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Documenting human rights violations: The example of torture

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The need to eradicate torture has been at centre stage of Amnesty International's work from the first conceptualization of a campaign against the detention of prisoners of conscience nearly 40 years ago[1]. When the one year *Campaign for Amnesty 1961* turned into a permanent campaign with a growing organizational base, it was natural that torture should be one of its major concerns. Amnesty International (AI) has developed considerable expertise in the past decades in the documentation and analysis of torture and has devoted a major part of it activities to campaigning against this abuse[2]. In October 2000 it commences its third global campaign against this abuse.

Amnesty International's focus on torture

[1]Benenson P (1961). *Persecution 1961*. Harmondsworth: Penguin.

[2]Amnesty International carried out a one-year campaign for the abolition of torture in 1972-73 and a second campaign against torture in 1984-85. It has also produced hundreds of reports on torture in individual countries.

For AI, the existence of torture means a continuing need for campaigning: for protesting to offending governments; for informing the public, governments and inter-governmental organizations such as the United Nations (UN); for joining with other non-governmental organisations and individuals in protest; for contributing to the strengthening of international human rights standards. In addition, AI has worked to assist victims of torture: by contributing financial and medical aid; by providing information about sources of support such as the various centres offering medical treatment to survivors of torture[3], and of funding from bodies such as the UN Voluntary Fund for Victims of Torture[4]; and by disseminating information about the phenomenon of torture and its consequences.

All of this presupposes that AI and other bodies combatting torture agree on what torture is. This is not the place for a detailed analysis of the definition of torture which is provided elsewhere[5] but some brief discussion is necessary. Several definitions of torture exist, including those given in the UN Declaration against Torture of 1975, the UN Convention against Torture of 1984, and the World Medical Association's Declaration of Tokyo of 1975.[6] In its 1975 report on torture, Amnesty International itself suggested that the following elements make up the act of torture[7]:

- the involvement of at least two people, the torturer and the victim;
- the infliction of acute pain and suffering;
- the intention to break the will of the victim;
- systematic activity with a rational purpose.

By the time of its next major report on torture in 1984[8], AI had moved to adopt definitions set out in international human rights standards and these remain the basis for AI's work.

The UN defines torture as:

> any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting

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[3] *Medical and psychosocial services for victims of human rights violations.* ACT 75/04/98, December 1998.

[4] The United National Voluntary Fund for Victims of Torture was established by resolution 36/151 of 16 December 1981. The Fund had previously been dedicated to meeting the needs of victims in Chile. Further details about the Fund are available from UNVFVT, Palais des Nations CH-1211, Geneva 10, Switzerland, or at the web-site of the UN High Commissioner for Human Rights: http://www.unhchr.ch/html/menu2/9/vftortur.htm

[5] Peters E (1996). *Torture*. Expanded Edition. Philadelphia: University of Pennsylvania Press; Rodley N (1999). *The Treatment of Prisoners Under International Law.* Second edition. Oxford: Clarendon Press.

[6] See Amnesty International (1994). *Ethical Codes and Statements Relevant to the Health Professions.* Third edition. London: Amnesty International. An expanded updated compilation is available at the AI Health Professionals Online site at: http://www.web.amnesty.org/rmp/hponline.nsf [see "Ethics"]

[7] Amnesty International (1975). *Report on Torture*. Revised Edition. London: Duckworth.

[8] Amnesty International (1984). *Torture in the Eighties*. London: AI Publications.

> in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.[9]

There are two weaknesses immediately evident with this definition. The first arises in the final line of the definition, where pain arising from "lawful sanctions" is excluded. A prisoner sentenced to lose a hand and a foot by judicial amputation may not be persuaded that this exclusion is just. In fact, some legal commentaries regard punitive amputations as incompatible with international law and therefore falling outside those "lawful sanctions" cited in the above definition. This is certainly AI's interpretation. However, there has yet to be a definitive legal ruling on this.

[9]Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. GA Res. 39/46, 10 December 1984. See discussion in Rodley N (1999). *The Treatment of Prisoners Under International Law.* Second edition. *op. cit*.

