

# Holistic Rehabilitation for Survivors of Torture



**Content Manual**

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**Training guide for the delivery of  
Freedom  
from Torture's 5-day  
'Holistic Rehabilitation' training  
exchange programme**

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# Content

<b>Introduction</b>	<b>6</b>
<b>Chapter 1 – Understanding holistic rehabilitation</b>	<b>9</b>
1. General overview	9
2. Theory	9
A. Why holistic rehabilitation?	9
B. What is holistic rehabilitation?	9
C. Human rights-based approach	11
3. In practice	13
Case study: Asatur	13
4. Justice and rehabilitation	15
Example: Peru	16
Example: Canada	17
Example: Nepal and India	18
Case study: The West Bank	19
Case study: South East Asia	20
5. Ethical issues to consider	21
6. Conclusion	22
<b>Chapter 2 – Rehabilitation as a right</b>	<b>23</b>
1. General overview	23
2. Theory	23
A. The right to rehabilitation	23
B. The State's obligation	24
3. Why Article 14 is important	27
A. Benefits of seeking justice	27
B. Benefits of compensation	27
4. International standards and domestic legislation	29
Example: Kazakhstan	30
Example: Armenia	30

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5. The reality of rehabilitation as a right	31
A. The justice dilemma	31
B. Obstacles to accessing rehabilitation	33
Example: United kingdom	33
6. Our role in promoting holistic rehabilitation	35
A. Medical	35
B. Clinical	35
C. Legal	36
D. Client data	36
7. Striving for the right to rehabilitation – the role of the survivor	36
8. Supplementary materials	37
A. Justice denied	37
B. Additional readings	38
9. Conclusion	47

### **Chapter 3 – Rehabilitation as a process** **48**

1. General overview	48
2. Theory	48
A. Holistic rehabilitation as a process	48
B. Interdisciplinary work	49
C. Enabling voice through survivor activism, examples	50
D. Worker safety, self-care and well-being	53
3. Holistic rehabilitation: what and how	54
4. In practice/reality	55
A. Practical aspects of holistic rehabilitation at FfT, examples	55
B. Rehabilitation in the context of your countries, examples	61
C. Psychotherapeutic treatment for trauma	63
D. Holistic rehabilitation services	64
5. Ethical issues to consider	65
6. Supplementary materials	65
Case study :Ali	65

---

<b>Chapter 4 – Communicating rehabilitation externally</b>	<b>67</b>
1. General overview	67
2. Theory	67
A. Policy and advocacy workers	67
B. Campaigners	68
C. Researchers	68
D. Community development workers	68
E. Training and capacity building	68
Example: Freedom from Torture	69
3. Ensuring your public-facing work is survivor-led	71
Example	72
4. Ethical issues to consider	73

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# Introduction

**“We are human beings, not ants that can be crushed like nothing.”**

Torture survivor and *Freedom from Torture* client

0.1 Survivors of torture have experienced more horror than anyone should in a lifetime, yet their suffering does not necessarily end when the torture stops. The journey back into society can be a painful struggle although recovery is possible. As professionals working with survivors of torture, our job is to help people rebuild their lives and rediscover the full physical, emotional and psychological health that torture has stolen from them.

0.2 The content of this manual is based on *Holistic Rehabilitation*, a 2011 training programme delivered by *Freedom from Torture* (“FfT”) on behalf of Penal Reform International (“PRI”).

0.3 This manual combines theory with practical examples and case studies. It includes discussion questions, comments and feedback given by participants in the 2011 *Holistic Rehabilitation* training programme. We hope that it will inspire you in your own work with torture survivors and give you ideas to implement in your own country.

## Reason for training

0.4 PRI commissioned *Freedom from Torture* to design and deliver a week-long training programme on the holistic rehabilitation of survivors of torture. This training programme forms part of a larger programme of work on torture prevention being carried out by PRI in 9 of the Commonwealth of Independent States (“CIS”) countries.

0.5 Our goals are to rehabilitate torture survivors, to prevent further instances of torture and eventually to eradicate torture altogether. These ambitious but essential goals will require a combination of international pressure, action by governments and vigilance on the part of civil society. PRI’s project will focus to a large extent upon developing, strengthening and supporting a range of mechanisms and institutions intended to combat torture.

0.6 There is an identified lack of capacity within civil society to participate effectively in such prevention and rehabilitation work. Thus, modules covering training and the exchange of expertise have been incorporated into PRI’s project in order to build civil society’s capacity to support and advocate for holistic and comprehensive programmes of rehabilitation. *Freedom from Torture* has been sub-contracted to lead on the rehabilitative components of PRI’s overall project. Our training and capacity-building initiatives are based on existing models of international good practice which are founded upon the core concept of ‘rehabilitation’ as being both a **right** and a **process**. The rights to ‘as full rehabilitation as possible’ for survivors of torture are understood to encompass not only legal advice but also medical, psychological and social support services

## The training participants

0.7 The training was designed for and delivered to multidisciplinary groups of participants from the legal and clinical professions, including lawyers, human rights defenders, doctors, psychologists, counsellors and social workers. All participants, regardless of discipline, profession or place of employment were required to:

- have a demonstrated commitment to the protection and promotion of human rights, specifically the prevention of torture and cruel, inhuman and degrading treatment
- have an established record for effective action related to the prevention of torture and/or the rehabilitation of survivors of torture
- have experience in delivering human rights education activities such as training sessions, workshops, public awareness campaigns, advocacy and monitoring
- have the authority, scope and capacity to implement the practical initiatives for applying the knowledge and skills gained in this project as part of their work plan
- occupy a position enabling them to directly influence the development of rehabilitation services in their community
- have experience working as part of an interdisciplinary team or approach
- be willing to participate in any baseline or evaluation surveys or interviews relevant to research carried out as part of the project

0.8 Participants came from 9 of the CIS countries and were divided into 3 regional groups. An average of 9 delegates participated in each week-long training session, generally consisting of 3 participants from each country. Their comments, feedback and discussions are included in this manual alongside material used in the sessions.

## Overall aims and objectives of training/workshop

0.9 Overall aim: to promote holistic and comprehensive programmes of rehabilitation based on existing models of international good practice.

0.10 Overall learning objectives: by the end of the 5-day exchange visit, participants will be able to

- Define holistic rehabilitation
- Recognise the key components necessary for rehabilitation models to be holistic and comprehensive, fulfil the rights of and meet the needs of survivors of torture in participants' communities
- Assess the relationship between protection, justice and rehabilitation
- Evaluate current and proposed holistic rehabilitation approaches and models in the legal and clinical sectors based on existing models of international good practice
- Analyse the local and national contexts within which participants work and the opportunities and constraints which may assist or hinder the application of holistic rehabilitation models
- Evaluate current domestic and regional legislation in light of international standards
- Link holistic and comprehensive rehabilitation approaches and theories to their national contexts
- Investigate/explore how their own rehabilitation work can become more 'survivor-led' and incorporate survivors' voices
- Identify the individuals, services and professions needed as partners or

links so as to ensure that participants' rehabilitation support is holistic and comprehensive

- Design a context-specific plan of action advocating for holistic and comprehensive programmes of rehabilitation based on existing models of international good practice in participants' communities

## Terminology used in this manual

0.11 At *Freedom from Torture*, and in this manual, we refer to a person who has experienced torture as a 'survivor of torture' or 'survivor'. In the context of rehabilitation, we may also refer to a survivor as a 'client'. We understand that not all people who have experienced torture feel as though

they are 'survivors' and that they might not use that term to describe themselves. We encourage those who have experienced torture to use whatever terminology they are most comfortable with when talking about their torture experiences. However, here at *Freedom from Torture* we use the term 'survivor' because by still being alive we would say that a person has 'survived' torture. They may still be very vulnerable and damaged as a result of their torture, but we believe it is important to recognise the tremendous strength and courage required to live through the experience of torture.

0.12 In this manual, we are dealing with people who have experienced torture. However, much of what we discuss in the context of clinical work also relates to survivors of other forms of extreme violence.

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# Chapter 1

## Understanding holistic rehabilitation

1. General overview
2. Theory
  - A. Why holistic rehabilitation?
  - B. What is holistic rehabilitation?
  - C. Human rights-based approach
3. In practice
 

Case study, practical analysis, discussion
4. Justice and rehabilitation
 

Case studies, practical analysis, questions
5. Ethical issues to consider
6. Conclusion

### 1. General overview

#### 1.1 By the end of chapter 1, readers will be able to:

- Define holistic rehabilitation
- Recognise the key components necessary for rehabilitation models to be holistic in their effect, and capable of addressing both the rights and needs of torture survivors in participants' communities
- Assess the relationship between protection, justice and rehabilitation
- Evaluate current and proposed approaches to promoting holistic rehabilitation models in the legal and clinical sectors, based on existing models of international good practice

### 2. Theory

#### A. Why holistic rehabilitation?

1.2 The goal of a torturer is to 'kill' a person without causing their death. While torture is used to fragment, break and destroy a person, the aim of rehabilitation is to help put them back together. Torture has such a devastating impact that an individual survivor may need help on a number of levels to effectively rebuild their life. Holistic rehabilitation takes into account the varied and complex needs of a torture survivor. This training programme will look at the many strands involved in holistic rehabilitation.

#### B. What is holistic rehabilitation?

1.3 The image of a rope can be useful as an analogy for holistic rehabilitation. A rope is made of many intertwined strings. Under great strain, an individual string may break, but the rope is much stronger than any of the individual strings. A number of individual strings woven together can support a much greater weight.

1.4 A holistic understanding of rehabilitation includes the following strands:

- 'Justice' or legal
- 'Healing' or clinical
- 'Practical support' or social
- 'Integration' and 'Awareness raising' or community

1.5 The goal of **holistic rehabilitation** is to assist a survivor in rebuilding their life and to feel healthy, safe and whole once more. Holistic rehabilitation strives to ensure that a survivor is not only self-sufficient but

is also empowered to engage with and proactively contribute to their community.

## Holistic rehabilitation services

1.6 Holistic rehabilitation services are interdisciplinary and can include doctors, psychiatrists, psychologists, psychotherapists, physiotherapists, casework-counsellors, lawyers, social welfare workers, teachers and community outreach workers. A rehabilitation approach can be described as holistic when it looks at the survivor of torture as a whole person and supports all of their needs. These needs can include the four 'strands' discussed above: legal, clinical (including physical, psychiatric, psychological and emotional health), social/practical and community.

## Holistic rehabilitation approaches (see chapter 3 for more detail)

1.7 Many potential approaches to holistic rehabilitation can be taken. The particular approach used by any individual survivor of torture will depend on their unique circumstances and needs. Some potential approaches include:

- Therapy - psychological counselling, support (short to long-term)
- Individual medical assistance to address physical damage, pain relief, loss of mobility
- Occupational support
- Social support
- Community integration
- Group work
- Alternative therapies, including:
  - Gardening
  - Writing
  - Art
- Music
- Mother and babies
- Work skills
- Survivor activism and survivor voice (for example, Survivors Speak OUT Network. See chapter 3 for more detail)
- Legal aid and support for legal issues

## Survivor-led (see chapter 3 for further detail)

1.8 It is of paramount importance that any individual practitioner's work with torture survivors be **survivor-led**. Due to the complexity and variety of needs of torture survivors engaged in holistic rehabilitation, many types of potential intervention exist. A survivor of torture should be able to choose the type of intervention they receive.

1.9 Survivor-led work means that the practitioner listens to the survivor and supports the individual in making their own choices. The survivor is always at the centre of the work, taking an active role in making decisions about the support that they receive and in setting the pace of the work. The survivor should be able to control the amount and speed of disclosure of information relating to their torture. The experience of torture strips away any sense of control from survivors, thus working in a survivor-led way helps the individual re-gain a sense of control and personal empowerment. A professional working in a survivor-led way supports the survivor in stating what they want and need, rather than deciding what is best for the survivor.

## Survivor activism (see chapter 3 for more detail)

1.10 *"It's our voice, our stories. Who better to speak for us than ourselves?"* observed a survivor of torture from Chad.

Giving survivors a public voice can be an extremely powerful tool for reaching those who believe torture works. In the context of holistic rehabilitation, supporting **survivor activism** means helping clients (both former and, where appropriate, current clients) to speak out against torture and influence decision makers. Survivors' voices are critical in shaping opinion and influencing the decisions that directly affect them.

1.11 In addition, many torture survivors benefit from telling their stories. Being able to tell others what happened to them and express their opinions on how a world without torture could be created can have a markedly rehabilitative effect.

## The whole person

1.12 As professionals, it is important that we remember the **person** behind the label 'torture survivor'. This whole person is so much more than the torture they have experienced. It is important to think about their life before the torture as well as the effects the torture has had on them. Looking at the wider person in the context of their life-history may shed light on why certain individuals have been targeted for torture. For example, in some contexts people are targeted because of categories they are seen to fall into by torturers, such as gender, race, religion, age, ability, class, culture, ethnicity, education, sexuality, spirituality, political activity, etc.

