural issues or individual prosecutions remain largely unobserved. In the cases of enforced disappearance, measures related to finding the remains of those missing are largely ignored by governments. A study conducted in 2019 revealed that rates of State compliance with measures such as monetary compensation, publication of judgments and acts of acknowledgment were between 63% and 80%, while structural and far-reaching reparations, such as prosecutions or changes to legislation presented rates of compliance between 3% and 31% (Pérez Liñán, Schenoni, & Morrison, 2019, p. 17). These types of measures implies higher levels of political commitment and resources.

12 Ibid., §40(1).
13 Ibid., §40(2).
14 Ibid., §43–44.
15 IACtHR, Case of Molina Theissen v. Guatemala. Reparations and Costs. Judgment of July 3, 2004. Series C No. 108, §106.
16 IACtHR, Case of Molina Theissen v. Guatemala. Compliance with judgment order, 10 July 2007, November 2018, §§5-7, 15.
17 IACtHR, Case of Molina Theissen v. Guatemala. Compliance with judgment order, 16 November 2009, operative paragraph 1.

The importance of localizing Marco Antonio´s remains is essential for the family to mourn their loss. In this regard, Ana Lucrecia Molina Theissen stated: "I am going to dedicate the rest of my life to find my brother and to tell what happened."[18]

The four measures that the State has not comply with are structural: (i) finding Marco Antonio´s remains, (ii) the creation of an institute for the safeguarding of genetic information pursuant to find missing persons, (iii) the investigation of the facts in order to identify, try and punish those responsible of the enforced disappearance and (iv) to enact legislation to search persons who are presumed dead as a consequence of enforced disappearance.

In its resolution of November 24, 2015, the Court established that:

> *(…) it should be noted that, although the facts of this case began 34 years ago and the Court's sentence was issued eleven years ago, the criminal proceedings are still in the investigation stage and the whereabouts of Marco Antonio Molina Theissen and the location and identification of his remains continue to be unknown.*[19]

Disappearance makes the social, political and cultural fabric more complex and at the same time creates new dynamics. The existence of the disappeared is possible through those who demand his or her return. In this way, the disappeared exists as long as someone is looking for them (Irazuzta, 2020, p. 96).

After years of perseverance by the Molina Theissen family and human rights organisations, on March 2017 a criminal trial was initiated against Francisco Gordillo, Edilberto Letona, Hugo Zaldaña, Manuel Callejas and Benedicto Lucas García, the five former high ranked military officers accused of the enforced disappearance of Marco Antonio (elPeriodico, 2017). This was a historical trial, as it was the first time that highly ranked commanders — persons with powerful political and economic influence— were tried for having committed international crimes by the Guatemalan Justice System. It was a long process and the Molina Theissen family suffered countless situations of harassment and de-legitimization strategies carried out by conservative sectors of the society and the political elite. The judgment was passed in May 2018.[20] Except for Edilberto Letona, the accused were found guilty of crimes against humanity for the illegal detention and torture of Emma Guadalupe Molina Theissen and the illegal detention and enforced disappearance of Marco Antonio Molina Theissen.

They were sentenced to 20 and 25 years of imprisonment, respectively. In its 1075 judgment, the Court analysed the facts and the law taking into consideration international legal standards and the jurisprudence of the IACtHR.[21]

As the accused have appealed the case, the reparation related to investigation and prose-

18 IACtHR, Case of Molina Theissen v. Guatemala. Submission of requests, arguments and evidence submitted by the Representatives of the Alleged Victims, p. 81 (author´s translation).

19 IACtHR, Case of the Members of the Village of Chichupac and Neighboring Communities in the Municipality of Rabinal, Case of Molina Theissen and 12 other cases against Guatemala. Compliance with judgment order, 12 March 2019, §88 (personal translation).

20 First Court of Criminal Sentencing, Drug Trafficking and Crimes against the Environment of High Risk Group "C", Judgment C-01077-1998-00002, §1067–1068.

21 Ibid., §§257, 265, 1060.

cution is still considered as partially fulfilled by the IACtHR.[22]

On January 25, 2018 a legislative initiative was presented to the Plenary of the Congress to reform the National Reconciliation Law from 1996, created in the context of the Peace Agreement process in the aftermath of the civil war.[23] The reform —called Initiative 5377— pretends to grant broad amnesties to those who committed crimes against humanity, war crimes and genocide.[24]

One of the most worrying details of the proposed bill was that article 5 established that every person that was currently detained or imprisoned because of crimes committed in the context of the civil war (as in the Molina Theissen case) had to be released within 24 hours after the bill was approved by the Congress. Furthermore, every ongoing investigation had to be immediately closed and archived. If public servants as well as prison guards did not comply with the law within this period of time, they "[would] be prosecuted for incur malicious delay, denial of justice and illegal detention."[25]

The Guatemalan Congress is unicameral. A legislative process requires a bill to be discussed and approved in three debates. Once the draft is approved after the third debate, the law is passed.[26]

The proposal was approved in the first debate on 17 January 2019 and in the second debate on 6 March 2019.[27] The rapid discussion and approvals of the project caused severe concern among families of victims of the armed conflict as well as national and international human rights organisations. There was a tangible possibility that impunity for those responsible for serious human rights violations would be guaranteed by law.

In this dramatic context, the Molina Theissen family requested an urgent public hearing to the IACtHR in the supervision of compliance stage of the case. In a race against time, the Court scheduled a public hearing on Monday, March 11, 2019, just two days before the third and final debate was scheduled by the Guatemalan congress (Congress of Guatemala, Department of Legislative Information, 2019). The Court summoned the victims, representatives of the State as well as agents of the IACmHR.

The implications of the possible approval of the Initiative were worrisome. The Molina Theissen family was deeply concerned that the justice they finally obtained at the national level less than a year ago was going to vanish as the convicted persons were going to be released. Furthermore, they felt anguish as this could also impact negatively on the current investigation to find the location of Marco Antonio´s remains.

With these priorities in mind, the representatives of the victims agreed that the main part of their exposition during the hearing should be carried out by the victims themselves. Consequently, the judges listened to Marco Antonio´s mother and his three sisters. Ana Lucrecia Molina Theissen stated:

22 IACtHR, Case of Molina Theissen v. Guatemala. Compliance with judgment order, 16 November 2009, operative paragraph 1(2).

23 Congress of Guatemala, "Bill to reform the decree number 145-96, 'National Reconciliation Law'", Initiative 5377.

24 Ibid., art. 3.

25 Ibid., art. 5.

26 Political Constitution of the Republic of Guatemala, Legislative Agreement 18-93, Art. 176.

27 Congress of Guatemala, 'Legislative consultation, status of bills.', available at https://www.congreso.gob.gt/

> *I have been immersed in an endless, tortured grief, (…). Accepting his death without death, without seeing his body to prove it (…). After repeated demands to the State to comply with the reparations ordered by this honorable Court (…), we achieved the conviction of four former highly-ranked military officers (…) The current draft bill constitutes an additional offense for Marco Antonio, Emma, my family and the tens of thousands of victims of State terrorism.*[28]

With this regard, the representatives of the victims requested the Court to order the Guatemalan State to develop a search program to find the victim's mortal remains.[29] After listening to the victims and their representatives, one of the judges addressed the IACmHR and the victims and asked "how can we contribute to the safety of victims while working to obtain State compliance in this case?"[30] This kind of interaction during the hearing illustrates the dynamic nature of this stage of the proceedings: there is a fluid dialogue between representatives of the IACmHR, victims, their representatives and the judges themselves to prevent State decisions that might affect the rights of the victims and the fulfillment of the reparations ordered.

In addition, one of the judges addressed the representative of the Guatemalan State in order to obtain information regarding the immediate effects of the law, if approved, on people already convicted for mass crimes. The Guatemalan diplomat could not deny the impact of the law if approved and avoided answering directly to this question.[31]

The coordinated actions between different human rights institutions and civil society to prevent State policies detrimental for victims of mass human rights violations involved regional and international actors. On the same day that this hearing was taking place, the UN Special Rapporteur on Truth, Justice, Reparations and Guarantees of Non-Recurrence and other UN Special Rapporteurs issued a press release in which he stated that:

> *The approval of these reforms would seriously affect victims' rights to justice, truth, reparation and guarantees of non-repetition. It could also lead to reprisals and attacks against victims, judges, prosecutors, lawyers, plaintiffs, witnesses, experts and others involved in human rights trials, putting their own safety and that of their families at risk* (OHCHR, 2019).

Notably, and for the first time in its history, the IACtHR issued a Compliance with Judgment order in less than 24 hours (including thirteen other Guatemalan cases that would be also affected by the law). It requested the State to "interrupt the legislative process of bill 5377" and to archive it.[32] Moreover, it established that:

> *The Court considers that the requirement of extreme gravity is met as the approval of this law would have a negative and ir-*

28 IACtHR, Case Molina Theissen v. Guatemala. Public Hearing on Supervision of Compliance with Judgment. 11 March 2019, Testimony of Ana Lucrecia Molina Theissen. Min. 00:19:10 (personal translation).

29 Ibid., Min. 33.20 (personal translation).

30 Ibid., Min. 1.31.00.

31 Ibid., Min. 1:55:30. The representative of the State stated "I can't speculate on a law that hasn't been approved".

32 IACtHR, Case of the Members of the Village of Chichupac and Neighboring Communities in the Municipality of Rabinal, Case of Molina Theissen and 12 other cases against Guatemala, 12 March 2019, operative paragraph 2.

reparable impact on the right to access justice for the victims of the 14 cases in which this international tribunal has issued Judgments concerning serious violations committed or alleged to have occurred in the internal armed conflict.[33]

The morning after, the Guatemalan Congress had scheduled the third and final debate needed to approve the Initiative 5377. At the Congress entrance, members of human rights organisations distributed copies of the IACtHR resolution to all the deputies so that they would be aware that the international community was strictly monitoring the legislative session of that day. The bill was not discussed that day or any other until today. The third remaining debate and vote for its approval is not part of the agenda of the Guatemalan Congress so far.

Apart from this resolution, the Court issued a second one on the Molina Theissen case, where the reparation regarding the location of the remains of Marco Antonio was addressed. It stressed the importance of recovering the victims' remains in cases of enforced disappearances:

The Court emphasizes the importance of the fulfillment of this measure since it provides moral satisfaction to the victims and is indispensable in the mourning process. In the present case, Marco Antonio´s mother and sisters have expected information on their whereabouts for over 37 years.[34]

It quoted parts of the testimonies given by the victims during the hearing and requested the Guatemalan State to submit detailed information regarding the search plan to locate his remains.[35]

This case illustrates the undeniable positive effect of the active participation of victims in these types of legal proceedings, specially in public hearings. This feature allows for judges to obtain first hand information concerning victims' needs and the current state of the implementation of reparations. Thus, the testimonies of the Molina Theissen family were crucial to demonstrate the urgent need to find Marco Antonio and to interrupt the legislative process that would grant impunity to those responsible of the crimes. In cases of enforced disappearances, this kind of measure is key so that victims can obtain redress. Lucrecia Molina Theissen wrote:

The silence about our child's whereabouts has not been broken. Marco Antonio is still missing. Our grief is permanent, painfully inconclusive. We will not give up; we will keep looking for him (Molina Theissen, 2020, p. 5).

Discussion and conclusion

The IACtHR practice shows that the active participation of victims in the proceedings, especially in hearings where victims can speak directly to the judges, is one of the most effective mechanisms for translating unique needs into adequate and effective rights and reparations.

The case study as well as other cases within this jurisdiction reveals that the most requested form of reparation by families of victims of enforced disappearance is the recovery of the remains of their loved ones.[36] The

33 Ibid., §36.

34 IACtHR, Case of Molina Theissen v. Guatemala. Compliance with Judgment order, 14 March 2019, §42.

35 Ibid., §44.

36 IACtHR, Case Gelman v Uruguay. Submission of requests, arguments and evidence by the Representatives of the Alleged Victims, 24 April

IACtHR, through the constant evolution of its regulations and practices, is offering more opportunities for victims to express their views. In the end, their very participation itself is a form of recognition.

This being said, reparations have an impact that often transcends the contentious case. The case study demonstrated how the coordinated efforts of the victim's family and of civil society relied on the Court's Monitoring with Judgments hearing to prevent the enactment of a nationwide law that sought to promote impunity in the country.

As Table 1 illustrates, although certain reparations measures were complied with (118), the number of non-implemented remedies remains higher (252). The particularities of enforced disappearance, as the pacts of impunity and silence that remains in many Latin American contexts, result in the fact that the search for disappeared persons continues to be the least implemented reparation.

Although there are major challenges posed by States resisting compliance with reparations, the IACtHR's openness to use comprehensive approaches in cases of enforced disappearances, allows victims and human rights organisations to articulate national and international responses to this type of crime and beyond. As it was stated by certain families of the disappeared, their suffering does not end once a judgment is delivered. Monitoring with Compliance stage is a second phase of a continuous struggle. Without the remains, death is still present; hearings represent an opportunity to provide physical presence to those disappearance.

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The Importance of the "Right to the Truth" in El-Masri case: lessons learned from the extraordinary rendition

Vesna Stefanovska[1]

Key points of interest

- Extraordinary rendition is a human rights violation combining elements of arbitrary arrest, enforced disappearance, forcible transfer and is contrary to extradition as a legal procedure.
- The right to the truth is a right for the victim and the public to know about the abuses committed by the Government in the field of national security.
- Even in the most difficult circumstances such as the fight against terrorism and organised crime, the ECtHR prohibits in absolute terms torture and inhuman or degrading treatment.

Abstract:

Introduction: Cases in which states resorted to extraterritorial transfers that led to enforced disappearances with participation and support of other states are emerging. The UN Working Group on Enforced or Involuntary Disappearances published its latest Report in August 2021 noting 651 new cases of enforced disappearances in just one year. Although El-Masri is not a new case, it is of particular interest due to combination of several forms of secret detention and enforced disappearance and it is the first documented case of CIA extraordinary rendition program that amounted to torture.

Method: The data that informed this paper consisted of books; articles as well as the interviews conducted with Margarita Tsatsa Nikolovska – former judge in the European Court of Human Rights and Aleksandar Bozinovski, the journalist who discovered the extraordinary rendition of Khaled El-Masri. Some of the sources were found using the Cambridge University Press database and Google Scholar, while the main aspects of the case were gathered from the HUDOC database, UN documents and reports on enforced disappearances, Dick Marty Report; Claudio Fava Report and Expert Opinion by Eric Swanidze.

Results/Discussion: Having in mind the WGEID Report, it is more than clear that the *modus operandi* in many states worldwide regarding the disappeared persons is contrary to international human rights law. Lessons learned from the El-Masri case may point to the fact that CIA rendition program is not quite active in Europe as it was (at least publicly), but enforced disappearances around the

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globe are still present and conducted by many different actors.

Conclusions: This analysis of the El-Masri case offers a valuable insight into the consequences of enforced disappearances. Although ICPPED did not exist in that time, the recent developments elaborated in the WGEID Report emphasize that there is a lack of effective investigation, impunity of national secret agencies in conducting extraterritorial transfers and that there is a need for effective measures and legislation that will sanction these acts.

Keywords: extraordinary rendition, torture, enforced disappearance, right to the truth and national security.

Extraordinary rendition as a form of enforced disappearance in the 'war on terror' and afterwards

Gathering intelligence through extraordinary rendition operations is in conflict with the general international law. Since September 2001 and other recent terrorist attacks in Europe and worldwide gave a 'carte blanche' to the states in the fight against terrorism using all kind of measures in order to achieve the purpose and protect national interests. In this war on terror, many states led by the United States used extraordinary renditions in order to capture and interrogate suspected terrorists. Although different states have different perception and legal traditions in respect of extraordinary rendition operation, so far, they have been oriented to arrest, detain and/or interrogate suspected terrorist for intelligence gathering.

The total number of extraordinary renditions to date remains unclear, there is a wide consensus that the program has accelerated since 11 September 2001 in order to streghten the efforts in the 'war on terror'. In its present form, extraordinary rendition usually involves a person who is not formally charged with any crime by the country conducting the abduction; instead, the person is seized abroad and transported to third country (Weissbrodt and Bergquist, 2006). The term extraordinary rendition became familiar due to the CIA agents who detained alleged terrorists from any part of the world and render them to a black site where they will be subjected to the complete control of US Government. According to Tucker, the detainees are subjected to three phases in the black sites: (a) the first is the initial phase where they are photographed and evaluated; (b) the second is the transition to interrogation phase, where the interrogators try to ascertain the detainees' responsiveness towards the release of information and (c) the third is the full blow interrogation phase, where interrogators employ different kind of techniques to achieve their goals. Detainees are subjected to a variety of physical and mental abuses during this phase, including white noise, sleep deprivation, electric shock treatment, walling, slapping, threats of sexual torture, wall standing and cramped confinement (Tucker, 2014).

In its latest Report, the UN Working Group on Enforced Disappearances (WGEID) transmitted 651 new cases of enforced disappearance to 30 states in just one year while the number of cases under active consideration that have not yet been clarified, closed or discontinued stands at 46,490 in a total of 95 States. Especially worrying are extraterritorial transfers that led to enforced disappearances with the participation and support of other states in order to capture their own nationals as part of counter-terrorism operations (WGEID Report A/HRC/48/57:2021, p.14). Some of the cases were carried out as part of covert extraterritorial operations, including extraordinary renditions where persons were blindfolded, hooded and handcuffed. In several of

the cases examined, the targeted individuals remained forcibly disappeared for a period of between 24 hours and three weeks in secret detention prior deportation. In most of the cases, no effective investigation has been conducted and no one has been held accountable for the reported human rights violations. In response to these allegations, the authorities have either denied that operations took place or maintained that they were necessary legal and proportionate to the need to neutralize imminent threat to national security (ibid, p.18). These enforced disappearances represents flagrant human rights violations and embody a denial of justice insofar as individuals are deprived of liberty in the form of secret detention and are removed from the protection of the law.

The documented cases are only a snapshot of what appears to be the increasingly practice of forcible repatriations or involuntary return by states acting on national security grounds. The *modus operandi* from the El-Masri case can be detected in many other cases where national security agencies used extraterritorial abductions in the name of national security. In 2017, Meral Kaçmaz and Mesut Kaçmaz were allegedly abducted in Pakistan by a group of agents believed to be members of the counter terrorism Department of Pakistan, then detained for 17 days and finally transmitted to Turkey. One year after, suspected members of the Azerbaijani and Turkish intelligence forces abducted Mustafa Ceylan in Azerbaijan. He was tortured and deported to Turkey. In 2020 Redwan AL Hashidi was allegedly arrested by the Yemeni security services and afterwards deported to Egypt. These cases documented by the WGEID are raising concerns that extraterritorial renditions and repatriations are still present with involvement of the security agencies because of their impunity. Measures should be undertaken by states in order to fulfill the conclusions and recommendations, to prevent cases of enforced disappearances and to conduct effective investigation to punish those responsible for these violations.

Undeniably, sovereign states have the exclusive right to use force in order to protect national security. However, the Machiavelli maxim *"the ends justifies the mean"* (from Chapter XVIII of the Prince) does not apply and cannot apply when human rights are at stake. The 'war on terror' hinders the search for truth and ultimately suffocates the effectiveness of the law as the right of tortured victims to redress and remedy cannot be enforced (Anwukah, 2016). The issue of creating a balance between national security and individual human rights and freedoms remains legally impossible, although *de facto* unsolved and controversial. There is no place for compromise when inviolable human rights such as right to life and prohibition of torture are in question, even in the name of national security.

Due to these reasons, extraordinary rendition is a hybrid human rights violation combining elements of arbitrary arrest, enforced disappearance, forcible transfer, torture, denial of access to justice, use of interrogation techniques which in many occasions amount to torture in order to get a confession for participation in terrorist or other acts. The subsequent incommunicado detention and denying the right to an effective remedy are clear proof for violation of fundamental rights. Combining these elements, it is undoubtedly clear that extraordinary rendition diminishes the legal effects of extradition as a procedure for transferring a fugitive or accused person to a third country in order to stand trial or serve a prison sentence for committed crime. Moreover, the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) in its Article 3 states that every enforced disappearance contains at least three elements: (1) privation of freedom;

(2) participation of the State and (3) refusal by the authorities to provide information on the whereabouts and fate of the missing person. The case of Khaled El-Masri contains all of these elements and it is a classic form of extraordinary rendition as enforced disappearance and a first case where the ECtHR ruled on the US practice of secret forced renditions which amounted to torture and violated human rights guaranteed with the European Convention on Human Rights.

El-Masri's path towards the right to the truth

Prior submitting an application before the ECtHR, El-Masri tried to get justice by initiating procedures in the United States, before the Inter-American Commission on Human Rights and national courts in Macedonia where the extraordinary rendition started as well as acts of torture and deprivation of liberty.

On 6 December 2005, EL-Masri filled a civil case in the US Federal District Court for the Eastern District of Virginia, suing the former Director of the CIA (El-Masri v. Tenet). The Court held that the case threatened the disclosure of relevant state secrets, thus it was dismissed. In April 2008, El-Masri brought proceedings against the US before the Inter-American Commission on Human Rights (IACommHR) which decided that El-Masri has not sufficiently substantiated allegations to permit the Inter-American Commission to determine, for the purposes of the admissibility of the petition, that the facts tend to establish *prima facie* violations of Article VI of the American Declaration (ACommHR Report 2016).

In October 2008, El-Masri lodges a criminal complaint with the Office of the Public Prosecutor in Skopje, Macedonia which was rejected without conducting any independent investigation as well as the civil proceedings for compensation of damage. Due to the fact that these proceedings were dismissed or were refused on several grounds, the only remain remedy for seeking justice and proving violation of the guaranteed human rights was before the ECtHR where El-Masri submitted an application on 21 September 2009.

The ECtHR landmark decision in the El-Masri case

On 13 December 2012 the Grand Chamber delivered its landmark decision in the EL-Masri case declaring violation under Article 3, 5, 8 and 13 ECHR. In the submitted application, El-Masri alleged that in the period from 31 December 2003 to 23 May 2004 he had been subjected to a secret rendition operation in which agents from Macedonia had arrested him, held him incommunicado, questioned and ill-treated him. He was held 23 days in a hotel in Skopje where El-Masri started his first hunger strike. Afterwards they handed him over at Skopje Airport to CIA agents who then transferred him to Afghanistan in a secret interrogation facility called Salt Pit where he had been detained and ill-treated for over four months (ECtHR, 2012:El-Masri v. F.Y.R. Macedonia, § 17-22). The El-Masri pre-flight treatment as Skopje Airport where he was beaten, sodomized and forcibly tranquiled when he was handed over to the CIA agents was described at the CIA protocol so-called "capture shock treatment" (ibid, § 124).