More seriously, infliction of gross pain and suffering in other contexts, notably in the private sphere, are not as such covered by this definition. Thus, the woman who is subjected to deliberate, cruel and inhuman ill-treatment by a male partner or by any other person would not feel recognition of her suffering in this definition. The issue of domestic violence and the role of human rights law in providing protection or access to redress is an issue preoccupying human rights advocates at the present time[10].

What constitutes evidence of torture?

The evidential requirements of a campaigning organization like Amnesty International are lower than those which would lead to conviction in court. AI is prompted into action by "credible evidence of torture" irrespective of whether the individuals responsible have been, or can be, identified. It is for judicial enquiries and courts to establish guilt of individuals "beyond reasonable doubt".

Evidence of torture comes in a variety of forms which carry different levels of weight and pose different problems in evaluation. Broadly, evidence of torture comes in the form of *testimonial evidence*—the stories given by people who have been tortured or who have seen torture—and *material evidence* which can be subjected to independent evaluation. Medical evidence is an important constituent here.

The different forms of evidence of torture are summarised below:

Acknowledgement by authorities

[10]Copelon R (1994). Intimate terror: Understanding domestic violence as torture. In Cook RJ (ed). *Human Rights of Women: National and International Perspectives*, Philadelphia: University of Pennsylvania, pp. 116-152.

Demonstrating the occurrence of torture is primarily an issue between the affected individual and governments - the government which condoned the torture and which almost always denies it or the refugee-receiving country which may regard torture as a pivotal element in the refugee's case for asylum. If the authorities accept that the individual citizen or refugee has been tortured then much of the non-medical reason for documenting the torture disappears[11]. Thus, any statement by a government or government agency that an individual has been tortured represents, in itself, virtually incontestable evidence that torture occurred. The obvious caveat here is if political factors come into play: where the abuses were alleged to have been carried out by a government's political opponents or by a former (or a hostile foreign) government for example. Of course there remains value in testimony for human rights and therapeutic reasons but the need to prove one's case has vanished.

The story—the victim's or witness's

The victim's (or survivor's[12]) story is usually the most important source of evidence of torture. He or she can give whatever information they feel is relevant. They can give evidence about their arrest, about the torture itself, their own reaction to the torture including medical information, details about the perpetrators, details about the location of the torture and information about their release, escape or flight. Verbal or written evidence is sometimes crucial when objective signs of trauma are no longer visible. Moreover, they can answer questions and clarify confused points.

This personal testimony can come in the form of written depositions, letters, accounts given via a third party such as a lawyer, or by interview. This last is the richest source of information because of the possibility of applying standard interview techniques to maximise the amount of information gained, to clarify ambiguities and to assess the veracity of the testimony given.

Physical marks

Certain forms of torture leave typical marks. For example, cigarette burns leave small circular scars which are readily identifiable. The possibility that they are a result of deliberate infliction as a form of torture is suggested by their location, multiplicity and pattern. Another typical scar pattern is the tramline stripes inflicted when beating with a cane or rod occurs. In all cases of physical scarring, the possibility of self-infliction has to be taken into account. While some scarring will appear to a layperson to reflect the types of abuse described by the victim, in other cases they will not. In any event, it is very important to have medical evaluation of the available evidence to determine whether or not the physical signs are consistent with the torture alleged[13].

Mental sequelae

The trauma of torture, ill-treatment, deprivation, flight and alienation all affect the mental state of the victim. While there is no agreed "torture syndrome" which leads the investigator to detect

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[11]The medical reasons for documenting torture add weight to the need to establish the person's experiences. Some therapeutic methods are solidly based on documenting the individual's experience of torture. See, for example, Cienfuegos AJ, Monelli C. The testimony of political repression as a therapeutic instrument. *American Journal of Orthopsychiatry*, 1983; 53:43-51.

[12]During the 1980s, there was a reaction against the use of the word "victim" to speak of the person who had been tortured. Refugee and human rights advocates argued that the term suggested passivity and defeat: in short, "victimhood". The more positive and future-oriented expression "survivor" began to appear more frequently. In fact, both words have their place according to context.

