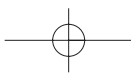


5

VISITS TO PRISONERS AND DOCUMENTATION OF TORTURE

Hernan Reyes



THE MEDICAL DOCUMENTATION OF TORTURE

The documentation of torture covers a wide range of situations that require different strategies. According to the context and circumstances involved, the type of interview and the procedures for getting documentation will vary considerably.¹ From the torture victim's point of view, there will be variations in perception, and adaptation to the situation, according to where and when the interview takes place. It cannot be stressed often enough that a humane approach towards, and true empathy for, the persons interviewed are more important from a humanitarian point of view than getting the actual documentation² – a paramount and sometimes neglected feature that workers in this field sometimes tend to forget.

Today there are dozens of major centres – and many more smaller ones – around the world that provide care for victims of torture. Some of these centres are in the countries where torture actually takes place; others are in host countries where victims of torture may perhaps seek asylum. Trained personnel with the necessary medical and psychological skills will obtain documentation in such centres while at the same time providing therapy. Legal advisors and social workers will also be present thus to provide not only medical expertise but also legal advice and social assistance. In these centres, time limitations for interviews will not be a major limiting factor, and having a series of interviews will be the rule rather than the exception.

Documenting torture is a very different matter when the persons having been assaulted are still in custody, often in the hands of the very authorities responsible for torturing them. They are therefore still, and often extremely, vulnerable.³⁻⁶ As visits to prisoners are becoming more and more widespread, by workers from different backgrounds and organizations, the following general considerations are given for precisely those situations where victims of torture are still not free, and are in such custody. In other words, the authorities who are still holding them are very much still in control of their welfare and security.

The relationship established between these persons, and visitors from the outside who are not in a position to release them, is very different from the doctor-patient relationship in a therapeutic centre. Getting information about torture in countries where it is practised does not necessarily have to be, and often cannot be, done inside the prisons. In such cases, it is often possible to obtain information about torture by interviewing released prisoners or refugees, and collect the necessary data.

Visiting prisoners held in countries where torture takes place is of course useful for obtaining documentation about torture. Visits to prisoners have, however, a broader objective. One of the aims of the visit will of course be to attempt to put a stop to the practice of torture, the main reason for seeking proper documentation. However, just as important, visitors from the outside will provide solace and comfort to the prisoners, by the personal contact in itself. The encounter with outsiders will often implicitly recognize the fact that these prisoners are in a 'special' situation and that they are not forgotten. More important, visitors from the outside will often be able to provide

liaison between the prisoners and their family members. Whatever be the actual circumstances – and these will differ greatly between continents and countries – it is necessary, before ‘rushing in’ to visit prisoners, to first establish initial safeguards so the visit itself does not put anyone in danger, and then to know which pitfalls to avoid during the actual visits.

Documenting torture should never become an objective absolute in itself. The *sine qua non* principle to keep constantly in mind is the same one that regulates all medical practice: ‘above all do no harm’. Visits to prisoners are not objectives in themselves either, and should never become counter-productive for those persons visited, not even in the overall interest of documenting and combating torture.

Within the many scenarios possible, the main issue is thus the ‘risk factor’ for those persons to be interviewed. Visiting prisoners can sometimes put them in danger of reprisals, or of further abuse and torture, because what the prisoners may or may not have told the visitors during the visit may not please their custodians. This possibility has to be weighed before even thinking about getting access to persons in custody. Unless the visitors are certain they can guarantee the safety of all persons whom they interview, they should not take the risk of putting vulnerable prisoners in danger of reprisals. Once access to prisoners has been granted, and guarantees given, it shall be necessary to know about a series of pitfalls regarding working methodology and procedures, that will have to be avoided. In all contexts where torture is a major issue, the core question of potential risk to the persons visited should be constantly kept in mind, and re-evaluated as the need arises during the visit.

A clear distinction must be made between situations in which the torture victim is free to speak about his or her ordeal and feels safe to do so, and the situation where the torture victim objectively or subjectively fears reprisals for mentioning torture.

The first case may be, for example, a person having been tortured and seeking help from a specialist. This may mean medical help from a doctor, or legal help from a lawyer. There is no danger of him or her suffering any reprisal or coercion.

The second case is typically an interview with persons still in the custody of those very authorities who may have been responsible for inflicting torture. This may be in a prison, interrogation centre, or simply in a place where the torture victims have good reason to fear their oppressors may torture them again.

Documentation of torture will be very different in these two situations.

Box 5.1

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Another aspect of this risk factor has to be considered when visiting prisoners. As has been stated, it is certainly not the aim of the visitors to cause any harm to the persons being interviewed, and the interviewees should not be putting themselves in danger of reprisals of any kind. In a less literal but no less important sense, victims of torture should never be forced to ‘relive’ their torture experience by having to tell their stories to the interviewers, i.e. to undergo ‘retraumatization’ during the documentation of torture. When visiting persons still in custody and potentially still in danger, the risk of opening a ‘Pandora’s Box’ of retraumatization is very real. However qualified the visitor may be, the circumstances of such visits in no way resemble the therapeutic situation in the safety of an outside centre. This most important aspect of working with victims of torture is addressed specifically elsewhere.⁷

The following considerations on safeguards and pitfalls to avoid when visiting prisoners are based on years of institutional experience with the International Committee of the Red Cross (ICRC), working in countries around the world. ICRC teams visit prisoners in countries in conflict situations, ranging from outright war to civil disturbances or the aftermath of internal violence. The aim of such visits is not to seek the liberation of prisoners, but to see that they receive proper treatment and protection from any form of abuse, including torture, thereby safeguarding not only their physical and mental integrity but also their human dignity.