## C. Human Rights-Based Approach

1.13 As we have discussed, holistic rehabilitation involves multidisciplinary teams. However, there is a need to work within a common frame due to the differing professional languages spoken by, for

example, lawyers and clinicians. The 'Human Rights-Based Approach' ("HRBA") can provide a common framework when working with survivors of torture.

1.14 A Human Rights-Based Approach is a new approach to assessing priorities and developing programmes that began within the United Nations ("UN") and the international development sector.

1.15 The concept of a rights-based approach has now spread beyond the UN into other sectors such as community groups, local charities, the health and education sectors and so on. Growing numbers of organisations are realising the benefit of incorporating a rights-based approach into their work to ensure that their programming is holistic and inclusive.

1.16 A rights-based approach is founded on the conviction that every human being is, by virtue of being human, a holder of rights. The values of a rights-based approach include: **justice, equality, dignity, respect and inclusion**, to name just a few.

1.17 According to a United Nations Development Group document, *The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies*, available at: <http://www.undg.org/?P=221> (accessed on 16/09/11), programmes and services striving to incorporate a rights-based approach should include the following elements:

1. People are recognised as key actors in their own development rather than passive recipients of commodities and services
2. Participation is both a means and a goal
3. Strategies are empowering, not disempowering
4. Both outcomes and processes are monitored and evaluated

5. Analysis includes all stakeholders
6. Programmes focus on marginalised, disadvantaged, and excluded groups
7. The development process is locally owned
8. Programmes aim to reduce disparity
9. Both top-down and bottom-up approaches are used in synergy
10. Situational analysis is used to identify immediate, underlying and basic causes of developmental problems
11. Measurable goals and targets are used in programming
12. Strategic partnerships are developed and sustained
13. Programmes support accountability to all stakeholders

1.18 “A human rights-based approach to programming (HRBAP) is an approach that gives equal attention to what should be done and to how it should be done. A HRBA often aims at achieving the same goals as current development approaches (e.g. the MDGs), but puts equal attention on the process chosen to achieve these goals, as on the achievement of the goals themselves.”

(United Nations. A Human Rights Based Approach Toolkit, UNCT Vietnam, 2009; available at:<http://hrbaportal.org/?p=3645>, (accessed on 16/09/11))

1.19 Processes that can help achieve a rights-based approach include:

- Enabling participation
- Joint decision making and action (on multiple levels)
- Organising
- Mobilising
- Researching causes, contexts and power relations involved in exclusion, oppression, deprivation or marginalisation within the community
- Shared analysis of research (including excluded, oppressed, deprived or marginalised groups in research and analysis)
- Consciousness raising / advocacy
- Supporting and accompanying relationship building

1.20 At the core of the human rights approach is the need to value, protect and respect an individual’s dignity and to recognise that all humans possess an innate value and worth regardless of ethnicity, sexuality, gender, religion and so on.

Key human rights principles upon which the human rights-based approach is founded include:

- Universality and inalienability
- Equality and non-discrimination
- Indivisibility and interdependence
- Participation and inclusion
- Accountability and rule of law

1.21 A human rights-based approach thus considers:

**Rights.** Which specific rights have been violated or not otherwise respected or protected?

**Accountability.** Who is the specific duty-bearer? What other stakeholders need to be involved or held accountable in order to promote rehabilitation?

**Inclusivity and non-discrimination.** Are all voices being heard? Are the needs of all being addressed, including individuals from groups who tend to be marginalised such as women, children and minorities (ethnic, racial, religious, etc.)?

**Participation.** Are survivors taking part in the decisions that affect their lives and wellbeing? Do they have access to the information they need? Such participation is their right.

**Empowerment.** Does this approach to rehabilitation promote the self-sufficiency of the survivor thus increasing their self-confidence and awareness of their rights?

### 3. In practice

#### The need for a common framework: using a ‘human rights-based approach’ as a frame for analysing and evaluating holistic rehabilitation approaches.

1.22 Read the following case study. What course of action would you recommend to Asatur to help him to receive rehabilitation? What potential obstacles/risks might be associated with your recommendation? What are the advantages to the approach that you suggest?

#### Case study: Asatur

1.23 Asatur was one of 8 men arrested by the police following an investigation into fraud at their workplace. Asatur had worked for the company in question for 9 years, having started work on the factory assembly line and eventually being promoted to the position of Floor Manager.

1.24 The police arrested Asatur and the other suspects on the basis of the government’s internal tax auditors suspecting them of the fraudulent embezzlement of company monies.

1.25 When Asatur was arrested he had no idea why. The legal basis for his arrest was not explained to him..

1.26 At the police station, Asatur was immediately separated from the other suspects and taken for interrogation. Three police officers asked him questions and, beat and kicked him until he lost consciousness. He was burned with cigarettes and was subjected to long periods of enforced standing, sleep deprivation and loud noise over a period of 11 days.

1.27 Asatur was not charged with any specific crime; following his 11 day detention at the police station Asatur was taken to a prison to await a trial. There, he was held for extended periods in solitary confinement and did not have access to a doctor. As a result of sustained beatings to his head during interrogations, Asatur developed persistent ringing in one ear for which he did not receive any medical care..

1.28 When a representative of the Armenian Human Rights Defender’s Office visited the prison, Asatur was finally given access to a lawyer. He was eventually released from prison after 8 months of detention but by this time had lost his old job. His family had depended heavily upon his salary and now struggled to pay for food.

1.29 9 months after being released from prison, Asatur still had not found a job. The continuing ringing in his ear affects Asatur’s ability to sleep and tingling in his right hand means he cannot now perform manual labour. He also suffers from nightmares and anxiety. His family is struggling to survive financially from day to day and as a result his eldest son has left school to work in order to support the family.

1.30 The other employees taken by the police and detained in custody were also tortured and are suffering similar symptoms. One of these men approached Asatur to discuss joining with him in paying for a lawyer to try to get compensation from the government for their torture. Asatur is unsure as he doesn’t want to bring any more suffering to his family who fear harassment from the police for ‘causing trouble’.

#### Points to consider

1.31 When thinking about how best to advise Asatur, it is important to consider all of the following issues: justice; mental and psychological healing; protection; redress; reconciliation; integration.

1.32 The range of issues you need to consider will include the elements needed for a holistic framework: namely legal, clinical, social/practical and community factors.

1.33 Potential actions could include:

- Legal protection
- Psychological rehabilitation
- Occupational therapy; physical therapy
- Financial support
- Assistance in finding employment

### **Practical analysis: advice on Asatur's rehabilitation**

**1.34 The training participants made the following suggestions:**

- Legal protection
- Psychological rehabilitation in order to help Asatur overcome the fear of giving evidence
- Financial help
- A special protection measure for witnesses
- Offering political asylum
- Provision of urgent physical and psychotherapeutic expertise in accordance with the Istanbul Protocol
- Contacting a human rights organisation to obtain assistance from a lawyer
- If Asatur were to win a civil trial he would receive material compensation; should he win a criminal trial he would achieve justice against the criminals
- Monitoring of society in order to shape public opinion
- One participant noted the potential danger of the State offering Asatur psychiatric help, as states sometimes turn a psychiatric diagnosis against the victim. For example, such a step may lead to that individual being admitted to a psychiatric hospital and thus being subjected to what is tantamount to moral and-psychological trauma
- Approach a psychotherapist and a psychologist for immediate help; also approach a relevant NGO and a local Department of Social Protection
- Submission of an application to law enforcement bodies
- Inform Asatur's son's school of the possible return of the child to school
- Inform those of Asatur's prison mates also tortured in detention that they can access the same psychological services and then formulate a complaint on behalf of the group
- Victim should be placed in contact with an advocate
- Human rights violated include: the fact of torture; damage to health; lack of access to doctors and legal advisers; isolation in a single prison cell
- If possible, hire a lawyer to initiate a legal case, approach a Collegium of Advocates providing free legal help
- Approach an NGO
- Voice the problem through the media
- Execute medico-legal expertise
- Provide compensation and the right to rehabilitation
- Provide redress for moral and material losses
- Assist in reinstatement of Asatur's old job or help him find new employment; give social assistance
- Support the family, help Asatur's child return to school
- Initiate a complaint with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ("CPT")

## Obstacles

- Fear; ignorance of the law; financial capacity stretched; delayed medico-legal expertise; obstacles put up by the states' apparatus and procedures
- Independent expertise does not exist in some states

**Please note:** *Freedom from Torture* is not promoting these suggestions as the 'right' answers or as the only answers. Ultimately, what is most important in this scenario is what Asatur himself wants once he has considered all of his options.

## Discussion of the case study

1.35 *Freedom from Torture* ("FfT") facilitators and the training participants ("P") discussed the following in relation to the case study:

**FfT:** Is it important for Asatur to have work, from the point of view of his rehabilitation?

**P:** Asatur has been acquitted, so by law he has the right to reinstatement at his former place of work and to financial compensation for the time he missed as well as compensation for treatment.

**FfT:** But Asatur's right hand doesn't work.

**P:** He should be given a pension and disability benefits, but the absence of an impartial court may hinder this.

**FfT:** What else can we do for Asatur?

**P:** He needs rehabilitative work while he is waiting to receive disability benefits and a pension. He could also go to an NGO for qualified medical and legal help both for him and for his family. But in order to take part in the legal process, he first needs psychological rehabilitation.

## 4. Justice and rehabilitation

1.36 Survivors of torture engaged in holistic rehabilitation often have outstanding concerns around justice. The idea of justice often feels far-fetched because the perpetrators are still at large and there is no realistic way of holding them to account. (This issue is discussed in further detail in chapter 2.)

1.37 Rehabilitation initiatives therefore need to take into account not only the wishes of the survivor but must also be safe and relevant for the survivor, their family and community, be realistic in the circumstances and reflect holistic thinking.

### Creative initiatives to promote holistic rehabilitation

1.38 The following examples from around the world demonstrate a wide variety of approaches to rehabilitation based on a range of contextual constraints (such as corrupt justice systems, lack of opportunity for individual therapies and so on)

1.39 When reading these vignettes, it would be helpful for you to think about these programmes in light of the HRBA and our understanding of 'holistic rehabilitation'.

1.40 Specifically, you might want to evaluate the programmes in the context of: оцените программы в контексте:

- a. Rights.** How well does this programme link to specific rights that have been violated or not fulfilled/respected?
- b. Accountability.** Does the programme hold primary and/or secondary duty-bearers to account?
- c. Inclusivity and non-discrimination.** Does the programme include the voices and needs of all relevant groups?

**d. Participation.** How is the survivor's voice included? How much power do the survivors have to participate in those of the project's decisions that will affect their lives?

**e. Empowerment.** How well does the rehabilitation approach promote self-sufficiency and 'enable' survivors?

## Example: Peru

Peace Building Initiative, Transitional Justice: Actors & Activities (undated). available at: <http://www.peacebuildinginitiative.org/index.cfm?pagelD=1884> (accessed 08/04/2011)

### Artistic and cultural endeavours

1.41 *At the local grassroots level artistic endeavours such as theatre and oral histories, dance and music, and photographic and artistic exhibitions, have been used by communities and NGOs as alternative ways to contribute to the remembrance of the past, a complement or a facilitation of transitional justice processes. Arts-based processes may be creative methods to work through unresolved emotions and conflicting narratives, paving the way for new approaches that may impact an entire society.*

1.42 *In Peru, the Grupo Cultural Yuyachkani (a Quechua word meaning «I am thinking/I am remembering»), working together with the Truth and Reconciliation Commission, performed "outreach work in the communities where public hearings were to be convened by the Commission and 'lend the power of performance the arduous task of reconstructing and remembering the war'". 37 Their piece, titled «Maria Cuchillo», was performed at the site of the first truth commission hearing in Huamanga and members of the troupe heard stories and took testimonials from those in the*

*audience who had come to testify. A later piece called «Sin Título Técnica Mixta», echoed the recommendations of the Truth and Reconciliation Commission. It was shown to victims of the conflict who were displaced to Lima, the capital city. 38 [...]*

1.43 References:

37. See Resisting Amnesia: Yuyachkani, Performance, and the Postwar Reconstruction of Peru; and Arte y transformacion de conflictos: El teatro y la transformacin de conflictos en el Perú, an investigation into this theatre experience and another conducted in the region of Ayacucho, the area most affected by war violence and also the place where the war first erupted.

38. Ibid.

### Practical analysis: study and evaluation of an approach to holistic rehabilitation on the basis of an example from Peru

1.44 The training participants discussed this example from Peru and provided the following feedback:

#### Strong points

- Psycho-emotional impact – therapeutic effect
- Commission's work to reinstate the truth joins with legal and psychological work
- Good example of collaboration between the State's structures and society

#### Weak points

- Lack of communication between survivors and social workers
- Possibility of negative memory flashbacks and emotions
- One-sided approach

Do you see any other strengths and weaknesses to this type of approach?