The rendition was based on the determination by officers in the CIA's ALEC Station that "El-Masri known key information that could assist in the capture of other al-Qaida operatives that pose a serious threat of violence or death to US persons and interests and who may be planning terrorist activities". On 16 July 2007, the CIA inspector general issued a Report of investigation on the rendition and detention of Khaled El-Masri, concluding that available intelligence information

did not provide a sufficient basis to render and detain El-Masri and that the Agency's prolonged detention of El-Masri was unjustified (Senate Select Committee Report 2014). When it was established that El-Masri has no relevant information and is not the person of interest for the CIA, they left him in Albania near the border with Macedonia.

Many international inquires related to El-Masri proved without reasonable doubt that El-Masri was subject of an extraordinary rendition operation conducted by the CIA agents with assistance of the Macedonian authorities. The 2006 Marty Report emphasized that the Macedonian Government did not provide explanation for the El-Masri treatment nor it proved that there was an exit stamp on his passport which could serve as an evidence that he has left Macedonia as the authorities claimed thus concluding that the case was a "case of documented rendition" (Marty Report § 3.1.2). Moreover, the Fava Inquiry established that there were identified at least 1.245 flights operated by the CIA in European space between the end of 2001 and 2005 (Fava Inquiry, 2006). The UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms was deeply troubled that the United States has created a comprehensive system of extraordinary renditions, prolonged and secret detention that violates the prohibition against torture (UN Special Rapporteur 2009)

In elaborating the violation committed upon El-Masri, the Court emphasized that Article 3 does not refer only to physical force, but also to mental suffering which creates situation of fear and stress. Despite the fact that El-Masri was subjected to torture in Macedonia and afterwards in Afghanistan, the Council of Europe Report by the Secretary General established that El-Masri had a post-traumatic stress disorder and depression most likely caused by his experience of capture and extensive maltreatment and abuse (CoE Report 2006, § 36). In addition, the most important segments of the Court's judgment reflect to: (a) lack of effective investigation by Macedonian authorities and the right to the truth which points to the possibility of abuse of the concept of state secret privilege when systematic politics and secret prisons are in stake; (b) responsibility about detention; (c) lack of requesting diplomatic assurances that El-Masri would endure no ill-treatment; (d) no legitimate request for extradition by CIA agents; (e) interference with the right to private and family life and (f) denial of the right to an effective remedy.

Establishing torture 'beyond reasonable doubt'

The obligation to prevent torture has been interpreted as a positive requirement that States exercise due diligence and thereby protect persons within their jurisdiction from acts causing severe pain and suffering. In El-Masri case, the ECtHR determined that a state is obliged to take measures to ensure that individuals within its jurisdiction are not tortured and must take measures to prevent a risk of ill-treatment about which it knew or should have known (Redress, 2016). Actually, Article 1 ECHR prescribes that the High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention. This provision emphasizes the positive and negative obligations upon states, meaning that the states are obliged to secure to everyone the right and freedom guaranteed with the ECHR and in the same time to refrain to any possible violations upon them.

When determining torture in the El-Masri case, the ECtHR unequivocally affirmed that Article 3 ECHR enshrines one of the most fundamental values of democratic societies, which

cannot be subject to exceptions or derogations even in the event of a public emergency threatening the life of the nation, including the fight against terrorism. This clear statement of the Court also meant that the Court prohibits in absolute term torture and inhuman or degrading treatment irrespective of the conduct of the person concerned (ECtHR, 2012:El-Masri v. F.Y.R. Macedonia, § 195). Having in mind the nature of the case, this was the first time that these statements have been applied to a case of extraordinary rendition and that a state was subsequently attributed responsibility and accountability for these actions. The Court clarified that the principle of refoulement prohibited Contracting Parties to the ECHR from transferring a detainee to another state where substantial grounds have been shown for believing that the person in question would, if extradited, face a real risk of being subjected to torture or inhuman and degrading treatment.

In assessing evidence, the Court adopted the standard of proof "beyond reasonable doubt". Moreover, the Court reiterated that Article 3 does not refer exclusively to the infliction of physical pain, but also of mental suffering which is caused by creating a state of anguish and stress by means other than bodily assault (ibid, § 202). It was evident from medical documentation that EL-Masri suffered emotional and psuchological distress following his detention. This statement of the Court was based on the definition of torture contained in the UN Convention against Torture. The UNCAT defines torture in Article 1 as any act by which severe pain or suffering, whether physical or mental is intentionally inflicted on a person for obtaining from him information or a confession. From this definition, four elements can be located: (a) the requirement of intent (intentionality) which means that torture must result from a purposeful act or omission of an act; (b) severe mental or physical suffering or pain which must be inflicted on the 'accused' or 'suspect' person clearly expressing that torture may not be only physical, but also can cause mental suffering; (c) the requirement of specific purpose which address that the act must have been inflicted for a specific purpose such as punishment, soliciting information, confession, intimidation or coercion i.e. this list is non-exhaustive and (d) the involvement of public official refers to the fact that the act of torture is inflicted at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

Although there were no actual proofs of torture due to the time which passed since El-Masri was held incommunicado in Skopje and afterwards in secret detention center in Afghanistan, the ECtHR was able to held violation of Article 3 ECHR relying from the evidence from many reports as well as from the testimony of the Munich prosecutor in charge of investigating the case of El-Masri in Germany. Although tests had shown no traces of violence, beating, injections or substances used to force his to sleep, the isotope samples of his hair had indicated a "significant change in living conditions" during the time he claims to have been imprisoned (European Parliament, 2006).

Within the framework of Article 3 ECHR, the Court found that the responsibility of Macedonia was engaged with regard to the El-Masri's transfer into the custody of the US and his transfer to Afghanistan, despite the existence of a real risk that he would be subjected to torture contrary to Article 3 ECHR. This follows the Soering case-law and it fits in traditional doctrine: Macedonia would be only responsible under Article 3 for its own conduct and not for the torture in Afghanistan itself. However, it is then hard to understand why the Court speaks in this context of attribution of responsibility (ibid, § 215)

rather than the attribution of conduct. The Court concluded that Macedonian authorities were not only responsible for the act of handing over El-Masri, but they were responsible for conduct that clearly was not its own. The Court found Macedonia responsible for the ill-treatment to which El-Masri was subjected at Skopje Airport by CIA agents. In addition, it found Macedonia to be responsible for a violation of Article 5 ECHR during the entire period of his captivity in Kabul (ibid, § 240). A striking aspect of the Court's reasoning is that it equates the responsibility of a state vis-à-vis the conduct on another state with the responsibility of a state vi-a-vis the acts of private persons. The justification of the construction then lies in the combination of the positive obligations of state party under the Convention and the fact that the conduct in question took place on its territory with its acquiescence or connivance, which in turn was incompatible with the positive obligations (Nolikaember, 2012).

The statement that Macedonia was responsible under the Convention for acts performed by foreign officials on its territory is somewhat ambiguous. Since the Court did not go as far as attributing CIA conduct to Macedonia, this wording may be taken to suggest that Macedonia would be responsible without committed a wrongful act. In El-Masri the Court goes beyond Soering and this could be explained as extension of responsibility based on criteria of foreseeability and causation. The ECtHR even pushed to the limits ordinary principles of international responsibility to hold Macedonia not only liable for the rendition of El-Masri to Afghanistan, but also for his detention and ill-treatment there. According to the Court this was to ensure full accountability under the ECHR for the extraordinary rendition. This holding by the ECtHR can be discussed as a disputable notion. Macedonia cannot be held responsible for torture committed by CIA agents in a foreign country just because of the presumption that knew or ought to have known of such a risk. Undoubtedly, Macedonia is responsible on several accounts including the enforced disappearance and incommunicado detention, treatment that amounted to torture and transferring El-Masri to the CIA agents. Holding accountable a country for acts committed by agents of another country on a territory of a third country establishes some disputable practice, which can be used in future and in other extraordinary renditions. Even if Macedonia requested diplomatic assurances from the CIA agents that El-Masri will not be subjected to torture, these kind of assurances do not secure prohibition of torture because the jurisprudence shows numerous cases when these assurances were violated and torture has been committed.

Although the Court could not address the culpability of CIA agents, the European case-law tradition seems to confirm that whenever there is "effective control of the territory" where military forces and other operatives of state party to the Convention operate, they are obliged to apply Convention's provisions (Hadji-Janev, 2013). Along with El-Masri, the ECtHR cases such as *Lozidou v. Turkey, Cyprus v. Turkey and Issa v. Turkey* clearly attest the European human rights tradition shaped by the ECtHR's practice seriously contradicts toe US approach towards extraordinary rendition operations in the global counterterrorist operations.

The right to the truth vis-à-vis secret state privilege

In the El-Masri case, the ECtHR cautiously endorsed a new paradigm of the right to truth – that is a right for the victim and the public at large to know about the abuses committed by governments in the field of national security. The judgment also left some open issue as

the Court did not and could not address the culpability of US agents who effectively tortured El-Masri. For certain, this case removed the wall of impunity that had protected the consequence from extraordinary rendition, arbitrary arrest, secret detention and enforced disappearance and offered a lesson that these kind of acts represent violation of fundamental rights and if committed will be sanctioned on highest level.

The lack of effective investigation is closely related to right to the truth where the applicant was deprived of information regarding the facts related to his incommunicado detention and prolonged suffering that he endured while he was held and subsequently when he was trying to prove what happened to him in Macedonia and afterwards in Afghanistan.

In its assessment of the obligation of the Macedonian authorities to undertake under the procedural limb of Article 3 ECHR and effective investigation on the crimes of torture and inhuman and degrading treatment, the Court underlined the great importance of the present case not only for the applicant and his family, but also for other victims of similar crimes. On the dimension of the right of the victim to know the truth, on the one hand, the ECtHR stated that Macedonia had deprived the applicant of being informed of what had happened, including of getting on accurate account of the suffering he had allegedly endured and the role of those responsible for his alleged ordeal (Fabbrini, 2013). In a jointly written concurrence judges Tulkens, Spielman, Sicilianos and Keller pushed in favour of fully outlining a right to the truth under the scope of Article 13 ECHR. The judges argued that the right to the truth would be more appropriately situated in the context of Article 13 ECHR especially where it is linked to the procedural obligations under Articles 3, 5 and 8. Furthermore, in the Joint concurring opinion judges emphasized that the search for the truth is the objective purpose of the obligation to carry out an investigation and *raison d'etre* of the related quality requirements (transparency, diligence, independence, access, disclosure of results and scrutiny). For society, in general, the desire to ascertain the truth plays a part in strengthening confidence in public institutions and hence the rule of law, while for the victims and their families it represents some kind of a closure by establishing facts. Ultimately, the wall of silence and the cloak of secrecy prevent these people from making any sense of what they have experienced and are the greatest obstacles to their recovery (ECtHR, 2012:El-Masri v. F.Y.R. Macedonia, Separate opinion § 4-6). Yet the position of the ECtHR on the right to the truth drew criticism from two other judges. In a joint concurrence, judges Casadevall and Lopez Guerra expressed their view that 'as regard the violation of the procedural aspects of Article 3 ECHR on account of the failure of the respondent state to carry out an effective investigation into the applicants allegations of ill-treatment, no separate analysis as performed by the Grand Chamber was necessary with respect to the existence of the right to the truth as something different from or additional to the requirements already established in such matters by the previous case-law of the Court'. Therefore, as far as the right to the truth is concerned, it is the victim, and not the general public, who is entitled to this right as resulting from Article 3 ECHR.

The right to the truth elaborated in El-Masri case was also subject of discussion in the case which Khaled El-Masri initiated in the United States against George Tenet (the Director of CIA) before submitting an application before the European Court of Human Rights in Strasbourg. In 2006, the United States filed a statement of interest and a formal claim of the state secrets privilege in order to

intervene in the suit and protect its interests and prohibit disclosure of state secrets (El-Masri v.Tenet, 1:05cv1417:2006).

The concept of 'state secret privilege' has often been invoked to obstruct the search for the truth not only by the Macedonian government, but also by other European Governments involved in renditions or even in having detention facilities operated by the CIA on their territory. Using justification in order to exclude evidence that will divulge state secrets to the public that would reasonably likely cause significant harm to national defense or to the diplomatic relations have been often used by the United State especially in torture cases (Scott, 2015).

The increased support for the right to the truth suggested by the ECtHR's El-Masri decision may provide new or stronger legal remedies for enforced disappearances in future emphasizing that nobody is above the law and that the right to the truth is of utmost importance for victims of extraordinary renditions who were disappeared for days and/or months and subjected to torture.

Lessons learned from extraordinary rendition in El-Masri case

The execution of the judgment in El-Masri case took several years, when finally except the financial compensation in the name of just satisfaction, on 26 March 2018, the Minister of Foreign Affairs issued a written apology to El-Masri expressing unreserved regret for the tremendous suffering and damage inflicted on him as a result of the improper conduct of the authorities. This case also triggered changes in the Macedonian legislation, conducting training and awareness raising and a number of other general measures to ensure the proper handling of similar investigations by the prosecution authorities. Moreover, changes has been done in the Macedonia Criminal Code in relation to definition of torture, ill-treatment and statute of limitation for prosecution of these crimes as well as interventions in the Law on Interior Affairs and Police upon received expert opinion (Swanidze Expert Opinion Report DGI, 2018). All these amendments to the Macedonian legislation were made with a purpose to prevent such cases in future, to accept the responsibility for being part of the extraordinary rendition of Khaled El-Masri and to emphasize the lessons learned from acts which constitute torture and are against international human rights law and contrary to the ECHR.

Obviously, the lessons related to extraordinary renditions that amount to enforced disappearance where the perpetrators use secret state privileges in order to obstruct the right to the truth and to provide the victim with the reasons for its incommunicado detention have not been learned. The latest Strasbourg jurisprudence shows that cases of enforced disappearance with extraterritorial transfers are still present in Europe. Following the rationale in El-Masri, in the case of Abu Omar (Osama Mustafa Hassan Nasr,) the ECtHR rendered a judgment in 2016 condemning Italy for complicity with the United States in Abu Omar's rendition and for the abuse of state secrecy. Abu Omar was abducted and taken to the Aviano air base operated by USAFE (United States Air Forces in Europe), where he was put on a plane bound for the Ramstein US air base in Germany. From there he was flown in a military aircraft to Cairo. (ECtHR: 2016, Nasr and Ghali v. Italy). In both decisions (El-Masri and Abu Omar), a firm stance against the use of torture even in national security related cases was embraced by condemning the enforced disappearance practice. This approach was reiterated in AL Nashiri v. Poland and Abu Zubaydah v. Poland. In Al Nashiri v. Romania, the Court emphasized the failure of

Romania to obtain the truth and its refusal to acknowledge, investigate and disclose details of Al Nashiri's detention, ill-treatment, enforced disappearance and rendition, which constitutes violation of Conventions' rights (ECtHR: 2018, Al Nashiri v. Romania). Furthermore, in Abu Zubaydah, the Court stressed that criminal proceedings were a critical aspect of ensuring an effective remedy for gross violations of Convention rights. They were the primary means through which the victims' right to the truth could be given effect, including in respect of identifying the perpetrators. Although there was no right guaranteeing the prosecution or conviction of a particular person, prosecuting authorities had to, where the facts so warranted, take the necessary steps to bring those who had committed serious human rights violations to justice (ECtHR:2018, Aby Zubaydah v. Lithuania). All of these cases have in common enforced disappearances with extraterritorial transfers, torture in secret detention sites and failure by states that assisted CIA to ensure the right to the truth.

States are increasingly resorting to transnational transfers that lead to enforced disappearances with participation and support by host states. The WGEID Report show that states failed to learn lessons on how to prevent enforced disappearances as a result of transnational renditions. Distinct and sophisticated patterns of enforced disappearances are emerging due to lack of accountability, effective investigation, judicial independence and impartiality in states with fragile democracies or high rates of corruption. Impunity represents major problem and gives states *carte blanche* for gross human rights violations. States and other actors involved in cases of enforced disappearance should be found accountable for violation of numerous international conventions as well as bilateral cooperation agreements. Moreover, secret state privileges and issues concerning national security should not be used as a cover in combating terrorism, preventing access to justice on persons who are not officially charged. Steps towards accountability can help the healing process of victims. Successful prosecutions of enforced disappearance cases can contribute to uncovering the truth, delivering justice and deterring repetition. In order to prevent impunity, states should undertake effective investigations in cases of enforced disappearance, intervene in their criminal justice systems in order to penalize extraordinary renditions and to ratify or accede to the ICPPED.

Conclusion

The extraordinary rendition of Khaled El-Masri is a classic form of enforced disappearance. El-Masri was held incommunicado for almost five months in Macedonia and Afghanistan, tortured and denied the right to the truth. Although the ICPPED did not exist in the time of conducting the extraordinary rendition, the ECtHR acknowledged all of the above mentioned elements of enforced disappearance moreover affirming that the right to the truth to the victim to know about the abuses committed upon him in the name of national security. Although it was expected that the judgment will impact other enforced disappearance cases, the jurisprudence and reports show the quite opposite. The newest report of the WGEID is absolute proof that every year there are new cases on enforced disappearance, most of them containing the element of extraterritorial transfer that amounts to torture and represents violation of the *ius cogens* norms. To conclude, enforced disappearances should not be justified in the name of combating terrorism and failures by States to acknowledge such acts and to provide the truth to the victim should be punished by law.

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The torture victim and the dentist: The social and material dynamics of trauma re-experiencing triggered by dental visits

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Abstract

Introduction: A significant proportion of refugees have been subjected to torture involving their mouth or teeth. Still the importance of oral health challenges is often overlooked. We present an exploration of the process through which trauma-related reactions are produced in torture victims in the course of undergoing dental treatment.

Methods: Ten resettled refugees from Africa and the Middle East who experienced torture were recruited among patients affiliated with specialized clinics for oral health rehabilitation in Norway. Data were collected through semi-structured exploratory interviews, and analysed using a qualitative content analysis approach.

Results and discussion: Our data suggest that dental treatment often involves an experience of being suspended, albeit temporarily, in an objectified position, acted on by subjects capable of producing deeply undesirable mental, emotional, or bodily states. Going to the dentist entails choosing or accepting to be in a passive position, acted upon by elements in the clinical situation. These elements, we propose, may usefully be considered as subjects, i.e. agents. Three main categories emerged as the most prominent factors with such an agentic capacity: 1) pain, 2) traumatic memories and 3) the dentist. Submitting to dental treatment hence requires the patient's willingness to give in to the actions of these factors, and avoiding treatment may therefore, in this situation, represent a means of retaining control.

Keywords: oral health, dental treatment, torture survivors, posttraumatic stress, rehabilitation

Introduction

The flow of refugees towards Europe during the last decade has placed increased demands on the health care services. Torture prevalence in refugees varies across studies, but is considered to be substantial (Sigvardsdotter et al., 2016; Steel et al., 2009), and survivors of torture often suffer from oral health problems with potentially grave and debilitating physical and psychological implications (Høyvik et al., 2019). Yet, challenges related to oral health and dental treatment are often overlooked in the overall rehabilitation of torture victims. In a recent survey of newly arrived

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refugees in Norway, 47% reported torture experiences, and 35% reported having been subjected to torture involving their mouth or teeth (Høyvik et al., 2019).

Torture entails depriving the victim of control, which is a significant factor in the development of trauma disorders (Başoğlu, 2009), and systematic reviews have estimated the prevalence of post-traumatic stress disorder (PTSD) in torture survivors to be at least 31% (Abu Suhaiban et al., 2019; Steel et al., 2009). Additionally, a comorbidity above 65% is found between PTSD, depression, and anxiety disorders (Close et al., 2016).

Studies have shown that oral treatment-needs, and oral impacts on quality of life in refugee populations are generally high (Abu-Awwad et al., 2020; Bhusari et al., 2020; Keboa et al., 2016). Moreover, research populations with impaired mental health show a higher burden of oral health problems than comparable healthy populations. The accumulation of oral disease is explained by an array of factors, including reduced ability to maintain oral hygiene, irregular eating habits, tooth grinding, medication, and reduced utilization of dental health services due to both psychological and financial factors (Kisely, 2016). Certain types of mental disorder are highly associated with dental anxiety and Lenk et al. (2013) found the highest relative risk in patients with PTSD.

High dental anxiety, with avoidance of oral health services and deterioration of oral health, is a public health problem that affects about 5% of the adult population (Svensson et al., 2016). The relationship between torture, PTSD symptoms and dental anxiety was supported by a recent survey (Høyvik et al., 2019) in which the odds of high dental anxiety were 6.1 times higher in torture victims compared to other refugees, and 9.3 times higher in torture victims with PTSD symptoms. Cognitive theories have proposed that individuals with PTSD hold maladaptive beliefs that contribute to maintaining the disorder (Ehlers & Clark, 2000), and such beliefs of uncontrollability, unpredictability and dangerousness have been linked to fear of going to the dentist (Armfield et al., 2008).

The nature of torture and the characteristics of oral health and dental treatment infuse dental care with specific challenges and dangers for survivors of torture. Not only is the oral cavity generally perceived as a private and sensitive area, which makes it an attractive target for the inflictors of torture, a lot of what goes on in the dental office may also evoke the torture situation itself. The patients find themselves in an objectified position – deprived of control, positioned passively underneath a dentist who administers sharp instruments, bright light and water, and records medical history in a way that may evoke interrogation. Thus, as theorised by Singh et al. (2008), undergoing dental treatment may re-activate psychological trauma in torture survivors.

Despite these assumptions, little research is found on the specific nature and consequences of oral health challenges faced by torture victims, and a deeper understanding may be an essential contribution to the development of targeted dental treatment programs. Some parallels might, however, be drawn to studies on victims of sexual abuse. Fredriksen et al. (2020) propose that the experiences of dental anxiety are triggered not only by sensory stimuli associated with the dental procedures, but to a large extent by sensory stimuli bearing comparison with previous traumatic experiences. To our knowledge, however, the nature of such triggering events has hitherto received scant attention in research. Hence it is our purpose in what follows to contribute to such an examination. Based on the accounts and reflections of refugee dental patients with experience of torture, we aim to explore the pos-

sible dynamics of social and material factors working together to set off and sustain distressing reactions.

Material and method

The study followed a qualitative design, with semi-structured exploratory interviews. Informants were recruited by professionals affiliated with specialised clinics for oral health rehabilitation of traumatized patients (TADA-service, Norwegian Directorate of Health). The names and contact information of consenting candidates were forwarded to the research group, who invited the informants to take part in the study by telephone. Those who agreed to participate signed a written informed consent form. Inclusion criteria were 1) age > 18 years; 2) experience of torture; 3) post-torture dental treatment experience in Norway.

The research group acknowledged beforehand the relatively small population from which our study aimed to recruit, and also anticipated a low consent rate given the study topic. On this basis, and aiming to maximize variation in a limited sample, a desired minimum sample size was set at 10–15 informants, comprising different ages, genders, countries of origin, types of torture experienced and dental treatment experienced. The interview study explored the informants' reactions and reflections, looking to identify patterns and understand the dynamics involved in their experiences of dental care following past torture experiences.

