**Amnesty International**

**Amnesty International's preliminary conclusions and recommendations on Specialized Medical/Psychological Evaluations of possible cases of torture and ill-treatment**

AI Index: AMR 41/005/2014
14 February 2014

## 1. Incorrect description of injuries

Descriptions of injuries are usually very short and incomplete. In most cases, only a brief indication of their location, size and colour is given. They provide no information on aspects that are essential for expert forensic assessment and interpretation, such as the angle, depth and edges of the injuries. Descriptions should be almost like photographs of the injury.

Descriptions are even more incomplete in cases where injuries and their after-effects date from before the events in question or are presumed not to be connected. These injures are hardly described.

There is also a tendency to not describe injuries related to the alleged events but which have already been described in previous medical reports or that result from complications to the initial injuries. For example, in one case, a victim underwent surgery on internal injuries caused by torture and suffered substantial aesthetic damage due to the scars from the operation, but the expert medical report made two years later only said, "*Dark-skinned, with no traces of recent external injuries. "....*

## 2. Description of acute and chronic symptoms

There is an erroneous perception on the part of medical experts at the PGR's forensic services about what the Istanbul Protocol means when it refers to the need to obtain information on acute and chronic symptoms presented by alleged victims. These symptoms are generally described inadequately and in a way that does not allow correct correlation between the allegations and the observed injuries and after-effects.

Here is an example of the description of acute/intermediate symptoms*: "Refers to states of anxiety, mainly at night, panics when hears noise, insomnia. This in chronic form as a result of the events under investigation. Has not so far received any kind of psychological or psychiatric treatment. In addition, does not present with any kind of physical change. At the moment, seems to be in general good health."*

An example of a description in a medical legal report of chronic symptoms associated with acts of torture: *"during the medical examination, did not manifest chronic symptoms of the pains presented at the time".*

This confusion between acute and chronic symptoms has serious implications for the correlation of symptoms and after-effects experienced by the alleged victims. As the great majority of reports are made years after the events, the correct documentation of chronic symptoms is essential in order to achieve significant results.

### 3. Interpretation of findings / physical evidence

Interpretation of findings is insufficient and deficient in many respects. An example is the case of a victim who was kicked in the right side, had her hair pulled, was punched in the stomach and subjected to asphyxia one and a half years before the expert medical examination. The report stated:

*"It is not possible to attempt correlation because we do not know the background and, at the time of this examination, the person does not present with any type of physical after-effect or scars or other pathologies. It is not possible to correlate the physical findings with the allegations of torture because of the lack of medical information and because, at the time of this examination, the person did not present with any type of physical after-effect or scars or other pathologies."*

An adequate interpretation and correlation must take into account the acute and chronic symptoms, as well as the initial and later injuries, correlating them with the scientific knowledge about what happens in each method of torture.

Neither is it acceptable, as happens in many cases reviewed, to exclude the possibility that torture occurred on the grounds that the victim does not present signs of any injuries, which often occur in case of torture, but not always. For example, medical reports often exclude the possibility of asphyxiation by forcing the head into a bag, because of the simple fact that the victim does not present with petechiae or nose bleeds. However, petechiae and bleeding do not always occur in these situations.

The inexact dating of injuries is also very problematic in reports that state that injuries were sustained before or after allegations of torture were made. Some of the observations made had no scientific basis. We even noted unacceptable statements such as the following: *"Their microscopic characteristics means that the said injuries were sustained more than twenty-four hours ago..."*

### 4. Psychological assessment

There is a need to revise the procedures and, in particular, the conclusions made in the psychological assessment reports. Currently, the conclusions in these reports do not clearly state that the absence of psychological/psychiatric after-effects consistent with allegations of torture should not be construed to suggest that torture did not occur. In fact, a representative of the psychology unit of the expert services maintained this stance during initial discussions during our visit. We advise a careful reading of the manual "Psychological evaluation of torture allegations: a practical guide to the Istanbul Protocol for psychologists", published by the International Rehabilitation Council for Torture Victims (IRCT) in 2009.

It is important that the responsible expert notes that although the patients they examine may

not present with psychological disorders, this does not exclude the possibility that they were tortured. Many victims of torture recover without experiencing this type of after-effect.

To conclude that the absence of after-effects implies that torture or ill-treatment did not take place sends the wrong message to prosecutors in charge of criminal investigations, who become convinced that torture did not take place, especially if there was also an absence of physical after-effects. Such a conclusion is wrong in both cases.

5. **Revise the model of informed consent**

The consent form should include a statement that patients have given their consent to medical and psychological examinations, including the respective interviews, the application of psychological examinations, a physical examination and the taking of photos felt to be necessary. Also that staff have explained to patients why they are being asked for a statement, the aim of the examinations and their different components, as well as their right to refuse to cooperate with all or part of the examination (including photos) and to end or interrupt the interview and physical examination at any time.