Visits to prisoners may not always involve contexts where torture is an issue. Admittedly, insalubrious and overcrowded prison conditions can be – and often are – used as a form of torture. For the purpose here, however, torture shall be considered in its more general definition, as in the 1984 UN Convention against Torture.

General safeguards for visits

Establishing trust between interviewer and interviewee

Using information obtained: respecting informed choice

Benefits of the visit for the victims interviewed

Considerations about the interviewee

Considerations about the interviewer

Considerations about the interview

Working with and through interpreters

Gender issues and torture

Box 5.2

GENERAL SAFEGUARDS FOR VISITS

Visits to prisoners for the purpose of documenting torture demand certain non-negotiable conditions and guarantees; without which they should not be attempted, as they may in that case be not only useless, but also counter-productive, as they may put the persons interviewed in further danger.^{8,9}

In order to carry out visits in a professional and objective manner, certain safeguards of procedure need to be observed, if torture is at stake. The issue of possible reprisals for those persons to be interviewed should never be shirked, nor should the safety of the persons interviewed be taken for granted. It should be made perfectly clear to the detaining authorities that all persons to be interviewed should be able to come forward freely without any threat of any kind made or even insinuated. The authorities should give the interviewers guarantees to this effect before they begin the visit. Needless to say, precautions should be taken so as to ensure that such 'fair play' is actually respected. It would be unacceptable to take it for granted that reprisals will never take place merely because assurances have been received from the detaining authority to this effect.

The keystone to any visit to prisoners is to be able to interview all persons concerned, and who freely accept to be interviewed, in conditions of safety and privacy. Information about living conditions in custody may be very sensitive, and prisoners may be understandably reluctant to reveal details that concern themselves or other persons, even to visitors from the outside. Information regarding torture is obviously even more sensitive. On a first visit to prisoners in a country where torture is an issue, outsiders should not take for granted that all prisoners will necessarily trust visitors! In some (admittedly rare)¹⁰ cases, custodial authorities have been known to organize 'sham' Red Cross visits, completely with fake identity cards. All visitors need to be able to convincingly identify themselves to prisoners, and clearly explain the scope of their intended work.

How many prisoners to visit, and which ones to choose when there are a great number of them are questions that of course will depend entirely on the actual situations. There are no foolproof sampling techniques or methods in a torture situation. First of all prisoner populations are anything but homogenous, and more important, prisoners should be offered a chance to come forward and speak – in the privacy of the interview – according to the need. Prisoners in isolation for months and years will have a greater need of contacting visitors from the outside than prisoners who live together and are allowed visits. The articles cited in the bibliography for further reading give more details on how visits to prisoners are actually organized.

Perhaps the key factor necessary for establishing trust between outside interviewers and prisoner interviewees will be the perceived and actual privacy of the interviews that actually take place in the prison setting. As will be developed further on, this

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usually means interviews without any interference from the authorities – meaning the prison hierarchy, guards, prison doctor and psychologist, etc. Experience has shown that, despite promises made to the visitors, detaining authorities often ‘coach’ prisoners as to what they can or cannot say to visitors. It is only through the safeguard of having interviews in private, that prisoners may decide it is safe for them to speak freely and divulge information about torture. In other cases, prisoners will desire privacy for personal reasons, as, understandably, torture can raise a series of very intimate matters that prisoners will want to keep private. In many cases, and this will be developed further on, the doctor(s) on the team will be the one(s) who need to expand the interview and offer the intimacy of the doctor–patient relationship and medical examination.

The confidentiality of the information received also has to be established in relation to fellow prisoners. As shall be mentioned further on, prisoners should also be protected from possible harm from other prisoners, and therefore the privacy of the interview should be unqualified. This key principle of interviews in private has therefore to be accepted by all, as a preliminary condition for interviewing prisoners.

Another key point has to be developed here concerning possible reprisals. The only way to ensure that prisoners are not subjected to harassment or outright reprisals for having talked to outsiders is to see and interview them again. Any and all prisoner(s) who potentially put themselves in danger by such interviews should be seen again. The interval between the first and second visit obviously will depend on the actual risk of foul play from the side of the detaining authorities. This may mean coming back the next week, or perhaps only some months later if the risk is small. It is in this sense that a ‘one-shot’ visit may be useless and even cause more harm than any good.⁸ If prisoners are re-interrogated by their gaolers and suffer reprisals for what they may have said, the visit has possibly done more harm (for those individuals) than any good obtained from the information obtained.

It should therefore be evident that repeat visits to individuals, and not just to institutions, are necessary to ensure the safety of all prisoners interviewed who are potentially at risk for retaliation. In order to effectively be able to locate each person and personally (again, in privacy) interview him or her about any such reprisals, it is necessary to have some way of localizing each individual. This will need some system for taking down personal information so as to ensure reliable identification of the individuals concerned.

Registering identities of the people to be interviewed may not be a straightforward task. A method is required so as to ensure all information taken by a team is comparable and reliable. The authorities may agree to interviews but not necessarily to the taking down and confidential storing of personal information about prisoners. If a visit is only to a small group of well-known persons, the taking down of identities may not be imperative. If a large group of prisoners is visited – and is to be repeatedly visited – it will be necessary to address this issue.

One visit can be worse than no visits at all, if the personal security of the persons visited cannot be guaranteed.