The interviews took place between April 2019 and January 2020, and were all conducted by the first author in mutually agreed, non-clinical environments. All interviews were audiotaped with the consent of the informants. To minimise language and cultural barriers, professional interpreters were available to all informants, and five informants chose to use one. Three interviews were conducted in Norwegian and two in English.

To explore torture survivors' challenges related to oral health and dental treatment, an interview guide was prepared based on literature review and the professional experiences of the multidisciplinary research group. The interview guide identified six thematic areas for semi-structured exploration in the research interviews: 1) Expectations – reflections regarding treatment needs an how they might be met by the dental personnel, 2) Confidence – issues involving trust and understanding, 3) Security – discussing what affects the feeling of security in the dental treatment situation, 4) Dental anxiety – feeling of fear and anxiety before, during, and after dental treatment, 5) Satisfaction – exploring factors contributing to satisfaction with treatment and caregivers, and 6) Interplay – interaction and distribution of tasks and responsibility between dentist and patient. Interviews were conducted seeking to cultivate an atmosphere conducive to the pursuit of emergent themes while maintaining a sensitivity to the informants' reflective process. Thus, the interview guide was not followed point by point, but rather applied as a checklist.

The audio files were transcribed verbatim by the first author, omitting directly and indirectly identifiable personal data, to protect the informants' anonymity. In the presentation of data, all names are fictitious.

Description of informants

Two women and eight men aged from 28 to 65 were interviewed. They were all survivors of torture and originated from five different countries: Iran (3), Eritrea (3), Syria (2), Somalia (1) and Iraq (1). Years of residence in Norway varied from 4 to 30, and there was a great variety with respect to fluency in Norwegian, level of education, work experience and participation in society. Dental treatment

experiences from their home countries varied from zero to yearly prophylactic dental examinations, but they had all received dental treatment in Norway. None of the informants had any recollection of dental anxiety before their torture experiences. All of them presently experienced some difficulties in the dental treatment situation, whereas half of them reported a high degree of dental anxiety.

The informants were not asked to disclose details of their torture experiences, but the majority were quite eager to share. Informants' experiences of torture and imprisonment comprised: tooth extractions to inflict pain; lack of necessary dental treatment; blows and kicks against all parts of the body including the mouth; lack of opportunity to maintain personal hygiene, including tooth cleaning; denial of food; isolation; prolonged darkness; extreme light or noise; attack from behind; intimidation and unpredictability; the use of electrical currents; witnessing, or being forced to participate in killing or torturing others; hanging, suspension, choking, often involving water, and having nails pulled out. Some of the informants had experience with all of the above, and two informants claimed to have seen people die because of oral infections.

Analysis

The data were analysed using a qualitative content analysis approach aiming to classify the research material into identified categories representing explicit or inferred communication (Schreier, 2012). An inductive process was pursued in dialogue with the pre-defined topics reflected in the interview guide, as the objective was to extract new theory on a topic where prior knowledge is limited.

The transcriptions were thoroughly assessed and recurring topics were identified and formulated into preliminary codes by the first author. Next, the material was revised by all co-authors, and salient themes were developed through coding, re-coding and grouping of themes. Due to the small size of the study material, the authors developed a closeness to the transcribed interviews and found no additional gain in computer-based coding.

Ethical considerations

Torture victims may be vulnerable in the sense that merely reflecting on their past experiences may set off unpleasant reactions. To minimise the risk for re-traumatization, the interviewer was careful to not in any way put pressure on the informants and to avoid active probing into their torture experiences.

There was still a risk that some might feel discomfort during the interview. The interviewer was experienced in working with torture victims and in dealing with anxiety reactions in the dental setting and was thus prepared to handle psychological reactions that might occur. Moreover, the researchers cooperated closely with the recruiting clinics, and psychologists were available if needed. Informants were told that the interviewer would be available for telephone consultations after the interview, offering assistance or guidance with regards to possible reactions should they occur. Finally, all informants had access to specialised clinics where they could receive facilitated dental treatment should such needs be disclosed.

The informants were informed of their right to withdraw from the study at any time, and without any consequences for themselves, but none chose to do so. The Norwegian Ethics Committee approved the project (2015/2154/REK South-East C).

Results

All informants expressed a strong desire and need to have their oral problems treated. Nev-

ertheless, they also described obstacles they found hard to overcome. They all talked about difficulties with seeking and undergoing dental treatment, and half of them described severe dental anxiety. System challenges faced by refugees in general, such as access, monetary issues and language barriers, were also brought up by several informants, but such barriers are not explored further here. Instead, our focus is on the challenges that are particular to survivors of torture. These may usefully be introduced by the account of Gebre, a man in his thirties from The Horn of Africa, who summarizes the experience of the dental patient with experience of torture like this:

> *You never know if a person is traumatized! You never know what terror it could add to a person's experience if… if maybe you are not prepared for this type of treatment… all the machines that will come… You will see… and you will be below the dentist, and then… It's like you are powerless, you know! So… it could end up being a very bad experience, and then you don't want to go back to the dentist again!*

Gebre's only experience with dental treatment prior to his resettlement seven years ago was an emergency extraction. He found his first dental appointments in Norway frightening, but stated that he eventually managed to build trust in his dentist. He has since trained as a health professional himself and now finds it easy to adequately describe his past experiences. Still, his notion of feeling powerless came up in many situations across several of the interviews.

One dimension of this powerlessness relates to experience under treatment of being unaware of, and defenseless against, what happens next. Most informants emphasize the problems they experience with finding themselves in a situation where they are unable to foresee the pain or discomfort that might occur at any moment. Some draw explicit parallels to their torturers' use of surprise to scare them and leave them constantly on guard. Hamid (47 yrs), a Syrian man who had no dental treatment experience before he was subjected to torture involving his teeth, said:

> *When I sit there in the dental chair, I get really anxious, and I think a lot about what will happen. Especially when they turn on those lights… the white ones… then I feel like I'm being interrogated by someone.*

In most informants' reflections, the emphasis on the element of surprise is accompanied by stark descriptions of the effects to which that experience gave rise. Farouk, a 55-year-old man who grew up in a wealthy family in Iraq, was used to annual dental checkups and treatment. He has nevertheless had to force himself to visit a Norwegian dentist on a regular basis, and he describes his dentist as a busy man who rushes back and forth and works, 'fast, fast, fast', without informing Farouk about what he is about to do to him. Farouk describes what this unpredictability does to him:

> *I get very scared! Then some water comes here (point to his pants)… For almost half an hour, or 45 minutes it is very dangerous! So much pain in my stomach… and then in my throat… then the legs… and the back… yes… And then I am… just like in prison!*

Explicitly, or by implication, all informants express a strong need to retain a sense of control in most situations to avoid torture-related reactions. Both Hamid and Farouk describe how, when going to the dentist, they

have to more or less give in to being acted upon by different agents in the clinical room. While there, they are temporarily deprived of the ability to actively (re-)act on and manage what is happening to them. As a consequence they are pacified in a second sense, i.e., they become objects being acted upon by the automatic reactions that arise as everyday treatment events unfold, causing them severe discomfort. Informants describe how, for example, the sight of the equipment, the anticipation of pain, or the dentist's behavior may set off bodily reactions they cannot control, such as coughing, shivering, or stomachache, or psychological reactions such as a mental disconnection from thoughts and surroundings (dissociation) and the involuntary appearance of memories of past traumatic events (flashbacks).

An image emerges then, in which the informants, as dental patients, experience themselves as objects subjected to elements that includes ones that we do not usually think of as subjects, that is, as actors with agency. In what follows we present three main categories into which these agents may, we suggest, usefully be categorized: 1) the pain, 2) the traumatic memories, and 3) the dentist. We explore the interplay between these elements positioned as subjects, i.e., as agents by virtue of their capacity to effect reactions in the patient, and the patient as the object in and upon whom reactions occur and are brought to bear. Yet the process thus described is located in the interplay of social and material elements inherent in the treatment situation, rather than in the patient as such. Material elements pertains to objects, organs, and organisms, whereas social elements encompass relations between actors. Notably, actors here include also the patient's bodily expressions, distressing thoughts and images, since the appearance of these elements in the clinical setting assumes an autonomous agency (with whom the patient is confronted and has to interact) that can be usefully compared to an interactional "Other". Hence, rather than simply asserting the presence of a triggering process, we proceeded to explore specific qualities of that process or, more specifically, what we describe as the 'social and material dynamics' of the triggering event.

Pain

All informants talk about oral pain as a main driver for wanting or needing dental treatment. They describe how they have experienced beatings against their mouth or face, teeth being pulled out in prison and the lack of possibility to maintain personal hygiene, which among other things have resulted in severe dental decay. Reza, an Iranian man in his late fifties, gives an illustration of life in prison:

> *When you are isolated in prison there is no window. You have no circulation of air. It affects the entire body, including the teeth, because there is only CO_2 inside the room. There is no oxygen… And they hit a lot… with their fists. The jaws are fractured, and also the teeth get broken. And for months you can't brush your teeth… can't use toothpaste, nothing. And then it gets night… you can't sleep at night because of the anxiety and stress you are in. The teeth starts grinding into each other, and you can't control your legs…*

Reza has a university degree, but suffers from PTSD. After ten years in Norway he cannot hold a job and does not speak the language. His jaw was broken by his torturers and, although he was used to regular dental checkups during his upbringing, he developed a destructive dental and medical anxiety that has prevented him from seeking treatment that could reduce his pain.

Despite their impaired oral health, many informants express a will to endure a lot of pain before seeking dental treatment. The reasons they suggest are complex but, apart from challenges associated with the resettlement process, they express exhaustion and anxiety after imprisonment and trauma. The fear that a dental visit would bring on more pain, physical or mental, is apparent, although none of the respondents have any recollection of dental anxiety prior to the torture exposure.

All informants describe negative experiences from dental treatment, and for about half of them it is something they dread long before the appointment. They describe it as something dangerous that they cannot control. The pain may appear at any time, and at uncontrollable strength. Amir (60), another Iranian man, had several teeth fractured from beatings and kicks during imprisonment, and the only treatments offered were un-anesthetized tooth extractions, which he remembers as being extremely painful. The fear of re-living the experience made him avoid dental treatment for several years after resettlement. About going to the dentist he says:

> *After the prison it became very difficult. The worst is… it is very painful. A picture of torture appears… It hurts! … Sometimes I cough, and I get shaky… And another thing… when it has been a long time since the last time, a picture comes, and I shiver! When I go into the office… at the dentist's… and look at this and that machine… then it happens automatic!*

Pain sets in motion uncontrollable shaking and shivering in his body, and if the time between dental appointments is too long, his body forgets any positive experiences and he may experience flashbacks in which he sees images of previous traumatic episodes. Sometimes merely the anticipation of pain may bring about the reactions, long before any actual pain has occurred. He describes how his body and mind reacts automatically, and sometimes makes him lose track of time and place. With words like *"I'm gone", "I'm not here", "I see things", "I'm lost"* and *"I skip time"* he describes the psychological reactions of flashbacks and dissociation, and he points out the importance of going to a dentist who knows how to bring him back.

It is consistent throughout the interviews, even among informants who do not describe themselves as dentally anxious, that sudden and intense pain from clinical procedures harms the patient's sense of control. The pain becomes the active party, acting upon the patient who is put temporarily in a non-agentic position in which she/he can exert little control. This objectification may be partial, as when the patient shivers or becomes nauseous but still has some consciousness of what is going on, or total, as when the patient dissociates.

Anesthetics may provide pain relief, but may also entail having to choose between two evils. For some informants, the thought of needles or the feeling of numbness may accentuate the sense of losing control more than they represent relief from pain. Somalian Aaden describes how the sensation of not being able to feel his face, brought about by anesthesia, gives rise to dread at the involuntary thoughts of being permanently paralyzed. Two of the informants had been offered dental treatment under general anesthesia. Although the sedation made the actual treatment easier, post-operative pain, changes in the mouth, and the taste of blood left them with the sense that something had been 'done to' them after waking up.

Traumatic memory

In addition to pain inflicted by dental procedures, most of the informants convey how

particular things or situations that remind them of previous traumatic experiences can set off involuntary, unpleasant bodily or mental reactions. As Amir describes, the reactions *"happen automatic"*, especially in situations that involve an element of surprise. He describes how he is taken back to unforeseen episodes of violence in prison if an unannounced person, e.g., the dental secretary, suddenly appears behind him.

Aaden's heart starts pounding and his body freezes at the sight or taste of blood. If the dental personnel are inattentive, he may disconnect mentally from his surroundings and experience flashbacks. Vibration and sound have the same effects. He says:

> *The pain, it's… the pain I can take! Yeah! I have experienced so much pain. It is this one: 'Woooo… vibration and drilling and… sound… That sound - like bullets! It's taking me back all the time… times of bad things!*

His PTSD-symptoms are not only present during the treatment session. He explains that sometimes it gets worse when he gets home. Farouk, who in his own words, has 'been through all methods of torture', tells a similar story. He is exhausted for 2–3 days after dental treatment. His stomach and legs hurt, he cries and is tired but unable to sleep.

Reza states that since his imprisonment it has become very difficult for him to trust other people. He feels unsafe and alert in most situations, but when it comes to dental treatment he is extremely anxious. He knows that the dentist is not intending to harm him. Still it is difficult for him to control his body and his thoughts when he gets in a prone position. He says:

> *When I come near the dental equipment and look at it… all those episodes are experienced all over again. Because of, in prison… it is like this: maybe it is a doctor, maybe it is a dentist… maybe it is a treatment… But they also work with the government, and they misuse their profession!*

His anxiety clearly and directly relates to his past trauma. More specifically, he speaks of how experiences in the present can cause memories of experiences in the past to pay hurtful visits to him, and he has no capacity to do anything to prevent this. Instead, he has to suffer these visits, passively awaiting their fading away, for now.

Zahra is a busy, hard-working and reflective Iranian woman in her sixties. She eloquently puts the experience of agentic thoughts into words when she states that, to her, one of the most difficult challenges related to dental treatment is "*the pain in my thoughts"*. She explains:

> *It is just thoughts… I close my eyes and wait… or I sit there in the dental chair, and so… the thoughts come back…*

What she is talking about are vivid thoughts of torture. For example, the dentist's use of water can activate her memories of almost being drowned. She explains how these trauma-related thoughts are brought to mind more often in situations where she experiences loss of control.

Some of the informants express that they know and understand, cognitively, that the dental treatment is safe, but still find it almost impossible to fight their reactions. Reza explains that his cognitions and his emotions get mixed up, and although his head tells him that he is safe, his body will not always listen. Amir describes how some days are worse than others. Some days he is not ready for someone to work in his mouth:

Maybe… it may be that I had a bad day the day before. It may be, for example, that the night before was very hectic, and that I am tired and exhausted in a way…

Zahra gives an example of how the mental processes may be disrupted altogether:

One day I went to a dentist… I felt the panic coming… but luckily it came afterwards! I endured quite a lot, sitting there getting finished. But afterwards I went to a café, and I sat there for three hours without knowing… Then, after three hours, I suddenly realized: Why am I sitting here? I looked at my watch and three hours had passed…

During the dental appointment, she managed to maintain a sense of control, but afterwards the invasion of traumatic memories took over completely and left her with no agency at all. This is an example of the total objectification that occurs during dissociation – when the mind takes a break from handling information.

To sum up, the informants describe how agentic elements in the dental treatment situation contribute to positioning them as a passive intermediary object between these agents and the invasion of the traumatic memory. In this sense, the traumatic memory also acquires an agentic capacity, a capacity to propose itself to the patient in ways that appear impossible for them to prevent, and which in turn give rise to unpleasant bodily, as well as mental and emotional, effects.

The Dentist

Although most of the informants rationally believe that the dentist wants to help them, half of them say they are 'afraid of dentists'. Some describe the dental practitioner as the one who inflicts pain and hence is apiece with what reminds the patient of his traumatic experiences. Some informants describe memories of dentists, or someone impersonating a dentist, acting as torturers. Zahra gives an example:

I saw them be taken to the 'dentist'… or to the room where they would be tortured. And when they came back they had no teeth! And they got no anesthesia. They got nothing. They just pulled them out to inflict pain on them!

As dental patients, most of the informants link the problems that arise from being unable to anticipate when pain will occur to the fact that they cannot see what is happening in their mouth, the site of treatment being blocked from view. It is apparent, too, that the dentists' behavior is crucial to whether or not adverse reactions are activated, by virtue of the patients' descriptions of being unable to survey and recognize activities in the clinical space around them. Farouk, who has never found the right time to inform his dentist about his torture experiences, says:

Sometimes he does… he wants to take x-rays and such… he puts something inside here… then he goes there… and then comes quickly… and then a picture there… Everything becomes chaos! Then the secretary comes, and they both talk over my head: Get this, get that… and maybe do like this, and back… like that! And that I have to lie 'like that', and then… they just… Afterwards a lot of pain is coming here… Immediately – pain in my stomach! That way it mixes in my stomach!

It makes Farouk insecure when they are rushing back and forth, working and talking above his head. His emphasis on speed is echoed by many of the other informants, who

express that they get scared or uneasy if the dentist is working too fast.

Hamid, who had no dental treatment experience pre-resettlement, shares his opinion of the first dentist he met:

> *He behaved like… like he was a civilian police officer, as if he worked for the national security services or something!*

He says that this dentist made him feel as if he was under interrogation. He never smiled and was hard-handed and inaccurate in his work. Hamid got the impression that he did not like his job; he was just eager to finish and get on with the next patient. All informants underline the importance of communication and being treated with respect. Farouk relates this to his prison experiences and explains how his guards never talked to him when they came to torture him. Some informants also mentioned how a lack of interpreters accentuates their notion of not knowing what is about to happen, and thus increases their fear and insecurity.

Our interpretations of informants' reflections indicate that the dentist's capacity to bring about trauma-related reactions in the patient increases, or even is created, by the fact that it is inflicted on a patient who is unaware of what is going on. Thereby, the patient's experience of being a passive object is accentuated – a phenomenon which is particularly problematic to torture victims. Among the three categories of agents discussed in our analysis, the dental practitioner's position as subject is more powerful than the others, given her/his potential to set in motion both the pain and the traumatic memories. However, as the dental practitioner does not control the agentic capacity of the pain and the traumatic memories, it is reasonable to consider all three of them subjects with individual agency.

Discussion

This study explores oral health challenges in refugees with experience of torture, and proposes an analysis of what we have called a social and material anatomy of the process, through which trauma-related reactions are produced in such patients in the course of undergoing dental treatment. Although some previous studies have provided examples of such challenges (Keller et al., 2014; Singh et al., 2008), this is to our knowledge the first in-depth exploration of how they come about. The analysis shows how going to the dentist entails actively choosing or accepting to be in an objectified position, having to lie down in the dental chair and prepare to be in a passive position, acted upon by the elements of the clinical situation which we, therefore, propose are usefully considered as agents.

The present study indicates that the predominant dental treatment challenge for torture victims is the triggering of trauma-related reactions. Hence it supports previous research that has shown a strong relation between PTSD symptoms and dental anxiety (Høyvik et al., 2019; de Jongh et al., 2006). It is clear that although several of the informants understand the connection, and reflect on the unwanted, automatic reactions while they occur, they often lack the agency to break the process once it is set in motion.

Despite the great desire of many torture survivors to have their teeth restored, the fear of uncontrollable pain during dental treatment may prevail. When such pain is accompanied by adverse bodily reactions, or visions of horror, dental treatment is easily postponed or avoided, as explained by several of the informants. The propensity to avoid dental appointments was also found in victims of sexual violence (Larijani & Guggisberg, 2015).

When facing the need for dental treatment, the traumatized patients are left with

two options: 1) to consciously let go of their agency and surrender to the dental treatment, with the risk of psychological consequences, or 2) to hold on to their agency and avoid the treatment, with further deterioration of oral health as a probable outcome. From the torture victims' perspective, to refrain from placing themselves in the dental treatment position is one of very few available alternatives to mitigate psychological damage.

If the dental treatment is not avoided it is often endured under great strain, as described by several of the informants, and pain sensations during treatment hold the capacity to trigger traumatic reactions. This supports previous research that has indicated a complex relationship between torture, pain and intrusive memories, pointing to the importance of attempting an integrated treatment of pain and traumatic symptoms for survivors of torture (Taylor et al., 2013). The ability of PTSD symptoms to enhance the experience of pain, and vice versa, applies also to orofacial pain (Burris et al., 2009), which emphasizes the importance of oral rehabilitation despite the possible traumatic reactions related to the treatment.

In the same manner as patients become objects acted upon by pain, we have described how memories may acquire an agentic capacity to act on the patient in ways they consider impossible to prevent. Similar findings were reported by Taylor et al. (2013), who described how uncontrollable bodily and mental reactions in torture victims were often activated by trauma memories. Likewise, a study of sexual-abuse survivors described how anxiety reactions in the dental setting were frequently triggered by stimuli that bore similarity to previous traumatic experiences (Fredriksen et al., 2020).

There is historical evidence of dentists participating in torture, either directly or by treating injuries only to make the victims ready for new maltreatment (Speers et al., 2008). Moreover, there is an inherent power dynamic between care providers and patients, which to a survivor of torture may trigger recollections of the power dynamic that occurs between the perpetrator of torture and the victim. Some informants describe how a person who reminds them of someone from their past, or who behaves in a certain manner, can bring about memories of traumatic experiences. Thereby, the dentist in person becomes the triggering agent even by virtue of the representation of 'dentist' she/he unwittingly evokes.

The feeling of powerlessness is pervasive in the interviews. Svenaeus (2015) argues that for torture victims, pain inflicted on them as objects is often interpreted more as power than as pain. As the agent whose actions cause the experience of pain, the dentist is the party to hold power in the clinical encounter. In our analysis, the agency of the dentist extends also to the power to activate the other subjects: the pain and the traumatic memories. However, whereas the dentist is usually perceived as a trigger only when she/he is present, the pain and the traumatic memories bear the capacity to act as triggers far beyond the actual treatment situation, as explained by several informants. Physical and mental exhaustion in the aftermath of dental treatment is also described by Fredriksen et al. (2020) in their study of sexual-abuse survivors.

Being subjected to torture entails a loss of trust in humanity through the violation of bodily autonomy and feelings of self-worth (Bernstein, 2015). Most informants point out that it takes time to build trust in new people. Any unforeseen gesture is alarming, which enhances the probability that the dentist may trigger trauma-reactions. However, informants in this study also describe how reactions recede once trust is achieved. For this

reason, once they have found a dental professional they feel understands, they attach great importance to the ability to retain that relationship of trust.

Limitations

Statistical generalizability was not an aim in this qualitative study. All informants were patients referred on grounds of oral health challenges. The severity of PTSD symptoms may have precluded the most mentally impaired torture victims from participating. However, the final sample of 10 informants represented a satisfactory range with regard to ages, genders, countries of origin, types of torture and dental treatment experienced, and was comparable to other qualitative studies involving torture victims (Isakson & Jurkovic, 2013; Taylor et al., 2013). Diversity was also present in the informants' differing capacity to reflect on their experiences and the modes in which such reflection was articulated.