## Example: Canada

International Centre for Transitional Justice, Canada: Submission to the Universal Periodic Review Of the UN Human Rights Council Fourth Session: February 2-13, 2009, 08/09/2008 [Excerpt]

Available at: [http://www.ictj.org/static/UPR/UPR\\_Canada\\_ICTJ\\_\\_September\\_2008.pdf](http://www.ictj.org/static/UPR/UPR_Canada_ICTJ__September_2008.pdf) (accessed on 16/09/11)

### Reparations for past abuses

1.45 Canada recently took steps to address past abuses committed against Aboriginal people through the Indian Residential School system, which for more than a hundred years worked to suppress the cultural identity and native languages of Aboriginal children, and also often inflicted physical and sexual abuse (launched 1874; last school closed 1996). After years of lawsuits and negotiation by Aboriginal groups, churches, and the government, Canada agreed to a package of reparations for school survivors in 2006. The Indian Residential Schools Settlement Agreement (IRSSA) came into force in September 2007. This agreement includes provisions for financial compensation, a truth commission and additional healing measures for IRS survivors.

- **Common Experience Payment (CEP):** lump-sum compensation for former residential school students, recognising the group harms that resulted from the schools. Former students who spent at least part of one scholastic year living at the schools are eligible for a payment of CAN\$10,000, plus CAN\$3,000 for every year thereafter. CAN\$1.9 billion has been set aside for the direct benefit of former IRS students. As of August 2008 the Government had received almost 95,000 applications and issued payments to some 68,000 survivors.

- **Independent Assessment Process:** available in addition to the CEP, provides for compensation of up to CAN\$275,000 for sexual abuse, serious physical abuse, or other abuses that caused serious psychological effects.
- **Truth and Reconciliation Commission (TRC):** CAN\$60 million to carry out work over five years, providing a forum to reveal survivors' experiences and educate the public about IRS conditions and legacy.
- **Healing:** a CAN\$125 million endowment for the Aboriginal Healing Foundation for initiatives related to memory and spiritual renewal; church entities involved in the administration of IRSs will contribute up to CAN\$100 million in cash and services.
- **Commemoration:** CAN\$20 million for events and memorials to ensure acknowledgment of the legacy of the IRSs.

1.46 The Government has also presented a comprehensive statement of apology to the Aboriginal groups affected by the IRSs. The apology took place in a solemn session of the Canadian House of Commons on June 11, 2008. In its apology the Government recognised that:

- The IRSs separated children from their families with the explicit goal of isolating them from their cultural environment and assimilating them into the dominant culture.
- The IRSs operated on the assumption that the dominant culture was superior to Aboriginal culture, which was to be completely eliminated from every Aboriginal child. Indeed, the IRSs intended "to kill the Indian in the child."
- The IRSs prohibited Aboriginal cultural practices and tried to suppress their languages.

- *The IRSs neglected basic duties to the students, including health care and proper nourishment, resulting in deaths and illnesses.*
- *The IRSs had a lasting negative impact on Aboriginal cultures, heritage, languages, and the well-being of individual survivors.*

## Example: Nepal and India

Torture Journal Volume 21, 'Legal services: Best, promising, and emerging practices', Regina Germain, J.D.\* & Leslie E. Vélez, J.D. \*\* Available at: <http://www.irct.org/library/torture-journal/back-issues/volume-21,-no.-1,-2011.aspx> (accessed on 19/09/11)

### Multidisciplinary approach

1.47 *The Center for Victims of Torture in Nepal (see reference 5 at the end of this section) assists torture survivors in prosecuting perpetrators and seeking compensation. The programme also provides mental health services. In a study the programme conducted to evaluate a broad range of symptoms, including functioning and disability, the authors hypothesised that providing multidisciplinary services to survivors, which included mental health, basic medical, and an opportunity to seek legal redress for injustices suffered, would improve psychiatric symptoms, functioning and disability more than a comparison group receiving only psycho-education sessions.*

1.48 *Several limitations were noted by the authors: the length of the study was limited to five weeks and it is not known if legal redress was realised in any of the cases. Additionally, one individual's sense of injustice, related to a lack of redress for the trauma, appeared to be an*

*independent factor of psychiatric problems (reference 5.) Yet, the study concluded that a multidisciplinary approach which included legal services in a naturalistic treatment setting was moderately more effective in decreasing somatic symptoms and disability and increasing subjective well-being and functioning when compared with psycho-education sessions alone (reference 5). The therapeutic effect of the pursuit of justice through legal remedies did not require a positive legal outcome.*

1.49 *Like the Nepal study, a multidisciplinary approach (psycho-legal) to treatment of torture survivors was implemented by Jananeethi, a human rights organisation in India. The approach was described as client-centred and included the following multidisciplinary services: 1) cognitive-behavioural counselling, 2) educating clients about their legal rights, and 3) the pursuit of justice through the judicial process (reference 5). The overall objective of this study was to increase awareness amongst the survivors of their legal and human rights and support their individual and collective fight for legal justice. In contrast to the focus of the Nepal study, where effectiveness was specifically measured by improvements in psychiatric symptom measures, functioning and disability, this general objective placed emphasis on the effect of access to justice in a multidisciplinary approach.*

1.50 *Access to justice in the India study came in many forms including legal education, direct legal assistance, and encouragement to participate in systemic advocacy as a collective. Jananeethi staff employed the "testimony method", developed in Chile during the military dictatorship of the 1970s, which assumes that public testimony about human rights violations not only becomes a means of obtaining justice, but is a cathartic and positive reframing experience for survivors (reference 5).*

1.51 However, this study acknowledged “grotesque delays in the justice process” in India.<sup>5</sup> Settlement of human rights matters in India was trapped within a cycle of delay and neglect within their legal system (reference 5). Additionally, and not surprisingly, some of the survivors still had problems dealing with stress and other psychological demands, (reference 5) and impunity may have hindered the survivors’ individual healing (reference 5). Despite these challenges, the study found that the psycho-legal approach directly resulted in survivors’ feelings of empowerment and support while self-esteem was strengthened and knowledge about the legal system increased (reference 5). The lesson learned from this study, which is consistent with a conclusion drawn in the Nepal study, is that the pursuit of justice through legal remedies produced a healing result for survivors, even in cases where there was no positive legal outcome. [...]

1.52 Reference 5: Tol WA, Komprow IH, Jordans MJD et al. Brief multi-disciplinary treatment for torture survivors in Nepal: a naturalistic comparative study. *Int J of Soc Psychiatry* 2009; 55(1): 39-56.

## Case study: The West Bank

Treatment & Rehabilitation Center for Victims of Torture (“TRC”), Our Programs: Treatment and Rehabilitation, Undated.

Available at: <http://trc-pal.org/en/Views/ViewDetails.aspx?pid=569> (Accessed on 08/04/2011)

### Community-based approach

1.53 The ‘Treatment and Rehabilitation Program’ is TRC’s core programme. This programme provides comprehensive

medical, psychiatric, and psychosocial services to victims of torture and organised violence and to their families. TRC’s clinical team is multidisciplinary which makes it possible to offer a range of holistic treatment plans to each individual client. A personal and in-depth treatment plan is designed for each client in order to best cover his/her needs including; psychological, social and medical. This comprehensive approach is essential to the overall effectiveness of treatment as it is very difficult to make progress in one area if another area is neglected. TRC aims to develop and implement a programme that is expert in the area of torture and rehabilitation – to provide highly needed services in an efficient manner.

1.54 TRC conducts its work either in its central offices or as an outreach programme. The health workers can carry out house visits providing psychosocial support to victims of torture and organised violence and their families. In addition, TRC’s community-based approach to mental health emphasises reaching not only the individual clients but also their families and neighbourhoods in order to raise awareness, reduce stigma and strengthen support and resources available to those who have had their mental well-being disrupted.

1.55 Who is targeted? TRC does not only provide psychosocial services to ex-detainees and their families. TRC also targets victims of house demolitions, sieges, raids, curfews, shelling and bombing as well as the bereaved and victims of organised violence. All clients at TRC are treated with the goal of identifying and treating enduring symptoms of trauma.

1.56 Methods Utilised; The most common methods utilised with our present clients include: Individual Psychotherapy; Short-term Dynamic Psychotherapy; Cognitive-Behavioural Therapy; Psycho-education; Psychopharmacology; Crisis Intervention Protocols; Debriefing; Defusing; Demobili-

sation; Relaxation and Problem-Solving Techniques; Family; Group; Art and Play; Psychodynamic Psychotherapy; Supportive Psychotherapy; Narrative Therapy; Trauma - Focused Approach; EMDR (eye movement desensitisation and reprocessing) and SEC (somatic experience containment).

1.57 TRC's Treatment Team is well trained on different approaches in order to treat their clients in the TRC office or in their homes. These approaches are usually used as individual therapy or group therapy. Every group of therapists uses one or two of these approaches depending on the approaches they are trained in.

### Practical analysis: study and evaluation of an approach to holistic rehabilitation on the basis of an example from the West Bank

1.58 The training participants discussed this example from the West Bank and provided the following feedback:

#### Strong points

- Wide range of services to survivors

#### Weak points

- Lack of legal help to survivors and their families
- Lack of a wide spectrum of social support (for example, reinstatement at work, training, employment, accommodation, social benefits)
- Therapeutic treatment had been provided; however, there is no mention of legal help nor of medico-legal expertise and provision
- This is not a holistic approach
- Violation of the victim's torture rights was not punished; his rights were not fully rehabilitated

Do you agree? Are there any other strong points or weak points to this approach that you can identify?

## Case study: South East Asia

Digital Library,

The Living Memory Project

<http://sea.lib.niu.edu/inst/living.html> (link no longer in use)

### Living memories

1.59 A few years ago, prison doors in Indonesia and East Timor swung open to release hundreds of East Timorese nationalists imprisoned for supporting their country's 24-year struggle for independence.

1.60 [...] Ex-prisoners organised themselves into the Associação dos ex-Prisioneiros Políticos de Timor-Leste (Association of former Political Prisoners of East Timor, ASEPPOL), which estimated that around 10,000 people living in East Timor today suffered imprisonment. Many of these had been tortured. Countless others died in prison or disappeared without trace. For each person imprisoned, a wider circle of family and friends was affected by the anguish of separation from the victim, by knowledge of his or her suffering, by the loss of a breadwinner, and by stigmatisation and political persecution arising from the relationship. Children were especially marked by the imprisonment of family members.

1.61 Working with ASEPPOL, the Living Memory project aims to create a video archive based on interviews with these ex-prisoners. Inspired in part by

*Steven Spielberg's Shoah Visual History Foundation, the project will collect, preserve and catalogue testimony from political prisoners, to be held for future generations as part of East Timor's national heritage. The archive will also be accessible in various formats as an educational and media resource nationally and internationally.*

*1.62 Interviews will be formulated to elicit information on the impact of imprisonment on ex-prisoners' health, providing an invaluable database to plan strategies for treatment, especially in the case of torture victims.*

*1.63 The Living Memory Project at East Timor is managed by Jill Jolliffe and provides videos and images of ex-prisoners in East Timor.*

### **Practical analysis: study and evaluation of an approach to holistic rehabilitation on the basis of an example from South East Asia**

1.64 The training participants discussed this example from South East Asia and provided the following feedback:

#### **Strong points**

- Freeing of the prisoners
- Possibility of rehabilitation
- Freedom to gather
- Freedom of speech
- Preservation in memory of the evidence of the missing
- Evidence-collecting
- Future prevention of torture through the creation of a film
- Creation of an accessible archive
- The survivor's voice is heard

- Description of actual facts
- Non-discriminatory approach and involvement
- Educational impact
- Evidence that can be used to form conclusions about crimes
- Medical aspects of the programme
- Research into the influence of the programme on former prisoners

#### **Weak points**

- Presumption of innocence – should courts not pronounce a definite decision, a film could negatively influence the impartial, thus a system comprising just a court process might be preferable
- Is any work taking place to punish the guilty?
- Access to the archive: non-individual approach; lack of protection of the specific rights of the victim. No connection with the holistic approach since it doesn't account for the individual right of a victim to speak out against the torture experienced
- Risk of former victims becoming victims once again
- Absence of efforts to hold as responsible individuals in positions of authority

Do you agree with their analysis? Is there anything missing?

## **5. Ethical issues to consider**

1.65 Many survivors of torture feel that they will not be able to recover until their perpetrator is held to account. However, there may be a tension between achieving 'justice' and preserving the safety of the

torture survivor and their family. The pursuit of justice may actually put the survivor and their family at further risk of abuse and harm, for example, where the torturer was the State or its agent. Furthermore, the emotional and psychological impact of court proceedings may at times become overwhelming to an already vulnerable torture survivor.