[13]In addition to inspection and assessment of visible injuries, scientific tests and imaging methods can be used to examine for internal injuries related to torture. See: Report on a workshop on forensic medicine and ethics, Durban, South Africa, July 1998. AI Index: ACT 75/12/99, 1999, pp.20ff.

uniquely torture-related psychological symptoms[14], there is a cluster of signs and symptoms which are suggestive of major trauma including those which collectively comprise "post-traumatic stress disorder" and which characterise the mental state of many people who have been tortured. Mental health workers can recognise such pointers and relate these to the experience recounted by the individual. However, as we will see below, the disturbed mental state of a person claiming to have been tortured does not point conclusively to the fact that he or she has been tortured.

Documents

[14]Goldfeld A, Mollica R, Pesavento B, Faraone S (1988). The physical and psychological sequelae of torture: symptomatology and diagnosis. *Journal of the American Medical Association*, **259**: 2725-9.

In some cases torture is documented by official or highly reputable unofficial sources. The most persuasive example of this is a legal document in which the state itself acknowledges that the individual has been tortured. This happens, for example, in states which require a state-run forensic institute to examine prisoners at some point in their period of detention or at release[15]. However, the refugee is unlikely to have such documentation and is more likely to rely on documents such as statements made under oath in the receiving country or medical certificates relating to examinations carried out in the receiving country[16] and these can be an important source of evidence. (Refugees in large refugee camps are unlikely to be able to arrange individual medical statements detailing their history and medical complaints.)

Photographs
Again, photographs of scars, deformities, bruising and other trauma-related injuries constitute a form of evidence of torture which, like other documents, are open to later scrutiny should the issue of torture become contentious. Expert evaluation by trauma or forensic specialists may result in strong evidence of torture.

What are the problems in verifying torture?

Medico-legal problems

Some problems in the verification of torture arise from the absence of forensic medical resources in a country, though this is frequently not the main barrier to torture documentation. Among the problems arising with respect to medico-legal documentation of torture are the following:

There is no culture of independent impartial medico-legal practice in a country
In some countries there is no routine practice of impartial investigation. Forensic sciences have a low priority and there is no pressure for improvement of the situation. Those carrying out the forensic function may be expected to formulate reports according to the demands of superiors or of the police. Moreover, forensic duties may be devolved to General Practitioners who lack qualifications or experience in forensic medicine. In such countries reliable forensic reports may be unlikely also in politically sensitive cases.

Documentation sometimes must be carried out in a hostile environment

[15]While it may seem likely that forensic institutes in repressive countries would systematically produce false reports in politically-sensitive cases, this assumption is not always correct. Even in countries where torture occurs systematically, government-employed doctors can and do provide accurate documentation.

[16]Unfortunately, there is currently undue emphasis placed by governments on proof of past persecution (including evidence of torture) in order to assess whether asylum-seekers have a "well-founded fear of persecution" should they be forcibly returned to their home country from countries of refuge. This presents a serious risk of evidence of torture becoming both an essential element and a point of vulnerability in asylum claims and is an issue which requires addressing both by governments and non-government agencies.

Governments, far from seeking the truth about human rights violations, frequently want the truth buried. To this end, pressure is placed on legal and medical professionals to help cover up abuses. Some resist; some collude; some try to survive in extremely difficult circumstances. The Boston-based organization, Physicians for Human Rights (PHR), carried out a detailed study in 1996 into the situation of Turkish physicians confronted with torture. In a 200-page report[17], PHR presented evidence of torture and its cover-up based on interviews with torture survivors, physicians and lawyers as well as from a survey of Turkish physicians who officially examine detainees, an analysis of official medical reports of detainees, and a review of unofficial medical reports of torture survivors.