Restricting to fluent Norwegian- or English speakers was not feasible, given the limited population from which the informants were recruited. The disadvantages from interpretation was mitigated by using professional, experienced interpreters, and an interviewer who was experienced in communicating through interpreters. Nevertheless, the use of non-native languages in research interviews may impede the expression and interpretation of nuances of meaning. On the other hand, this circumstance also prompts deliberate probing and discussion of concepts and terms, thus potentially strengthening exploratory capacity.

To implement the study, it was an advantage that the interviewer, being a dentist, had prior knowledge of the subject and the circumstances. However, this entails a risk of subjective bias or interpretations errors. Professional assumptions and possible blind spots that might results from the first author being a dentist, was counterbalanced by all authors taking an active part in the planning of the study and the analysis of the material to ensure multiple perspectives.

Moreover, there was only one interview with each informant, on a theme that included also previously unarticulated reflections on personal experiences. Hence, participants may have had new reflections subsequent to the interview, and talking to them again might have shed further light on the topic. However, due to the psychological strain it was to some of the informants to go through with the interview, a follow-up would not be ethically justifiable.

Conclusions and implications

The present study provides new knowledge about the process that complicates torture victims' ability to engage in and tolerate dental procedures, and points to the activation or aggravation of trauma-related reactions as a major challenge. To surrender to dental treatment means to give in to being suspended albeit temporarily in an objectified position, acted upon by subjects capable of producing deeply undesirable mental, emotional and bodily states. We have pointed to pain, traumatic memories and the dentist as the most prominent factors with such an agentic capacity.

All professionals who work with torture victims should be aware that these individuals often suffer from comprehensive oral health problems that affect their quality of life on many levels. Although dental care may be desperately needed, the perceived parallels between the dental treatment and the patients' previous torture experiences, may activate severe physical and psychological reactions. Thus, dental visits are either avoided or suffered through, with the risk of immediate or lasting consequences.

The clinical implications for dental health personnel that may be drawn from the present study are important and worthy of further exploration. However, some preliminary recommendations may be outlined: First, the dentist should have the understanding of who may be a potential torture victim, and have knowledge about common challenges faced. Enough time must be reserved to ensure a thorough report, however without the dentist prying into the details of the torture experiences. Trauma reactions are set off by different stimuli depending on personal experiences, hence triggers need to be explored individually. Furthermore, always giving a heads up about everything that will happen is important to ensure predictability and increase the patient's sense of control and agency. Finally, all dentists working with traumatized individuals have to know how to handle psychological reactions – to know how to bring the patient back to 'here and now'.

Professionals such as social workers, psychologists, physicians and physical therapists, should be encouraged to ask their clients about oral health, and offer to help with further referral. At the same time they should keep in mind that, although dental treatment is clinically necessary, it may represent a major challenge if the patient is not met with the necessary psychological insight. Thus, the referral should include parts of the patient's trauma history relevant for dental care, and the designated dentist should be familiar with the principles of trauma-informed care. Collaboration between professional groups is important in the rehabilitation of torture victims, and is best achieved when all providers understand the patients' needs.

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Qualitative exploration of dental and health care personnel's awareness of signs displayed in victims of torture with focus on the oral cavity

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Key points of interest

- Numerous torture victims have experienced severe physical and psychological trauma to their face, mouth, and teeth; areas that dental visits involve. Survivors of torture carry a risk of reliving the trauma during a visit to the dentist, if the dental personnel do not know the background of individual and are not aware of signs of torture with focus on the oral cavity.
- The importance of educated health care personnel at resource centers for asylum seekers or refugees, and dental personnel who can provide oral health services to torture survivors and minimizing the risk of re-traumatization is highlighted in this study, as well as the importance of multidisciplinary collaboration.

Abstract

Introduction: Numerous torture victims have experienced severe physical or psychological trauma to their face, mouth, and teeth. A dental visit carries a risk for torture survivors to relive the trauma, since the situation may trigger a recollection of previous suffering. Although health care personnel at resource centers for torture victims are equipped with various tools to help and assist these individuals in their rehabilitation, very few centers have protocols in place to refer out victims to dental professionals with experience and knowledge in the area. The aim of this study was to investigate the extent of dental and health care personnel's knowledge and awareness to detect various torture signs, with focus on the oral cavity.

Material and Methods: Participants included 16 dental and 6 health care personnel. Qualitative data was collected from participants from individual and group interviews and responses to a questionnaire. All interviews were transcribed, and a phenomenological-hermeneutical method was used to analyse the participants' answers.

Results: Dental personnel demonstrated a lack of knowledge and experiences regarding signs of torture with focus on the oral cavity and indicated lack of experiences with multidisciplinary collaboration in the care of torture victims. Most of the health care personnel had

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clear suggestions for external signs of torture and showed good knowledge of how to refer a torture victim to dental personnel.

Discussion: Through a multidisciplinary approach, better health care resources utilization can be achieved and potential harmful long-term effects resulting from dental care visits can be prevented. There is a need for increased awareness and knowledge among dental and health care personnel of injuries and signs resulting from torture in the oral cavity.

Keywords: torture, oral cavity, dental personnel, health care personnel

Introduction

Numerous torture victims have experienced severe physical and psychological trauma to their face, mouth, and teeth; areas that dental visits involve (Abu-Awwad et alt (2020), Caldas et alt (2010)). Survivors of torture carry a risk of reliving the trauma during a visit to the dentist, a situation that may trigger recollection of previous suffering (Hoyvik et alt (2019), Singh et alt (2008), Keller et alt (2014)).

Hoyvik et alt (2019) studied torture experiences, symptoms of post-traumatic stress disorder (PTSD), and dental anxiety among refugees. The study found that 62% of the torture survivors have experienced torture related to their face, 35% related to their mouth and 23% related to their teeth. The odds of being highly dentally anxious was 6.1 times higher in refugees with torture experience and 9.3 times higher in torture victims with PTSD symptoms, compared to refugees with no history of torture. Additionally, among the female refugees, 31% had been sexually assaulted, which is a known risk factor for dental anxiety when the abuse involved oral penetration.

The Istanbul protocol (UN Office of the High Commissioner for Human Rights (2004)) reports that known torture methods against the oral cavity includes, for instance, extraction and grinding/breaking of teeth, or application of electric current to teeth. The application of electric current can lead to several negative conditions, including loss or rupture of the teeth, mandibular fractures, subluxation of the mandibula due to the muscle spasms arising from electric currents, dental filling fractures, displaced fillings, and tooth ache (UN Office of the High Commissioner for Human Rights (2004), Di Napoli et alt (2005), Ozkalipci (2010)). Torture may also include sexual abuse to the oral cavity which can trigger lesions in the oral cavity by having objects or materials forced into the mouth (Hoyvik, A., Lie, B., & Willumsen, T. (2019)). Lesions and scars can likewise be detected if the victim has been subjected to chemical torture or/by being forced to swallow toxins, such as the chemical thallium or drugs (UN Office of the High Commissioner for Human Rights (2004), Di Napoli et alt (2005)). Waterboarding, another form of torture, where the torturer pours water onto the victim's face and their breathing passages, triggers an immediate gag reflex and a drowning sensation for the victim. This can produce extremely strong near-death feelings and is considered one of the most severe experiences a human being may encounter (Ozkalipci et alt (2010)). Sára et alt (2014) conducted clinical forensic examinations of alleged torture victims (n=33) at the University of Copenhagen and direct impact to the teeth was reported in four cases. In three of four cases, it was reported that teeth had been extracted with pliers and in the fourth case, teeth had been grinded down with the force of a file. These methods are also consistent with torture methods that Ozakaplici et al (2010) reported in the The Atlas of Torture.

The oral cavity is a highly private area of the body and regular dental visits often involve sharp dental instruments, water in the patient's

mouth, and actions that can trigger gag-reflexes; sensations that are often harmless for the regular patient, but can be triggers for a torture victim, forcing them to relive painful and distressing memories. Any stressful and anxious situation caries the risk of harming the rehabilitation process of a torture victim, and although health care personnel at resource centers are equipped with various tools to help and assist torture victims in their rehabilitation, very few centers have protocols in place to refer out victims to dental personnel with experience and knowledge about trauma triggers. As a result, most torture victims end up in general dental care, something that can potentially be harmful to the victim's rehabilitation process. Singh H et alt (2008) confirmed in their study the importance of educated dental personnel who can provide oral health services to torture survivors without the risk of re-traumatization.

Increased knowledge and awareness will hopefully encourage investigations and discussions with patients to figure out the best way to proceed with dental treatments, based on the victim's rehabilitation process, injuries, traumas, and other information that has been presented. Through a multidisciplinary approach, potential harmful, long-term effects resulting from dental care visits can be prevented and the approach can additionally contribute to better resource utilization in health care.

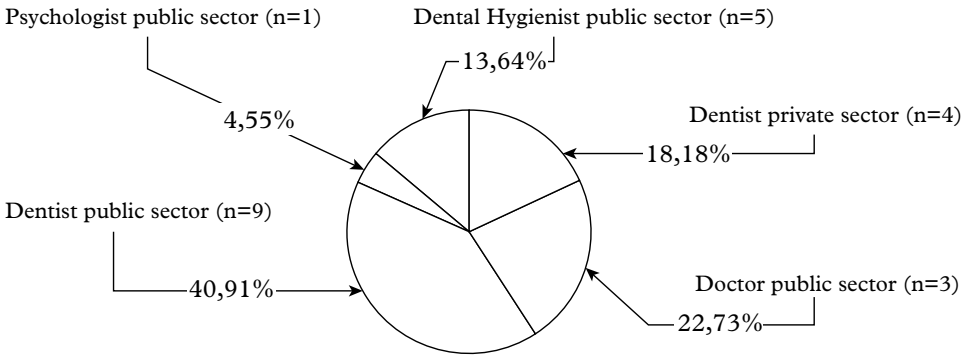
The aim of this study was to investigate the extent of dental and health care personnel's knowledge and awareness of how to detect various torture signs with a focus on the oral cavity.

Material and Method

Study group

A purposive sampling was carried out, and in total, 39 health care personnel with specialised knowledge in the subject of torture and 5 clinics with a total of 16 clinical working licensed dental staff were invited to take part in the study. The health care personnel consisted of doctors or psychologists working at the Transcultural Center, a resource center for asylum seekers or refugees in Stockholm, Sweden. The health personnel in this study worked at a specialist service for asylum seekers and has a commitment to provide support to health and dental care personnel in

Figure 1. Professions and employment sectors of the participants



issues of culture, migration and refugee status. The licensed dental staff group consisted of dentists or dental hygienists working at generalist practices in the private or public sector within the municipals of Stockholm, Sweden. The participants were recruited via our own or our colleagues' networks, as well as through the internet. All invitees received verbal and written information from the researchers. The inclusion criteria were: i) health care personnel with specialised knowledge of the subject torture, and ii) licensed dental personnel. The exclusion criteria were: i) not licensed medical and dental staff, and ii) working outside the city of Stockholm. Figure 1 for a breakdown of the professions and employment sectors of the participants.

Ethical considerations

Sixteen dental and 6 health care personnel signed informed consent forms and accepted to participate in the study and were consecutively enrolled after informed consent. The study was approved by Karolinska Institutet, Sweden and was conducted according to the World Medical Association Declaration of Helsinki, Ethical Principles for Medical Research Involving Human Subjects (World Medical Association (2021)). All participants signed an informed consent.

Study design

This study was based on individual interviews, group interviews, and quantitative data from a questionnaire. A questionnaire with 6 closed questions were handed out to all participants (n =22) before the interviews.

The survey questions were the same for both dental and health care personnel, with the exception being that the answer choices for question 2 differed. **Table 1a** and **Table 1b**

The interviews were conducted by KW and EE during the year 2020, and the interview location varied, either at the participants' clinics or in their offices. Each interview lasted approximately half an hour and was audio recorded and transcribed verbatim. The interviews were semi-structured and thematic. An interview guide was used, which consisted of six main questions and subsequent follow-up questions, with the same interview questions for all participants.

The aim was for the main questions to lead to a discussion. If that was not the case, sub-questions were used. The main questions asked to the dental personnel were about their experiences of finding atypical damage to the oral cavity, how often they saw such atypical injuries, how they approached such a situation, what they know about the oral cavity in the context of torture, and whether they think that general dentists have knowledge to identify, treat and work with a torture victim. The main questions asked to the health care personnel were about how the torture victim gets in contact with them, how common it is that the patient has atypical damage to the oral cavity, what experience they have about the importance of the oral cavity in a torture situation, how they approach such a situation (referral to a dentist etc.), and what is their experience regarding treatment and rehabilitation of torture injuries in the oral cavity. Follow-up questions were asked when needed. For example, the question of "How often do you see atypical injuries to patients in the oral cavity?", was followed up with "Do you investigate the cause or background of the injury? If the answer was, yes, they were asked, "How do you do this?" If the answer was no, they were asked "Why not?"

The audio recordings, quotes and notes taken were translated from Swedish to English.

Analysis

The qualitative content analysis was made ac-

Table 1a. Survey Questions, dental personnel

Karolinska Institutet

Survey Questions, dental professionals:

1) Do you meet asylum seeking patients or refugee patients on a daily basis?

☐ YES, how many patients per day_____

☐ NO, estimate how often_____

2) In your opinion, what does asylum seeking patients or refugee patients primarily seek help for?

☐ Immediate pain ☐ Restorative Treatment

☐ Prosthetics ☐ Other: _____

3) How aware are you about the effects of torture for the victim?

☐ Very aware ☐ Aware

☐ Somewhat aware ☐ Not aware at all

4) How common do you think that torture against the oral cavity/face is?

☐ Very common ☐ Common

☐ Not very common ☐ Not common

5) Is torture something that you have gained knowledge about through your education or at your workplace?

☐ Yes, I have received information about torture at my workplace

☐ Yes, I have received information about torture through my education

☐ We have discussed the subject to some extent (at the workplace or through education)

☐ No, I have not received any information about the subject at my workplace

☐ No, I have not received any information about the subject through my education

6) Is being a torture victim a reason to seek asylum?

☐ Yes ☐ No

Information about you:

- Age: _____
- Number of years as a professional: _____
- Profession: _____

Working today in:

☐ Public Sector ☐ Private Sector

Table 1b. Survey Questions health care personnel

Karolinska Institutet

Survey Questions health care personnel:

1) Do you meet asylum seeking patients or refugee patients on a daily basis?

☐ YES, how many patients per day_____

☐ NO, estimate how often_____

2) In your opinion, how does asylum seeking patients or refugee patients primarily seek help?

☐ Of one's own accord (self) ☐ Referred from dental care

☐ Referred from health care ☐ Other: _____

3) How aware are you about the effects of torture for the victim?

☐ Very aware ☐ Aware

☐ Somewhat aware ☐ Not aware at all

4) How common do you think that torture against the oral cavity/face is?

☐ Very common ☐ Common

☐ Not very common ☐ Not common

5) Is torture something that you have gained knowledge about through your education or at your workplace?

☐ Yes, I have received information about torture at my workplace

☐ Yes, I have received information about torture through my education

☐ We have discussed the subject to some extent (at the workplace or through education)

☐ No, I have not received any information about the subject at my workplace

☐ No, I have not received any information about the subject through my education

6) Is being a torture victim a reason to seek asylum?

☐ Yes ☐ No

Information about you:

- Age: _____
- Number of years as a professional: _____
- Profession: _____

Working today in:

☐ Public Sector ☐ Private Sector

cording to Graneheim and Lundman (Graneheim, UH., & Lundman, B. (2004), and is a suitable method to reveal variation in content (Krippendorff, K., (2004)). Content analysis is a research tool used to determine the presence of certain words, themes, or concepts within some given qualitative data i.e., text from the interviews. The transcribed summary of each interview was processed in four steps (Graneheim, UH., & Lundman, B. (2004). Step 1: Identify and Collect Data. Step 2: Determine Coding Categories. Step 3: Code the Content. Step 4: Analyse and Present Results. Consensus was reached regarding the informant's knowledge, opinion, or view of the subject. A summary of the selected quotes was sorted in a large table to get a clear picture of all the data, and the interpretation of data was repeatedly discussed. A consensus among the researchers over 80% should be achieved before categorization is considered complete (Graneheim, UH., & Lundman, B. (2004). To avoid or at least minimise biased subjectivity in the analysis, the interviews in this study were analysed by not only the interviewers but additional persons.

Results

Six health care and 16 dental personnel answered the questionnaire, summarized in **Table 2a** (dental personnel) and **Table 2b** (health care personnel). One participant from the health care personnel group was unable to find time to meet for an in-person interview and therefore only answered the questionnaire.

Patient contact and multi-professional collaboration

Health care personnel (5/6) had the impression that patients who have been subjected to torture self-sought care or received a referral via different professionals.

> *There were referrals from health care centers, psychiatry, employment agencies and SFI* (Swedish for immigrants) *teachers* (Psychologist).

Health care personnel had varying degrees of collaboration with other care units, but rarely with dental care. (2/5) had a collaboration with a dentist and claimed that the rehabilitation time were shortened by this method.

> *But there should be more collaboration between different caregivers* (Dentist)

None of the health care personnel had been consulted by legitimate dental personnel (dentist, dental hygienist) with questions regarding patients with confirmed or suspected torture injuries. All dental personnel (16/16) experienced a complete lack of collaboration with other disciplines regarding their patients being potential torture victims.

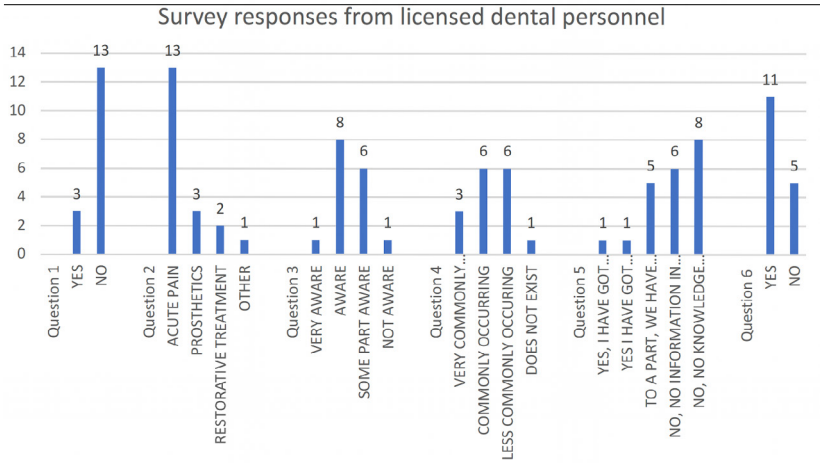
General knowledge and symptoms of torture

(4/5) of the health care personnel claimed that there was a general lack of knowledge among their health care colleagues of torture in the oral cavity or competent care for these survivors. Most of the dental personnel also reported their own lack of knowledge and a belief that their colleagues have no knowledge of symptoms of torture in the oral cavity. The group dental personnel also expressed some extent difficulty formulating the definition of torture. Health care personnel in this study were consistent in identifying that pain or pain sensitivity in general may be a symptom of having been subjected to torture. Health care personnel (4/5) stated PTSD as a general symptom. (3/5) in the group of health care personnel mentioned impaired concentration, cooperation difficulties and learning problems (e.g., inability to learn a new language).

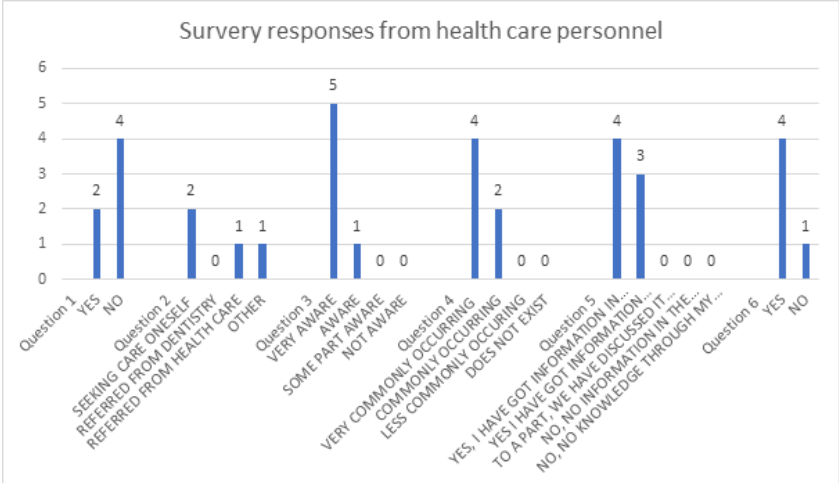
Table 2. Questions to dental and health care personnel

1. Do you, at a daily basis, meet asylum seekers or patients with a refugee background?
2. What do you find that asylum-seeking patients or patients with a refugee background are mainly seeking help for?
3. How aware are you of what torture means?
4. How common is torture against the oral cavity/face?
5. Are injuries caused by torture something you have come to know about in your education or workplace?
6. Is torture a reason for getting asylum?

2a



2b



(3/5) health care personnel considered that rapid mood swings, alternating reactions and aggression can be typical symptoms. Other symptoms that the group of health care personnel generally stated were associated with torture included impairment of daily and social functioning, being underweight due to difficulty eating, and having root remnants and missing teeth. All the interviewed dental personnel (16/16) had thoughts on what symptoms patients who have been subjected to torture may exhibit. These included difficultly absorbing information, fear, and the inability to trust others.

How common are injuries in the oral cavity from torture and what are signs of these injuries?

Health care personnel had varying opinions of how common it is for torture survivors to present with injuries in and around the oral cavity due to torture. One participant estimated that about one third of the patients she met had torture injuries in or around the oral cavity. (3/5) cited that the number of survivors with oral cavity injuries due to torture is likely greatly underestimated by providers because health care personnel do not examine the mouth, and therefore probably miss a lot of relevant information. All interviewed dental personnel stated that, as far as they know, they had never met a patient who had been subjected to torture and could not estimate how common it is for their patients to have injuries in and around the oral cavity as a result of torture. One of the interviewed dentists, who works in the public dental sector, stated that he treats all asylum-seeking patients within the area of his clinic but has never seen injuries to the oral cavity caused by torture. (3/5) health care personnel stated that they believed that poor oral hygiene and a high need for dental treatment are general symptoms in torture victims. (3/5) of the health care personnel stated that dental fear is a general symptom and (2/5) mentioned pain, toothache, bruxism/teeth grinding and burn marks as general symptoms experienced by torture survivors. Dental personnel expressed a wide variety of responses concerning damage and possible symptoms to the oral cavity due to torture, including missing teeth, root remnants, necrotic teeth, tooth fractures, poor dental status, wounds, extreme tooth wear and mucosal scarring.