1.66 Survivors of torture may also face the challenge of trying to hold perpetrators to account in the absence of properly functioning enforcement mechanisms. Survivors are then set up to fail and place themselves at great risk (both in terms of compromised personal safety and psychological/emotional harm) in a system offering little likelihood of success.

1.67 In this chapter, we looked at creative approaches towards **holistic rehabilitation**. But does supporting the client to find creative approaches to holistic rehabilitation (for example, artistic or cultural endeavours) mean that the 'justice' component to holistic rehabilitation is weakened? Do we then run the risk of not holding perpetrators fully to account?

1.68 We also looked at a **survivor-led** approach. This means proceeding at the client's pace, letting the client choose the interventions that they think best for themselves. But what happens when we as professionals think that the survivor might be 'stuck' or is avoiding facing up to trauma and thus losing the opportunity to heal from it? What do we as professionals do when we believe that the survivor is not making good choices about their rehabilitation and recovery?

1.69 We discussed in this chapter how **survivor activism** can help to heal the survivor and act as an important tool for changing public perceptions of torture. But is there a potential conflict between survivor safety/protection and survivor activism?

## 6. Conclusion

1.70 In this chapter, we began to explore holistic rehabilitation. We explained that torture has a profoundly negative impact on the survivor because torture is designed to destroy a person without killing them. Therefore, in thinking about rehabilitation for torture survivors, it is important to take a multidisciplinary approach with a variety of interventions to hand in order to deal with the complexity of an individual survivor's needs. Such an approach to supporting a torture survivor can be challenging as the different professions can find it difficult to speak a common language. A Human Rights Based Approach can provide a common frame to help the varying professionals to work together. We saw that achieving justice in the traditional sense can be extremely challenging for survivors of torture in certain contexts. However, it is important that they still have the opportunity to heal and survive. In such cases one might need to think creatively about alternative forms of justice and how survivors in those situations could access support and rehabilitation. We also looked at the importance of holistic rehabilitation being survivor-led and that survivors have the opportunity to become involved in survivor activism. We will explore these ideas further in chapter 3.

## Chapter 2

# Rehabilitation as a right

1. General overview
2. Theory
  - A. The right to rehabilitation
  - B. The State's obligation
3. Why Article 14 is important
  - A. Benefits of seeking justice
  - B. Benefits of compensation
4. International standards and domestic legislation  
Examples
5. The reality of rehabilitation as a right
  - A. The justice dilemma
  - B. Obstacles to accessing rehabilitationExample, discussion
6. Our role in promoting holistic rehabilitation
  - A. Medical
  - B. Clinical
  - C. Legal
  - D. Client data
7. Striving for the right to rehabilitation – the role of the survivor
8. Supplementary materials
  - A. Justice denied
  - B. Additional readings
9. Conclusion

## 1. General overview

2.1 By the end of chapter 2, readers will be able to:

- Assess the relationship between protection, justice and rehabilitation
- Evaluate current domestic and regional legislation in light of international standards
- Identify opportunities and constraints which may foster or hinder a survivor's ability to access their right to justice and rehabilitation in their local context
- Link holistic and comprehensive justice approaches to their national rehabilitation context

2.2 This chapter is relevant to all specialists and service providers who work with survivors of torture, not just lawyers. The chapter covers the rights of survivors of torture and is therefore central to the work of clinicians and community workers as well as lawyers and human rights defenders. Remember the importance of the rights-based approach discussed in chapter 1 – by focusing on the 'rights' of survivors rather than just their 'needs', we can be proactive in helping to empower survivors and ensuring their dignity is respected.

## 2. Theory

### A. The right to rehabilitation

2.3 The right to rehabilitation is embodied in Article 14 of the Convention against Torture ("CAT"). Reparation, compensation and redress are also part of Article 14

## Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependents shall be entitled to compensation.

2. Nothing in this article shall affect any right of the victim or other person to compensation which may exist under national law.

2.4 It is clear from the wording of Article 14(1) that rehabilitation is a crucial aspect of a victim's remedy for torture.

2.5 Support for and confirmation of this right are found in the UN's Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (the "UN Basic Principles")<sup>1</sup>. This document indicates that rehabilitation is a distinct component of the wider right to reparation for survivors of abuses).

### Article 18 provides:

"...victims of gross violations of international human rights law and serious violations of international humanitarian law should...be provided with full and effective reparation...which include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition". (Emphasis added).

2.6 Further support can be found in the Statute of the International Criminal Court (adopted July 1998 and entered into force

July 2002) at Article 75(1) which provides that:

"The Court shall establish principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation". (Emphasis added).

## B. The State's obligation

2.7 In this context, the right to rehabilitation for survivors of torture is linked to the 'right to remedy', as opposed to the right to health or employment and so on. The 'right to remedy' is recognised in both international<sup>2</sup> and regional<sup>3</sup> human rights conventions. International humanitarian law expressly provides for a judicial remedy where "grave breaches", including torture,

2. See, for example, Article 2(3) (a) of the International Covenant on Civil and Political Rights, (1966), which requires State Parties "To ensure that any persons whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity." In addition, the right to a remedy in respect of both general and specific breaches of Human Rights Conventions can be found in the International Covenant on Civil and Political Rights (Article 9(5) and 14(6)), the International Convention on the Elimination of All Forms of Racial Discrimination (art 6), the Convention on the Rights of the Child (Article 39), the Convention against Torture and other Cruel Inhuman and Degrading Treatment, (Article 14); the Inter-American Convention on Human Rights (Articles 68 and 63(1)) and the African Charter on Human and Peoples' Rights (Article 21(2)).

3. See, for example, Article 13 of the European Convention on Human Rights and Fundamental Freedoms (1950) (the "European Convention"), which provides "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation had been committed by persons acting in an official capacity". Article 5(5) of the Convention also contains a specific and express right to a remedy in respect of incidences of deprivation of liberty in breach of the provisions of Article 5. Similarly, Article 25(1) of the Inter-American Convention on Human Rights (1969) (the "Inter-American Convention") provides "Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by...this Convention...".

1. Adopted by General Assembly, Resolution 60/147, on 16 December 2005.

have occurred<sup>4</sup>.

2.8 Sarah Fulton of Redress stated in her presentation of 12 July 2011 that the idea of ‘remedy’ is directly linked to the fact that, “The State has done something wrong, so the State must do something to fix it”. So while it may be a relatively straightforward matter to use criminal or civil court proceedings to demand compensation or remuneration, the provision of a remedy in the context of rehabilitation is not so straightforward..

2.9 Sarah also pointed out that because rehabilitation is part of the ‘right to remedy’ as described above, states must do something to make it happen:- they must provide for rehabilitation within domestic laws.

2.10 Furthermore, states must do more than draft and enact legislation. The Commission on Human Rights in its resolution 2004/41, stresses that national legal systems should ensure that victims of torture or other cruel, inhuman or degrading treatment (CID) or punishment obtain redress, are awarded fair and adequate compensation and *receive appropriate socio-medical rehabilitation*. In this regard, *it encourages the development of rehabilitation centres for victims of torture*. (Emphasis added)

2.11 Therefore, governments need to provide the conditions for rehabilitation centres. This does not necessarily mean that they have to establish these centres themselves.

4. The Geneva Conventions (1949) require signatory States to effectively investigate and prosecute allegations of grave breaches. See Articles 49 and 50 of the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; Articles 50 and 51 of the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; Articles 129 and 130 of the Convention Relative to the Treatment of Prisoners of War and Articles 146 and 147 of the Convention Relative to the Protection of Civilian Persons in Times of War. The 1977 Additional Protocol I expressly provides for the payment of compensation to victims of abuses.

2.12 “Our country is considered to be democratic. All these international laws are known to us and ratified by our Parliament, but just in theory. Practical situation is getting worse. Our work would be impossible without international funding because the State does nothing.” Participant, Georgia (July, p. 7)

2.13 However, by creating the conditions for rehabilitation, governments must provide funding, support and safe environments as well as easy and equitable access to socio-medical rehabilitation services for survivors of torture.

### **What is meant by “as full rehabilitation as possible”?**

2.14 There is little in the way of guidance on how the right to rehabilitation should be interpreted in practice. The need to develop this standard is clear. Although the UN Convention against Torture refers to ‘rehabilitation’, it does not define the term. The practice of the UN Convention’s treaty body, the Committee against Torture, provides little more in the way of clarification. While the Committee has indicated that clinical rehabilitation forms a part of any “full rehabilitation”<sup>5</sup>, it has not elaborated further on how the term should be understood. Where the Committee has specifically identified a need to provide medical and psychological treatment to survivors of torture, this has not been situated within the express context of “rehabilitation”<sup>6</sup>.

2.15 The right to rehabilitation contained in Article 14 of the UN Convention against

5. See, for example, the Committee’s consideration of Guatemala’s initial report, (1995), CAT/C/SR.232, at paragraph. 22, which also refers to redress as a form of “moral rehabilitation”. The Committee also makes express reference to the need to provide medical rehabilitation to the family members of disappeared or tortured individuals.

6. See, for example, Concluding Observations on Turkey, CAT/C/CR/30/5, paragraph 123.

Torture is qualified by the words “as full... as possible”. The words relate to the ambit of the provision, and provide guidance as to the nature of the obligations imposed on the State by the right to rehabilitation.

2.16 Delegates engaged in the drafting of the UN Convention against Torture expressed concern that “rehabilitation” was too vague a term. Rather than seek to define it, however, delegates chose to qualify it by the addition of the phrase “as full... as possible”.

2.17 In their annotations to Article 14, Burgers and Danelius provide some guidance as to how delegates intended the term to be construed, indicating that rehabilitative treatment, including the provision of mechanical aids, should be provided “so far as they are available”. This, in turn, suggests that the qualifying phrase relates to the existence, accessibility and availability of services and equipment in the State rather than to the extent or degree to which a survivor is able to make a recovery. As a result, the nature of the obligation imposed on the State in terms of physical provision and support is relative, and its practical content will therefore vary between States, depending upon such factors as the availability of resources and facilities.

2.18 While the inclusion of a relative component is not uncommon in relation to economic, social and cultural rights -which are subject to progressive implementation - assessment of States’ compliance with their obligations under the UN Convention against Torture does not generally measure the implementation of rights in this way.

2.19 In addition, the annotations to the Convention produced by Burgers and Danelius indicate that “where there is a need for medical or psychological treatment or for special mechanical aids, such treatment or such aids **shall** be provided so far as they are available”

[emphasis added] <sup>7</sup>. This indicates an intention on the part of the drafters, that where rehabilitative services exist and there is capacity, the State **must** provide them. It may also be argued that a State is unable to evade its duty to provide rehabilitative care simply by failing to operate or otherwise offer available and appropriate rehabilitation services for individuals it has tortured, reflecting an intended obligation to **actively provide** these services as far as possible <sup>8</sup>. (Emphasis added).

2.20 Support for this interpretation can be found in General Comment 14 of the Committee on Economic, Social and Cultural Rights, which draws a distinction for the purpose of assessing a State’s obligations under the right to health between unwillingness and inability to provide medical services. As a result, the relative qualification in the phrase should be read as incorporating only a limited degree of permissible flexibility on the part of the State.

2.21 The UN Convention against Torture provides no further guidance as to the nature and extent of the obligations imposed by the right to rehabilitation under Article 14. Further pointers as to their nature and extent can be gleaned by analysing how more recent international human rights and State obligations relevant to the issue have been interpreted and applied <sup>9</sup>.

7. Burgers, J. Herman and Danelius, Hans, (1988), *The United Nations Convention against Torture: A Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*.

8. Support for this interpretation can be found in General Comment 14 of the Committee on Economic, Social and Cultural Rights, which draws a distinction for the purpose of assessing a State’s obligations under the right to health between unwillingness and inability to provide medical services of a certain type. Twenty-second session, 25 April to 12 May 2000, Geneva, at paragraph 47.

9. Reading across other provisions in international human rights law is accepted as an interpretative approach.

[Above section from Handout – The Right to Rehabilitation; excerpts from: A Remedy for Torture Survivors in International Law: Interpreting Rehabilitation, Medical Foundation for the Care of Victims of Torture, 2010]

### 3. Why Article 14 is important – justice and reparation as a component of rehabilitation<sup>10</sup>

2.22 In psychological terms, justice and reparation can play a significant role in the recovery process of torture survivors. Both our experience and the psychological literature show that compensation is just one of the benefits that justice and reparation can offer. We can also identify the common obstacles preventing torture survivors in the United Kingdom from seeking and accessing redress.