The PHR report concluded that those practising torture cover up their acts by repeatedly threatening physicians with personal and professional repercussions if they report evidence of torture. The end result of this repression, the group says, is that physicians refrain entirely from using the word "torture" in their medical reports[18], and law enforcement officials responsible for the abuse escape punishment for their actions. Amnesty International has recently issued a series of appeals for Turkish doctors currently being prosecuted on minor charges in a manner highly suggestive of harassment for their human rights activities. One was recently prosecuted for "aiding an illegal organisation" through the preparation of forensic reports[19].

Access to information is difficult

Medico-legal specialists may not have access to prisoners at risk of torture. In some cases, individuals are murdered and their bodies are buried in remote areas. Many, if not most, victims of torture in several countries in Latin America during the period of military dictatorships were in custody in the period immediately after torture. Some torture was readily documented because of the gross physical damage inflicted but other prisoners went from torture chamber to cell and back again. No physician who acted independently and ethically saw such prisoners until their release.

In Argentina during the "dirty war" of the late 1970s, thousands of victims of arbitrary detention were tortured and then disappeared. Attempts by Argentinian investigators in 1983 to identify victims of killings had resulted in the virtual destruction of evidence from opened graves due to the lack of investigational skills of those carrying out the exhumations. From 1984, through the efforts of the American Association for the Advancement of Science working with local human rights activists and professionals, unmarked graves yielded up their remains and evidence of execution-style killings and, in some cases, the identities of victims were put on record. However, the number of victims will probably never be known; certainly all those who were victims of "disappearances" have not been accounted for. Testimony given to the Argentinian press by former military agents in the late 1990s made clear that some bodies would never be found since unconscious or dead prisoners were dumped from aircraft over the sea.

Abuses can overwhelm the system. As the example of Argentina above suggests, abuses carried out on a massive scale and involving systematic cover-up can make it difficult to document every

[17]Physicians for Human Rights. *Torture in Turkey and its Unwilling Accomplices*. Boston: PHR, 1996.

[18]In Turkey, medical certificates issued by forensic doctors are required by law to indicate how many days off work are needed according to the seriousness of injuries sustained by the examinee. These "days off work" figures are widely interpreted as indicating seriousness of torture, even though the report may not mention torture or not speak explicitly of the trauma inflicted on the individual.

[19]For summary of cases see: *Harming the Healers: Violations of the human rights of health professionals*. London: AI Index: ACT 75/02/00, May 2000.

case of human rights abuse. The same comment could be made about Rwanda where genocide was perpetrated but the fate of any given individual may not have been documented nor the individual accounted for due to the enormity of the scale of abuse.

Skills are not available. General practitioners and police doctors can be required to carry out postmortems or to examine torture survivors. They may not be qualified to carry out such examinations, or say that they are not qualified while refusing to gather medical evidence. The documentation of rape of women in India suffers greatly because of the lack of expertise, as well as will, on the part of doctors requested to provide documentation. In an effort to overcome at least one of the possible reasons for lack of action, the Indian non-governmental organization, CEHAT, based in Mumbai, put together a "rape kit" comprising an explanatory document and various tools such as swabs, recording pads, and envelopes[20]. Other NGOs have produced simple guides to data collection. The recent production by the University of Essex of a *Torture Reporting Manual*[21] may assist local groups in the collection of evidence of torture.

Doctors wilfully assist the authorities to cover up abuses
One study on medical involvement in torture suggested that the number of physicians directly involved in torture was small but that they were protected and rarely brought to account[22]. An exception to this invisibility arose in the case of a Chilean teacher, Federico Alvarez Santibañez, who arrived at the Penitentiary Hospital in Santiago on 20 August 1979, as a result of a judicial order. He had been sent to court from the offices of the CNI, the security agency responsible for unrestrained torture during the Pinochet period. On entry to the hospital, this prisoner was found to have "multiple contusions on the cranium, thorax and extremities. Pallid, rapid and shallow breathing, pain in sternum, multiple thoracic pains, nausea, heavy perspiration, labored breathing. Lucid and oriented. Extensive bruising around the eye sockets." His injuries were so severe that he was transferred to an intensive care unit of a major Santiago hospital where he died the following day. The certificate issued by a CNI doctor at the time of Mr Alvarez Santibañez's transfer to the hospital gave no clue to ill-treatment: "The undersigned physician has professionally examined Federico Renato Alvarez Santibañez ... and found him in good health and showing no wounds of any kind"[23]. This case differs from innumerable others only by the egregiousness of the unethical act and the availability of conflicting medical reports.