> *Burn marks in the oral mucosa, teeth extracted with remaining roots in the jaw, classic trauma injuries, extreme tooth attrition due to stress* (Dentist)

Knowledge of how to treat torture victims with a focus oral cavity

Health care and dental participants generally considered that their own and their colleagues´ knowledge of the importance of the oral cavity in torture is inadequate. The interviewed dental personnel claimed that they can restore good functionality and perform restorative treatment on patients with torture injuries. They indicated that the psychological care of these patients would vary depending on geographically where the patient was able to receive care, including whether the care was in the suburbs or in the inner city. The group of dental personnel also argued that it would be preferred if the patient themselves informed the dental staff about their torture background. Although, as the interviewees stated, this can be hard to achieve since torture is often a very personal and sensitive subject.

Further processing, referring and treatment

Health care personnel showed good knowledge of how to refer a torture victim to dental

personnel, while none of the dental personnel were sure how to refer these patients to other health care and humanitarian professionals. However, dental personnel presented relevant suggestions for possible places to refer their patients, such as the National Board of Health or the Red Cross, and to the general psychiatry, medical specialists in ear-nose and throat, and physiotherapist professionals.

Discussion

The aim of the study was to investigate dental and health care personnel's awareness of signs displayed in victims of torture with focus on the oral cavity. The main findings were that dental personnel rarely have the education, knowledge, or experience needed to detect signs of torture to the oral cavity. Interviewed dental personnel in this study also expressed a total absence of multidisciplinary collaboration regarding patients who have been tortured. Most of the health care personnel had clear suggestions for external signs of torture and showed good knowledge of how to refer a torture victim to dental personnel.

Recommendation for referral protocol

Our results show the importance of clear guidelines regarding the management and handling of suspected victims of torture, with a focus on the oral cavity. Centers for tortured refugees should collaborate with dental personnel who have been appropriately trained, can provide any treatment needed, have knowledge of the patient's situation and can provide oral health with a reduced risk of traumatization. Most of the health care personnel in the present study had broad knowledge and competence in identifying signs of torture and showed good knowledge of how to refer a torture victim to dental personnel. Health care teams can identify, train, and cultivate ongoing working relationships with dental personnel in their region to serve survivors and refer torture victims to trained dental personnel, so the patient does not have to seek dental care himself and end up in in the general dentistry. Health care staff can include in their investigation what type of torture has affected the person's mouth, in what way and how much it affects the patient (if it is a trigger for PTSD for example). Information that can be included in a referral to dental personnel is best practice in obtaining patient consent and release of information, and how to prepare their torture survivor clients to receive dental care. Studies show that several aspects of a dental visit can resemble torture methods (Hoyvik et alt (2019), Singh et alt (2008), Keller et alt (2014)). Victims of torture who have been exposed to methods including water, for example waterboarding, may react strongly to water pulsations affecting the oral cavity during treatment. The oral light lamp from the dental chair directed towards a patient's mouth and face may cause the patient to relive memories from interrogations where bright lights were used. As a dental patient you are expected to lie down in the dental chair, which can provoke feelings of loss of control. These situations may trigger the torture victim to relive previous traumatic experiences (Høyvik, A., Lie, B., & Willumsen, T. (2019).

Trained dental personnel shall give the torture victims as much control as possible over the dental visit and situation, giving them the opportunity to ask questions or, if possible, to alter the environment, e.g., shutting their eyes, or if it can be tolerated and is experienced as relaxing, putting a lavender scented eye pillow over their eyes to counteract the impact of having bright lights shining in their faces.

Improvement actions

Both dental and health care personnel identified additional problems, such as lack of

finances and time needed to provide appropriate and sensitive care to torture victims. This corresponds well with the results of previous studies of Singh et alt (2008) and Lamb et alt (2009). The dental personnel interviewed in this study had a broad range of experiences and represented both dentists and dental hygienists with varied work experience, time in the profession, age, background, location of practice (i.e., suburb vs. inner city). None of the dental professionals reported experience with patients who have been – as far as they know - victims of torture. Regarding education, there are very simple means that can be used to improve the knowledge of dental staff, since these issues are not included in undergraduate education today. To begin with, a course should be established within the dental program which covers the complexity of symptoms, etiology, epidemiology, and picture s of injuries, etc. An equivalent course should also be available for medical students and, possibly, cooperation between the two programs could be proposed. As things currently stand, doctors have very limited knowledge about the oral cavity, relying on dental staff. While this is to be expected, health personnel should be equipped to identify when there are issues and make appropriate referrals to dental personnel.

Conclusion

Survivors of torture carry a risk of reliving the trauma during a visit to the dentist, a situation that may trigger a recollection of torture. Our findings have provided a foundation for understanding the difficulties that torture survivors can experience in receiving dental care. Health care personnel have, in general, good knowledge of how to refer a torture victim to dental personnel, while the dental personnel interviewed in this study expressed uncertainty regarding how to identify a patient as a torture victim and how to refer these patients to other health care and humanitarian professionals. There is a need for increased awareness and knowledge of injuries and signs resulting from torture in the oral cavity among dental and health care personnel. Distinct directives, clear guidelines, education, increased multi-professional collaboration and clear consultation paths are needed.

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ICD-11 PTSD and CPTSD: Implications for the rehabilitation of survivors of torture seeking international protection

Aisling Hearns[1], Philip Hyland[2] , Carin Benninger-Budel[3] and Frederique Vallières[1]

Key points of interest

- Evidence of construct validity for ICD 11 diagnoses of PTSD and CPTSD among a population of treatment-seeking survivors of torture and serious harm, seeking international protection in Ireland. Prevalence rates amongst this group, as measured by the International Trauma Questionnaire (ITQ), are high.
- Valid measurement of trauma-related disorders within populations of treatment-seeking survivors of torture has implications for diagnosis, assessment, treatment, and policy across rehabilitation centres for torture survivors globally.

Abstract

Introduction: Rates of torture are especially high among those seeking asylum, with global estimates of forced migrants having experienced torture exceeding 50%. Torture is the strongest predictor of PTSD amongst refugee populations. This study assesses the construct validity of the International Trauma Questionnaire (ITQ), a self-report measure of ICD-11 PTSD and Complex PTSD (CPTSD) symptoms, within a population of torture survivors seeking asylum in Ireland. It further explores whether probable rates of PTSD and CPTSD differ by sex and torture or serious harm status.

Methods: A secondary data analysis of 264 treatment-seeking asylum seekers and refugees who experienced torture or serious harm was conducted.

Findings: A confirmatory factor analysis found that a six-factor correlated model consisting of re-experiencing (Re), avoidance (Av), threat (Th), affective dysregulation (AD), negative self-concept (NSC), and disturbed relationships (DR) provided optimal fit to the sample data. 32.4% of participants were diagnosed with PTSD and a further 36.9% met criteria for CPTSD. Experiencing torture was significantly associated with higher odds of meeting criteria for PTSD. No significant differences between the sexes were found for rates of PTSD or CPTSD.

Discussion: Support for the construct validity of the ITQ was found among torture survivors actively seeking international protection in Europe. Given the high rates of PTSD and CPTSD found among torture survivors,

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rehabilitation centres for survivors of torture should consider CPTSD as part of their assessment and treatment programmes.

Keywords: Torture, ITQ, CPTSD, refugees, asylum-seekers

Introduction

According to the United Nations High Commissioner for Refugees, over 70.8 million people are forcibly displaced worldwide (UNHCR:Ireland, 2019). Often fleeing contexts of civil strife, war, and conflict, torture survivors are overrepresented within refugee populations (Baker, 1992)l with torture acting as the strongest predictor of posttraumatic stress disorder (PTSD) amongst refugees (Jaranson & Quiroga, 2011). Moreover, asylum seekers, compared to refugees, are at greater risk of PTSD, depression and anxiety (Toar, O'Brien, & Fahey, 2009); and one Irish study found that 63% of asylum seekers had symptoms consistent with meeting diagnostic criteria for PTSD symptoms, compared to 21% of refugees (Crumlish & Bracken, 2011).

The United Nations Convention Against Torture (UNCAT) is the leading document in the definition of torture and the rights of the survivors. Consistent with common definitions of torture, UNCAT highlights the elements of intentionality, a power-defenceless relationship, and infliction of pain or suffering, as characteristic of torture. While the Committee against Torture, the monitoring body of the UNCAT, has progressed in addressing violence by non-state actors, including sexual and gender-based violence against women (SGBV) over the past decades, the World Organisation Against Torture (OMCT) is concerned that the use of the UNCAT is still not equal among the sexes, with women often receiving less protection, prevention, or access to rehabilitation services (OMCT, 2019).

The psychological impact of torture is well-documented, and comparable to other forms of trauma inflicted by human design, including sexual and gender-based violence (SGBV) and other forms of intentional violence (Herman, 1992b). However, there remain several important gaps in the literature in terms of which diagnoses, assessments and treatment protocols are best suited to survivors of torture. Firstly, the lack of diagnostic terminology to effectively encapsulate the observed psychological responses of surviving torture has long been highlighted in the trauma literature (de C Williams & van der Merwe, 2013). Herman (1992b), for example, observed that patients who had experienced torture were marked by changes in their personality related to their traumatic experience(s). Accordingly, Herman coined the term 'Complex PTSD' to describe what she believed to be a more accurate diagnosis for survivors of interpersonal violence and trauma, including torture (Herman, 1992b). Consistent with the torture experience, current literature suggests that Complex PTSD (CPTSD) symptoms are more likely to arise following exposure to severe, prolonged, or repeated trauma, particularly if interpersonal in nature (Herman, 1992b) or where there is a perception by the victim of being unable to escape, due to physical, psychological, or social constraints (Cloitre et al., 2011).

More recently, CPTSD was introduced to the diagnostic nomenclature in the latest edition of the World Health Organization's (WHO) *11th version of the International Classification of Diseases* (ICD-11). The ICD-11 now distinguishes between two trauma-based disorders: PTSD and CPTSD (WHO, 2018). One of the guiding principles for the ICD-11 in revising the trauma disorders was a focus on core symptoms such as to improve cross-cultural validity (Maercker et al., 2013). This

is considered especially important as people from different cultures and sub-cultures have been found to experience trauma and express posttraumatic symptoms differently to people from Western countries (Marsella, 1996). In recent years, the empirical evidence supporting the reliability and validity of ICD-11 diagnoses of PTSD and CPTSD has accumulated across many cultural and trauma-exposed samples (Ben-Ezra et al., 2020). Furthermore, research conducted by Vallières et al. (2018) suggests a high prevalence of CPTSD among treatment-seeking refugee populations. Most recently, the presence of ICD-11 PTSD and CPTSD has been identified within a diverse group of treatment-seeking refugees resettled in Denmark, some of whom had experienced torture (Vang, Nielsen, Auning-Hansen, & Elklit, 2019). However, this latter study focused purely on resettled refugees and did not include asylum seekers.

Secondly, there remains a need to identify the usefulness and validity of existing assessment tools to identify CPTSD among survivors of torture. The Istanbul Protocol, also known as "The Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment", as the first set of international guidelines for documentation of torture and its consequences (OHCHR, 2004), states that any assessment should include a psychological assessment in addition to a physical one. However, the lack of consensus relating to appropriate diagnostic terms and measures for the psychological impact of torture has resulted in a gap in the credibility of psychological assessments with this population (Aarts, Van Wanrooij, Bloemen, & Smid, 2019). Moreover, there is a recognised lack of valid and reliable measurement tools for assessing the psychological impact of torture in a cross-cultural population (Mollica & Caspi-Yavin, 1991; Pérez-Sales, 2018). More recently, the International Trauma Questionnaire (ITQ), developed in line with ICD-11 PTSD and CPTSD, has been found to have good reliability and validity across homogeneous samples of refugees (Vallières et al., 2018).

Finally, a gap has been noted in the ability to effectively evaluate torture treatment interventions (Basoglu, 2006). The UN Committee against Torture specifies that States should have mechanisms to oversee, monitor, evaluate, and report on implementation of Article 14 of UNCAT ('the right to rehabilitation') and that this should include the collection of data relating to survivors, their experiences, and the consequences of torture (Pietrzak, 2018). Accordingly, it is recommended that measures used for the evaluation of torture rehabilitation programmes also be valid, reliable and culturally appropriate (Jaranson & Quiroga, 2011). Specifically, in relation to CPTSD, there is a need for "advances in the development, testing, and routine use of reliable assessment measures that include items representing the full range of symptoms that follow single or complex trauma-exposure" (Cloitre et al., 2011, pp. 623-624).

In view of the high rates of torture among refugees, including up to 50% of forced migrants in Ireland (Wilson, Hennessy, Dooley, Kelly, & Ryan, 2013), understanding the psychological impact of torture as part of the forced migrant experience remains an important and underserved area. Specifically, understanding whether forced migrants who have experienced torture are at a higher risk of meeting a diagnosis of CPTSD. Given that 167 countries worldwide have ratified the UNCAT and, therefore, are legally subject to Article 14, which affirms that each state must provide for 'as full a rehabilitation as possible' for survivors of torture within their jurisdiction (UNCAT, 1984), the addition of CPTSD

into the ICD-11 presents new opportunities for diagnosis, assessment, and treatment in relation to the severe and compounding trauma suffered by forced migrant populations. Accordingly, the current study put forward three specific objectives. First, we sought to determine the factor structure of ICD-11 PTSD and CPTSD amongst a sample of treatment-seeking asylum seekers and refugees in Ireland who had suffered torture or serious harm. Second, we sought to determine the point prevalence of CPTSD and PTSD, as assessed using the International Trauma Questionnaire, among this sample. Thirdly, we investigated whether refugees and asylum seekers who have experienced torture were more likely to meet the diagnostic criteria for CPTSD than PTSD, and whether any sex differences existed in probable rates of CPTSD and PTSD across the population tested due to the theorised link between SGBV in women and the development of CPTSD (Herman, 1992a).

Methods

Participant Information

Participants were 264 treatment-seeking asylum seekers and refugees assessed at intake into Spirasi's rehabilitation services. Spirasi is Ireland's national rehabilitation centre for survivors of torture and inhuman treatment, which provides an out-patient model of care to its service-users. Service-users are referred by a medical practitioner. Applications are then reviewed by a panel within Spirasi to establish if they fit the remit of the service. At the time of initial assessment, 93.9% (n = 248) of participants were 'Asylum Seekers', 3% (n = 8) were 'Refugees', and a further 3% fell into the 'other category', which included those with Irish Citizenship or EU Citizens. Participants were predominantly male (61.7%, n = 163) and 38.3% (n = 101) were female. The largely heterogeneous sample included participants from 29 different countries of origin, with Zimbabwe (n = 47), Pakistan (n = 26), and DR Congo (n = 23) being the most frequent. The age range of participants varied from 14 to 69 years of age with a mean age of 34.34 years (SD=8.9). For the purposes of this study, participants were divided into two categories. The first category is 'survivor of torture' as defined by the UN Convention of Torture Article 1. The second category is 'serious harm' within the meaning of Article 13(b) of the Qualification Directive.[1] This division is based on the categories the rehabilitation centre, Spirasi, uses when reviewing applications to the service. Some service-users fell outside of the UNCAT criteria required to access the service but were accepted under the category of serious harm. 'Serious harm' indicates that the applicant had seriously harmed by a non-State actor i.e. in cases of SGBV. Using this categorisation, nearly two-thirds of participants (72.3%, n = 191) were identified as survivors of torture using UNCAT Article 1; when divided by sex, 57% (N = 58) of females and 81.6% (N = 133) of males met the criteria for UNCAT. The remaining 27.3% (N = 72) were identified under the category of 'serious harm' using Article 13(b) of the Qualification Directive; when divided by sex 42.6% (N = 43) of females and 17.8% (N = 29) of males met the criteria for serious harm. There was an exception of one participant who fell into neither category, who was categorised as a survivor

1 Council Directive 2004/83/EC: Serious harm consists of: (a) the death penalty or execution; or (b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or (c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

of war.

Ethical Aspects

Ethical approval for the current study was sought and approved at the level of Spirasi's Board of Directors and Trinity's School of Psychology Research Ethics Committee ahead of carrying out data collection and analysis: Approval ID: SPREC112020-31. All participants had provided written informed consent and all data was processed and stored in relation to EU GDPR regulations.

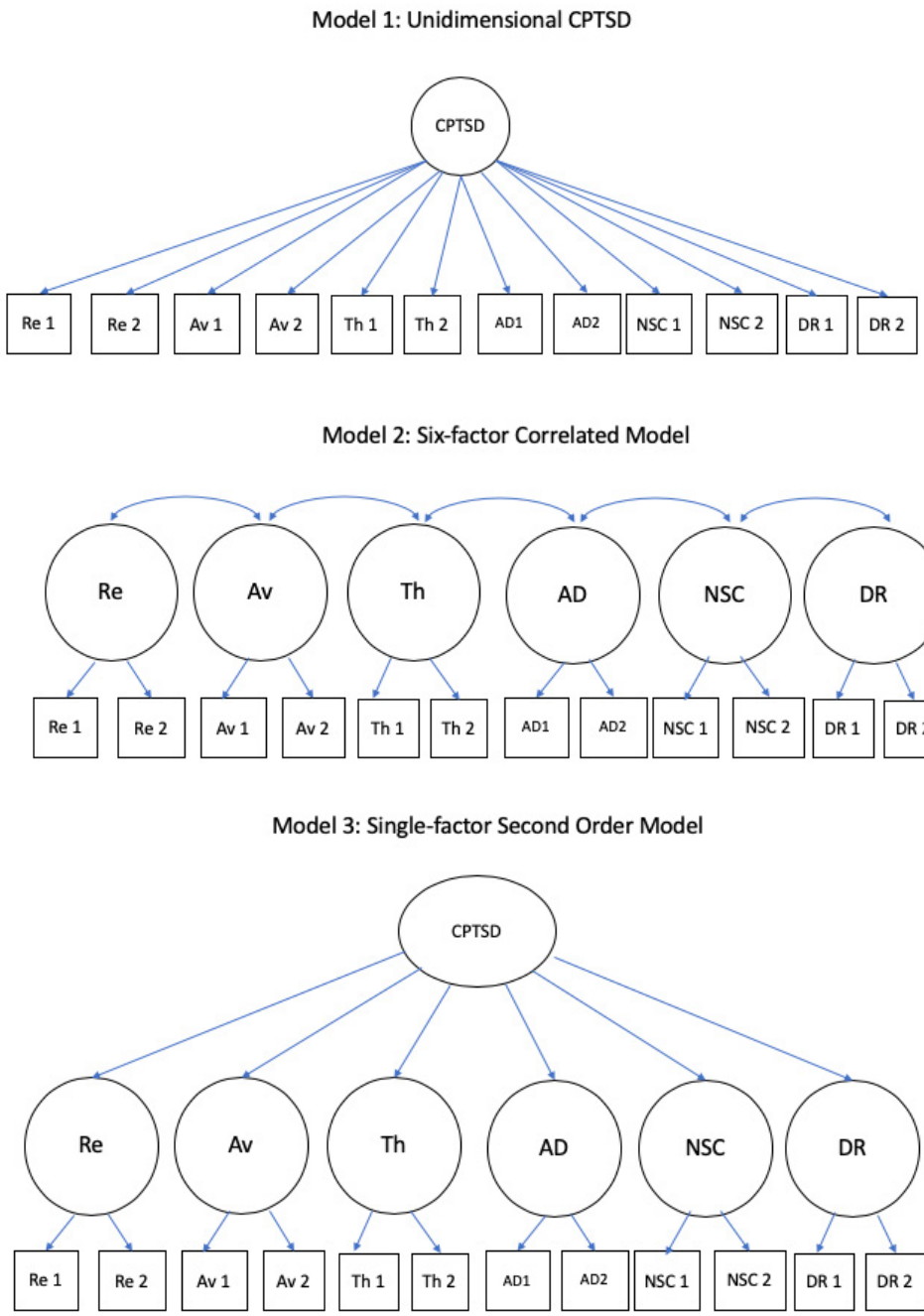
Materials

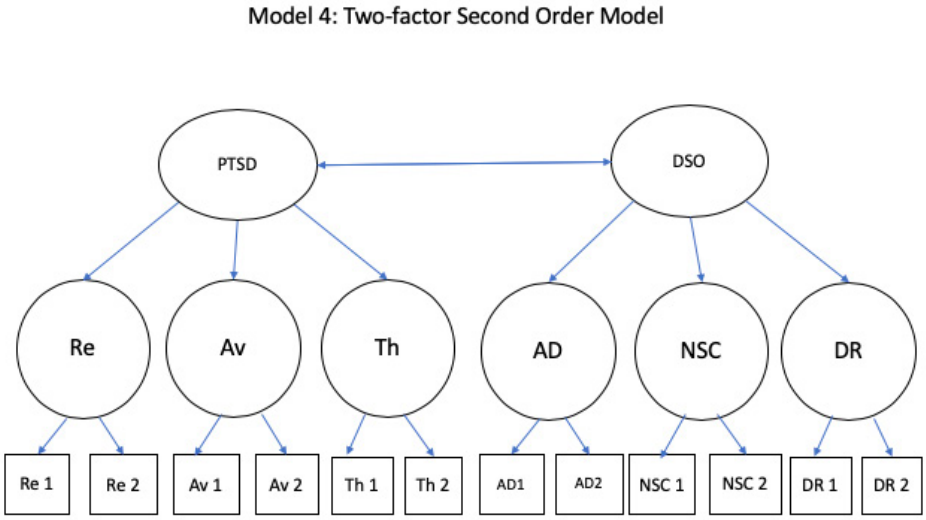
Participants were assessed by a physician, a psychotherapist, and a psychosocial officer during their initial assessment within the rehabilitation service to establish whether they were survivors of torture or serious harm, based on the aforementioned criteria. The presence of ICD-11 PTSD and CPTSD were assessed using the International Trauma Questionnaire (ITQ) (Cloitre et al., 2018) (see Annex) wherein PTSD is characterised by three symptom clusters relating to re-experiencing (Re), avoidance (Av) and sense of threat (Th), and CPTSD is characterised by three additional symptom clusters: affect dysregulation (AD), negative self-concept (NSC), and disturbed relationships (DR). These latter three clusters are collectively referred to as Disturbances of Self-Organisation (DSO). All 18 items are answered on a five-point Likert scale with a range of 'Not at all' (0) to 'Extremely' (4). Diagnostic criteria for PTSD require a score of ≥2 ('Moderately') for at least one of two symptoms in each cluster, along with endorsement of at least one functional impairment item, defined as a score ≥ 2. CPTSD diagnosis requires that the PTSD criteria are met in addition to a score of ≥2 ('Moderately') for at least one of two symptoms in each of the Disturbances of Self-Organisation clusters, again along with endorsement of at least one functional impairment item, defined as a score ≥ 2. While 41.7% (n = 110) required the use of an interpreter for this assessment, 58.3% (n = 154) carried out the assessment in English.