Box 5.3

These safeguards – always repeating the visits, and ensuring a way of identifying the individuals who may need protection from reprisals – should be fully understood before undertaking any visits in contexts where torture is an issue. Even when such guarantees are obtained, there are no entirely foolproof safeguards. There will always exist the possibility of authorities going back on a promise to allow a repeat visit after the first one has already taken place. There may even be dire circumstances when it may be necessary to visit prisoners without the interviewers being absolutely sure of being able to see the persons they talk to again. Any such exceptions should be justified by extraordinary circumstances, and be, precisely, exceptions recognized as such. Visiting teams should be accountable for any harm they may cause, and irresponsible ‘visits’ offering no guarantees should be discouraged.

In conclusion, one visit alone may provide information about torture, but will provide no safeguard to those prisoners who have put their trust in the interviewers. It would be unethical to obtain information about torture ‘at any price’, endangering the very people who have been tortured and who confide in the visiting team. The attitude ‘one cannot make an omelette without breaking some eggs’ is not acceptable when the personal safety of persons having put their faith in a visiting team is at stake.

ESTABLISHING TRUST BETWEEN INTERVIEWER AND INTERVIEWEE

When interviewing and examining prisoners about torture, it will be necessary to be able to talk to individuals in private. Useful and reliable information can only be obtained, however, if there is a relationship of trust between the prisoners and the interviewers. This fact is not ‘self-evident’ to the prisoners any more than it is to the authorities that authorize the visit. During the initial stages of the visit, it should be explained to the prisoners very clearly and exactly what the aims, objectives – and limitations – of the visit are, and what the procedure is to be for interviews. Most important, the time available should be clearly announced, and all dispositions taken so as to ensure a fair amount of time for each group of prisoners.⁸ The procedure of the interview in private has also to be explained, and the fact that any information obtained during an interview in private will not be released to the authorities – indeed to anyone without the expressly given consent of the prisoner.

Group interviews during visits are useful for obtaining information on general conditions of imprisonment, or details about ‘safe subjects’ such as the food, access to the

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outside or availability of reading materials. Even these apparently ‘innocent’ subjects may be highly touchy – particularly when there are internal ‘clans’ or hierarchies amongst the prisoners themselves, often with internal coercion. Torture, however, by its very nature will most often be a subject that prisoners do not broach easily. The torture experience is also a very personal issue, and interviewers should not take for granted that prisoners already have spoken about it to fellow prisoners or even to family members during visits. Also, torture involves the infliction of humiliating and degrading practices, which most people have great difficulties speaking about. The privacy of the interview, and reassurance about the confidentiality of all aspects of the information received from the interviewee, has to be recalled at all times if one is to obtain any information at all.

Interviews about torture should thus be ensured strict privacy, as the element of trust is essential if one is to obtain reliable information about torture. This may be more easily said than done. One should obviously never conduct an interview in front of or within earshot of prison guards – however, even asking apparently innocent questions in the presence of custodial staff may be misinterpreted by the prisoners and make them wary of the interviewer. Even if the staff are not likely to report anything, prisoners may not feel comfortable if privacy is not strictly respected.

As has been said, privacy also means interviewing individuals without the presence of fellow inmates. Prisons are notorious for having ‘collaborators’ infiltrated into every group of prisoners. Prisoners themselves also often have internal hierarchies and rival clans. Torture may or may not be an issue between these groups, but there will be cases where internal pressures from amongst the prisoners will come to bear. Coercion and reprisals do not always come from the detaining authorities. Great care should be taken to protect those prisoners who have been tortured from any form of coercion. For this reason, it is most often not advisable to have interviews about torture in groups and for the prisoners’ safety; the principle should be to have individual interviews, if torture is the issue at hand.

Interviewers should be firm on the principle of having talks in private when they visit prisoners and torture is the main issue at hand.

Box 5.4

In the same way that the trust of the detaining authorities may have to be won initially, when obtaining authorization for the visits, the prisoners themselves will often have to be persuaded to accept the ‘legitimacy’ of the visiting team. Prisoners may understandably be reluctant to put themselves in danger. The purpose of the visit will have to be duly – and convincingly – explained, and reassurances given about what will be done with any information received during the visit. It should not be

forgotten that in any prison there are also 'agents provocateurs' amongst the prisoners themselves. These sometimes may goad inexperienced visitors into openly making statements about torture that may compromise the security of other prisoners or even jeopardize the visit itself. Also, it should not be forgotten that prisoners might inadvertently put themselves into danger in such situations. Interviewers should always be wary and take all necessary precautions, such as refusing to engage in open debates with groups of prisoners on topics that might put them in danger.

During a first visit, when prisoners and visitors do not as yet know each other, two diametrically opposite situations can arise. In one situation, prisoners may understandably not be willing to come forward, and may be too frightened to say anything, either about themselves or about torture – even when there are clearly visible signs of torture on their bodies. In this case, the visit will have to proceed slowly, and the interviewers explain clearly about the objectives and the limitations of the visit. If the prisoners are fearful of reprisals, and unless there is a rock-solid guarantee from the detaining authorities as to being allowed to repeat the visit, it may be best in some cases to not broach the subject of torture at all. Prisoners may be too afraid to even ask for interviews in private, as they may fear that by doing so they are 'marked' by the authorities – and may be called up after the visit to be interrogated by the authorities as to what was said.

In another situation, the prisoners, happy to see someone from 'the outside world' may be a bit too confident about their personal safety, and take ill-considered risks. This may, for example, involve openly denouncing a specific guard, known for his brutality, or by making statements they would normally never make, that, if overheard, might put them in danger. Some prisoners may want to make an open statement about 'the situation'. In such cases it is best to recall to them that they should not put themselves at risk. There is no 'one-fits-all' solution to such problems. The bottom line must, however, always be ensuring the safety of the prisoners by keeping interviews about torture within the framework of the interviews in private. In some cases, it may even be necessary to interview all the prisoners, so as not to put any one group of individuals 'on the spot'. Proceeding in this way will encourage prisoners to speak more freely during interviews.