#### A. Benefits of seeking justice

2.23 Justice and reparation have many meanings for survivors of torture. Negative meanings, such as injustice, lack of accountability and blame, denial of justice and indifference from society can all have an impact on the health of the survivor. The potential benefits of justice can be broadly understood in three ways:

1. **The prospect of redress.** For most people there is a need to believe in a just world – “that good things happen to good people” – and that when bad things happen there must be a fair and just response. Justice is a concept we

use to make sense of the world and our social relationships; it affirms our social identity as moral agents holding values and beliefs about what is right and wrong. For many torture survivors it is essential that they **know they have choices** - and that there is a possibility they will be able to seek justice and reparation. Torture survivors can experience the **availability of accessible mechanisms** as an acknowledgement by the State of its commitment to uphold their right to reparation.

2. The **process of seeking redress** can be therapeutic. It can also bring significant strain, with some survivors feeling that the onus is on them to expose and hold accountable the perpetrators. If survivors are already emotionally or physically vulnerable, this can seem like an enormous burden and may be further compounded by feeling personally unsafe and fearing reprisals against themselves and their families.
3. Actually **obtaining justice** – by holding perpetrators accountable, individuals and states not only open the door to other reparation measures but also challenge perpetrators' impunity. Obtaining justice is therefore a key component of torture prevention.

#### B. Benefits of Compensation

2.24 While it is difficult to measure the full impact of torture on a person's health and dignity in monetary terms, financial compensation is nonetheless an important outcome within the wider process of reclaiming the human rights of a torture survivor. The benefits of compensation can include:

1. **Symbolic benefit - as an official acknowledgement of the**

10. Dr Nimisha Patel, (2008), Reparation and Justice: A Clinical Perspective. The Medical Foundation for the Care of Victims of Torture.

**perpetrators' wrongdoing and their responsibility for the violations and harm committed.** Thus compensation is also an acknowledgement of a perpetrator's debt. Many **Freedom from Torture** clients fled their countries after experiencing torture as a direct consequence of their attempts to expose the injustices perpetrated by oppressive regimes and to hold them to account. To such clients, any means of seeking reparation are seen as potentially providing recourse to the justice previously denied them. A denial of reparation may thus be experienced by a client as a double injustice.

2. **Acknowledgement of survival:** as one form of reparation, compensation can provide torture victims with public **acknowledgement of their survival**, thereby validating their identity as survivors and facilitating the re-establishment of their dignity, self-esteem, trust in others and belief in the world as just.
3. **Alleviation of hardship:** for some survivors, compensation money can alleviate **poverty, hardship and disability and impaired functioning** resulting from their violation.
4. **Recovery process:** for many, engaging in legal challenges through the justice system can be an important part of their recovery process:
5. **Greater sense of control for the victim:** the process can afford a **sense of control** because it is the survivor who initiates the complaint, takes responsibility for procedural strategy, has the power to withdraw at any stage, and may even see their perpetrators become vulnerable defendants who have to answer for their actions. This can result in a reduction in feelings of powerlessness and helplessness for the victim.
6. **As upholding human decency: compensation, like other reparation measures, can be experienced as upholding common humanity** – as representing both a public and official recognition of the harm done and a condemnation of the perpetrators' actions. It contributes to the sense that secret events are finally unmasked, that the truth is told and that the legacy of the past is acknowledged and remembered. This aspect is particularly important to survivors who have experienced torture as an event shrouded in secrecy. The pain and suffering experienced by these survivors becomes hidden and invisible; something no one can bear to listen to or believe - something the world turns a blind eye to.
7. **The symbolic victory of the tortured over the torturer:** compensation can have symbolic significance where the money itself may be less important than the empowerment of the victim. Thus, in exposing perpetrators and officially establishing responsibility, the torturers are deprived of potency and legitimacy and the survivor's identity and dignity as a human being is reclaimed.

2.25 For example

*"Justice is telling the world, everyone should know. Everyone in the world. I want to look at them [perpetrators] in the eyes and say what you did was wrong, find your conscience. The shame is not mine, it is yours."*

As another client put it:

*"It would mean that they did not win, they did not destroy me, they will be the ones who have to answer – so the whole world will know what they did – we are human"*

*beings, not ants that can be crushed like we are nothing....”*

Ultimately, we would do well to remember that justice and redress represent recognition of the victim’s humanity and worth – as one client said:

“What are my human rights if I am not even seen as human?”

## 4. International standards and domestic legislation

2.26 International law provides for what is, in effect, an aspiration: that survivors of torture have the right to rehabilitation. Around the world, however, many individuals and groups of survivors find they are unable to realise this right.

2.27 For some, the right to rehabilitation cannot be fulfilled because the international standards are not incorporated into their domestic legislation. For others, national laws may provide for rehabilitation, but the reality on the ground is a very different matter.

2.28 You are encouraged to investigate how the right to rehabilitation is partly or fully incorporated into your domestic legislation. As part of this investigation, you will want to research whether or how far implementation has progressed beyond your State’s ratification of the Convention Against Torture.

- Even if your government has ratified the Convention Against Torture, have they placed any reservations relating to Article 14 which may reflect an intention not to fulfil their duty to provide rehabilitation?
- Do any domestic provisions relating to ‘remedy’ include specific reference to ‘rehabilitation’? If so, does the law, or any specific case law, help define what

is meant by rehabilitation? How aligned is this legal definition to our wider, holistic understanding of rehabilitation?

- Does the idea of rehabilitation depend on your State’s recognition of an individual as a victim of torture as established through court proceedings? Do you consider your government has taken seriously its responsibility to provide the means for ‘as full rehabilitation as possible’, with the introduction of laws stipulating there be a range of social, medical and practical services for survivors to access as and when necessary?

2.29 Laws are one component. But even if a law is in place, there is no guarantee that a government will attempt to implement it. Thus, you will also want to investigate your country’s specific national and local government policies relating to the rehabilitation of torture survivors.

- Is there a national policy setting out how State bodies will provide the means for ‘as full rehabilitation as possible’? Is there any case law that could provide guidance on how laws are to be interpreted? If not, would strategic litigation be a possible means of forcing the courts to clarify how a particular law should be more appropriately interpreted and applied?
- Do these policies reflect the intention of the drafters of the international standards relating to remedy? That is to say, are the remedy mechanisms and services proactively available to all who identify as survivors of torture? Or, do these policies reveal that services should only be provided for those declared by a successful court case to be ‘victims’? In other words, do the policies allow state-run and/or independent service providers to first screen and assess potential clients and thus decide who is eligible for their rehabilitation service based on

their organisational remits? Or, do the clients need to have forensic evidence and an official letter acknowledging torture from the state in question before being allowed to access a particular rehabilitation service?

## Example: Kazakhstan

2.30 Participants in the training programme from Kazakhstan explored the laws and policies of their country relating to the Right to Rehabilitation

### Negatives

- A domestic legal basis for the right to rehabilitation is absent. The Criminal Code does not mention the right to rehabilitation for victims of torture
- There are only a few examples of victims of torture receiving compensation via the courts
- The vast majority of victims of torture don't have access to remedies - barriers within in the legal system obstruct victims' progress
- Considerable levels of bureaucracy hinder service provision. A victim's request to receive medical help following torture will not automatically lead to the State recognising that a prima facie instance of torture has occurred; the State will merely acknowledge that the individual required medical help
- Lack of financial provision for survivors; survivors lack awareness of their rights

### Positives

- We have some centres of rehabilitation where victims can seek help
- We also have international organisations promoting the right to rehabilitation
- Some NGOs provide accessible legal

and medical services to the victims of torture. We also have some volunteers doing outreach work.

((The following is taken from the July report, page 7 – please note that, the order of sections has been reversed)

*“The main challenge in the Central Asia region is that the law recognises the right to rehabilitation only after a court decision. The difference with international law is that the state must provide rehabilitation regardless if [sic] the court made that decision or not.”*

(quotation from July report, page 7)

## Example: Armenia

2.31 Training participants from Armenia explored the Right to Rehabilitation according to legislation and in practice.

### Right to rehabilitation according to legislation

- Armenia has incorporated the Convention against Torture into its domestic legislation.
- International legislation relating to such matters is given priority over domestic legislation: where there is a discrepancy between the two, the former takes priority.
- The Criminal Code contains an article stipulating that the victim be recognised as such.
- Victims can obtain compensation for harm inflicted on them.

### Right to rehabilitation in practice

- The Government's positive obligations do not work in practice
- Judges sometimes indirectly acknowledge that torture occurred, however no trials result
- When a court holds that police officers

who have taken part in torture are to be punished, the perpetrators are usually amnestied

- To date, there are no known examples of a torture victim receiving holistic rehabilitation
- In order to have a case taken up, survivors need the help of NGOs. It is not possible for individual survivors to start proceedings on their own
- Torture victims are able to use domestic violence centres which receive grants from the USA and Western European countries. There is no state funding for these centres.

2.32 From the case examples above, we can see that gaps exist between international standards and domestic legislation. Even where there may be domestic laws in place, these do not always benefit survivors of torture. This, in some cases, is because the state does not see the human right to rehabilitation as being a 'positive obligation' it must meet<sup>11</sup> (A 'positive obligation' is one where the state must implement the necessary conditions for nationals to be able to proactively realise their right to rehabilitation. A 'negative obligation' implies a duty not to violate human rights).

2.33 For those of us working in holistic rehabilitation, we must remember that the state should provide 'conditions' for the provision of 'as full rehabilitation as possible'. That is a requirement of international law. But legislation alone is not enough; the state should go further to ensure ease of access to medical, legal, psychological, social and practical assistance services.

11. For a more detailed review of positive obligations, see Council of Europe, Positive obligations under the European Convention on Human Rights: A guide to the implementation of the European Convention on Human Rights, January 2007, Human rights handbooks, No. 7, available at: <http://www.unhcr.org/refworld/docid/49f183a32.html>

## 5. The reality of rehabilitation as a right

2.34 As the examples above show, strong national laws relating to rehabilitation do not guarantee that all survivors of torture are able to fully realise this right. So not only is there often a gap between international standards and domestic legislation; it is almost universally the case that there are gaps between what is stipulated in domestic law and what actually happens in practice.

### A. The justice dilemma<sup>12</sup>

2.35 It is common practice for those in the legal sector to focus on obtaining 'justice' in order to assist in a victim's rehabilitation as well as preventing or reducing perpetrator impunity. However, in some countries many torture victims will never secure justice - we can put torture survivors through the process of justice but we cannot guarantee the result.

2.36 *"The victim is at the mercy of the European Court of Human Rights (ECHR), which is overloaded with cases. Consequently, it can take 4–5 years for cases to go through."*

*Participant, Georgia (June report, page 8)*

2.37 For some victims such a process can be helpful and therapeutic; for others it is severely disturbing. (June report, page 9)

12. See also Section 8 below for a summary of the findings of **Freedom from Torture's** research publication, 'Justice Denied', the Medical Foundation for the Care of Victims of Torture, London, December 2009.

### 2.38 Ethical issues relating to attempts to access justice and redress<sup>13</sup>:

- For many survivors, the prospect of their perpetrators ever being prosecuted seems laughable, and many believe that there is no hope of prosecution, let alone any reparation. For them, redress is seen as a theoretical concept, academic and beyond their reach. *“You don’t know what it is like in my country – justice? [laughs]. This means nothing, nothing when there is a corrupt government, no law, police are criminals there is nowhere safe – who do you go to? You have to just run.”*
- For the vast majority of our clients, the **poor health, severe trauma and vulnerability** that follow from their torture prevent them from seeking out avenues of complaint. Many are struggling just to survive and to regain their dignity and a healthy sense of self. Thoughts of making a complaint are not even in their minds. A small minority may be sufficiently emotionally robust at a certain stage in their recovery to consider seeking redress. However, most do not due to the fear that they will experience further emotional setbacks triggered by reliving their memories as they go through the legal processes. Most are simply focused upon rebuilding their health and restoring some normality to their lives.
- Most clients who consider seeking redress **fear further reprisals** and remain intensely and fearfully preoccupied with the **lack of safety** they and their family members feel. Many family members remaining in the country of origin have endured harassment, torture and other ill-treatment as a result of the client having fled.

### 2.39 Redress can be seen as a futile, even

<sup>13</sup>. Dr Nimisha Patel . *Reparation and Justice: A Clinical Perspective*. Medical Foundation for the Care of Victims of Torture. May 2008

dangerous aspiration. Survivors’ enormous sense of responsibility for their families’ well-being, their overwhelming guilt and a desire to start a new life often prevent them from seeking redress.