Data Analysis

The factor structure of the PTSD/CPTSD symptoms was assessed using confirmatory factor analysis (CFA) with four models being compared (Figure 1). Model 1 is a unidimensional model where all items load onto a single latent variable, CPTSD. Model 2 is a six-factor correlated model consisting of re-experiencing (Re), avoidance (Av), threat (Th), affect dysregulation (AD), negative self-concept (NSC), and disturbed relationships (DR). Model 3 is a second-order variant of Model 2, which assumes that the correlations between the six first-order factors can be explained in terms of a single 'CPTSD' factor. Model 4 is a second-order model including two factors of 'PTSD' (explaining covariation between Re, Av, Th) and DSO (explaining covariation between AD, NSC, and DR). All models were estimated in Mplus (Version 8), using the weighted least square mean and variance adjusted (WLSMV) estimator. Model fit was assessed using standard recommendations whereby acceptable model fit is indicated by a non-significant chi-square value; Comparative Fit Index (CFI) and Tucker-Lewis Index (TLI) values ≥0.90; a root mean square error of approximation (RMSEA) value ≤0.08; and a standardised root mean square residual (SRMR) value ≤0.08. To compare the four models, we examined differences in the RMSEA (ΔRMSEA), as this fit index includes penalties for increasing model complexity, whereby ΔRMSEA values > .015 indicate a significant improvement in model fit. Internal reliability for PTSD and

Figure 1. Loading patterns of models in confirmatory factor analysis





CPTSD was assessed using composite reliability scores. Prevalence rates for PTSD and CPTSD were calculated based on the best fitting model. Differences in diagnostic status across sex and UNCAT criteria were determined using a Pearson chi-square analysis in SPSS Statistics, Version 25.

Results

Factor structure and internal reliability

The CFA results are provided in full in Table 1. All models terminated normally. Of the four models tested, Model 1 was rejected as an unsatisfactory representation of the sample data given poor model fit indices. Models 2, 3, and 4 all produced good model fit. Model 2 had the lowest chi-square value, the highest CFI and TLI values, and the lowest RMSEA and SRMR values. Moreover, the ΔRMSEA values between Model 2 and Model 3 (ΔRMSEA = .035), and between Model 2 and Model 4 (ΔRMSEA = .031) supported the statistical superiority of Model 2. Given that Model 2 was the best fit of the data, and consistent with the ICD-11 description of the symptom structure of CPTSD, it was deemed to the best model.

Table 2 presents the factor loadings for Model 2. All factor loadings were positive, significant ($p<0.01$) and greater than 0.45. Table 3 presents the correlations between the six factors. All factor correlations were statistically significant ($p < .01$) and positive with correlations ranging from .24 to .86.

Diagnostic rates and descriptive statistics

A total of 190 individuals (72.0%) met the criteria for a probable diagnosis of either PTSD or CPTSD. Of these, 32.6% (n = 86) were diagnosed with PTSD and 39.4% (n = 104) met criteria for CPTSD. There was no significant difference in the proportion of males and females who met criteria for PTSD (34.9% vs. 28.7%, x^2 (1) = 1.111, p = 0.292, OR = 1.34, 95% CI = 0.78, 2.29) or CPTSD

Table 1. Confirmatory Factor Analysis

	CFI	TLI	RMSEA	SRMR	χ^2	df
	>.90 or .95	*>.90 or .95*	*<.08 or .05*	*<.08*		
Model 1	0.883	0.857	0.119	0.073	254.9	54
Model 2	0.999	0.998	0.016	0.029	41.483	39
Model 3	0.981	0.974	0.051	0.044	80.513	48
Model 4	0.984	0.978	0.047	0.042	74.217	47

(35.6% vs. 45.5%, x^2 (1) = 2.592, p = 0.107, OR = 0.66, 95% CI= 0.39, 1.096) (see Table 4).

Those who met the UNCAT criteria for torture were significantly more likely to meet the criteria for PTSD (36.13% vs. 22.2%, x^2 (1) = 4.621, p = 0.032, *OR* = 1.98; 95% CI = 1.06, 3.71), but not for CPTSD 36.13% vs. 48.61%, x^2 (1) = 3.410, p = 0.065, OR = 0.60, 95% CI = 0.35, 1.04), than those that did not (see Table 4)..

Under the category of 'serious harm' 20.9% (N = 9) of females and 24.1% (N = 7) of males received a diagnosis of PTSD. Under the category of torture, 34.48% (N = 20) of females and 36.84% (N = 49) of males received a diagnosis of PTSD. No significant differences were found between these groups. Prevalence rates of CPTSD with females who suffered 'serious harm' amounted to 55.81% (N = 24), whereas males amounted to 37.93% (N = 11). Prevalence rates for CPTSD with females who suffered torture amounted to 37.93% (N = 22), whereas for males amounted to 35.34% (N = 47). No significant difference were found between these groups.

Discussion

The current study sought to determine the factor structure of the ICD-11 PTSD and CPTSD symptoms as measured by the ITQ amongst a sample of treatment-seeking asylum seekers and refugees in Ireland, the estimated prevalence rates of PTSD and CPTSD, and whether rates of PTSD and CPTSD varied depending on one's sex and history of torture or serious harm.

Findings from this study further support the validity of the ICD-11 PTSD and CPTSD constructs with asylum-seeking survivors of torture and serious harm. Specifically, our findings indicated that a six-factor model of the ITQ consistent with the description of CPTSD in the ICD-11 was an excellent representation of the sample data. Although three of the four models tested presented a good fit, this six-factor correlated model was deemed to be the best fitting model. This finding is consistent with earlier studies conducted by Kazlauskas et al. (2020) and Karatzias et al. (2016), who also showed goodness-of-fit with a correlated six-factor model of CPTSD, based on the proposed ICD-11 criteria using the ITQ. Conversely, Nickerson et al. (2016) found support for a two-factor higher-order model among refugees in Switzerland from a variety of different countries of origin using a number of adapted measures to assess symptoms related to ICD 11 PTSD and CPTSD, and Vallières et al. (2018) found support for a two-factor higher order model distinguishing between the symptoms of PTSD and CPTSD in treatment-seeking a sample of Syrian refugees in Lebanon, using the ITQ.

Our findings further lend support for the use of the ITQ as an appropriate diagnostic

Table 2. Standardised factor loadings for the Two-Factor Second Order model

	Re	Av	Th	AD	NSC	DR
Having upsetting dreams that replay part of the experience or are clearly related to the experience?	0.47					
Having powerful images or memories that sometimes come into your mind in which you feel the experience is happening again in the here and now	0.87					
Avoiding intern al reminders of the experience (for example, thoughts, feelings, or physical sensations)?		0.61				
Avoiding external reminders of the experience (for example, people, places, conversations, objects, activities, or situations)?		0.57				
Being "super-alert", watchful, or on guard?			0.79			
Feeling jumpy or easily startled?			0.86			
When I am upset, it takes me a long time to calm down.				0.65		
I feel numb or emotionally shut down.				0.66		
I feel like a failure.					0.80	
I feel worthless.					0.84	
I feel distant or cut off from people.						0.86
I find it hard to stay emotionally close to people.						0.92

Note. All factor loadings and factor correlations are statistically significant ($p < .01$).

Table 3. Correlations

	Re	Av	Th	AD	NSC	DR
Re	1.00					
Av	0.282	1.00				
Th	0.537	0.502	1.00			
AD	0.863	0.328	0.695	1.00		
NSC	0.640	0.244	0.521	0.748	1.00	
DR	0.693	0.261	0.511	0.856	0.780	1.00

Note. All factor loadings and factor correlations are statistically significant ($p < .01$).

tool for assessing PTSD and CPTSD, as separate diagnoses, within a heterogeneous sample of asylum seekers and refugees who have experienced a range of extreme trauma. These findings have implications for the greater assessment, treatment, and support for survivors of torture accessing national torture rehabilitation centres. Medico-legal reports, used as evidence of torture for the purposes of international protection, are deemed an important part of the torture survivor's rehabilitation process. Aarts et al. (2019) analysed 97 medico-legal reports on traumatised asylum seekers in the Netherlands and found that the presence of physical evidence matching the asylum seeker's telling of events was positively associated with being granted asylum. However, the same association was not found for the psychological evidence presented, whereby the presence of psychological symptoms which matched the stated experience of the asylum seeker was not associated with being granted asylum. They concluded their study recommending a need to improve psychological and psychiatric assessments when documenting torture for the medico-legal process. The ITQ, as a validated measure of ICD-11 PTSD and CPTSD, therefore offers national torture rehabilitation centres a standardised tool that could be used to for psychological assessments carried out for Medico-Legal Reports, as part of the international protection process, and for the purposes of evaluation of treatment interventions offered by rehabilitation centres for survivors of torture. Having a standardised trauma assessment tool which has been validated with a diverse sample of survivors of torture seeking international protection offers a consistent platform for psychological assessment in the medico-legal process, which can

Table 4. Prevalence rates and relationships between ICD-11 PTSD and CPTSD and sex and torture/serious harm

	ICD-11 PTSD	ICD-11 CPTSD	*P*	*OR*	*95% CI*
Females	34.9% (N = 29)	28.7% (N = 46)			
Males	35.6% (N = 57)	45.5% (N = 58)			
PTSD*Sex			0.292	1.34	0.78, 2.29
CPTSD*Sex			0.107	0.66	0.39, 1.09
Survivors of torture	36.13% (N = 69)	36.13% (N = 69)			
Survivors of serious harm	22.2% (N = 16)	48.61% (N = 35)			
PTSD*Torture/ Serious Harm			0.032	1.98	1.06, 3.71
CPTSD*Torture/ Serious Harm			0.065	0.60	0.35, 1.04

Note: N = 264; ICD-11 PTSD = International Classification of Diseases, 11th ed. model of posttraumatic stress disorder; OR = Odds Ratio; 95% CI = 95% confidence intervals for the mean.

be used across global settings where international protection is sought.

The use of a common, valid measure could also contribute to generating more comparable outcomes across rehabilitation centres, and substantiate the effectiveness of the various treatments being used worldwide (Jaranson & Quiroga, 2011). Specifically, while most rehabilitation centres worldwide for survivors of torture offer similar treatment models relating to therapeutic and psychosocial support, there is a lack of data available on how effective these treatment models are measured across a range of psychological outcomes. Of the few studies exploring the effectiveness of rehabilitation programmes on survivors of torture, high rates of psychopathology relating to PTSD, depression and anxiety have been recorded, with symptom prevalence in those who are not receiving treatment being shown to worsen (Lie, 2002) or remain stagnant (Vaage et al., 2010). Where studies do exist, they tend to focus almost exclusively on PTSD (Jaranson & Quiroga, 2011) with little recognition or acknowledgement of the need to study other diagnoses, symptoms, functioning and impairment, including, and most notably, CPTSD, which our findings evidence is highly prevalent among a population of torture survivors seeking international protection in Ireland. Whilst it is worth noting the high prevalence rate of overall trauma diagnosis within this sample, i.e. 72%, it is important to recognise that the ICD-11 presents PTSD and CPTSD as two distinct disorders, meaning that if an individual qualifies for a diagnosis of CPTSD, they cannot also be diagnosed with PTSD at the same time. Prevalence rates for PTSD and CPTSD in the current sample were 32.6% and 39.4% respectively.

Rates of PTSD and CPTSD among the current sample of treatment-seeking survivors of serious harm and torture were significantly higher than those reported in general population studies (Karatzias et al., 2019). This is not unexpected given the refugee experience is often marked by compounding instances of trauma throughout the migration journey (Crumlish & Bracken, 2011; Wilson et al., 2013). It is worth noting however, that rates of both PTSD and CPTSD were higher in the current sample than those previously observed within other treatment-seeking refugee samples still living in a refugee camp (Vallières et al., 2018), but lower than that observed in a sample of refugees resettled in the host country (Vang et al., 2019), and among resettled refugees in Switzerland (Nickerson et al., 2016). Higher rates of PTSD and CPTSD identified in the current sample, may be further explained by the noted negative impact of the international protection process in Ireland on the mental health of asylum seekers (Crumlish & Bracken, 2011). Notably, and as outlined in the United Nations Committee on the Elimination of Racial Discrimination, in their 2011 report entitled 'The Policy of Direct Provision', Ireland's inordinate delay in the processing of asylum seeker's applications and the final outcomes of their appeals and reviews, as well as poor living conditions characteristic of Direct Provision Centres, can suffer health and psychological problems that in certain cases lead to serious mental illness (UNCERD, 2011). Given that, in Ireland, up to 50% of forced migrants have suffered torture (Wilson et al., 2013), and that the physical and psychological impact of torture is often compounded by further trauma experienced during transit and on arrival in the host country, with the impact of post-transit trauma increasing over time (Beiser & Hou, 2001), the impact of the host-country experience and the psychological impact of torture often present as intertwined.

While a high rate of trauma-related disorders as a result of torture across both sexes is expected and has been supported by other studies (Ibrahim & Hassan, 2017), our findings did not support significant sex differences for PTSD or CPTSD among this population of survivors of torture and serious harm. Indeed, possible sex differences in prevalence of ICD-11 PTSD and CPTSD are a subject of debate, with some studies reporting sex differences in PTSD and/or CPTSD (Shevlin et al., 2018) and others reporting no difference (Karatzias et al., 2017). Under the category of 'serious harm' our findings showed that women were more likely to meet a diagnosis for CPTSD (55.8%) than men (37.9%), but these differences failed to reach significant levels. This could be due to the lack of power to detect any systematic differences, given the small sample size available in the current study. Despite not reaching significant levels, these findings suggest that people who have faced interpersonal violence and disempowerment (e.g., SGBV) suffer a level of psychological effect equal to someone who is a survivor of torture at the hands of a State agent i.e. CPTSD. These similarities have been recognised by the UN Committee against Torture, the body monitoring UNCAT, in their interpretation of the definitions of torture and ill-treatment, by including gender-based forms of violence by non-state actors into its work. Specifically, in 2007, the UNCAT adopted 'General Comment 2' and stated in paragraph 18 that States are required to exercise due diligence to prevent, investigate, prosecute, punish and provide remedies for acts of non-state violence, including acts of gender-based violence such as rape, domestic violence, female genital mutilation, and trafficking and that otherwise "its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts". The diagnostic levels of CPTSD among those who suffered serious harm found in this study's sample further supports a need for an inclusion of survivors of sexual and gender-based violence in the area of torture assessment and rehabilitation.

Taken together, findings of this study have important implications towards treatment modalities and best practice. Given the high prevalence of CPTSD within this population, traditional approaches for the treatment of PTSD may not be the most appropriate or effective among refugee or asylum-seeking populations. Treatment programmes for PTSD have been well-established, reviewed and agreed upon in academic and professional circles (Forbes, Bisson, Monson, & Berliner, 2020). Patel, Williams, and Kellezi (2018) challenge the suitability of the likes of Eye Movement and Desensitisation Reprocessing and Cognitive Behavioural Therapy approaches to PTSD treatment when working with torture survivors. Cloitre et al. (2011) note that "there are few studies exploring adaptations of, or alternatives to, established PTSD treatments developed specifically for individuals with complex trauma histories and intended to target complex PTSD symptoms" (p. 616). Indeed, some of the treatment programmes developed for PTSD (i.e. Cognitive Behavioural Therapy) were shown to be less effective in those who had more complex trauma experiences (van der Kolk, Roth, Pelcovitz, Sunday, & Spinazzola, 2005). Cloitre et al. (2011) also explored the recommended treatment modalities for Complex PTSD as opposed to PTSD and concluded that there was strong (84%) consensus among experts that a phase-based approach, tailored to address relevant symptoms within the CPTSD criteria, is most appropriate.

Originally developed by Janet in 1925, the phase model approach today is most associ-

ated with (Herman, 1992b), who advocated for this treatment model in her work with patients with Complex PTSD. Herman's phase model approach includes 1. Safety-building, 2. Grieving/Processing Trauma, and 3. Integration. A review of this approach nearly 20 years later has shown it continues to stand the test of time (Courtois, 2009). Whereas complexities emerge when considering appropriate treatment approaches to adult-onset CPTSD in refugee or war/genocide-exposed populations (Cloitre et al., 2011), a phase-model approach, with an emphasis on beginning with safety-building, which also takes into account the further complexities of family separation, cultural dislocation, and ongoing asylum-crises (Beltran & Silove, 1999), is deemed most appropriate. This approach is further supported by a review by Nickerson, Bryant, Silove, and Steel (2011), who found a multimodal approach, which emphasises an initial safety-building/stabilisation phase, as more appropriate than PTSD treatment approaches for refugee populations. This approach is further endorsed by both the National Institute for Clinical Excellence (NICE) and the International Society for Traumatic Stress Studies (ISTSS) (Cloitre et al., 2011). Given the high prevalence of CPTSD within this population of torture survivors seeking international protection, the ICD 11 diagnosis of CPTSD, and its sibling diagnosis of PTSD, present opportunities for studies assessing the effectiveness of the phase model approach within torture rehabilitation centres.

The current study is not without limitations. Firstly, insufficiently powered analysis, due to the small sample size, may have resulted in the failure to detect meaningful sex differences. Secondly, the complexity of the international protection process in Ireland may have contributed to participants suffering additional distress (O'Connell, Duffy, & Crumlish, 2016), further compounding any pre-departure psychological distress. It must also be noted that the population in this study were treatment-seeking and therefore the prevalence rates are likely an overestimation of true prevalence rates of PTSD and CPTSD among asylum seekers and refugees who have experienced torture. Further to this, given that the ITQ was administered by several different Western white clinicians, human error and potential bias must be considered. Future research should seek to investigate the additional impact of the asylum-seeking process. In addition, a better understanding of the role of power-dynamics in torture, serious harm, and gender, as possible mechanisms for the development of CPTSD is required.

Conclusion

This is the first study to examine the prevalence of PTSD and CPTSD among a treatment-seeking sample of asylum seekers that have experienced torture. Our results suggest that, aligned to ICD-11, PTSD and CPTSD are common within this population group. The International Trauma Questionnaire offers a simple, valid measure with which to assess PTSD and CPTSD among this culturally diverse group. Sex differences were not found on significant levels of PTSD and CPTSD. These findings have implications for improving practice in the assessment and treatment of forced migrant populations who have experienced torture and serious harm in keeping with recommendations as laid out by the Istanbul Protocol (OHCHR, 2004) and bring to the fore a need for more tailored treatment approaches to address CPTSD within this population.

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Annex: The International Trauma Questionnaire

The Reference for the measure is: Cloitre, M., Shevlin M., Brewin, C.R., Bisson, J.I., Roberts, N.P., Maercker, A., Karatzias, T., Hyland, P. (in press). The International Trauma Questionnaire: Development of a self-report measure of ICD-11 PTSD and Complex PTSD. Acta Psychiatrica Scandinavica. DOI: 10.1111/acps.12956. ITQ version below is sourced from Cloitre M, Shevlin

	Not at all	A little Bit	Moderately	Quite a bit	Extremely
1. Having upsetting dreams that replay part of the experience or are clearly related to the experience?	0	1	2	3	4
2. Having powerful images or memories that sometimes come into your mind in which you feel the experience is happening again in the here and now?	0	1	2	3	4
3. Avoiding internal reminders of the experience (for example, thoughts, feelings, or physical sensations)?	0	1	2	3	4
4. Avoiding external reminders of the experience (for example, people, places, conversations, objects, activities, or situations)?	0	1	2	3	4
5. Being "super-alert", watchful, or on guard?	0	1	2	3	4
6. Feeling jumpy or easily startled?	0	1	2	3	4
In the past month have the above symptoms:					
7. Affected your relationships or social life?	0	1	2	3	4
8. Affected your work or ability to work?	0	1	2	3	4
9. Affected any other important part of your life such as parenting, or school or college work, or other important activities?	0	1	2	3	4

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Instructions

Please identify the experience that troubles

How true is this of you?	Not at all	A little bit	Moderately	Quite a bit	Extremely
1. When I am upset, it takes me a long time to calm down.	0	1	2	3	4
2. I feel numb or emotionally shut down.	0	1	2	3	4
3. I feel like a failure.	0	1	2	3	4
4. I feel worthless.	0	1	2	3	4
5. I feel distant or cut off from people.	0	1	2	3	4
6. I find it hard to stay emotionally close to people.	0	1	2	3	4
In the past month, have the above problems in emotions, in beliefs about yourself and in relationships:					
7. Created concern or distress about your relationships or social life?	0	1	2	3	4
8. Affected your work or ability to work?	0	1	2	3	4
9. Affected any other important parts of your life such as parenting, or school or college work, or other important activities?	0	1	2	3	4

you most and answer the questions in relation to this experience.

Brief description of experience. When did the experience occur? (circle one)

a. less than 6 months ago
b. 6 to 12 months ago
c. 1 to 5 years ago
d. 5 to 10 years ago
e. 10 to 20 years ago
f. more than 20 years ago

Below are a number of problems that people sometimes report in response to traumatic or stressful life events. Please read each item carefully, then circle one of the numbers to the right to indicate how much you have been bothered by that problem in the past month.

Below are problems or symptoms that *people who have had stressful or traumatic events sometimes experience.The questions refer to ways* you *typically* feel, ways you *typically* think about yourself and ways you *typically* relate to others. Answer the following thinking about how true each statement is of you.

Torture by administration of electric shocks: The case of PG

Clifford Liu[1], Matina Kakalis[1] and Jennifer Weintraub[1]

Guest Editors: **Ben McVane and James Lin**

Introduction to the Reader

In this case study, a survivor of torture describes a history of electrical torture with a rod-like object and the subsequent neurological symptoms and keloid scars that developed afterwards. Electrical injuries can be difficult for a clinician to identify on exam as they do not often leave any physical scars on the skin. However, survivors of electrical injuries do describe a constellation of acute sensations and ensuing neurologic and musculoskeletal symptoms that can be recognised by taking a detailed history. Though rare, our case aims to describe physical scars left by electrical torture in addition to the more common symptoms. Familiarity with the mechanism of these injuries and their common acute and subacute symptoms can assist a forensic examiner in evaluating consistency in these cases.

Background

PG is an approximately 40-year-old male seeking asylum in the United States. In his home country in North Africa, PG worked in the military as a scientist, though he secretly opposed the government regime there. When a popular uprising against the government broke out, he attempted to join the rebel forces but was intercepted, arrested, and subsequently tortured by the regime.

PG was detained in a military prison, where he was interrogated and tortured for two months. PG recalled being repeatedly electrocuted with what he believes was a rod on his back, chest, legs, and arms. As he was blindfolded at the time, he was unable to visualize the instrument used. The shocks were described as powerful and painful, and initially left small circular wounds where the rod contacted his skin.

