Problems in Medical Report Writing for Asylum Seekers

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This chapter outlines the particular problems in writing medical reports for asylum seekers. Amongst these are the fact that some forms of torture leave no scarring, and most leave scars that are nonspecific. The chapter argues that it is completely normal for accounts of ill-treatment to develop over a period of time, depending on the audience. Nevertheless, it explains that a doctor can be reasonably sure that the individual's story is likely to be true and be supported by physical findings, even though any individual scar could have a number of causes. It highlights the differing language used by doctors and lawyers in their work.

It is almost impossible to be certain whether or not an individual has been tortured. There are a few specific exceptions, such as patterns of cigarette burns, but in general the doctor is always making a judgment. The absence of conclusive physical and psychological signs does not mean that the history of torture alleged did not happen.

Studies in Europe have suggested that between five per cent and 30 per cent of all refugees have been tortured. Those from the United States suggest that 5-10 per cent of all foreign-born persons in large Health Maintenance Organisations have been tortured.

As part of their basic training doctors are trained to ask questions about personal history, make an assessment of accuracy, and then conduct a physical examination. That is also what the doctors with expertise in this field do, and the American Medical Association agrees that these are the skills necessary to decide whether or not a person has been tortured. Of course what matters more than that is experience, not only of the effects of torture generally, but also of the situation in specific countries. One of the areas of expertise of doctors from the Medical Foundation for the Care of Victims of Torture is that they will look into aspects that most other doctors ignore. Additionally, they try to specialise in a small number of countries, so that they have a clear understanding of the culture and political issues there, although their training enables them to write a report on an asylum seeker from any country.

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1 Senior Medical Examiner, Medical Foundation for the Care of Victims of Torture
3 Ibid
5 Ibid
Consultation

The environment of the Medical Foundation has been designed to be reassuring to its patients, and thought has been put into creating an atmosphere of calm. Having reassured the patient, and explained the purpose of the consultation, the doctor will take a careful history of those events relating to ill-treatment. Generally the doctor will be assisted by an interpreter experienced at putting an asylum seeker at ease, and understanding the specific issues involved in interpreting for this type of work.

This history will usually include the nature of the arrest, and physical ill-treatment at that time, if any. The circumstances of detention will be covered in detail, as these may relate both to physical and psychological symptoms. Any remembered incidents of specific ill-treatment will be recorded, especially if they relate to identifiable scars. The doctor will ask detailed questions, such as: "how big was the cell?", "was there any lighting?", "how could you go to the toilet?". People who have been there can answer these questions. It is possible, after interviewing a number of Zaireans, to know what conditions are like in Makala prison, or having reviewed the files of Algerians, to know how prison guards in Algeria usually behave.

Doctors then ask about current medical symptoms, so as to determine the aches and pains attributable to ill-treatment in prison. Doctors have been trained to avoid loaded and leading questions. It has been shown that such questioning may lead to the compounding of a misunderstanding recorded by official interviewers. The doctor will also ask about psychological symptoms. There is no way of proving that someone has difficulty getting to sleep, although sometimes we get incidental reports of neighbours complaining about people screaming in their sleep. It is impossible to be certain, but the way someone responds when describing experiences can be significant. However, the doctor must not project his or her cultural expectations onto the patient.

Examination

By this stage the doctor has a good idea of what to look for on examination, but that may be not much. The patient will be examined in detail, focusing particularly on those parts of the body where specific torture has been described. The whole body is examined because, from time to time, the doctor will find scars or other marks of which the patient is unaware. This may well be the first time the individual feels that his or her report of torture has been taken seriously. There are guidelines on physical examination published for doctors' by the Medical Foundation, and doctors follow these guidelines, but always take into consideration the specific circumstances of any case.

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9 Forrest, D., "Guidelines for the Examination of Survivors of Torture" (Medical Foundation for the Care of Victims of Torture, London, 1995).
The doctor will then make a judgment about the patient, including his or her credibility. Occasionally a report cannot be produced, because the individual appears to be exaggerating. Usually the doctor believes what the individual has said. The doctor will then try to correlate the scars with the description of ill-treatment.