Physical evidence of torture may not be found

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[20]CEHAT. Rape Kit. (CEHAT-India, 2nd floor BMC Building, 135 Military Road, Marol, Andheri East, Mumbai 400059, India. E-mail: cehat@vsnl.com ; website: http://www.cehat.org)

[21]University of Essex, Human Rights Centre, Wivenhoe Park, Colchester, Essex CO4 3SQ, UK. The Manual is available via the Internet from http://www.essex.ac.uk/torturehandbook/english.htm

[22]British Medical Association. *Medicine Betrayed: The Participation of Doctors in Human Rights Abuses*. London: Zed Books, 1992.

[23]*The participation of physicians in torture. A report of the Chilean Medical Association, 1986*. in Stover E. *The Open Secret: Torture and the Medical Profession in Chile*, 1987. The doctor who signed this certificate was expelled by the CMA in 1986. [The report as reproduced in *The Open Secret* erroneously gives the date of the false medical certificate as 20 *May* 1979. Other sources such as *Traición a Hipocrates*, the book written in 1990 by the former Secretary General of the CMA, Dr Francisco Rivas, make clear that the false certificate was signed on the same day that Mr Alvarez Santibañez was admitted to hospital.]

Increasingly, torture is carried out without leaving signs or with signs resolving within days leaving no permanent traces. Experienced doctors can nevertheless evaluate testimony, accounts of post-trauma symptoms and physical and mental sequelae and draw conclusions. Conclusions of torture in such circumstances are not always accepted by medical colleagues. An example was illustrated by an exchange between Egyptian pathologists, Elfawal *et al*[24], and Forrest and colleagues, from the Medical Foundation for the Care of Victims of Torture in London, whose interpretations of what did and did not constitute evidence consistent with torture did not coincide.

Governments can also contest medical evidence and an example arising from one of Turkey's regular appearances at the European Court of Human Rights[25] illustrates this. In a case brought by a woman alleging human rights violations, the medical evidence appeared to contradict, at least in part, the claim of the litigant. Nehbahat Akkoç made a claim against the Government of Turkey in the European Court, claiming that her husband had been extrajudicially killed and that she had been tortured. She claimed that, in addition to diverse other forms of gross ill-treatment, she was hit on the jaw, fracturing it. A recent x-ray showed that her jaw had never been fractured and the Turkish government submitted that "her story about being unable to obtain a medical report from her own doctor is not convincing and the X-rays which she produced showed no fracture."[26] However, the fact that her jaw was not broken did not damage Nehbahat Akkoç's credibility: her testimony was so compelling, so detailed, and the fact that she insisted on her broken jaw was seen as meaning that she genuinely believed it: it was interpreted by the court as evidence of her good faith and did not discredit the rest of the allegation. In fact, she submitted that she had been told by an examining doctor that her jaw had been broken. It was an important illustration that although medical evidence can be crucial, even conflicting medical evidence need not discredit the overwhelming circumstantial evidence available.

Assessing medical evidence

Bruising, abrasions, scarring, fractures and other injuries which can occur as a result of torture, may in fact have a variety of possible causes. In assembling medical evidence, therefore, it is essential not to lay claim to more than can be concluded reliably from the patterns of injuries found: this may mean describing evidence as "consistent with" the torture alleged rather than as *proving* torture. Equally importantly, signs which are not consistent with the examinee's story should be noted.

Lack of physical signs on victim

[24]Elfawal MA et al. Torture allegations -- are they always true?, *Police Surgeon* 1993 (April); 43:26-28; Forrest D et al. Torture allegations -- are they always true? *Police Surgeon* 1993 (October); 4437-39 (and rejoinder of Dr Elfawal). The differences between the two views was based on the extent to which absence of physical signs was compatible with a finding that torture had occurred.

