Conference outline

Date: Friday, 2 October, 2015 - 10:00 to 16:30 [registration from 9:15am]
Venue: Freshfields Bruckhaus Deringer, 65 Fleet Street, London EC4Y 1HT

Introduction
The 1999 Istanbul Protocol is the world standard for the investigation and documentation of acts of torture or other cruel, inhuman or degrading treatment. It provides guidance for legal and medical professionals seeking to document or understand the sequelae of torture. In recent years, Freedom from Torture has drawn attention to issues with the interpretation and application of the Istanbul Protocol in the UK including consequences for the role of forensic medical evidence in decision-making for torture survivors here and, potentially, abroad.

This conference will bring together a range of legal and forensic medical experts to explore these developments with leading authorities from the human rights field and beyond.

Primary goal: reassert the Istanbul Protocol as a standard to guide decision making

Overall Strategic Learning Objectives

After attending this conference, participants will be able to:
1. Recognise new challenges in the preparation and assessment of forensic medical evidence in asylum and immigration cases.
2. Assess the wider implications (risks and opportunities) of UK asylum developments for the use of forensic medical evidence in other jurisdictions and at the regional and international levels.
3. Articulate the impact of these developments on torture survivors including their access to justice and right to rehabilitation.
4. Participate in the development of multi-stakeholder solutions to problems related to the role of forensic medical evidence in torture cases.
Outcomes for delegates

As a result of the conference delegates will:

- Consider engaging in a network of professionals sharing analysis, best practice and strategies to address developments explored during the conference and employing learning from other jurisdictions at the international level.
- Apply any best practice and solutions identified in their own work context when engaging in the forensic medical evidence process.
- Employ a survivor-focused approach in the forensic medical evidence process.

Conference Format:

The morning session will explore the role of the Istanbul Protocol as a standard for assessing forensic medical evidence in asylum, immigration and international justice contexts. This will be followed by a presentation and discussion of new Freedom from Torture research on the assessment of fabrication and handling of medical evidence in the UK asylum jurisdiction including wider implications for the practice of forensic medicine, the standard of proof and the role of expert evidence in assessing evidence of torture. Professor Juan Méndez, UN Special Rapporteur on Torture and Cruel, Inhuman & Degrading Treatment or Punishment, will provide an international perspective on developments relating to the treatment of medical evidence in torture cases.

The afternoon will have a more practical focus with opportunities to discuss in detail the impact of recent developments on torture survivors and potential multi-stakeholder solutions to the problems identified, including how to work successfully with independent forensic expert witnesses.

Sessions

Morning sessions provide an opportunity for delegates to explore the conceptual and legal frameworks relevant to the application of the Istanbul Protocol and the treatment of medical evidence.

Welcome and Introduction by Susan Munroe, Chief Executive, Freedom from Torture

1. Session 1 (1 hour and 25 mins)

Session learning objectives:

- Discover and explore the Istanbul Protocol (IP) - as the entry point for delegates, this session will provide background information and foundation knowledge of the IP and its relevance to the use of forensic medical evidence in asylum law. This is an opportunity to explore the difficulties, strengths and practical reality of application of the IP.
- Identify the broader relevance of the Istanbul Protocol as the standard for treatment of forensic medical evidence in other jurisdictions including other areas of law and other geographical contexts. Where is the good practice?
- Explore the added-value of the Istanbul Protocol - in this session we will identify what the IP offers that is key to the appropriate treatment of medical evidence.
- Identify the challenges and advantages of presenting and examining IP-compliant medical evidence from the perspective of a legal representative and the judiciary.