In those cases when prisoners are reluctant to speak out, a good way to lead the way to private interviews is to begin with 'group' interviews on general topics, and then proceed to the subject of 'health'. One of the interviewers at least should always be a doctor. It will normally be readily understood that medical interviews should be held in private. Enquiring about the health system and the individual's personal state of health may be the first step to talking about torture – which is arguably a procedure deleterious to health.

The privacy of the 'medical interview' may be in some cases the only possible way to obtain information about torture. It cannot be repeated often enough that any

information thus obtained should only be used by the interviewers if – and only if – the interviewees have given their consent to it being used.¹¹

There may also be cases where the vast majority of the prisoners have visible scars of brutal torture on their bodies, but all are reluctant to having anything said about it out of fear of reprisals. In such a case, it may sometimes be useful to conduct what is known as a ‘sanitary inspection’ of all prisoners in the courtyard, thereby making it possible for the visitors (particularly the doctor), to see all the prisoners, and observe and document at least the visible scars of torture. This can then be done in full view of all concerned. The authorities will inevitably know that such an inspection has taken place and will not have anyone to pinpoint as having ‘talked about torture’. More to the point, the prisoners will feel confident that this is so.

USING THE INFORMATION OBTAINED: RESPECTING INFORMED CHOICE

Consent should be a *sine qua non* condition for using any of the information about torture provided by prisoners during interviews. Some prisoners may have good reasons for not wanting their names to be used in any documentation. Others may be overly confident, and inadvertently put their full trust in the examiners, who may or may not be in a position to actually guarantee their safety. Interviewers have to state clearly and intelligibly exactly what they intend to do with the information they receive from the prisoners they interview, and have to specifically request permission for its use. Prudence and common sense have to be employed in considering this whole issue.

Prisoners may refuse permission for their stories to be used, out of fear of reprisals, despite being informed of the guarantees obtained by the interviewers beforehand. Any such refusals must be respected, even if and when the interviewers feel they are groundless. This may mean not using certain testimonies until such a time when the prisoners feel less afraid. Whatever the situation, interviewers should respect that which has been agreed with the prisoners over any other considerations. Regarding sensitive subjects, such as sexual torture and assault, it is undeniable that if the strictest confidentiality is not guaranteed, the fear of ‘leakage’ of what is rightly considered ‘intimate information’, will hamper the interviews.^{12,13}

There is also the opposite, admittedly rarer, case of prisoners absolutely wanting their stories to be used to document torture, and specifically stating they do not care about any possible consequences. Some well-meaning interviewers believe they should ‘veto’ such a request, if they feel the security of prisoners cannot be guaranteed. This praiseworthy attitude has, however, to be weighed against the fact that a prisoner fully aware of possible reprisals has the right to insist that the information provided be used, even with identity details provided, if this is his or her true desire. It would be wrong to ‘betray’ the trust of such prisoners, willing to take a risk in the pursuit of a higher

ideal (such as combating torture), and not use their testimonies because the interviewer is afraid for their safety. In all cases, interviewer and prisoners should openly discuss the issue, and whatever has been promised to the prisoner should be respected. Betraying the trust of a prisoner is unacceptable, whatever the good intents of the interviewer.

BENEFITS OF THE VISIT FOR THE VICTIMS INTERVIEWED

The aim of visits to prisoners when documenting torture is the issue is to obtain concrete information about methods and circumstances of torture, and effects and durable sequelae of torture on the persons who have suffered it. This will allow outside bodies to exert influence upon the perpetrators, the ultimate aim being to put a stop to the practice of torture.

This is an aim in itself, and arguably a justifiable one. However, the objective of visits should not be only to document torture. Ideally there should be some benefit for those persons who are interviewed and examined as well, who have already undergone torture and for whom that reality can never be reversed. The liaison with family members outside has been mentioned. Other benefits may be small: only the satisfaction of knowing that the information given will be useful to help prevent others in the future suffering the same. There should, however, also be some direct benefit to the prisoners themselves.

The benefit of the visit to those victims of torture interviewed can be the fact that for a brief moment, they have access to someone from the outside with some medical and psychological expertise. They can therefore feel free to ask any questions they have about their bodies and minds and the effects of their traumatic torture experience.^{2,8} Just getting answers to questions about possible long-term sequelae, or about the possibility of treatment once they are free, can certainly provide some comfort and advice. Treatment itself, other than what minimum treatment can possibly be administered on the spot, will normally not be an option. The visitors should, however, be in a position to request and obtain any medical treatment needed. Needless to say, permission from the victim should be obtained before making any such transactions with the detaining authorities.

CONSIDERATIONS ABOUT THE INTERVIEWEE

The way to document torture will vary considerably according to the person having been subjected to torture. An interview with a political activist or political prisoner will be very different from that with a simple farmer caught up in a war situation,¹⁴ *a fortiori* from a very sensitive interview with a girl having been raped by her oppressors.

It cannot be repeated enough here that *empathy*, real and not merely formal and institutional, is a paramount condition for anyone working with victims of torture.

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‘Doing no harm’ may mean, in some cases, putting down one’s pen and paper and merely listening to the victim’s story, in cases where direct and full attention is required and when it becomes obvious that the victim feels uncomfortable with what resembles an ‘interrogation’ ... Interviewers should never take the risk of enhancing the injuries of torture by uncalled for assertiveness or aggressive interviewing. The persons interviewed should never feel they are being *obliged* to talk about their torture experience.