Each individual scar could be caused by a range of possible events, although a number of scars may corroborate each other. The doctor will make an assessment of whether the scarring is consistent with the patient's story. Where there are other events in the patient's history that could cause scarring, such as an accident, then the doctor will make a judgment about which of the possibilities is more likely to have caused each scar.

Opinion

Often there are discrepancies between the political asylum questionnaire (PAQ), which the asylum seeker must complete once they are given temporary admission to the UK, the legal representative's statement, and the medical report. Many aspects of memory affect this. First this may be a matter of focus, since the asylum seeker may stress different parts of the history, when questioned by people with different professional backgrounds. It is also true that people without a medical background are often unwilling and unqualified to ask the kind of direct questions about torture that are necessary to provide the relevant information. Secondly, even those who have not been through trauma find it very difficult to remember exact dates of events several years previously, and such errors are commonplace in general medical history taking. Furthermore, as an asylum seeker repeats the story, he or she remembers more of it, or is more willing to disclose more. Studies have shown that a degree of discrepancy would be probable if someone is telling the truth, although a completely consistent series of reports would not necessarily suggest fabrication.

Electrical torture is relatively common in many countries, and that rarely shows-scars. Very occasionally there is a small burn from a poorly applied electrode. More commonly the clips pull off with the muscular spasm, sometimes leaving scars around three millimetres across. These marks are not typical of any particular form of assault. In some countries, batons are wrapped with cloth, to avoid rough edges which can leave scars. This may be for internal political reasons, so that the judiciary can plead ignorance of torture, but it does not help the doctor.

Where there is an aspect of sexual abuse to the case, a patient will be particularly unwilling to go into detail until he or she is very comfortable with the person asking the questions. This is very important because in sexual abuse cases in particular, there may well be no objective physical evidence of damage. Many of the women have had children before they are raped, and it is difficult to attribute damage to the genitalia, however violent the assault. Objects pushed through the anus do not usually cause recognisable damage several years after the event.

Psychological torture does not show physical scars either. Being insulted, threatened, or left in the dark for long periods do not leave physical signs. Even fake executions may produce no physical symptoms. When describing their experiences, many people say that watching others being tortured is the most distressing. Many


11 Ibid
people will have seen close relatives and friends tortured, raped, humiliated and killed. In a number of countries this is a deliberate policy of the authorities. It is almost as upsetting for the individual to see total strangers tortured to death in front of them, and guards will often threaten that the same will happen to the individual if he or she does not cooperate. The memory of seeing someone screaming for help, yet being unable to do anything, lingers for many years. These memories return as nightmares, or they come when a person is trying to concentrate on something else. They can be very disruptive to normal social functioning, but there is no objective way of showing that they exist.

Language

When the report has been written, there are still a number of opportunities for misinterpretation of the report. Medical reports are written by doctors, who have a specific writing style that may not be understood by others. For example, a medical report will generally have a section entitled "history". A doctor will know that this is the patient's perception of what happened, if necessary elucidated by detailed cross-questioning. Those who do not understand this shorthand may assume that the history is an unquestioning acceptance or the patient's account, or assume that it is an independent description of what really happened. Additionally, doctors, like lawyers, use a specialised language, and use words like "depression" and "hysteria" with specific meanings which are different to those in lay use. It is easy to assume that the reader of the report will know what was meant, and that the writer's meaning is as it appears to the solicitor. It is necessary for each to understand the other's point of view and, if necessary, to check understanding.

Conclusion

Regularly, doctors hear that asylum seekers who have been seen for a report have had their claim for asylum turned down by the Home Office. Why might this be? Doctors experienced in this field are probably more open minded than the Immigration Service, because they do not believe that 95 per cent of the people we see are out to deceive us. The Medical Foundation seeks to ensure that the people who go there trust the staff, and so are more open. This should be helped by the nature and environment of the Medical Foundation. Minor discrepancies between stories are not a sign of dishonesty, although the Home Office seems to think that they are. Doctors know how to ask probing questions without appearing threatening. Also, it is clear to them what will happen if the government gets it wrong, and sends genuine refugees back the country they are fleeing.

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