[25]Up until 1998, the bodies charged with implementing the enforcement of provisions of European Convention on Human Rights were: the European Commission of Human Rights (set up in 1954), the European Court of Human Rights (set up in 1959) and the Committee of Ministers of the Council of Europe (composed of the Ministers of Foreign Affairs of the member States or their representatives). A new European Court of Human Rights (combining the functions of the previous Commission and Court) came into operation on 1 November 1998 with the entry into force of Protocol No. 11 of the Convention.

[26]Report 22947-8/93, paragraph 329.

Increasingly torture is carried out by means which do not inflict long-term physical injury. These are either physical methods which do not leave scarring or psychological methods. Reference to a number of reviews will give details of these forms of torture[27]. Thus the physical medical evidence may be slender indeed. In such cases, some effort is required to elucidate a clear description of the torture itself, the effects of the torture and the sequelae, and to relate this information to known patterns of torture methods used by the police or security forces implicated in the testimony. Descriptions of the effects of torture and the after-effects can be so closely reflective of the known human response to the torture described that, excepting the possibility that the individual studied the medical literature or conspired with well-informed friends, the verbal evidence is highly persuasive.

Ambiguity of psychiatric signs and symptoms
The mental and behavioural sequelae of torture are not uniquely caused by torture. Depression, aggressivity, withdrawal, anxiety and other mental and behavioural changes can be linked to a variety of traumatic experiences (or, indeed, can result from other causes). In addition, pre-existing psychopathology can still be evident after torture. In the case of refugees, the experience of flight and exile is itself very stressful. Nevertheless, careful interviewing and reviewing of the evidence can allow an experienced clinician to draw some conclusions about the relationship between torture allegations and the individual's mental state.

Problems with memory and recall.
The difficulty of accurate recall of events among relatively unstressed people is well known[28]. Accuracy of witness recall is clearly a more significant problem when the individual is being subjected to enormous stress[29]. While this may affect accurate recall of time and timing, details of persons involved and other matters, the experience of AI suggests that the witness to torture and the victim of torture recall the essential elements of the experience sufficiently accurately to be reliable (as judged by independently comparing different testimonies of the same event or several testimonies differing in time but describing torture inflicted by the same team of torturers).

Assessing the survivor's or witness's story

Victims of political violence, and particularly refugees, have been through an extraordinarily difficult and disorienting experience and it may happen that, in recalling episodes of his or her experience, the refugee will confuse the location or timing of various events or add details as they come to mind or as they grow more trusting of the interviewer. This may — quite unfairly — give the impression of unreliability, if not dishonesty. In some cases, refugees may put themselves under considerable personal pressure to ensure that their story makes an impression and is

[27]Goldfeld A et al (1988). *ibid;* Rasmussen OV (1990). Medical Aspects of Torture. *Danish Medical Bulletin*, **37** (Supplement 1):1-88. Baso_lu M (ed) (1992). *Torture and its Consequences*. Cambridge: CUP.

[28] Cutler, BL & Penrod, SD (1995). *Mistaken identifications: The eyewitness, psychology, and law*. New York: Cambridge University Press.

[29]Mollica and Caspi-Yavin suggested the changes in memory of a torture survivor could be due to: "high emotional arousal with associated hyperbole or defensiveness; the effect of trauma-related illness on memory...; impaired memory secondary to neuropsychiatric impairments caused by starvation and beatings to the head; culturally prescribed sanctions that allow the trauma experience to be revealed only in highly confidential settings...; coping mechanisms which utilize denial and the avoidance of memories and/or situations associated with the trauma." Mollica R, Caspi-Yavin Y (1992). Overview: the assessment and diagnosis of torture events and symptoms. In: Ba_o_lu M (ed). *Torture and its Consequences: Current Treatment Approaches*. Cambridge: Cambridge University Press, p.258.

believed. This can lead to elements of exaggeration which need to be filtered out. The contrary possibility must also be allowed for—that individuals will hold back stories of their torture for reasons of avoiding painful recall or embarrassment, particularly where sexual torture or humiliation are concerned.