In the same light, interviewers should not forget that each individual has his or her own story to tell. When visiting a large number of prisoners, it is easy for the interviewer to forget this. The prisoner who has been waiting for her interview all day, and who has, from the interviewer’s point of view, ‘nothing new’ to tell, should never be brushed away with the attitude of ‘I-have-heard-this-story-already’ ... Each individual deserves the same amount of attention and empathy, whether or not the details of the torture experience have already been heard. It is a mistake to think that all prisoners who have been tortured have already told all the details of torture amongst themselves. In many cases talking about torture simply is not done, at least not about the intimate aspects of torture and its consequences. Torture is a very personal traumatization,⁷ and often prisoners only reveal certain details to interviewers from the outside, but if and only if they are received with understanding and empathy.

Care should be taken to distinguish between the ‘veteran’ political prisoner, who may be more ‘resistant’ to torture and more willing to talk about it and answer specific questions, and the ‘bystanders’, caught up in a situation they are in no way prepared for, and who are understandably more traumatized. More care may be necessary in interviews with the latter category, as they have been totally unprepared for the trauma of torture and its effects. The particularly sensitive issue of rape and sexual torture is discussed further on.

CONSIDERATIONS ABOUT THE INTERVIEWER

Interviewers who visit prisoners and want to document torture should expect difficult interviews. Non-medical interviewers may often find it very difficult to cope with the stories they hear, and the understandable, often shattering, reactions of the people they interview. Even medical interviewers often find it difficult to bear hearing descriptions of torture situations and the anguish of the victims whom they often have little to offer besides a little on-the-spot empathy.

Interviewers should be well prepared for their tasks, and be knowledgeable about the outside circumstances in the country where they work. It can be vexing, even insulting, to victims of torture to have to explain the obvious in the middle of their narratives, to interviewers who have obviously not done their homework on the political, cultural and historical context pertaining to the victims. Interviewers should make themselves familiar with the specific objectives of torture within the given

context,^{4,6,15-17} as well as with the local methods used by the torturers and the coping mechanisms relevant to the culture at hand.

In a new situation, interviewers obviously cannot be expected to have advance knowledge about everything, but they should not lose their credibility by having to ask too obvious questions. This will mean preparing for the visit beforehand, and learning from previous workers, local experts and publications by reliable sources¹⁸ – all the while keeping awake a spirit of objectivity, and not develop pre-conceived attitudes.

Torture victims may have difficulties telling their stories. This may be for a number of reasons – cultural or religious taboos, feelings of guilt and/or shame,¹⁴ psychological defence mechanisms,¹⁹ impairment of memory, and not the least being fear and distrust regarding the visitors. The informed interviewer will therefore need to guide the victim along (‘guide’ and not ‘direct’ ...) and determine which mechanism is in play so as to handle the difficulties. If it is important to have some knowledge about the context, it is even more important to listen to the interviewee. Being knowledgeable about context and background should not, however, lead to pre-conceived categorization of torture.^{20,21} Interviewers should approach torture and its consequences as a whole, and not reduce the information received to groupings of methods and symptoms.

The question of whether doctors or ‘lay’ persons should document torture, is a moot issue. There is undoubtedly a role for investigators from different backgrounds. What is important is for different workers to know their limits and to complement each other’s talents and know how.

A physician interviewing a torture victim will concentrate more on psychological and physical sequelae than a layperson.²² As has been stated, a physician will be able to answer specific questions about the effects and sequelae of torture. Visits to prisoners should never be done without a physician on the team, even if precisely only for this reason.²¹ A non-medical person versed in human rights law will conduct the interview differently, and may gather information perhaps more useful to ascertain a pattern of abuse by a specific authority, rather than dwell on inflicted injuries. In the same light, the torture victim will probably bring forth different information to the interviewer with a legal background than to the physician. Both have important roles to play.

Documentation of torture carried out by investigators seen by the victims as being partial to the authorities responsible for the torture – whatever their actual intrinsic integrity – will obviously not produce the same information as one carried out by outside independent investigators. A prison doctor investigating torture, no matter how sincere, will not be perceived in the same way as an outside doctor asking the same questions.

CONSIDERATIONS ABOUT THE INTERVIEW

The information about torture obtained from the interview with the torture victim will obviously vary between contexts and according to the time elapsed since the torture actually took place. Specific signs and symptoms have been reviewed extensively in many publications about torture, a selection of which are offered for further reading in the bibliography of this chapter. Similarly, the 'torture interview' and its subtleties have been extensively reviewed. There are, however, certain 'core' elements of the torture interview that apply more specifically to interviews with prisoners.

The use of questionnaires when visiting prisoners is debatable. The humane aspect of the visit, which is the restoration of personal contact with the prisoner, will be diluted if not altogether lost, if the essential part of the interview is to be conducted through a written impersonal checklist. In addition, a questionnaire will be time consuming, and any such standardization of a phenomenon as complex as torture, furthermore assessed through interviews in a prison setting, will be of dubious relevance.

The first point to remember when interviewing prisoners is to have in mind at all times the context. The interviewee is still vulnerable – whether *objectively* so or merely *subjectively* matters little. The effect is the same – and will regulate the rapport established between interviewer and interviewee.

It goes without saying that documentation of torture – and even more so interviews of prisoners – should only be done by trained interviewers,² with specific knowledge about what they are doing and knowledgeable about the different methods and effects of torture. The purpose of the interview has to be explained clearly and in a vocabulary adapted to the level of comprehension of the interviewee, so as to encourage a frank and open relationship with interviewer. Establishing a relationship of trust may take time and be difficult. It may require more than one interview, and it is not rare to learn much more about torture concerning individuals on a second or third visit than on the initial interview.