2.40 One survivor commented:

*“For every one person you try to chase and catch, there are a thousand being trained and spawned every minute – what is the point – will you catch them all? Will you or the court be able to protect my family back home if I go to court? What will happen to them – [...] more fear, more torture?”*

- Almost all of those who wish to consider seeking redress report being unaware of the potential options or **avenues** for seeking justice and reparation. They **fear that any such processes are likely to be protracted, unsuccessful and will prolong their suffering**.
- Also of importance is the **social and cultural context** of disclosure, which shapes both the meaning survivors give to their torture experiences and the ways in which families and communities respond to any disclosures made. Following sexual torture, for example, many male and female survivors choose never to disclose what happened (either partially or in full) due to profound guilt and shame or for fear of negative reactions from families or communities – of being – fear of being ostracised, punished, marginalised or abandoned.
- For many there has been a lack of justice or reparation in their countries of origin, leading them to seek safety elsewhere. The prospect of return brings intense **fear of re-encountering the perpetrators**, many of whom remain at large or remaining in positions of authority even where there has been a change of government or where the situation in the country has changed. The option of seeking redress on return is then seen as absurd:

*“You don’t know what it is like in my*

*country, justice – there is none, that is what we fought for, that is why we are tortured, that is why I am here in this country – you think I can expect justice when I go back? No, I would rather die...*”

2.41 In essence, all of these **obstacles amount to survivors being unable to access procedures** which would ensure justice – they are effectively a denial of justice.

2.42 **The denial of justice and the resulting impunity** of perpetrators can increase survivors’ feelings of powerlessness, guilt and shame, affecting their capacity to be optimistic for their own futures and to believe in a just world. They may feel they are not believed by others and are being denied, invalidated and further dehumanised - as if they are not worthy of being treated as human beings.

2.43 Helena Cobban, ‘The legacies of collective violence: The Rwandan genocide and the limits of the law’, Boston Review, April/may 2002, [<http://bostonreview.mit.edu/BR27.2/cobban.cobban.html>]. See also a response to Cobban’s article, Kenneth Roth and Alison DesForges, DesForges, ‘Justice or therapy?’, Human Rights Watch Editorials, [<http://www.hrw.org/editorials/2002/ictr0724.htm>]; and, Helena Cobban, ‘Helena Cobban replies’, Boston Review, Summer 2002 [<http://bostonreview.mit.edu/BR27.3/cobbanreplies.html>].

Allan&Allan, ‘The South African Truth and Rwconciliation Commission as a therapeutic tool’.tool’.

While international instruments require states to provide a **“full and effective remedy,”** they do not adequately define what this means, particularly from a clinical perspective.

2.44 **Appropriate and accessible measures** which (in combination) **address**

**the breadth, magnitude, duration and other temporal dimensions of the impact of torture, recognising the diversity of survivors, their unique circumstances and experiences.**

## B. Obstacles to accessing rehabilitation

2.45 Often, the gap between law and practice is caused by factors in society that hinder a survivor from easily accessing an appropriate service. These contextual constraints can range from public attitudes, the role of the media, a lack of skilled experts and a lack of awareness of survivors’ rights.

2.46 You will want to identify the specific obstacles in your own context which might hinder a survivor of torture from actually finding, accessing and utilising rehabilitation services including legal support. Are there any barriers that prevent you from truly supporting and assisting a survivor of torture?

2.47 Clear awareness of the barriers is the first step; only then we can think of creative and effective ways to overcome the obstacles preventing an individual from realising their right to rehabilitation.

### Example: United Kingdom

2.48 For example, in the United Kingdom, all nationals are entitled to free health care and, if unemployed, are able to apply for state support for housing and money while looking for work. If a survivor of torture has come to the UK to seek asylum there are specialist services that can provide medical, psychological, social and practical rehabilitative support. However, many survivors of torture living in the UK struggle to access adequate rehabilitative support. There are many contextual barriers, including:

- Lack of awareness. Many new arrivals to the UK are unaware of the services available or of their entitlement to apply for assistance.

Complex policies. UK laws may indicate a right to rehabilitation, but in reality, policies regarding the entitlement of non-nationals to access specific aspects of health or social care are complicated and sometimes contradictory. Service providers are often confused about who is and who is not entitled to apply for their service, and thus erroneously turn away eligible survivors of torture.

- Practical obstacles. The UK has specialist services able to confidently provide support to torture survivors seeking rehabilitation. However, such services are not found in all UK cities. For survivors housed in parts of the country lacking specialist services, it can be prohibitively difficult to access a qualified lawyer or clinician with the expertise necessary to work with their degree of trauma and complexity of needs.
- Vilification of asylum seekers. Some service providers who should provide care to an asylum seeker will turn them away; individuals and families may feel unwelcome and unable to integrate into a community due to hostility; refugees may not be offered employment even if they are suitably qualified due to racism, and so on.
- Language barriers. In the UK, survivors of torture come from countries around the world and many don't speak English at all or well enough to communicate fully. Lawyers and clinicians often struggle to find appropriate,

#### 2.49 Additional Points to consider

- What other human rights are impacted by rehabilitation needs (for example, the

right to education, the right to health.

- Community divisions needing to be addressed (marginalisation, discrimination)
- How to raise awareness about torture and its impact

### Training: participants' comments

2.50 In a discussion about the need to develop justice and rehabilitation support in the context of their own countries, participants from Armenia, Azerbaijan and Georgia listed some changes they feel are needed in order to improve the possibilities for providing holistic rehabilitation...

- Greater provision of legal and clinical help
- Work with detention centre and prison administrations to increase staff skills and professionalism
- Development of recommendations for their states on how laws and policies should be implemented
- Evaluate current domestic legislation in the light of international standards
- Increase the skills and awareness of human rights workers, clinicians and journalists
  - Share opinions and experiences among human rights workers, clinicians, lawyers, journalists and so on
  - Raise public awareness and get the public involved with the help of professionals working in rehabilitation (doctors, lawyers, journalists etc.)
- Include the voices of survivors
- Take victims into account to a greater extent
- Lobby for changes in the law while working on improving the availability of rehabilitation

## 6. Our role in promoting holistic rehabilitation

2.51 This list is impressive but quite daunting. For those of us working with survivors of torture, it often feels overwhelming to think about how to challenge deep resistance within a society or to counter systemic blocks to accessibility for your client. However, we must think about these things if we want to find ways to change them.

2.52 Each of us has a role to play in improving the way things work so that more survivors are able to enjoy their right to rehabilitation. Luckily, we don't have to work alone. In furthering the right to rehabilitation, it is vital that human rights defenders, clinicians, lawyers and community workers all work together. What specialist services and experts can you work with as part of a team or web of support to ensure that the survivor is able to realise their right to rehabilitation?

### A. 2.53 Medical

- Provide medical evidence of torture for individuals, which can be used in court proceedings or in asylum claims<sup>14</sup>.
- Conduct thorough health assessments and explore with the client (as far as possible) how torture has impacted a survivor's physical or emotional health (see *Freedom from Torture's* Assessment Guidelines<sup>15</sup>). Based on your assessment, refer the survivor to appropriate specialist treatment.
- Liaise with lawyers and social workers to ensure that all of your client's needs

are being met.

### Example: *Freedom from Torture* doctors document evidence of torture for asylum claims

2.54 A key responsibility of the doctors at *Freedom from Torture* is to write reports for their clients so that clients can apply for asylum. By documenting signs of torture, the doctors provide evidence for asylum seekers to make their cases.

- Most of the doctors at *Freedom from Torture* have a background in general family medicine but have received specialist training on conducting forensic examinations of torture as outlined in the Istanbul Protocol.
- In most cases, torture victims' damage is both psychological and physical.
- In cases where there is no physical evidence of torture *Freedom from Torture's* psychologists and psychiatrists write reports.
- "The report should satisfy the requirements of the court system, but my personal responsibility is to the client."

At *Freedom from Torture*, our legal and medical workers discuss things together before writing the report. After the report is complete, legal and medical teams discuss it again. A lawyer needs a medical expert's opinion in order to decide whether the case can be taken further.

### B. 2.55 Clinical (psychologist, therapist, social worker)

- Conduct thorough psychological assessments and explore with the client (as far as possible) how torture has impacted on a survivor's emotional health<sup>16</sup>. Based on your assessment,

14. Specialist training is required on the Istanbul Protocol

15. The assessment is available on *Freedom from Torture's* website: [www.freedomfromtorture.org](http://www.freedomfromtorture.org)

16. See Medical Foundation for the Care of Victims of Torture (FfT). Identifying survivors of torture and assessing their health needs: A Practical Guide. August 2010. Available for download at: [www.freetorture.org](http://www.freetorture.org)

refer the survivor to appropriate specialist treatment. Many other service providers will have neither the confidence nor the skills to do so and may not recognise the extent of a survivor's needs. Therefore, your referral documentation can help other services better support a client.

- Provide training to NGOs, other service providers and experts to build greater awareness and confidence and thus enabling them to work more effectively with survivors of torture
- Work with lawyers and community workers to help them better understand survivors' needs and rights so that they can lobby State bodies and/or negotiate with relevant civil servants to ensure greater rehabilitative support.

## C. 2.56 Legal

The role of the lawyer is most obvious in the establishment and operation of an effective legal framework to prevent torture and other forms of cruel, inhuman or degrading treatment or punishment («ill-treatment»). However, lawyers at the national level, and their professional associations, also have a vital role to play in ensuring transparency in institutions and in strengthening the capacity of national, regional and even international actors. Furthermore, this role is not purely legal; it is to a large extent social and political' involving liaison between detainees and their families, cooperation with civil society actors, and lobbying of government officials.

Above excerpt from, *The Role of Lawyers in the Prevention of Torture*, The Association for the Prevention of Torture ("APT"), January 2008.

## D. Client data

2.57 As a clinician or lawyer working in a human rights context, it is important to be mindful of data that can potentially help support individual survivors or wider human rights initiatives.

2.58 Client data can be used for<sup>17</sup>:

- The mental and physical protection of survivors (through provision of medical evidence demonstrating that that an individual was tortured and is thus eligible for protection and rehabilitation)
- Advocacy on behalf of clients with government agents in relation to welfare and support matters
- Conducting strategic litigation to try and change the law in relation to particular survivors
- The defence of the human rights of survivors as a group, both in the UK and at an international level
- Statistical human rights purposes, including production of statistics on torture victim issues.

## 7. Striving for the right to rehabilitation – the role of the survivor

2.59 When working to assist a client with their rehabilitation, whether helping your client to access justice or redress or receive medical or social support, it is vital that your primary consideration is to deliver what they actually want.

2.60 Both your actions and your interventions should be 'survivor-led'. What is your client's immediate priority and what can wait? What does the client feel ready and able to do right now? What will require more support and time? For instance, if the survivor is adamant that

<sup>17</sup>. Use of client data and research is also explored in chapter 4

they can't heal until their torturer is brought to justice yet they are still very distressed and traumatised, they may need additional support. They may need to work closely with a therapist and receive support from family and community in addition to the work they are pursuing with you, (or an NGO, lawyer or other professional), to bring their legal case to court.

2.61 Also, we would do well to recall our rights-based approach and our wider understanding of holistic rehabilitation. Are survivor voices being heard as part of the discussion and debate about how services could be improved in your country? Ensure, therefore, that in your strategic discussions, all relevant stakeholders are at the table - including survivors and their families.

**2.62 *Freedom from Torture*:** What our clients tell us they want

- Rehabilitation
- Overall, justice is imperative:
  - To stop harm from happening to others
  - Redress
- Acknowledgement
- Support, compensation
- To be heard, to have a say

## 8. Supplementary materials

### A. Justice denied

2.63 In December 2009, *Freedom from Torture* published a research report, *Justice Denied*, to highlight the challenges experienced by many survivors in accessing justice. The report demonstrates

the need for greater support for women torture survivors in their efforts to rebuild their lives and seek redress.

2.64 Meryem, a survivor who sought the help of *Freedom from Torture* after fleeing Turkey, had endured years of abuse living in a society in which women are commonly victims of discrimination. Violence against women was the norm and access to justice a remote prospect. Meryem was tortured by the police and raped countless times in detention.

2.65 *Justice Denied* examines the experiences of over 100 women from 24 different countries, who, like Meryem, were forced to seek refuge in the UK because of continued failures in their own countries to protect their rights and to provide access to healthcare and to legal redress.

2.66 *Freedom from Torture* found that almost all of these women had suffered several incidences of rape and sexual assault. In an overwhelming number of cases, they were unable to access any support, tending to be dismissed by the authorities when they did seek help, and in some cases were rejected by their communities and families.

2.67 The research included a study of 100 female *Freedom from Torture* client files:

- The majority of women **did not report** the violations because the perpetrators were police or military personnel
- **No perpetrators** were prosecuted
- Police were perceived as **indifferent, biased and ineffective**
- There was no discernible state rehabilitation structure – **'nowhere to go'**
- **Mass violations** are seen as 'just part of the bigger picture' - 'what was the point in reporting anything?'