Format: Information session followed by short plenary discussion. Five expert speakers followed by large group discussion with audience posing questions to panel. Speakers to pose/suggest questions to the audience during presentation to provoke discussion.
Panel outline: [Chair - Professor Sir Nigel Rodley]

- **Professor Sir Nigel Rodley** to moderate and provide history and overview of the significance of the IP.
- **Ms Helen Brady, Senior Appeals Counsel, Office of the Prosecutor, International Criminal Court** to provide a non-immigration perspective on the use of the IP in the international justice context.
- **Dr Pierre Duterte, IRCT Council member and Director of Centre de santé Parcours d’Exil, Paris** to provide a comparative perspective from a rehabilitation centre in another European state to compare / contrast practice and identify learning points.
- **Stephanie Harrison QC, Garden Court Chambers** to provide domestic asylum context - to talk about how torture evidence is handled in the UK asylum context and caselaw.
- **The Hon. Mr Justice McCloskey, President of the Upper Tribunal (Immigration and Asylum)** to share judicial reflections on the evolution of the use of forensic evidence of torture in asylum claims and efforts to work through difficult issues that arise.

Chair opens large group discussion with participants.

**BREAK:** Coffee break/networking/informal structured small group discussion.

### 2. Session 2 (1 hour 5 minutes)

**Session learning objectives:**
- Explore the use of self-infliction arguments in relation to the treatment of medical evidence within the UK asylum context.
- Evaluate the wider context of the treatment of medical evidence and the implications in practice for the standard of proof.
- Evaluate implications for the quality of forensic medical evidence, and the accessibility of forensic services, as well as the practice of immigration and asylum law and other areas of law in the UK and beyond.
- Define the role of the IP in safeguarding the quality and status of forensic medical evidence.

**Format:** the session will begin with a presentation by Freedom from Torture’s Head of Doctors. followed by short presentations by panel members and a plenary discussion.

**Dr Juliet Cohen, Head of Doctors, Freedom from Torture** to present on the treatment of Freedom from Torture forensic medical evidence including allegations of self-infliction by proxy and a summary of her response letters analysis.

Panel consists of: [Chair - Susan Munroe, Freedom from Torture Chief Executive]
- **Dr Jane Herlihy, Executive Director, Centre for the Study of Emotion and Law** - to share a clinical psychology perspective
- **Mark Symes, barrister, Garden Court Chambers** to provide legal context
- **Dr Juliet Cohen** will be available to answer questions about Freedom from Torture’s Medico-Legal Report process and policy.

Whole group discussion
- Are report writers obliged to produce more evidence to meet a higher threshold?
- What does this mean for the quality of the medical evidence produced?
- What does this mean for accessibility of medical evidence services?
- Should forensic medical evaluation even consider things like consistency?
- What are the implications for credibility assessment?
- Should non-clinicians be making decisions that are clinical?
LUNCH

Afternoon sessions that take delegates from the conceptual to the practical

3. Session 3 (40 mins)

Session learning objectives:
- Explore the impact of the forensic medical evidence process - and particularly the treatment of medical evidence in first instance decision making and appeals - on individual survivors of torture and on their ability to access justice and rehabilitation.
- Explore the implications for the individual as a rights holder. Compare and contrast the approach to the experience of survivors in the asylum/torture context with that taken in other contexts.

Format: [Chair - Kolbassia Haoussou, Survivors Advocate and Coordinator of the SSO Network]
- Begin with audio-visual of Words and Music
- Structured conversation session coordinated by Kolbassia Haoussou.
  - **Kumar, SSO member** to talk about his own experience of the MLR assessment process, particularly appeals and implications for mental health/rehabilitation. This will highlight a journey through the process through the eyes of a survivor once not believed and now accepted as a survivor.
  - **Debora Singer, Policy and Research Manager at Asylum Aid** providing her perspective on survivor participation and experience in the criminal justice and Preventing Sexual Violence Initiative contexts.

Brief Q&A from the floor

4. Session 4 (40 mins)

Session learning objectives:
- Link the legal, philosophical, international and human rights perspectives explored thus far, and the implications for survivor experience.
- Identify potential steps needed to be taken at an individual and strategic level to respond to current trends in the treatment of medical evidence.

Format: [Chair - Professor Sir Nigel Rodley]
Remarks from the UN Special Rapporteur on Torture, **Professor Juan Méndez**, providing an international perspective on developments relating to the treatment of medical evidence in torture cases. Followed by Q&A.