The structuring of the interview will depend greatly on the context and on the personal situation of each interviewee. Obviously directed questions should be avoided ('Were you tortured when they arrested you?') in favour of open, general questions ('When you were arrested, how did it go?').⁸

Cultural norms should be taken into account, which may in some cases imply asking roundabout questions first, about family for example, before getting to the situation in the prison and the issue of actual torture. Elsewhere it might be considered impolite to ask about a prisoner's family before a rapport of trust has been established, and the objective of the visit and interview fully understood by the interviewee. There are no 'one-fits-all' methods for conducting interviews.

In the same light, interviewers, often apprehensive about 'forgetting something' sometimes use checklists. It holds true, perhaps even more so when interviewing about torture, that when one asks questions all one gets is answers... A checklist approach often intimidates the interviewee, who may even reduce his or her answers to nods of the head. Experience has also shown that some interviewers, content with having gone through the whole list, have in fact not identified some fact that should have been obvious just by looking at the interviewees, and letting them tell their story instead of 'grilling' them.

If on the one hand, directive interviews are to be avoided, on the other, leaving verbose interviewees free rein in what, of necessity in a prison situation, is a limited time period, may be totally counter-productive. This leads to the question of how much time is 'enough' time for a torture interview. Here circumstances and local customs will often dictate actual practice. In some countries, interviews will take one or two hours, in others there may be no more than 20–25 minutes available per person. Whatever the limit adopted for the needs of the visit, it will always be insufficient. This has to be announced to the prisoners in advance so as to avoid understandable frustration. It also has to be remembered that prisoners can and should be seen again during the next and following follow-up visits.

The questions to ask will vary greatly from context to context. Geographical details of where torture takes place may be easier for interviewees to remember than chronological specifications on how long any one method was applied. Chronology may not be in itself crucial to the issue at hand, as often it is difficult for a prisoner to determine the lapses of time. More important than such specifications, description of what happened and how it was perceived and 'what happened next' may be more relevant to the story.

Interviewers, with or without medical training, should know about the effect of 'potentialization'. Several methods of torture applied simultaneously with, for example, 'hooding' or 'blindfolding' can have greatly enhanced effects – more severe than one would expect from simply applying them together to the same person. This is particularly true for the psychological effects, for example of never being able to anticipate what direction a blow is coming from. Applying electrical current to someone suspended by the arms tied behind his back while blindfolded can provoke spasmodic contractions much more severe and painful than if the victim can see (and prepare himself for) the same torture. This is just one example to show that knowledge of the mechanisms of torture is necessary if the interviewer is to fully comprehend the victim's story. The 'unpredictable' and 'uncontrollable' aspects of torture have been studied extensively.^{14,19}

A 'listing of methods' approach to documenting torture, meaning recording all the different forms of torture used by the oppressors, may be counter-productive if presented as such a 'catalogue' in a report. The clinical picture produced by torture first

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of all varies greatly between individuals, even more so between cultures and contexts. As has been stated, it is much more than the simple sum of effects produced by each of the methods listed. Such a 'package deal approach' to documentation of torture will inevitably reduce any dialogue with the alleged perpetrators to a discussion of which methods from the list qualify as torture and which do not – rather than a discussion on the prohibited use of torture in itself.^{22,23}

It is now generally accepted that 'the worst scars are in the mind'.²³ It is, however, not futile to recall here that a 'WYSIWYG approach'²⁴ is not useful and indeed can be counter-productive. Physical torture obviously can leave scars, but interviewers should refrain from concentrating merely on physical scars. A solid and well re-structured description of torture should include, if useful, description of scars, but should not give the impression that their presence is the necessary 'proof' required for torture. Torturers have known for a long time how to minimize marks left on the body, and psychological torture, while it may indeed have physical effects, may leave no traces.

Torture methods involving third persons, particularly when family members are concerned, can be even more traumatic than torture to the person

'I didn't mind the pain so much. It was the cries next door I couldn't bear.'²⁵

Thus when documenting torture, it should be kept in mind that inquiring merely about torture inflicted to the person can be misleading. In the same light, sham executions are extremely traumatic, but are sometimes neglected by interviewers. There is still insufficient knowledge about the mental and emotional consequences of torture. This is even more so regarding about transcultural differences in responses to torture. It may therefore make little sense to try to 'categorize' severity of torture, and to try, for example, to contrast sham executions, sexual assaults, solitary confinement and physical pain in overall comparative tables. In addition, an absence of certain symptom patterns, physical or psychological, in no way will mean that the interviewee did not experience torture. As is stated clearly in the Istanbul Protocol, 'Absence of Evidence is not Evidence of Absence'.¹

Finally, interviewers should be aware of coping mechanisms used, unconsciously in most cases, by victims of torture. Torture victims will, for example, often have mentally blocked out the more painful memories of their torture experience, and it can be counter-productive to try to open up such recollections during interviews that are of necessity short and sketchy, and not followed up by professional help.

WORKING WITH AND THROUGH INTERPRETERS

Communication with victims of torture will sometimes be straightforward, when there is a common language between the investigator and the victim. Ideally, all interviewers should speak the language of the prisoners interviewed. This is unfortunately very often not a realistic possibility. In all other circumstances, the necessary

'middleman' will be the interpreter. Working with an interpreter presents specific difficulties when dealing with the issue of torture.^{8,22,23}

The issues already mentioned, i.e. knowing about the historical, cultural and ethnic background of the victims, obviously also apply for interpreters. Some workers try to get around the cultural obstacles by using interpreters from the same local background as the victims. While this may be acceptable in a 'therapeutic centre' situation, it should best be avoided when visiting prisoners. Experience has time and again shown that it can be at the very least counter-productive, and sometimes dangerous for both interpreters and victims, as well as making what is already difficult enough a task even more so.