### Access to Justice?

- Result surprisingly low given brutality of violence inflicted
- Sought informal or secret treatment
- Sought treatment for physical injuries
- Majority did not report rape

2.68 The social stigmatisation of survivors of rape and sexual violence exacerbates the difficulties for women in disclosing or reporting abuse either to security personnel or clinical staff. Other powerful factors militate against women accessing justice, such as the difficulties generated by an individual's response to trauma, the impact of fragmented recall, emotional numbing and late disclosure. These factors combined can mean ongoing impunity for perpetrators of torture.

### Adding it all up

2.69 Leanne MacMillan, Former Director of Policy and External Affairs at **Freedom from Torture**:

*«Women continue to be targeted for torture. They are then hampered in their pursuit of redress and even access to basic healthcare in societies where underlying and pervasive gender inequalities and disparities persist. Denying them access to justice and rehabilitation perpetuates a climate in which torturers are able to act with impunity.»*

### Powerful factors that militate against women accessing justice

- No effective access to justice
- Unable to report abuse to authorities
- Unable to seek help, protection or rehabilitation due to stigmatisation of victim not perpetrator
- Combine above with **individual's response to trauma, impact of**

### fragmented recall, emotional numbing, late disclosure

**2.72 A more robust and gender-sensitive approach to reparation is needed;** such approaches could include:

- Acting on the basis of women's survivor contexts (taking into account: identities, shame, stigma)
- Taking a holistic approach
- Interdisciplinary and survivor-driven focus
- Fluidity, not linearity
- Long-term commitment



## B. Additional readings

APT - The role of lawyers

### APT

### Association for the prevention of torture

### The role of lawyers in the prevention of torture

January 2008

### Introduction

The Association for the Prevention of Torture (APT) believes that the effective prevention of torture requires three integrated elements:

1. Transparency in institutions: All places where persons are deprived of their liberty should be accountable and subject to regular scrutiny through independent visiting and other monitoring mechanisms.
2. Effective legal frameworks: International, regional and national legal

norms for the prevention of torture and other ill-treatment should be universally respected and implemented.

3. Capacity strengthening: National and international actors who work with persons deprived of their liberty should be trained to increase their knowledge of, and commitment to, prevention practices.

The role of the lawyer is most obvious in the establishment and operation of an effective legal framework to prevent torture and other forms of cruel, inhuman or degrading treatment or punishment (“ill-treatment”). However, lawyers at the national level, and their professional associations, also have a vital role to play in ensuring transparency in institutions and in strengthening the capacity of national, regional and even international actors. Furthermore, this role is not purely legal; it is to a large extent social and political, involving liaison between detainees and their families, cooperation with civil society actors, and lobbying of government officials.

## Effective legal frameworks

### - Legislation

To be effective, a legal framework for the prevention of torture must enshrine the procedural guarantees related to the right to a fair trial of every detainee, including the fundamental human right of every person in pre-trial detention to 1

consult with a lawyer of his or her choice,<sup>1</sup> the right to challenge detention before an independent court,<sup>2</sup> and the strict prohibition of all forms of secret detention.<sup>3</sup> But guaranteeing these rights is not enough; prevention also includes deterrence and the removal of incentives to torture. Torture must appear as a separate criminal offence, and any evidence obtained by torture, or in an unofficial place of detention, must be excluded from proceedings, regardless of

whether it was obtained by another State, except where it is used as evidence against the suspected perpetrators of such acts.<sup>4</sup>

Where these rights are not guaranteed in national legislation, the role of a bar association will be primarily political; it can lobby for the ratification of the relevant international treaties, including the Convention against Torture and its Optional Protocol, comment on draft laws, point out lacunae in legislation, monitor application of legislation as well as reported cases of torture, and ensure that the law is the subject of public debate as well as professional scrutiny. Particularly in cases where lobbying at the national level is ineffective, the bar association may choose to submit comments or reports to the relevant international treaty body or regional mechanism. In all of these actions, bar associations can cooperate with and, where necessary, provide training to civil society organisations engaged in human rights monitoring or lobbying.

### - Jurisprudence and the development of standards

Where legislation is in place, lawyers have an important role to play in advancing and improving the protection of the law at the national, regional and even international level through jurisprudence. They can argue for judges to interpret international instruments dynamically, ensuring for example that States parties to the Convention against Torture fully implement their obligation to “keep under systematic review interrogation rules, instructions,

<sup>1</sup> *This right is guaranteed in a number of international instruments, including Article 14(3)(b) of the International Covenant on Civil and Political Rights, Article 6(3)(c) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 8(2)(d) of the Inter-American Convention on Human*

*Rights, and Article 7(1)(c) of the African Charter on Human and Peoples Rights.*

2 *This is guaranteed under, among others, Article 9(4) of the International Covenant on Civil and Political Rights, Article 5(4) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 7(6) of the Inter-American Convention on Human Rights, and Article 6 of the African Charter on Human and Peoples Rights, interpreted in conformity with principle M(4) of the Principles and Guidelines on the Rights to a Fair Trial and Legal Assistance in Africa, and principle 32 of the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines).*

3 *See Human Rights Committee, General Comment 20 (1992), in UN Doc. HRI/GEN/1/Rev.7, paragraph 11; UN Special Rapporteur on Torture, Standing General Recommendations, UN Doc. E/CN.4/1995/34, 12 January 1995, paragraphs 923, 926(b) and (d). For more detailed discussion of this issue, see APT, Incommunicado, unacknowledged, and secret detention under International Law, March 2006.*

4 *See UN Convention against Torture, Article 15; Human Rights Committee, General Comment 20 (1992), in UN Doc. HRI/GEN/1/Rev.7, paragraph 11; UN General Assembly Declaration against Torture (9 December 1975), GA Res. 3452(XXX), paragraph 12; UN General Assembly Resolution on Torture (2007), UN Doc. A/RES/61/153, paragraph 7.*

methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction,

with a view to preventing any cases of torture.”<sup>5</sup> These measures must in fact be effective in preventing torture, and must be replaced where they are not.<sup>6</sup> International standards in this area are continually improving. For example, the UN Committee against Torture now considers that every interrogation should be recorded.<sup>7</sup> By making reference to international and regional standards developed in other regions, or by treaty bodies, lawyers at the national level can make a valuable contribution to the construction of a coherent and comprehensive body of international law on the prevention of torture.

When a detainee, relative or lawyer lodges a complaint of torture or other forms of ill-treatment by public officials, or public officials have reasonable grounds to suspect that such abuses have occurred, international human rights law requires that there be a prompt, impartial and thorough investigation.<sup>8</sup> During such investigations, States must ensure that complainants, their families and witnesses are protected from reprisals. Moreover, to comply with their international legal obligation to ensure an effective remedy to anyone who is the victim of an act of torture or other form of ill-treatment, States must guarantee in law and practice the independence and freedom of action of individual lawyers and their professional associations to bring forward such claims without fear of retribution, whether or not the claims are ultimately upheld by the courts.<sup>9</sup>

### **- The early stages of detention**

International human rights law requires that all persons in police custody be informed of their rights without delay and in a language they understand.<sup>10</sup> The notification of rights must include the rights to be assisted by a lawyer of one's choice, to be medically examined by a doctor of

one's choice and to notify a relative or a third party of one's choice of the fact of detention. Furthermore, these rights apply regardless of the official designation of the detainee under the legal system concerned. Suspects, witnesses, and any other person who is under a legal obligation to attend and remain at a police

5 *Article 11 Convention against Torture.*

6 *Article 2(1) Convention against Torture; Committee against Torture, General Comment 2 (2007), UN Doc. CAT/C/GC/2/CRP.1/Rev.4, paragraph 4.*

7 *Committee against Torture, General Comment 2 (2007), UN Doc. CAT/C/GC/2/CRP.1/Rev.4, paragraph 14.*

8 *This is explicitly provided by Article 12 of the Convention against Torture. The UN Human Rights Committee stated that the obligation also exists under the International Covenant on Civil and Political Rights in its General Comment 20 (1992), in UN Doc. HRI/GEN/1/Rev.7, paragraph 14. This obligation has been confirmed by the European and Inter-American Courts, in Article 8 of the Inter-American Convention to Prevent and Punish Torture, and by the African Commission.*

9 *Basic Principles on the Role of Lawyers, UN Doc. A/CONF.144/28/Rev.1, 7 September 1990, paragraph 17.*

10 *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principles 13 and 14; Committee against Torture, General Comment 2 (2007), UN Doc. CAT/C/GC/2/CRP.1/Rev.4, paragraph 13*

station or other place of detention all have the right to consult with a lawyer, and, in principle, to have a lawyer present during

interrogation.<sup>11</sup>

Procedures should be put in place to ensure that every detainee is notified of his or her rights in practice. For example, detainees could be asked to sign a statement attesting that they have been informed of their rights. Lawyers have an important role to play in lobbying for the implementation of such procedures, and subsequently in ensuring that non-respect of procedural guarantees in relation to their clients is detected, highlighted in any proceedings, investigated, and, where appropriate, leads to disciplinary sanctions against the public officials responsible.

International experts agree that "it is in the period immediately following deprivation of liberty that the risk of intimidation and physical ill-treatment is the greatest."<sup>12</sup> Lawyers have a crucial role to play in ensuring that all persons suspected of having committed or otherwise being connected with a criminal offence are treated in accordance with human rights standards at every stage of the investigation and proceedings. Every detainee's fundamental human right of access to defence counsel must be ensured in law and in practice from the very outset of detention.<sup>13</sup> This access must be prompt, regular, direct and confidential, and if a person cannot afford to pay for the services of a lawyer, qualified and independent legal counsel must be provided free of charge. Most commonly, persons deprived of their liberty on suspicion of having committed a given criminal offence are subjected to acts of torture and other forms of ill-treatment, or threats thereof, during interrogation in the initial period of detention for the purpose of extracting a forced "confession" or related information. Such abuse almost inevitably occurs after the detainee has been denied prompt access to, or has not been informed about his or her

right to, a lawyer.

Of course, in truly exceptional circumstances, and to protect specific interests in relation to a criminal investigation, it may be necessary to delay for a very short period a detainee's access to a lawyer of his or her choice. However, only an extremely limited range of interests can provide grounds for any restriction on the right of access to a lawyer: to prevent completion of a specifically-suspected violent conspiracy; to prevent the suspect from alerting specifically-

*11 This right may be restricted only for a very short period in exceptional circumstances where awaiting the arrival of a lawyer would jeopardise the investigation. See, for example, Committee against Torture, Conclusions and Recommendations on Austria (2005), UN Doc. CAT/C/AUT/CO/3, paragraph 11; Conclusions and Recommendations on the Netherlands (2007), UN Doc. CAT/C/NET/CO/4, paragraph 6; Conclusions and Recommendations on Japan (2007), UN Doc. CAT/C/JPN/CO/1, paragraph 15. See also European Committee for the Prevention of Torture, 12th General Report, paragraph 41.*

*12 See the Report of the UN Special Rapporteur on Torture, UN Doc. E/CN.4/2004/56/Add.2, 6 February 2004, paragraph 60.*

*13 The right to legal counsel at all stages of detention, including at the very outset, is a key component of a fair trial and is enshrined in various international and regional human rights instruments and standards. See for example Principle 1 of the Basic Principles on the Role of Lawyers, Principle 17(1) of the Body of Principles for the Protection of All Persons under Any*

*Form of Detention or Imprisonment, and Rule 93 of the European Prison Rules. The European Court of Human Rights and the Inter-American Commission have also recognised the right of access to a lawyer during the preliminary stages of detention.*

known co-conspirators to ongoing investigations by the authorities; or to otherwise prevent specific threats to the life or physical security of other persons. Any exceptional restrictions on the right of prompt access to regular legal counsel should be specifically approved by an independent judge.<sup>14</sup>

However, in no circumstances should exceptional restrictions result in the right of access to a lawyer being denied altogether, as even a detainee in such a situation has the right to meet with an independent lawyer.<sup>15</sup> In this context, bar associations have an important role to play in appointing truly independent lawyers, as they are often the only bodies with the necessary qualifications and independence. Such lawyers must act independently in practice, which means that they must be able to communicate with the detainee in private and must not be bound to disclose to the government any communications with the detainee.

States that go beyond such exceptional limits on the right to legal counsel from the outset of detention are clearly in violation of international fair trial standards.<sup>16</sup> Moreover, such violations may be indicative of a wider pattern of abuses; international experts have long recognised that torture is most frequently practiced during incommunicado detention.<sup>17</sup> Lawyers defending the rights of their clients in such States often place themselves at risk. In these circumstances, bar associations can provide vital protection, condemning attacks on the independence of lawyers, and ensuring the collective right to freedom of expression of their members even

where the exercise of such freedoms on an individual level can lead to reprisals.