The interviewer

There are a number of factors posing difficulties in the assessment of torture evidence which have to do as much with the interviewer as with the interviewee. The gender of the investigator can influence the degree of disclosure of certain, particularly sexual, forms of torture[30]. However, beyond possible problems with *uncovering* evidence, there are sometimes factors which impede the *evaluation* of evidence. For example, there is what could be called an "incredibility" factor and accompanying denial. It may be difficult for an interviewer to accept the truth of allegations of extraordinary cruelty or bizarre behaviour beyond the limits of "normal" brutality and the story or parts of it may be disbelieved solely because the interviewer, *a priori*, cannot accept it. The problem was well expressed by the Chilean psychologist Elizabeth Lira in a newspaper interview:

> A sense of incredulity prevailed for several years [after starting therapeutic work with tortured ex-detainees]. There was a part of me that said this could not be true even though I was convinced that it was the truth, which was the reason I worked with them. But I could not understand how a human being could treat another in such a way.[31]

A wish to disbelieve may be compounded if the demeanour of the witness is very controlled or in any other way judged by the interviewer as inappropriate or inconsistent with the story. The problem is perhaps more significant when the person being interviewed claims to have seen atrocities inflicted on others or to have heard of such atrocities from third parties, since it then becomes easier to dismiss such stories as rumour. This underlines the necessity to seek confirmatory testimony or other documentary evidence.

Interviewers may also be liable to excessive cynicism arising from earlier deception by a putative refugee who was subsequently demonstrated to have given false testimony. (This is particularly relevant to those working on asylum cases where accepting a false story may reflect negatively on one's professional competence or increase difficulties for other asylum applicants.)

Political implications of torture allegations

Torture is one of the most serious allegations which can be made against a government by an individual. For that reason, government opponents may have a vested interest in maximising the number and severity of torture allegations since this could help demonstrate the moral bankruptcy of the government. It may also lead to abuses which are not encompassed by the UN definition being reported as examples of torture. It is important, therefore, that the political framework in which the episode of torture occurred is borne in mind.

"Benefits" of status of torture victim

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[30]Issues of gender are also important to take note of when conceptualising torture, when seeking contacts and witnesses, and when gathering and evaluating testimony. In particular, it is important to examine the impact of gender on the circumstances in which the violations occur, the nature of the harm inflicted on the victim, and the causes and consequences of the violations. See: Callamard A. *A Methodology for Gender-Sensitive Research*. Vanier: Amnesty International Canada, International Centre for Human Rights and Democratic Development, 1999.

[31]Lira E (1992). Interview in *La Nación* [Santiago]. 27 October 1992.

Refugee status can confer several benefits on the individual who has fled his or her country. These include, primarily, security and residence rights, but also benefits such as access to health care, housing and other material benefits. For the individual seeking asylum or refugee status, proof of torture is a solid element in their claim of a justified fear of persecution. This can become a point of contention between immigration authorities and asylum-seekers and their advisers. In cases where the material evidence is lacking (where, for example, the claimant has no evidence of being imprisoned or has not been a known political activist), medical evidence may be a particularly important adjunct to his or her submission. This in turn puts pressure on medical evidence which is based more on an assessment of the credibility of a claimant than on documented physical or mental harm, and rejection by the authorities of this evidence could be detrimental to the applicant's claim of torture and case for asylum[32].

New developments in the documentation of torture

[32]In addition to the research methodologies outline above, Amnesty International places some importance on macro-level or systemic analysis as an aid to evaluating individual testimony or evidence. Thus, AI:

Monitors information systematically and over time. AI gathers information on individual countries from a wide variety of published and unpublished sources - prisoners, lawyers, families, refugees, domestic and exiled individuals and opposition groups, government sources, the domestic and foreign media, human rights groups, inter- and non-governmental sources. This generates a vitally important data base on which to make judgments about reports and allegations of human rights violations and permits an informed assessment to be made when objective evidence is lacking and when individual allegations cannot be rigorously assessed.