Local interpreters, no matter how devoted and trustworthy, may be putting themselves into dangerous situations by working with interviewers when documenting torture. Experience has shown that such interpreters can be put under pressure, either themselves or their families, by the authorities, to reveal information about interviews in which they have served as interpreters. Apart from putting the interpreters themselves in an uncomfortable situation, this also betrays the trust between interviewers and prisoners, and might even put the latter in danger as well.

Furthermore, in many situations, even when coercion by the authorities may not be an issue, using local interpreters can lead to mistrust by the prisoners themselves. What to think, for example during the Balkans conflicts of the nineties, of using interpreters from one specific ethnic group to visit prisoners from 'the opposite' ethnic group, in the custody of the same ethnic group as the interpreters. The interpreters could be put under pressure by the authorities, but more to the point, would not necessarily be trusted by the prisoners, no matter how reliable their own personal integrity. If interpreters from the same ethnic group as the prisoners were used, this could be to the liking of the prisoners (unless they were to be seen as 'collaborators' ...) but would possibly get them into trouble with the custodial authorities from the other group ... The same reasoning would obviously be identical whatever the nationalities in such a conflict.

It is therefore best policy never to use local interpreters but to rely on 'expatriate' ones. This may complicate (and make more expensive) the task at hand, but is a necessary condition if the work is to be done in a professional way. Disastrous situations have occurred through the use of local interpreters who turned out to be not as neutral as they appeared, or who were put under extreme pressure from malevolent influences. In the worst cases, naïve interviewers can be 'manipulated' by biased interpreters who interpret only part of the story – and who are simply not trusted by the prisoners they help interview.

Interpreters should ideally be professional one who know all the subtleties of the language, religion and culture of the persons interviewed – and not just expatriates

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who more or less speak the local language. Experience has shown that the choice of the interpreter goes well beyond merely speaking a language, and that the sensitivity rightly demanded of all who interview torture victims, need to be all the more present in the interpreters.

It should be fully realized that it is the interpreters who are on the 'front line' of the torture interview, which is why it is so important that cultural, religious and ethnic sensitivities be fully grasped beforehand. Only in this way will they be able to faithfully relay the information and convey the subtleties received. This is a key issue in documenting torture, as a lack of sensitivity from the interpreters can ruin any hope of interviewing prisoners and obtaining any information.

Working through interpreters is not always intuitive. One's natural tendency to look at the person speaking and being spoken to should be trumped when working with an interpreter. The interviewer should always look, not at the interpreter, but at the interviewee when presenting her or himself, and when asking questions. Likewise, when the prisoner answers or speaks for him or herself, it is the prisoner who should be observed, even if not a word is understood. Observing body language, gestures and facial expressions, as well as non-verbal communication is of paramount importance. Some words concerning known methods of torture will invariably be (or at least, should be) recognized (e.g. 'telefono', 'darmashakra', 'cheera', etc). Acknowledgement of such terms, even by just nodding, will show the interviewee that one is familiar with the local situation. The torture victims themselves will invariably talk to the interpreter, often at great lengths. This is quite normal and the interviewer should certainly not 'take offence' for what is an understandable reaction. However, the interviewer should not take this 'time out' to get his or her notes in order, but should on the contrary always look at the interviewee and somehow show him or her that the interviewer is giving full attention to the situation.

When the interpreter is not a trained professional, there is the risk of the interviewer 'losing control' of the interview. The torture victim may understandably get 'carried away' when talking to someone – the interpreter – who knows his or her language. A non-professional interpreter might also 'lead' the interview or 'launder' what the torture victim has to say according to pre-conceived opinions, modesty or even personal bias. Some information is inevitably lost during any translated interview, but this should be kept to a minimum, and outright distortions absolutely avoided. Interviewer and interpreter have to learn how to work together as a team. Sometimes a 'literal' (i.e. word-for-word) translation will be required. More often, the interpreter will have to provide as accurate a linguistic connection as possible between what involves two different cultures, all the while remaining as objective as possible.¹

When preparing a visit to prisoners, it is necessary to compare notes with the interpreter beforehand, and exchange any notions of vocabulary that may come up during the interviews. Concerning medical terminology, if the interpreter is not knowledgeable

about terms of anatomy or other system functions, the interviewer should explain what terms she or he expects to use, so as to limit awkward exchanges in front of the interviewee to a minimum. Interviewers should avoid esoteric words or internal 'jargon', so as to avoid misunderstandings (and quibbling) in front of the interviewee. Interpreters also need to be warned about the nature of the torture accounts they may hear, particularly if they are not used to working with torture victims, and need to be able to control their personal reactions. Their rendering of what is stated should not be distorted by their own emotional reactions.

It should always be taken into consideration that interpreters are priceless members of the team, and are often, in fact, the 'cultural consultants' for the team. Interpreters should be called on, after a day's work, to give their impressions of the situation. They who receive the prisoners' narratives directly, may have important pieces of information, whether or not related to torture directly, that may be crucial to comprehending the whole story. Good interpreters will point out and explain relevant cultural, historical and social factors and linguistic idioms to the interviewers, and the team will enrich its vocabulary accordingly as it goes along.