Later, revolutionary forces freed political prisoners, including PG. About six months after he was freed, PG traveled to Europe and sought medical care for his injuries. At this time, PG described tingling over the areas where he was electrocuted, like an "ant crawling sensation," with associated pain and numbness. He received treatment with acupuncture and the symptoms ultimately resolved. PG did not have documentation of his European medical records or acupuncture treatment so this aforementioned information was obtained via verbal history. PG eventually came to study and seek asylum in the United States. He was examined by a physician several years later as a part of his legal case for asylum.

Ethical considerations

Written consent was obtained from the patient for de-identified information and photographs to be used in research and case reports.

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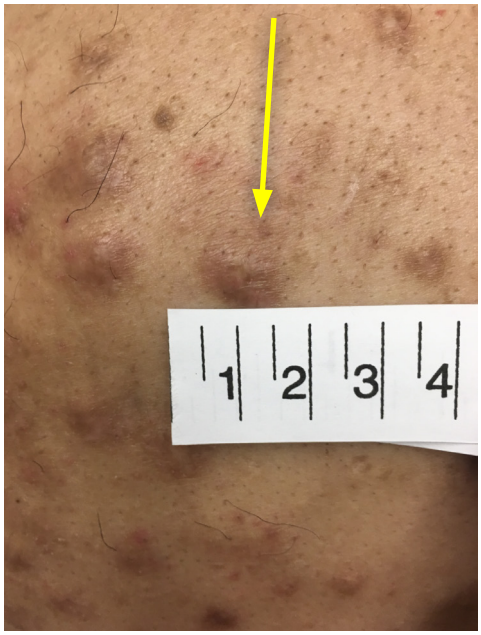
Figure 1. An example of a scar present on the client's back after his described electrical torture. The arrow points to a raised, circular, hyperpigmented lesion approximately 10mm in diameter. There were many other similar scars present across the client's back.



Physical Signs and Symptoms

On physical exam, PG had numerous scars and injuries resulting from his torture. He had multiple circular, raised, hyperpigmented scars scattered throughout his back. These scars were 1cm in diameter on average (Figure 1).

Interpretation and Conclusion

The history and physical exam of PG are highly consistent with the mechanism of injury he described. PG's account of electrical shocks (both the acute pain and subsequent months of paresthesias) is typical of being shocked by the tip of a rod, such as a cattle prod or shock baton. The multiple circular, raised, hyperpigmented scars on his back are consistent with keloid scars as a result of these shock injuries. It should be noted that there are other hyperpigmented, round, raised scars present on the client's back. As he was shocked repeatedly, these scars could be from the electrical injury he described but could have an alternative etiology such as local inflammation or infection.

Discussion

Mechanism and Physiology

Numerous low-lethality electric shock weapons have been commercially developed that can be used as weapons against humans. These include stun guns, TASERs, shock batons, and cattle prods. Such devices deliver an electrical charge through two points of contact, or electrodes. Stun guns, which are incapacitating devices, deliver multiple high-voltage (50,000 V) shocks in quick succession. The electrical shocks are able to pass throughout the skin and skeletal muscle without penetrating internal organs, triggering immense pain and involuntary muscle contractions (Becour, 2013). Depending on the total duration of shock, the effects can range from being briefly unable to stand to being immobilized, incapacitated, and weak for around fifteen minutes (Robinson et al., 1990).

Shock batons and cattle prods operate in a similar fashion, with the two electrodes positioned at the end of a stick. These devices tend to deliver a lower, non-incapacitating voltage; the electrical current mainly passes between the two electrodes, with limited current in the rest of the body. This results in pain and localized contraction of the underlying skeletal muscle (Robinson et al., 1990). Importantly, a modified version of the cattle prod, called a 'picana', has been made specifically for use in electrical torture (Robinson et al., 1990).

The electricity generated by these devices will follow the path of least resistance in the body and can travel through nerves, muscles, and bone. The resulting current releases thermal energy impacting high resistance tissues, such as bones, fat, and tendons, receive more damage (Dhaniwala et al., 2019). Therefore, victims of electrical torture may have numerous, nonspecific injuries that result from the electrical current on bodily tissues, the conversion of electrical energy into thermal energy resulting in burns, and the physical trauma resulting from muscle contraction and fall (Becour, 2013).

Evaluating Victims of Electrical Torture

While the use of electrical torture has been reported since World War II, it can be challenging to clinically evaluate its victims because many of the resulting lesions heal with insignificant scarring (Danielsen, 2002). As such, a detailed history and description of the electrical torture is one of the most crucial components of the clinical evaluation.

In this case report, PG recalled that the shocks were very powerful and painful, causing his entire body to jump. This is consistent with reports from other survivors of electric torture who describe severe pain, loss of muscle control, convulsions, fainting, and involuntary defecation and urination (Amnesty International, 1997; Danielsen, 2002; Danielsen & Rasmussen, 2006). These "jumps" and involuntary contractions are consistent with the impact of electrical current on the neuromuscular junction.

Acutely after electrical torture, victims may experience pain and weakness in their muscles due to extended periods of forced tetany. Transient neurologic symptoms have also been described, such as seizures, motor weakness, decreased sensation, and even hemiparesis (Grube et al., 1990). Hematuria may occur in the days following electric torture due to myoglobin released by the damaged tissues (Danielsen, 2002). There may be acute lesions on the skin from electric torture, although many will eventually heal with insignificant or no scarring at all.

The scars on PG's back are non-specific, and could have been caused by inflammation or local infection. However, the 1-2 cm scars seen on PG could be similar to acute skin injuries described in victims of 'picana' torture. Following 'picana', well-demarcated lesions covered by red-brown crusts and sometimes surrounded by a broad erythematous zone consisting of indistinct and irregular edges have been described (Danielsen et al., 1991; Danielsen & Rasmussen, 2006).

Long-term sequelae of electrical torture can include musculoskeletal stiffness, neuropathies, impotence, scarring, and post-traumatic stress disorder (Amnesty International, 1997; Dhaniwala et al., 2019). Other neurological manifestations following electrical injury, such as epilepsy, peripheral nerve lesions, delayed motor neuron disease, and ischemic necrosis of nerves surrounding the electrical exit site have been reported (Addante et al., 1991; Andrews & Reisner, 2017). Even in the case of low-voltage electric shocks, peripheral neuropathy and reflex sympathetic dystrophy have been reported (Kim et al., 2013). These neuropathies may offer a clue of electrical torture when other physical symptoms such as scarring are absent.

In PG's case, he reported a crawling sensation and tingling in the areas where he had been electrocuted, with associated pain and numbness. Eventually, with care and acupuncture, these symptoms subsided. PG's description of his symptoms is highly consistent with other reports in the literature as summarized above.

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In summary, identifying survivors of electrical torture can be challenging, especially since electrical injuries often do not leave physical scars. In PG's case, his clear description of the electrical injury along with his subsequent neurologic symptoms strongly support his account of trauma.

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The need for the Principles on Effective Interviewing for Investigations and Information Gathering

Juan E. Méndez[1]

The worst and most cruel forms of torture happen in the course of interrogation of suspects and of persons thought to be in possession of information that is considered crucial to solving crime and to prevent other criminal offenses. During my tenure as United Nations (UN) Special Rapporteur on Torture (2010-2016) I was able to verify this fact on countless occasions, from interviews with victims of torture in all the countries I visited, to the hundreds of petitions received and treated under the case complaint mechanism of the UN Special Procedures. In my last report to the UN General Assembly, in October 2016,[1] I called on the international community to develop a protocol of non-coercive interrogation, so that crime investigators – as well as intelligence gatherers -- could have guidance on how best to interview suspects, witnesses and victims to get to the truth while preserving the human dignity and the rights to personal integrity of the persons interviewed. My report was the result of a consultation held in August of that same year with specialists on the matter from several countries. In that meeting, I learned not only that science demonstrated that coercion of all sorts is counterproductive to the establishment of the facts, but that there are alternatives to the brutality of torture that have been tried and tested now for three decades in several countries. We have, therefore, a science-based and practice-proven methodology that can be transformed into principles of universal applicability in the conduct of interviews that are essential to law enforcement, military and security intelligence gathering and similar purposes.

My 2016 report was well received at the General Assembly. Notably, it sparked a very enthusiastic response by the experts that I had consulted with in its preparation, but also by highly regarded researchers in criminology, psychology, neurology and law. In addition, human rights practitioners expressed a desire to join in the effort of developing standards that can provide more detail to the blanket prohibitions of international human rights law. Significantly, law enforcement experts from various legal and institutional cultures volunteered to join the effort from the perspective of their professional experience with interrogation. In early 2017 we met to begin discussions about how to draft such a document, and we laid the organisational basis for a project to ensure the broadest possible diversity of professional experience, legal cultures and gender. We also decided early on that the drafting process would be expert-driven while guaranteeing outreach and consultation along

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1 See Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/71/298, 5 August 2016, available at https://undocs.org/en/A/71/298 .

https://doi.org/10.7146/torture.v32i3.128719

the way. We would aim to have a document that could be endorsed eventually by the international community as a tool to generate change in institutional cultures. The result is the document we launched in June 2021, after more than four years of debates, drafting and redrafting, as the Principles on Effective Interviewing in Investigations and Information Gathering.[2]

That torture happens most frequently in the course of interrogation is an insight that does not reveal much that is new. The framers of the UN Convention Against Torture had it in mind when they mentioned interrogation as one of the several purposes for which torture is used, even though they wisely expanded the definition to include infliction of pain and suffering for various other ends. Torture and all forms of coercion have been absolutely prohibited since the very emergence of the international law of human rights, and as a matter of domestic law it has been banned for centuries in most legal cultures. And yet the prohibition and its absolute nature has not resulted in the abolition in practice of its use. As a matter of international law, the prohibition of torture and of cruel, inhuman and degrading treatment or punishment has risen to the level of *jus cogens*, that is, a peremptory norm from which no departure is available to any country, including non-signatories of the relevant treaties.[3] But even that heightened status in the hierarchy of norms does not prevent torturers from continuing to use it. International law also makes investigation, prosecution and punishment of torture an affirmative obligation of all States, and mandates them to offer reparations to victims and to adopt measures of non-repetition. Torture is a "crime under international law" that allows the intervention of international criminal tribunals and of the courts of other States when the territorial jurisdiction is unable or unwilling to act. We have a normative framework that provides us with a sophisticated arsenal to fight against torture, and yet humanity has so far been unable to eradicate it despite progress made in so many other areas.

Part of the reason is that popular culture conditions us to believe that, its abhorrent nature notwithstanding, torture "works" in the sense that it is an effective tool to bring out information that is useful to solving and preventing crime. Research in various disciplines shows conclusively that this "conventional wisdom" is fundamentally wrong. But the persistence of a popular sentiment that torture is inevitable and that it is best to live with it is perhaps the most formidable obstacle that prevents progress towards eradication. After 9-11-2001 and the so-called "Global War on Terror," the attitude of some powerful States to the use of torture and the impact of popular culture has led public opinion to a pernicious relativism on what was previously near universal moral condemnation. We know, however, that science and practice – including in the Global War on Terror – demonstrates the

2 Principles on Effective Interviewing for Investigations and Information Gathering, May 2021. Retrieved from www.interviewingprinciples.com.

3 See e.g., See Human Rights Committee, General Comment No. 24: Issues Relating to Reservations Made upon Ratification or Accession to the Covenant or the Optional Protocols thereto, or in Relation to Declarations under Article 41 of the Covenant, UN Doc. CCPR/C/21/Rev.1/Add.6, 4 November 1994, para. 8; Committee against Torture, General Comment No. 2: Implementation of Article 2 by States Parties, UN Doc. CAT/C/GC/2, 24 January 2008, paras. 1 and 3.; *Prosecutor v Furundzija*, ICTY, 2002, Int'l Law Reports 213 (2002)

falsehood of this claim. In this sense, the Principles provide ample foundation for the proposition that torture does not result in effective fact-finding. The scientific literature cited in the Principles demonstrates that torture and coercion lead to judicial error and to waste of investigative resources; in the long term, it also exacts a heavy price in lack of civic trust in institutions that are essential to democracy and the rule of law.

The Principles are premised on the need to provide alternatives to brutal interrogation tactics. The culture of investigating agencies is one of misunderstood *esprit de corps* and tolerance and even cover-up for actions that breach the law. At the same time, investigators who are pressed for results (not only from their superiors but also from the public when citizens feel threatened by insecurity) can easily fall into shortcuts to solve crime or to obtain information, even if those shortcuts offend our sense of the dignity of all human persons and violate fundamental standards of due process and fair trials. For that reason, it is important to provide realistic alternatives to torture in interrogation. The Principles do just that, in describing the fundamental rules of rapport-based interviewing. The fundamental premise is that the object of the interview is not to obtain a confession but to establish the truth of the facts under investigation. In addition, the interview is conducted in a way that puts in operation the presumption of innocence, not as a rule of decision at trial, but as a living guideline to be observed at all stages of the investigatory process.

The Principles also stress the importance of ensuring the interview incorporates the safeguards against mistreatment that exist in all legal cultures and that are an integral part of due process of law as established in international human rights law. Built into the methodology of interviewing are important procedural guarantees against self-incrimination, about access to legal counsel at appropriate times, access to medical examinations and medical services as required, independent and impartial investigation of breaches of these rules, and so on.

The Principles are not meant to be a training manual for investigative interviewers. Instead, they distill the fundamental tenets that will inform the preparation of such manual in accordance with the institutional and legal cultures in which they are incorporated. They are inspired by the experience of jurisdictions that have successfully incorporated a rapport-based model of interviewing, but they include only the most fundamental and universally valid rules. The Principles are meant to be incorporated into domestic law and practice in every country in the world, with the necessary adaptations that may be required in each case. In that sense, it is hoped that the Principles will fill a void in the architecture of international human rights law applicable to investigations and information gathering, like other non-binding instruments have done in their own fields of application, like the Standard Minimum Rules on the Treatment of Prisoners (since 2015 called the Nelson Mandela Rules) on detailed rules for humane and legally sound prison conditions. Similar examples include the Minnesota Protocol on proper investigation of summary and extrajudicial executions, and the Istanbul Protocol for the detection and documentation of physical and psychological torture.

The Principles are meant especially to guide the practice of interviewing for these purposes, but they will also assist prosecutors, judges and defense counsel in determining what evidence needs to be excluded from the criminal process for having been obtained in violation of the prohibition of torture. Fundamentally, the Principles are directed to

policy-makers and to authorities in charge of supervising investigations, as a directive on the contents of public policy formulation and oversight, as well as on the rules to be followed in devising training and capacity-building in police academies and other law enforcement and intelligence gathering agencies.

An important first step in the strategies towards those goals is to obtain support and endorsement of these Principles by the international community. In due course, such expression of support will result in adoption of the Principles by all member States in their domestic jurisdiction, and become a powerful tool in the eventual eradication of torture.

September 2021

The new Principles on Effective Interviewing for Investigations and Information Gathering – An overview

Barbara Bernath[1]

'In my time as Special Rapporteur on Torture, I observed that the most frequent setting where torture and coercion takes place is the course of interrogation of suspects and for the purpose of obtaining confessions or declarations against others', states Juan E. Méndez in his foreword to the new Principles on Effective Interviewing for Investigations and Information Gathering.[2]

The Principles (also known as 'Méndez Principles'), which were launched in June 2021, are now available in several languages.[3] This article looks at the main innovative features of the Principles and present an overview of their content.

1. A solution oriented tool to shift mindset from coercive interrogation to rapport-based interviewing

The development of the Méndez Principles was an expert driven process that was initiated in January 2017 following a strategic meeting with a variety of stakeholders in Geneva. The process was supported by the Association for the Prevention of Torture (APT), the Anti-Torture Initiative (ATI) and the Norwegian Center for Human Rights (NCHR), and led by a Steering committee of 15 experts from different regions and fields of expertise. A large Advisory Council of more than 80 persons from over 40 countries also contributed to the drafting process. Enriched by three national roundtables (in Brazil, Tunisia and Thailand)[4] and two consultations with the Advisory Council in 2020, the final text is structured around six core principles. The Principles were finalized in May 2021 and officially launched on 9 June 2021.[5]

The Principles are centered around the core idea that the purpose of interviewing is to obtain accurate and reliable information in order to elicit the truth about matters under

1) Secretary General of the Association for the Prevention of Torture

2 Principles on Effective Interviewing for Investigations and Information Gathering, May 2021. Retrieved from www.interviewingprinciples.com (hereinafter "Principles").

3 See Association for the Prevention of Torture (APT), at https://www.apt.ch/en/what-we-do/campaigns/principles-effective-interviewing .

4 See APT, *International Standards on Non-Coercive Interviewing and Associated Safeguards: One Step Closer to Completion of Guidelines*, 20 September 2019, at https://www.apt.ch/en/news_on_prevention/international-standards-non-coercive-interviewing-and-associated-safeguards-one; and APT, *Good progress towards "Universal Protocol on Investigative Interviewing and Associated Safeguards"*, 11 December 2018, at https://www.apt.ch/en/news_on_prevention/good-progress-towards-universal-protocol-investigative-interviewing-and

5 The video recording of the launching event is available at https://vimeo.com/561236604 .

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investigation[6]. They provide a broad and innovative framework of reference for decision makers for reforming interrogation practices with a view to contributing to more professional policing and better outcomes of investigations and information gathering, while at the same time respecting human rights.

"The primary innovation is to present normative guidance for what police *should* do in effective and ethical investigations, rather than simply restating the absolute prohibitions against torture and ill-treatment".[7] Indeed, the Principles propose an alternative to coercive practices that will help improve effectiveness, fairness and outcomes of investigation and intelligence gathering processes. This will be in the benefit not only of the interviewee's dignity and rights, but also of the interviewer who can achieve better investigation results, and ultimately serve justice for the society altogether.

This constructive approach is the result of a multidisciplinary drafting process. Experts from the Steering Committee not only came from different professional backgrounds but also with different experience and expectations of what was needed to move away from coercive practices and overreliance on confessions. The combined expertise and approaches of police practitioners, intelligence experts, psychologists, academics and human rights defenders result in a document that uniquely combine interviewing techniques with human rights standards. This reflects the premise that "interviewing is complex adaptive process involving human beings, human behaviours and human rights".[8]

The second innovative aspect of the Principles relates to the broad approach taken with respect to interviewing. Indeed, the Principles are not based on an existing model of investigative interviewing methodology. The objective of interviewing is to gather reliable and accurate information, not to get a confession. Interviewing is therefore understood as a structured conversation where one person ('the interviewer') seeks to gather information from another person ('the interviewee') as part of any investigation or intelligence operation.[9] Accordingly, the Principles are applicable to a broad range of situations and actors. They apply to all type of interviews by information-gathering officials, such as police, intelligence, military, administrative authorities, or others acting in an official capacity. The Principles address primarily interviews with suspects during criminal justice investigations, but also apply to interviews with witnesses, victims or any other persons of interest. While the Principles reckon that the applicability of some safeguards may differ depending on the legal status of the interviewee or in specific situations such as armed conflict, they conclude that "nevertheless, the conduct of interviews should always be guided by these Principles".[10] Further, the Principles are applicable to all justice systems, legal traditions and cultures, regardless of the national legislation, policies and procedures.

6 See also Human Rights Council resolution on 'Torture and other cruel, inhuman or degrading treatment or punishment: the roles and responsibilities of police and other law enforcement officials' UN Doc. HRC/RES/46/15 adopted on 23 March 2021.

7 Rebecca Schaeffer, "The Mendez Principles: The Case for US Legislation on Law Enforcement Interview", 29 June 2021, Just Security blog series, at https://www.justsecurity.org/77244/the-mendez-principles-the-case-for-us-legislation-on-law-enforcement-interviews/.

8 Principles, para 55.

9 Principles, para 2.

10 Principles, para 13.

Principle 1: Effective interviewing is instructed by science, law and ethics.

2. The Principles are evidence-based

The multidisciplinary approach of the drafting process results in a document that uniquely integrates science, law and ethics throughout. Arguably, the fight against torture is still largely dominated by lawyers and there is a certain reticence to base arguments on science. However, this is changing, as "experts in law, ethics, and science increasingly understand that these disciplines reinforce each other and can be integrated".[11] Reflecting this trend, the strength of the Principles lies on its strong foundations in scientific and empirical research combined with latest legal and ethical standards, thereby providing a strong evidence-based response to any utilitarianism approach trying to justify torture in the name of security or the fight against terrorism.

Principle 1 provides for a robust evidence-based research analysis showing first that coercive interrogation practices are ineffective and counterproductive in getting accurate and reliable information, and second that rapport based interviewing is effective in getting reliable and accurate information. Numerous studies from a wide range of disciplines, including psychology, criminology, sociology, neuroscience and medicine have proven that coercive methods lessen the propensity of the interviewee to cooperate, create resistance and contaminate the memory. Research also shows that interviewers aiming at getting a confession are frequently influenced by "confirmation bias" and interpret information confirming their belief of guilt. Furthermore, when information is eventually provided, it is often unreliable and leads to false confession and possibly miscarriages of justice, even more so in the case of interviewees in situation of vulnerability. On the other hand, decades of research shows that rapport-based interviewing is effective in gathering criminal and intelligence information. This is achieved by establishing a relation – i.e. a connection - between the interviewer and the interviewee and using a set of proven effective interviewing techniques (see below Principle 2).

Along with science, the Principles are grounded in existing international human rights law and standards, in particular the absolute prohibition of torture and other ill-treatment, as well as the freedom from arbitrary arrest and the right to be free from discrimination. In addition, the right to remain silent and the presumption of innocence are at the core of the Principles. These foundational rights contribute together to ensure respect for the right to a fair trial, an essential element of the rule of law.

Last but not least, effective interviewing is governed by ethical standards enshrined in professional regulations such as codes of conduct. The Principles emphasize in particular the importance of respect, fairness and honesty as the foundations for all interviews and the ethical duty to adopt the most effective interviewing methods and to reject coercive tactics.

3. The Principles uniquely combine interviewing techniques with the implementation of legal and procedural safeguards

The Principles provide concrete guidance into the practice of interviewing before, during and after the interview, without however pro-

11 Steven J. Barela and Mark Fallon. "The Mendez Principles: Leadership to Transform Interrogation via Science, Law and Ethics", 1 June 2021, Just Security blog series, at https://www.justsecurity.org/76709/the-mendez-principles-leadership-to-transform-interrogation-via-science-law-and-ethics/ .

Principe 2: Effective interviewing is a comprehensive process for gathering accurate and reliable information while implementing associated legal safeguards.
Principle 3: Effective Interviewing requires identifying and addressing the needs of interviews in situations of vulnerabilities.

posing a step-by-step manual. Importantly and uniquely, the Principles integrate legal and procedural safeguards throughout. Implementation of fundamental safeguards in practice are effective measures in reducing the risk of torture and ill-treatment.[12] Further, as the European Committee for the Prevention of Torture noted, the investigative interviewing approach "dismantles the myth of the effectiveness of harsh interrogation methods (including ultimately torture) and replaces it with more effective methods of preventing, detecting, investigating and solving crimes".[13]

Interviewing is not a one off-event but is a process that starts from the first moment of encounter between the State authorities and a person until the release or presentation to a judge. This means that the respect for the dignity and human rights of the interviewee has to be guaranteed from the outset in order to create a non-coercive environment. Safeguards are key at the moment of arrest or apprehension, transfer and arrival in custody, when there is a high risk of torture and ill-treatment. Notification of a relative or a third party, access to a medical examination and health care, and access to a lawyer further contribute to more transparency and protection.[14] Effective interviewing also requires thorough preparation by the interviewer and includes reviewing all existing evidence and information, defining the objective and the strategy as well as prepare how and when to use evidence.