5. Session 5 (40 mins)

Session learning objectives:
- Assess the level of medical evidence needed to make a decision given the standard of proof required and which elements of the IP must be complied with and which are optional.
- Compare individual practitioner experience of instructing for and presenting medical evidence with Freedom from Torture processes.
Format:
Panel: [Chair - Kofi Kuranchie, Manager of Freedom from Torture Medico-Legal Report Service]
- **Sonal Ghelani**, solicitor, *Migrants Law Project* to talk about own challenges in instructing/using MLRs in the context of asylum decision-making and appeals.
- **Alasdair Mackenzie**, barrister, *Doughty Street Chambers* to provide a perspective on presenting MLRs in court.
- **Beate Dasarathy**, Legal Officer for the North West *Medico-Legal Report Service, Freedom from Torture*, to talk about the distinction between the standard of proof in law and the standard of proof in practice, the importance of the Asylum Policy Instruction concerning the Foundations and the importance of understanding MLR outcomes.
- **Dr Angela Burnett**, Freedom from Torture Lead Doctor, *London Centre*, to provide FfT longitudinal perspective on the evidential inflation issue and the impact this has had on MLR report writing and the writers themselves, over time.

Plenary discussion.

We will provide a delegate pack including analysis of case law, case summaries, key extracts of the IP tabbed and other materials that might be useful for legal representatives to prepare cases. These documents will be referenced during the session.

6. **Observations and concluding by Susan Munroe** (10 mins)

**Session learning objectives:**
- Summary of learning from the day including:
  - challenges relating to the treatment of forensic medical evidence
  - opportunities to link learning from the day to personal work context
  - Listing identified/named actions, next steps, strategic ideas that emerged from the day
- Commitment from delegates to ongoing engagement with emerging network of professionals sharing analysis, best practice and strategies to address developments explored in the conference and employing learning from other jurisdictions at the regional and international levels

**Format:** Susan Munroe, Freedom from Torture CEO to offer final thoughts offering people a sense of hope, with support by Sonya Sceats, Freedom from Torture Policy Director, and Kolbassia Haoussou, SSO Network Coordinator, doing livetime analysis.

**Delegate feedback/evaluation**
Delegates will be given an evaluation form in their delegate pack to complete on the day. We will also email delegates following the conference to request feedback via the Fuse registration site.
Programme

09.15 - 09.45: Registration, Tea/Coffee

10.00 - 10.10: Welcome and introduction by Susan Munroe, Chief Executive of FfT - 10 mins

10.10 - 11:35: Session 1: 1 hour 25 mins
   - Professor Sir Nigel Rodley - 10 mins
   - Ms Helen Brady - 10 mins
   - Dr Pierre Duterte - 10 mins
   - Stephanie Harrison QC - 10 mins
   - Justice McCloskey - 15 mins
   - General discussion - 30 mins

11:35 - 11.55: Coffee break with structured networking/small group discussion - 20 mins

11.55 - 13.00: Session 2: 1 hour 5 mins
   - Dr Juliet Cohen’s presentation - 25 mins
   - Dr Jane Herlihy - 10 mins
   - Mark Symes - 10 mins
   - Plenary discussion - 20 mins

13.00 - 14.00: Lunch and networking - 1 hour

14.00 - 14.40: Session 3: 40 mins
   - Audio-visual of Words and Music - 10 mins
   - Structured conversation between Kolbassia Haoussou, SSO member - Kumar, and Debora Singer - 20 mins
   - Q&A (10 mins)

14.40 - 15:20: session 4: 40 mins
   - Brief introduction by Professor Sir Nigel Rodley (10 mins)
   - Remarks from the UN Special Rapporteur on Torture, Professor Juan Méndez (15 mins)
   - Q&A (15 mins)

15:20 - 15:40: Coffee break - 20 mins

15:40 - 16:20: Session 5: 40 mins
   - Sonal Ghelani - 4 mins
   - Alasdair Mackenzie - 4 mins
   - Beate Dasarathy - 4 mins
   - Dr Angela Burnett - 4 mins
   - Plenary discussion - 25 mins

16:20 - 16:30: Chief Executive summing up and observations: 10 mins