Seeks to carry out research with gender awareness. Men and women are affected differently by social conventions, power structures and by human rights violations. Women's experiences of human rights violations have been thus far seriously neglected. Ensuring that this neglect is not continued requires sensitivity to the voices of women and active steps in establishing contact bases, designing research with women in mind and ensuring that investigative missions make efforts to meet women.

Maintains diverse contacts in the field. Information from individuals is essential to AI's work - individuals who can be interviewed and whose information can be challenged. In seeking out information, AI is careful to avoid reliance on particular individuals or indeed reliance on a particular political or social group.

Makes country visits. Built in to AI's way of working are regular (though nowhere near frequent enough) visits to the areas of human rights violations. Which are an essential supplement to the systematic monitoring of information sources and the interviewing and information-gathering which occurs in London. AI places high priority on such visits.

Builds a picture of archetypal ill-treatment. Security, police and military forces frequently develop a pattern of ill-treatment which is systematically carried out on most detainees. In many countries where ill-treatment is regularly practised, the forms of abuse follow a clear pattern. Equally importantly, there are forms of ill-treatment which are seldom, if ever, used in those countries (though they may be commonly used elsewhere). This picture of typical ill-treatment is useful in assessing new allegations.

Confirms information with different sources. This is an old principle of journalism: check your story with independent sources.

Until recently there has been no widely accepted standard for the medical documentation of torture. This has meant that investigations of torture by governments could not be measured against widely accepted international standards. In 1996, Amnesty International proposed a set of "principles for the medical investigation of torture"[33]. In March of the same year, a project to produce guidelines for the effective documentation of torture was conceived following an international symposium on "Medicine and Human Rights" held in Adana, Turkey, by the Turkish Medical Association. Following three years of work by medical, legal and human rights specialists, the final document was completed at a conference in Istanbul in March 1999.

The Istanbul Protocol[34] provides detailed medical and legal guidelines on the assessment of individual complaints of torture and ill treatment, as well as on the reporting of the findings of such investigations to the judiciary and other bodies. The documentation methods contained in the manual, which include a range of medical, psychological and laboratory procedures, also apply to other contexts such as investigations and monitoring of human rights violations and the assessment of individuals seeking political asylum. The "Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" contained within the Protocol have been adopted and published by the United Nations[35] and present a framework for medical investigation of torture allegations. The Principles also offer a benchmark for the evaluation of a state's performance in the medical investigation of torture allegations.

Conclusion

There are some indicators of torture which are almost definitive: these include: admission by governments, characteristic torture-related injuries unattributable to other forms of trauma; legal documents demonstrating that torture had taken place; witnesses' testimony convincingly describing the infliction of torture on a third person; photographs of torture-related injuries. Other allegations of torture need to be evaluated by careful elucidation of the details of the alleged torture—the type of torture and where it took place, the effects, the timing and the perpetrators—and consideration of these details in the light of existing knowledge. In the final analysis, for purposes of human rights documentation, it is necessary to rely on informed evaluations to draw conclusions on the occurrence of torture, and to make clear the presumptions and caveats relevant to the case in question. The role of forensic expertise in contributing to this task is self-evidently an important one. A priority for the future is to see expansion of forensic services and to ensure that the human rights community is made aware of the relevance of forensic medicine and science to the documentation of torture and other human rights violations[36].

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[33] Appendix 1. In: *Prescription for Change: Health Professionals and the Exposure of Human Rights Violations.* ACT 75/01/96, 1996.

[34] The formal title of this Protocol is: *The Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. The text is available via the Internet at the web-site of Physicians for Human Rights: http://216.117.141.99/research/istanbul.html

[35] Appendix to the 1999 report of the Special Rapporteur on Torture to the General Assembly (UN General Assembly Document A/54/426, 1 October 1999).

[36] Report on a workshop on forensic medicine and ethics, Durban, South Africa, July 1998. AI Index: ACT 75/12/99, 1999.