As a rule, 'fellow inmates' should not be used as interpreters, except for topics that cannot possibly put anyone in a difficult situation (e.g. explaining the workings of the septic tank in a prison should not necessarily need a professional expatriate interpreter). For interviews about torture, however, as for any other subject which is touchy and controversial, fellow prisoners should be avoided. As has been mentioned, prisoners have internal hierarchies and clan systems that are difficult to know about, and using a prisoner from one group to interpret for members of another can be dangerous. A 'too-willing' friendly interpreter from one cell might not be acceptable for the next cell. Inversely, a prisoner should never be asked to interpret for another one unless one is sure there is no problem.⁸

In some cases it will not be possible to find an independent expatriate interpreter, for example when some of the prisoners speak only dialects. In such cases, taking precautions so as not to put anyone into awkward situations or in danger, using the interpretation of a fellow inmate may be the only way to interview someone who shares no common language with the visiting team. The safest way is to make known to the prisoner to be interviewed that she or he should choose someone from his or her friends to translate what is being said. This may or may not work out, and at all times interviewers should be aware of the possible pitfalls. It may be best to pass up an interview rather than insist on having it at all costs and possibly create trouble for the prisoner.

Finally, the issue of confidentiality about the information received concerns interpreters possibly even more than interviewers, as they, of necessity, are the only ones to have the 'full story'. Interpreters should agree beforehand to respect confidentiality in the same terms as what is required of all interviewers.

GENDER ISSUES AND TORTURE

The issue of gender will have greater or lesser importance according to the context. In countries where men and women can exchange conversations without any hesitation, and where female doctors as well as male doctors work interchangeably with either gender, there should be less of a problem conducting interviews. This of course by no means rules out individual problems that may arise, as torture by its very nature is meant to humiliate and degrade those submitted to it. Furthermore, medical examinations may be simply out of the question, or at least very uncomfortable, when there is a gender difference between interviewer and interviewee. This applies even more particularly to all forms of sexual torture, or any torture targeting the genitals. Gender sensitivities need to be considered and taken into account in all contexts.²

In many of the countries where torture takes place, these gender issues are a serious barrier. For religious or cultural reasons – or both – men are often not supposed to address unmarried women directly, and often it is out of the question for a male doctor to approach a woman, let alone examine her unclothed in any circumstance. For such extreme cases, and indeed for most cases where cultural practices will frown upon men examining women and vice versa, it will be necessary to provide for interviewers, and even more important, physicians of both sexes. This may be a complication and involve additional difficulties and costs, but it would be inconsiderate to say the least to neglect interviewing female prisoners, for example, for want of a woman doctor when documenting torture. In the same light, in many countries where torture of males targets the genitals specifically, to even consider documenting such torture through a female physician (or assisted by a female interpreter!) should be unthinkable.

This being said, a parenthesis is warranted here. Apart from the obvious culturally extreme cases, there may be times when the function of the interviewer is intrinsically more important than his or her gender. For example, in a case where women have been raped and are afraid of being pregnant, or are fearful for their future fertility, it may be more important for them to be able to ask questions to a male doctor, who is best equipped to provide answers, than to speak to a female interviewer who is not a physician and cannot give any reassurance.¹⁴ In some cases, it may be possible to find compromise solutions, with ‘chaperones’ present for interviews or medical examinations. Ideally, however, gender should be respected, and interviewing teams should provide for professionals from both sexes.

CONCLUSION

Documenting torture in situations where the victims of torture are still in the custody of those same authorities allegedly responsible for torturing them is very different from interviewing torture victims in the calm and reassuring setting of a therapeutic centre. Specific precautions have to be taken, to ensure the safety and security of the persons to be interviewed, when they are therefore potentially vulnerable. Safeguards

need to be considered so that no person interviewed is subjected to reprisals for having spoken to the visitors. Promises and guarantees need to be supplemented with actual means of control to ensure there is no foul play. This may involve being able to trace individual prisoners who were or felt themselves to be, at risk for reprisals or punishments.

Above all, however, it should never be forgotten that visits to prisoners who have been or may have been tortured first of all need to be compassionate and carried out with genuine empathy. Interviewers should not let their eagerness for information lead them to neglect the humane aspect of their rapport with those persons interviewed. Care must be taken not to open 'Pandora's boxes' that cannot be closed.

Interviewers need to create a climate of trust with the prisoners they interview. This is not easy and implies that the interviewers must be clear in explaining their objectives and limitations, and that they respect the confidentiality they must guarantee to all those who speak with them. Any information entrusted to them must only be used if the interviewers have obtained the full consent of those concerned.

Physicians are an indispensable part of the team, as they are able to provide specific answers to the many questions that will be asked by their victims of torture. This specific assistance and counsel will perhaps be the only concrete 'benefit' the interviewers will give to the persons they see during a visit.

Transcultural differences must be fully appreciated by the interviewers before they begin to work with prisoners. This is particularly important if they have to work through interpreters, who should also observe confidentiality and work in a professional way.

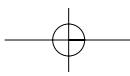
Gender differences must be respected, and both interviewers and interpreters should be of both genders so as to respect any cultural sensitivities. As this will also prevent any loss of information in cases of sexual torture or generally when conducting medical examinations during assessment.

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- 10 Personal communication to the author by ICRC delegates in the field
- 11 In some cases, reports to governmental authorities will contain the actual identities (with the consent of all concerned) of the victims making allegations of torture. In other cases, only general statements will be made, without anyone being identifiable. In *all* cases, consent must be sought beforehand and clearly marked on the individual files drawn up during the interviews
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- 22 Doctors examining victims of torture will have a very different role to play according to the task they are to accomplish. A physician acting as a medical examiner will not have the same approach as a physician acting in a therapeutic role, or as an independent examiner for an NGO



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