6. **Reports must include the date of the request for an examination and clearly state the duration of the medical examination and psychological/psychiatric assessment**

It is sometimes not possible to determine the duration of the medical examination by reading the report, because the expert was waiting for more evidence or information and the date and time in the expert report indicating the end of the process is months after it began.

Neither do reports include the date on which the request for an assessment was made, which would establish how long it took for the service to respond to this request.

7. **Photographic documentation**

Experts do not always take photos during the medical examination and almost never during the initial examination when detainees are first transferred to the prosecution service, which is the best time to document physical injuries or the absence of injuries.

The doctors that conduct the initial examinations should take photos of injuries and also make a photographic record of the absence of injuries, even though other photos will be taken later by official professional expert photographers. Medical offices should have a camera available.
There have been cases in which photos were taken after the medical examination and that, given the procedures followed, do not refer to the report. Colour photos should be taken.

8. **Conclusions of the expert reports**

The only cases in which expert reports reach conclusions consistent with allegations of torture are those in which initial medical examinations carried out in the days following arrest record clear physical injuries and/or where a psychological assessment shows after-effects consistent with such practices.

Everything is therefore based on the initial description of the injuries. But, what if there are no injuries? The methods of torture used in the country are increasingly sophisticated and do not always cause clear physical injuries. What if the injuries are not described in the initial medical examination? Amnesty International has received reports that initial medical

examinations do not always describe accurately the physical state of victims. Here are some examples of conclusions from these reports which reflect on the results of the initial examination:

*"During his statement, he said that he began to feel a series of blows to the head around the ears and above the temple. But there was no evidence of such injuries in the initial medical report. There is no correlation between what he said and the evidence, no after-effects"*

"*The initial medical report presents no evidence of the said injuries. There is no correlation between what is alleged because no physical effects were observed during the examination carried out by the undersigned (kicks under the ribs, stomach, above the naval and in the testicles.)*"

*"In the medical report made days later, there was no evidence of injuries consistent with the alleged torture. I conclude that, at the time of the examination, there were no clinical signs or physical after-effects related to the events investigated. The psychological assessment does not show the existence of psychological reactions frequent enough to diagnose psychological torture. There is, therefore, no physical evidence or after-effects of either physical or psychological torture or physical or psychological ill-treatment."*

*"We did not observe any relevant symptoms related to the torture that he told us he had suffered."*

*"There was no evidence of physical or psychological torture nor of ill-treatment or psychological ill-treatment."*

This type of conclusion, which fails to include a statement that the absence of physical or psychological after-effects does not exclude the possibility that torture occurred (especially considering the long wait for examinations by the expert forensic services), determines (erroneously) the closure of judicial processes and results in judicial rulings that the allegations are false."

9. **A copy of the report should be provided to the victim or their legal representative as soon as possible**

Although representatives of the expert forensic services give assurances that the alleged victims always receive a full copy of the report via the prosecutor responsible for the criminal investigation, we have noted various cases in which victims or their legal representatives do not receive a copy and are only allowed access to a copy for a limited time in the public prosecutor's office as part of their access to the case file. This denial obstructs a detailed analysis of the document by the alleged victims and their representatives.

**10. Initial medical examination**

As we have noted, the initial medical examination conducted when a detainee is made available to the public prosecution service or transferred to a prison, is the key element in proving allegations of torture. However, it is clear that, in many cases, these examinations occur in a context in which it is not possible to conduct a full and rigorous examination or document all the evidence about the physical and psychological condition of the detainee. It is essential to introduce a protocol establishing minimum criteria for the initial examination to ensure it is a full and proper record and includes photographic documentation, in accordance with the Istanbul Protocol.

### 11. New training for medical and psychological staff

There is an urgent need for the provision of further training to medical and psychological staff who work in this field, and for such training to focus on practical aspects and have input from experienced international experts capable of communicating other perspectives, experiences and approaches.

### 12. Updated bibliography

Staff employed in expert forensic services show great interest in the subject but do not have a good knowledge of the most recent manuals on assessment, investigation and documentation of torture and ill-treatment.

### 13. Rapid, impartial and thorough investigation of complaints of torture and ill-treatment

The specialized medical/psychological reports prepared in response to allegations of torture and ill-treatment do not comply with all the points set out in the United Nations Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In particular, the reports seem to be used as an alternative to carrying out a thorough investigation of the allegations, with the gathering of all the evidence in order to cast light on what happened. Currently, a negative conclusion in a report by the forensic expert means that the prosecution service and the judiciary consider there is no reason to proceed. However, the medical and psychological examinations should only be a part of a more wide-ranging investigation, and as we have noted, the lack of physical or psychological evidence of torture must not be interpreted as proof that torture did not occur. It is therefore essential to rethink the role of the specialized reports in the impartial, exhaustive and complete investigation of the facts.