Importantly, the Principles elaborate on interviewing skills and techniques enabling to establish and maintain rapport with the interviewee, such as providing information, active listening, use of open-ended questions, free flow of accounts that can be complemented with probing questions (who, what, where). These techniques will also help dealing with reluctant detainee. The presence of a lawyer during the interview as well as audio-visual recording are safeguards that protect the interviewee against abuse but also the interviewer in case of false accusation.

The Principles recognize that, due to the inherent power imbalance, any interview places the interviewer in a situation of vulnerability. Some persons are in situations of heightened vulnerability due to their age, sex, gender identity, nationality or ethnic origin, disability and these vulnerabilities need to be duly assessed and addressed by the interviewer before and during the interview. Children in particular need special protection, and the presence of a lawyer or of a specially trusted person is compulsory during the interview.

4. The Principles put a strong emphasis on implementation

From the beginning, the development of the Principles included a strong emphasis on

12 Richard Carver and Lisa Handley, *Does torture prevention work?*, Liverpool University Press, 2016.

13 See European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *28th annual report of activities, 1 January 31 December 2018*, CPT/INf(2019)9, April 2019, para 79, available at https://rm.coe.int/16809420e3 .

14 See also Human Rights Council resolution on "Torture and other cruel, inhuman or degrading treatment or punishment: safeguards to prevent torture during police custody and pretrial detention", UN Doc. HRC/RES/31/31 adopted on 24 March 2016.

Principle 4: Effective interviewing is a professional undertaking that requires specific training
Principle 5: Effective interviewing requires transparent and accountable institutions
Principle 6: The implementation of effective interviewing requires robust national measures

implementation, not only at the institutional level but also at the national level. Moving away from coercive interrogation towards rapport based interviewing is a comprehensive process that aims at a shift of mind-set. This cannot happen at the level of the interviewer only and requires to consider the broader context of the organisational culture as well as the role of other national actors.

The Principles look at training as one of the key implementation measure. Accordingly, they recommend that all personnel involved in conducting interviews should receive specific training on effective interviewing, of sufficient length. Interviewing should also be integrated in the curricula not only for initial training but also as part of continuous professional development. The Principles recommend practical training focusing both on the process (how to prepare and plan the interview, conduct an analysis of information gathered, assess the process) and on the skills (keeping an open mind, building and maintaining rapport or interacting with reluctant interviewees), possibly by using use scenario-based exercises.

However, training is necessary but not sufficient to produce change, and it needs to be complemented by other measures at the institutional level. Implementation also requires leadership to ensure transparent and accountable institutions. Accountability includes for example a review of existing practices and standard operating procedures in order to integrate respect for effective interviewing and safeguards in all internal rules, and codes of conduct and assessment. It also means that the institution is able to react in case of inappropriate behavior and that the duty to report torture and ill-treatment is both required and protected.[15] Transparency means that internal rules and procedures related to interviewing should be made public[16] and that independent oversight bodies can monitor the implementation through unannounced visits. Last but not least, independent complaint mechanisms shall be accessible, prompt and victims of torture or other ill-treatment receive redress and reparations.

The Principles also look at the broader State structure and the role of the legislative and judiciary branches. The domestic legal framework is an essential prerequisite for reform and includes criminalization of torture, strong legal safeguards and exclusion of evidence obtained through torture or ill-treatment. In this regard, the role of the judiciary and prosecution is essential to ensure that only lawfully obtained evidence is admissible in court proceedings.

Finally, replacing coercive interrogation by rapport-based interviewing and the implantation of safeguards will also require that responsible for torture are brought to justice and that impunity is put to an end.[17]

Concluding remarks

In conclusion, by putting the objective of gathering accurate and reliable information at the heart of any interviewing process, the

15 Principles, para 181.
16 Principles, para 171.
17 Implementing the exclusionary rule and fighting against impunity are also key recommendations from the joint publication by Fair Trials and OOSCE/ODIHR on 'Eliminating Incentives for Torture in the OSCE Region: Baseline Study and Practical Guidance', 2020.

Principles propose a constructive and effective guidance for all agencies involved in interviewing. This solution-oriented approach provides better results both in terms of investigation and decision-making based on intelligence or information gathering and in terms of respect for human rights. The Principles therefore represent a useful guidance to move away from coercive practices and confession driven systems in favour of effective interviewing.

The Principles are primarily directed towards decision makers in law enforcement or intelligence agencies and will assist in shifting institutional culture and mindset from confession to information. Other actors, such as civil society, medical and bar associations, national human rights institutions and national preventive mechanisms also have a role to play in this reform and in the implementation of the Principles. In a topical metaphor, if we may think of interrogational torture like a virus, the Méndez Principles act as a vaccine[18], and accordingly they protect not only the interviewee or the interviewer, but also the society as a whole.

18 See intervention by Mark Fallon, launching event of the Principles on Effective Interviewing, 9 June 2021, recording available at https://vimeo.com/561236604 .

Dr June Caridad Pagaduan-Lopez

June 5, 1951 – November 20, 2021

Aurora Corazon A. Parong[1]

Picture of June selected by the family

With great sadness, we mourn the passing of Dr June Caridad Pagaduan Lopez, a dear friend and colleague in the healing profession, on November 20, 2021. She was an inspiration who gave hope to many, a powerhouse in the anti-torture movement and a champion for justice.

She graduated from the University of the Philippines College of Medicine when torture, killings and other grave human rights violations were widespread during the dictatorship of Ferdinand E. Marcos. She specialised in psychiatry and used her expertise in rendering services to survivors of torture during martial law in the 1980s. She later developed a bio-psychosocial approach in caring for those who suffered physical and mental torture and indignities at the hands of government authorities when they were arbitrarily arrested and detained. She established the Philippine Action Concerning Torture of the Medical Action Group (MAG) using a broader approach to consider factors beyond the dominant biomedical approach to disease, health and well-being. She gave hope to victims of torture and their families during the dark years in the Philippines.

She linked with other health professionals from different parts of the world then became one of the founders of the IRCT (International Rehabilitation Center for Torture Victims) based in Denmark. As MAG considered the distinct characteristics of those tortured and Filipino psychology, Doc June ensured that lessons were learned from other health professionals in other countries helping victims and survivors of organised violence. She trained others in torture prevention and rehabilitation. She cared for survivors of torture and trained some of them to become healers to overcome traumatic experiences and be empowered to help others. Her broad network opened doors

1) M.D. Vice-Chairperson, Amnesty International Philippines. Co-Chairperson, Philippine Coalition for the International Criminal Court (PCICC). Former Board Member, Human Rights Victims' Claims Board (HRVCB)

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for some of the health professionals in the Philippines to exchange experiences with others and train outside the country on the rehabilitation of torture victims.

Doc June consistently wrote about the importance of medical ethics when she found the complicity of doctors in torture in the Philippines. She strongly spoke about the need to emphasise the health profession's ethical principles and social responsibilities to render services to the marginalised and unjustly treated. June inspired health professionals to go to the rural areas to render services to the underserved victims of torture, relatives of victims of killings and severe injustices and at the same time demanded the obligations of the government to protect doctors and other health workers who respond to the call of service to anyone regardless of political persuasion, beliefs and social status. She went beyond the usual health services and highlighted the critical role of doctors and health professions in the efforts to seek justice and intensely worked for the development of the medico-legal system in the Philippines so that doctors and scientists could provide testimonies that may be used in the courts to make torturers or other violators of human rights accountable. She strongly advocated for the Istanbul Protocol as the tool to document and report torture and other cruel and inhuman treatment of persons deprived of liberty.

She also went to communities affected by tragic disasters and armed conflict and helped people, especially children and women victims of violence and disasters suffering from collective trauma. She organised the Balik Kalipay Center for Psychosocial Response and mentored students and doctors to broaden their outlook about the health professionals' role in conflict and disaster-affected communities.

June was passionate about her work and exhibited great courage to articulate her views for the common good. When she served as an expert of the United Nations Subcommittee for the Prevention of Torture (SPT) for eight years (2012- 2020), she gave her best. One of her colleagues from the SPT said: »June is a serious loss to the cause that she lived for, for almost 50 years – defending human rights and democracy and in particular, the fight against torture and for the rights of persons subjected to torture…She was very present and emphatic when speaking to inmates and others deprived of liberty, conveying respect and eagerness to communicate their experiences and make a difference in their lives. She was correct but at the same time direct and clear when speaking with authorities and managed to combine formal correctness with a strong sense, sometimes of indignation, but never to lift her voice, communicating that this cannot happen this way and must be altered as a matter of urgency.« Her colleague at SPT went on to say, »You communicated your message in such a calm, mild and concentrated way, and at the same time in a strongly engaged way; and I know of no other person who combines these so well.«

After her outstanding stint at SPT, she joined the Interim National Preventive Mechanism against Torture as Vice-Chair, to monitor prisons and other places of detention in the Philippines. She was also a member of the Board of the Medical Action group

A few years ago, she again put her brains and heart into a project on mental health which led to the enactment of a Mental Health Act in the Philippines in 2018. Even when she faced health challenges two months ago, she courageously delivered a lecture on the Mental Health Act from her hospital room.

Dr Lopez is a multi-awarded healer and human rights advocate. In 1989, Dr Lopez received The Outstanding Women in Nation's Service (TOWNS) award for psychiatry in the Philippines. In 1992, she was given the

Lisl and Leo Eitinger Human Rights Award in Oslo, besides public recognising her work inside the Philippines.

Recently, her pioneering article on »Doctors at Risk«, published in the Torture Journal in 1996, was recognised as one of the most important papers written on torture during the last 30 years. The article dealt with doctors' participation in torture, what they know about torture, the risks they face when reporting torture, and the risks of treating torture survivors. These issues are continuing challenges in the world today.

Doc June will be remembered as a happy person, a good friend who can be a shoulder to cry on, a doctor who brings light and human rights activist. One of her patients wrote about her when she passed on: »I think a good psychiatrist gives you hope, but a great psychiatrist tells you why you can keep hoping, and hopes along with you«. June is survived by her daughters Kay and Krissy, a son Kim, a granddaughter Elle, sisters and in-laws.

Thank you, Dr June Caridad Lopez, for a life well lived and well shared for the common good in the Philippines and other parts of the world. You will always be an inspiration. We will keep up the spirit and continue the excellent work against torture for human rights and a better world.

Reflections on healing and recovery from the legacies of trauma and violence

June P. Lopez[1]

Wisdom Seekers – the history of a text.
In mid-July this year, I talked to June about her participation in the Special Issue commemorating Torture's 30th anniversary as one of the key people who were an international point of reference in the fight against torture. He had published in the Journal since the early 1990s, and her work linked to IRCT and UN committees was essential. She had been a member of the Advisory Board of the Journal for nearly ten years.

She was very ill and yet maintained a high level of activity. I proposed that she write some reflections on learning of a lifetime devoted to fighting against torture. "I am active with patients and talks here and there. I have started a small group of 7 torture survivors I call »*Wisdom Seekers-Philippines*« to reprocess our experiences from the 70s to our current views/perspectives about our mass political movement and the phenomenon of Torture. It is a modest attempt to restart the discourse mainly as a therapeutic process". She later wrote: "I am also confronting a serious medical condition requiring chemotherapy. So I do not think I can focus on writing a paper at the moment. However, I could put together our conversations on torture in this group as we are recording ourselves. What do you think?"

After a consultation with the group of Wisdom Seekers, she began to work on a draft. The group gathered once a week, and June sent the first draft in October. She called it a "free association text" based on the group reflections. She sent a second draft the same day she was admitted to the hospital. This is the text we are publishing now, as a homage to an extraordinary, tireless and unique woman.

Pau Pérez-Sales

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Reflections on healing and recovery from the legacies of trauma and violence

Introduction

On the occasion of the 30th anniversary of Torture Journal, I will discuss lessons learned in the course of my engagement in psychosocial rehabilitation projects in the war-torn communities of East Timor and Southern Philippines. Several conclusions stand out and resonate with me as a healer, a caregiver and an advocate:

The early years of the torture rehabilitation movement in the Philippines and the immediate post-conflict era in East Timor saw this tendency to see torture sequelae as physical and mental health problems that must be treated. The Philippine Action Against Torture (PACT), established by the Medical Action Group, set up a clinic for torture survivors, provided medical and physiotherapeutic in-terventions for individual torture survivors, in-vestigated allegations of Torture and visited detention places to render medical and psychi-atric assistance to detainees. In East Timor, international NGOs competed for scarce funds to establish similar clinics in the country's capital, Dili. The staff of these clinics were even given short term training in Australia to familiarize them with the treatment programs used in rehabilitation centres. Australian psy-chiatrists were funded to see torture survivors in these Dili clinics once a month. These days, funders also look at torture rehabilitation as projects intended to identify victims and their needs as individuals, not communities. Thus, proposals required counting the prevalence of clinical symptoms and much less a social investigation of the more vast impact of the violence on the community. This led to frustrating struggles to secure funding for community-based programs. We evolved in our firm conviction that while individual healing was necessary, it could not occur without social and community healing. The 1980s definition of Torture became a hindrance as well. Community torture became a more common systematic form of Torture after the Convention Against Torture (CAT) was ratified. The CAT was primarily based on the Greek and Latin American experience of State torture which targeted individuals to terrorize the population. The community-wide extent of the psychosocial impact of Torture had not received as much attention as the need to assist individual survivors back into their everyday lives. Thus, recognition for the importance of community-based interventions was far from sufficient. Such lack of recognition was the reason for our failure to receive funding assistance for a research project to study the impact of massive abduction of male community members by the Indonesian militia, dropping off their dead bodies back onto their village that was come to be called the "Widows Village". The reason that was given to us was that the incidents did not fit the CAT definition of Torture.

Fortunately, our persistence with such a notion produced results. The IRCT managed to run a project for five years in Suai, a Timorese district. Suai is about 2 hours away from the capital, Dili. It suffered mass murder by the Indonesian militia, where more than 500 members of the community were killed on one occasion while attending church. We were able to document the torture experience of the community and provide community interventions such as group psychosocial processing of survivors or the creation of modules for the training of mothers and teachers on the man-

agement of trauma in children. One prominent feature of the research project was the continuing debriefing of our young interviewers, who were not only survivors of the same trauma but were also bound to be retraumatized by the research process. We were able to apply this same framework and methodology in the war-torn community of PIkit, Mindanao in the Southern Philippines, with the support of DANIDA and the Danish Embassy in Manila.

Under the most brutal results of war, displacement, massacres and torture, the need to address the traumatic human sequelae remains in the hearts and minds of surviving individuals and their communities. Individuals confronted with brutality and degradation can have incredible strength and resiliency. Thus, they must be actively engaged in the "rehabilitation" process not only as beneficiaries of services but as knowledgeable, dedicated but unfortunately, disempowered members of their community. As humanitarian aid embarks on the challenge of psychosocial rehabilitation, it is essential to realize that there is more to it than altruistic concern. As we saw in East Timor, the scramble for funds, territories of operation, even occupation of the remaining scarce undamaged buildings for offices demonstrated that humanitarian aid is also an industry which in many instances brings into play economic and political variables that can impede and even obstruct, the provision of effective rehabilitation services. Decisions regarding priorities and fund disbursement are coloured by these variables leading to prioritization of, for instance, computers or motorcycles for the organisation over psychosocial services. Then, there is the temporary nature of humanitarian aid regarding the long-term consequences of psychosocial trauma. We must anticipate donor fatigue, new catastrophes, the disappearance of CNN, changing national and global politics. The priority of building an indigenous infrastructure to empower the people to meet their needs is of most critical importance.

I would also like to highlight the different means and varying degrees to which post-conflict countries could embark on the process of "remembering". Alfred McCoy's[1] profound analysis of the Philippine experience looked at "the extent to which impunity was practised by those who assumed power after a dictatorship such as the Marcos Dictatorship. Torture and its terror, designed to inculcate mass compliance through fear, left a lasting legacy for the post-Marcos Philippines—a politicized military and a traumatized polity. Since there was no investigation of past human rights abuses, torture and salvaging have continued inside the PNP. The Philippine experience teaches us that torture has a transactional dynamic—just as the torture victim is made powerless, so the torturer is empowered. More than any other nation, the Philippines provides an example of extreme impunity."

"Remembering and truth-telling", according to Mc Coy, "is a discourse in power. It is not a one shot or a series of hearings to get the people's narratives. Hence, it is a process that requires empowerment. He posits that "there is a dialectical relationship between the legacy of violence and its traumatic consequences and the degree to which "forgetting" becomes the social and cultural norm in dealing with its traumatic consequences. The "dialogic value

1 McCoy, Alfred. Dark Legacy: Human Rights Under the Marcos Regime. September 1999 http://www.hartford-hwp.com/archives/54a/062.html
Memory, Truth Telling and the Pursuit of Justice- A conference on The Legacies of the Marcos Dictatorship
https://www.researchgate.net/publication/311984856_Dark_Legacy_Human_Rights_under_the_Marcos_Regime

of memory" must not only be in the context of history-making but must also be in the context of healing".

The importance of remembering and truth-telling is what I experienced in Cambodia. Acceptance and karma were dominating elements in the belief system of the predominantly Buddhist population, which did not see the value of remembrance and truth-telling. Other elements are the need to reestablish a sense of safety and connection, the first stages to trauma healing according to Judith Herman. Neither have been substantially felt by the survivors. IRCT training professionals on psychotherapy, which was obviously a western concept, failed to encourage survivors to talk about their stories. The concept of "cultural sensitivity" was too often given only lip service because it was politically correct.

McCoy's observations lead me to wonder what might be the determining factors that influence these tendencies. Louis Bickford cites the relative strength of the human rights movement as a factor. Suppose we look at the Latin American experience and compare this to the Philippine experience. In that case, we might conclude that the process of "remembering" in Latin America was substantially more organized, tenacious and aggressive than what we observed in Asian countries like the Philippines and Cambodia.

These observations are consistent with the conclusion that the task of remembering and retelling one's story requires empowerment/re-empowerment of both survivors and witnesses. Therefore, the entire process is both a means and an end unto itself. A social context that affirms and protects the victims and provides victims and witnesses opportunities for joining a joint alliance against perpetrators is undoubtedly an imperative. Hence, it is not difficult to see that there is indeed a dialectical relationship between the legacy of violence, its continuing traumatic effects and the extent to which survivors are empowered to remember and retell their stories. We can also see that this process must be documentary in nature. It must occur in healing and recovery and must be conducted most ethically and therapeutically.

However, we still need to ask ourselves this question. How true to this goal of empowering at all cost has the rehabilitation movement been? To what extent has the current "professionalization" as opposed to the activism of the 80s and "politicization" of anti-torture work not moved efforts away from the "medical model" or worse that impunity and lack of justice become worse hindrances to healing?

June P. Lopez

Acknowledgements to peer-reviewers

By Editorial Team

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Torture Journal CTI prize to the most influential paper in its 30 year history.

Pau Pérez-Sales, Berta Soley

On the occasion of the 30th anniversary of Torture Journal, the Convention Against Torture Initiative (CTI) launched the first year of the annual prize for the best article published in Torture Journal, with an economic endowment of 1000 dollars.

CTI is an intergovernmental initiative to strengthen institutions, policies and practices and reduce the risks of torture and ill-treatment by promoting universal ratification and implementation of the UN Convention against Torture by 2024. (https://cti2024.org/)

Being the first year, CTI and the publisher agreed that the prize would be awarded to the most influential article in the 30-year history of the journal in the opinion of the journal's readers.

The selection process began with a shortlist by the Editor-in-Chief of 50 papers from the more than 800 papers published since 1988. The selection was based on time frame criteria (at least 1 article per volume), innovation, methodological and scientific relevance, and the number of citations as indicators of impact. The list was intended to be a first selection effort to limit the papers included for voting to a manageable volume.

Out of a short list of 50 papers, the Editorial Advisory Board carried out an anonymous voting process which resulted in a list of 10 articles voted on by all readers and members of the IRCT network of centres.

Danielsen, L., & Aalund, O. (1991). How Electrical Torture can be Scientifically Proved. *Torture Journal, 3*(1). 16-17

Eitinger, L. (1992). Coping in Nazi concentration camps. Based on research and interviews with survivors. Torture *Journal, 2*(1), 21–23.

Kjaerum, A. (2010). Combating torture with medical evidence: the use of medical evidence and expert opinions in international and regional human rights tribunals. *Torture Journal, 20*(3), 119–186.

Lopez, J. P., Aguilar, A. S., Castro, M. C. R., Eleazar, J. G., Mcdonald, A., & Schweickart, A. P. (1996). Doctors at risk. *Torture Journal, 6*(1), 13–16.

Patel, N., Williams, A. C. D. C., & Kellezi, B. (2016). Reviewing outcomes of psychological interventions with torture survivors: Conceptual , methodological and ethical Issues. *Torture Journal, 26*(1), 2–16.

Pérez-sales, P., Witcombe, N., & Otero Oyague, D. (2017). Rehabilitation of torture survivors and prevention of torture: Priorities for research through a modified Delphi Study. *Torture Journal, 27*(3), 3–48.

Rasmussen, O. V, Amris, S., & Blaauw, M. (2004). Medical, physical examination in connection with torture. Section I. *Torture Journals, 14*(1), 46–53.

Roger, G., & Jose, Q. (2001). Approaches to torture rehabilitation. A desk study covering effects, cost-effectiveness, participation, and sustainability. *Torture Journal, 11*(1-Supplem 1), 1–35.

Skylv, G. (1993). Falanga - diagnosis and treatment of late sequelae. *Torture Journal, 3*(1). 16-17

Tienhoven, H. van. (1993). Sexual Torture of Male Victims. Dutch refugee health centre first to examine this subject in detail. *Torture Journal, 3*(4), 133–135.

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The CTI prize was awarded, following the rules published in the Journal (Issue 2021/2) and, according to the readers' votes, to a series of three articles by Ole Vedel Rassmussen:

Rasmussen, O. V, Amris, S., & Blaauw, M. (2004). Medical, physical examination in connection with torture. Section I. ***Torture Journal, 14***(1), 46–53; **Section II.** ***Torture Journal, 15***(1), 37–45; **Section III.** ***Torture Journal, 16***(1), 48–55.

The three papers, written jointly with Stine Amris and Margriet Blaauw, constitute an effort to compile the medical evidence of torture, further developing or deepening some of the elements covered by the Istanbul Protocol.

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