## - The rule of law

An effective legal framework requires the support of civil society. To be legitimate in the eyes of the population, laws must be seen to reflect the values of the particular society. Conversely, the rule of law is at the very foundation of democratic societies. It is telling that governments which have sought to justify torture or other forms of ill-treatment, particularly as regards persons suspected of terrorism, have tried to hide behind the colour of law, inventing highly contrived and questionable interpretations of international

14 Report of the UN Special Rapporteur on Torture, UN Doc. E/CN.4/2003/68, 17 December 2002, paragraph 26(g).

15 Ibid. 16 These standards are laid out Article 14 of the International Covenant on Civil and Political Rights, Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 8 of the American Convention on Human Rights, and Article 7 of the African Charter on Human and Peoples' Rights. Several 'soft law' instruments give detail to these fair trial rights, including, at the international level, the Basic Principles on the Role of Lawyers, the Basic Principles on the Independence of the Judiciary, the Guidelines on the Role of Prosecutors, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the UN Standard Minimum Rules for the Administration of Juvenile Justice, all of which can be accessed at [www.ohchr.org](http://www.ohchr.org).

17 Report of the UN Special Rapporteur on Torture, UN Doc. E/CN.4/2003/68,

17 December 2002, paragraph 26(g). See also APT, Incommunicado, unacknowledged, and secret detention under International Law, March 2006.

legal standards.<sup>18</sup> Such statements may serve to weaken the absolute nature of the prohibition of torture and ill-treatment, both in law and in the eyes of the general public. Bar associations have a unique credibility and expertise to respond to such challenges to the prohibition of torture, and to engage government authorities in a public debate.

However strong the legal prohibition on torture, reality has yet to conform to the strict letter of the law. Other mechanisms beyond the purely legal are required to ensure that agents of the State do not resort to or tolerate torture, that violations are detected, and that perpetrators are punished.

## Transparency in Institutions

Torture most often occurs behind closed doors. Where torturers believe that their actions will not be detected by outsiders, and feel secure in the knowledge that their superiors approve of - or will turn a blind eye to - abuses, they all too often act with impunity. For this reason, the APT has worked for 30 years towards greater transparency in institutions as a vital component of the prevention of torture.

## - Detection and reporting of torture and ill-treatment

It is imperative that in practice detainees have access to a lawyer of their choice from the very outset of detention as an important safeguard against acts of abuse, including during interrogation. For this safeguard to be effective, the authorities must respect the confidentiality of the communications and consultations between lawyers and their clients. Privacy

of communication is essential for the effective representation of the client and is critical to ensuring that a detainee can freely disclose any torture or other forms of ill-treatment by public officials. Domestic legislation should be brought into line with international human rights standards to reflect these confidentiality rights, which should be respected by public officials in practice.

The lawyer will often be the first person the detainee can inform about any ill-treatment. Particularly where the lawyer and detainee do not have a pre-existing relationship, recording allegations can be a sensitive and delicate procedure that requires the establishment of a relationship of trust. It is crucial to ensure that the detainee is not put at risk at any time, which requires that he or she understands precisely what steps may be taken with regard to the alleged abuse. While such steps will in many cases be primarily legal, the lawyer may also have more social role, acting as intermediary between the detainee and his or her loved ones, informing the detainee and/or his or her family about organisations working to record such abuse, or about the support and rehabilitation services available to victims of torture or ill-treatment. To

*18 In response to such attempts, the UN Committee against Torture recently reiterated the absolute nature of the prohibition of torture and ill-treatment: Committee against Torture, General Comment 2 (2007), in UN Doc. CAT/C/GC/2/CRP.1/Rev.4, paragraphs 5-7.*

prevent reprisals, any transmission of allegations to any authority, body or organisation, be it for nominative or for anonymous use, should only take place with the express consent of the detainee.

Particularly where monitoring bodies are under-resourced, lack independence, or

do not exist, lawyers are often the only independent persons with access to detainees in police and pre-trial detention. In such contexts, and where authorities do not respond to confidential demarches, torture and ill-treatment will continue, and perpetrators will continue to act with impunity, if lawyers and bar associations do not act to draw public attention to abuses. However, awareness-raising must never jeopardise the safety and privacy of victims. Information should be made public only where cases are brought before a public tribunal, where the detainee has expressly consented to the use of information in this way, or where information is given in a general, aggregated form which in no way permits the identification of individuals or breaches lawyer-client confidentiality. Awareness-raising at the national level could involve, for example, issuing press releases or reports, cooperating with NGOs, or organising conferences or other events. To draw international attention to violations, bar associations can also transmit information to relevant UN or regional mechanisms.<sup>19</sup>

## - Detention monitoring

Many States do have some form of independent monitoring of at least some places of detention at the national level. Establishing national preventive mechanisms with access to all places of detention is one of the primary aims of the Optional Protocol to the Convention against Torture. However, even States which have not ratified that instrument are often under an obligation to set up such mechanisms.<sup>20</sup> Both the Committee against Torture, which monitors State compliance with the Convention against Torture and the Human Rights Committee, which monitors compliance with the International Covenant on Civil and Political Rights, have found that those instruments

create an obligation to establish a systematic and independent mechanism to monitor the treatment of persons deprived of their liberty.<sup>21</sup> Bar associations

*19 In addition to transmitting information to the UN Committee against Torture, Human Rights Committee or other relevant treaty body, the bar association could submit information under the Universal Periodic Review procedure of the UN Human Rights Council. With the express and informed consent of the victim, individual cases may be submitted to Special Procedures of the UN Human Rights Council, including the Special Rapporteur on Torture. A summary of communications between Special Procedures and State authorities regarding individual cases is included in the annual reports of Special Procedures to the UN Human Rights Council. At the regional level, lawyers and their professional associations may submit reports and information to, among others, the European Committee for the Prevention of torture, and the Special Rapporteur on Prisons and Conditions of Detention in Africa.*

*20 This is made clear in the Preamble of the Optional Protocol to the Convention against Torture, which recalls the State obligation under the Convention against Torture to take effective measures to prevent acts of torture and other ill-treatment, and recognises that the protection of persons deprived of their liberty against torture and other ill-treatment can be strengthened by a system of regular visits to places of detention.*

*21 See Committee against Torture, Concluding Observations on Brazil, UN Doc. A/56/44, 2001, paragraph 120(d); Concluding Observations on Moldova,*

*UN Doc. CAT/C/CR/30/7, 2003, paragraph 6(l); Concluding Observations on Russia, UN Doc. A/52/44, 1996, paragraph 43(d) (and UN Doc. CAT/C/CR/28/4, 2002, paragraph 8(f)). See also Human Rights Committee, General Comment 21, in UN Doc. HRI/GEN/1/Rev.1, paragraph 6*

can obviously lobby for such systems to be put in place, and lawyers can challenge any lack of independent monitoring in the courts.

Where an independent monitoring body does exist, lawyers and bar associations can provide it with vital information about problems and practices in particular places of detention on a confidential basis. Bar associations and lawyers can also, in a sense, monitor the monitors, commenting on the legislation setting up or designating monitoring bodies, as well as their working methods, functional independence, findings and reports. However, perhaps the most obvious and important contribution of lawyers to such a monitoring mechanism will be as members or associated experts. To be truly effective, preventive mechanisms need a mix of expertise, and it is crucial that this includes legal expertise, in particular a knowledge of international and regional laws, standards and norms on conditions of detention, codes of conduct for custodial staff, and more generally on the rights not to be subjected to torture or other ill-treatment, and to a fair trial. The importance of other types of expertise should not be forgotten, however; a preventive mechanism composed entirely of lawyers will often be unable to detect the full range of possible issues. For example, the presence of a medical doctor will be vital to evaluate the health care available to detainees, and to ensure that symptoms of detainees who allege torture can be documented.

### **Capacity strengthening**

Many bar associations already play an important role in strengthening the capacity of their members through continuing legal education, seminars, expert meetings, and more informal exchanges of expertise. They can also play a part in strengthening the capacity of both government and civil society actors. For example, where a State is preparing to ratify the Optional Protocol to the Convention against Torture, the bar association may be able to provide comments on the legislative reforms which would be required at the national level, and even advice or training to members of the relevant government department on the requirements of international law. Where this is not directly possible or desirable, the bar association may instead lobby for the government to organise such training by another independent body. As discussed above, the bar association can also train members of independent national preventive mechanisms, all of whom will need to have at least basic knowledge of the international law, standards and norms relevant to detention, as well as the international basis for their mandate where the State has ratified the Optional Protocol to the Convention against Torture.

Effective prevention of torture at the national level requires the active involvement of civil society, including NGOs, associations of relatives of detainees, lay visiting schemes, and providers of pastoral care in places of detention. Bar associations can play an important role in strengthening the capacity of such groups, through the provision of advice or training on specific aspects of national or international law, and on the scope of the prohibition of torture and ill-treatment as regards high-security prisons, conditions of detention, and solitary confinement. Bar associations may also wish to be represented at conferences organised by NGOs on these issues.

## Conclusion

Lawyers and their professional associations have a central role to play in the effort to prevent torture and other forms of ill-treatment at the national, regional and international levels. They have unique expertise and ability to strengthen the legal framework to prevent torture by lobbying for changes in legislation, arguing for a dynamic interpretation of laws to strengthen effective protection, and ensuring that legal and procedural guarantees are in fact applied to every detainee. However, the role of lawyers in the prevention of torture goes much further than ensuring the implementation of a legal framework.

Lawyers and bar associations can play a vital part in opening places of detention to outside scrutiny. In many countries, lawyers are the only independent persons with access to places of detention, and the ability to meet with detainees in private. They are thus often the first external observers to detect, or receive reports of, torture or ill-treatment. Such abuses can in many cases be addressed through litigation, including public interest litigation, but depending on the national context, and in particular the risk of reprisals against detainees, bar associations may also take on a more political role, making abuses public, or submitting reports to relevant national, regional and international bodies.

The effective prevention of torture requires that lawyers not be alone in having access to places of detention. Rather, there must be regular, systematic and independent monitoring of all places of detention at the national level. With their detailed knowledge of international and regional laws, norms and standards, lawyers and bar associations can very effectively lobby for such independent monitoring, or provide assistance to other groups which are doing so. Where monitoring mechanisms

are established, they will require a mix of expertise, but it is crucial that at least one legal expert is included to ensure that the body can both monitor compliance with legal standards and comment or advise on legislation. Bar associations can help to ensure the independence and effectiveness of the mechanisms as a whole by commenting on their legal mandate and powers, providing them with information, and acting as a watchdog against any attacks on their independence. In addition, bar and other professional associations can provide advice and training to detention monitors, government departments, and civil society organisations, thereby increasing the capacity of all actors in the effort to prevent torture or ill-treatment.

The role of lawyers in the prevention of torture thus goes far beyond litigation to include a direct role in monitoring places of detention, and a more indirect

role in strengthening the capacity of national actors. Effective prevention of torture requires, as a prerequisite, a truly independent legal profession. Bar and other professional associations can help to entrench this independence, provide a forum for lobbying and debate, act as a

watchdog, and condemn any attempts to water down the absolute legal and moral prohibition of all forms of ill-treatment.

## 9. Conclusion

2.73 In this chapter, we began to explore rehabilitation as a 'right' in both theory and practice. Specifically, we looked at Article 14 of the Convention against Torture. We started with the aspiration and ideal behind the Convention, then explored common understandings of Article 14 and finally looked at how the right to rehabilitation may (or may not) be incorporated into domestic legislation. We explored what this means for survivors - and for you as a service provider. Related to this right is the desire for 'justice', therefore we briefly reviewed standard justice initiatives (including prosecution, redress and reparation) and how they relate to rehabilitation.

2.74 We explored the practical side of the right to rehabilitation. In an ideal world, every survivor of torture would be able to easily access any and all specialist services and the support they needed to help with their rehabilitation. In reality, this is rarely the case, even in countries with strong rehabilitative legislation.

# Chapter 3

## Rehabilitation as a process

1. General overview
2. Theory
  - A. Holistic rehabilitation as a process
  - B. Interdisciplinary work
  - C. Enabling voice through survivor activism, examples
  - D. Worker safety, self-care and well-being
3. Holistic rehabilitation: what and how
4. In practice/reality
  - A. Practical aspects of holistic rehabilitation at Freedom from Torture, examples
  - B. Rehabilitation in the context of your countries, examples
  - C. Psychotherapeutic treatment for trauma
  - D. Holistic rehabilitation services
5. Ethical issues to consider
6. Supplementary materials
  - Case study

### 1. General overview

3.1 By the end of chapter 3, readers will be able to:

- Articulate the key approaches and good practice regarding holistic rehabilitation as a process
- List the index of issues to consider when working directly with a client through holistic rehabilitation initiatives in the reader's context
- Describe the range of therapeutic, social and practical interventions that can support survivors of torture

- Explain a 'survivor-led' approach to rehabilitation
- Describe the role of the survivor's voice in holistic rehabilitation
- Describe survivor participation
- Articulate the issues to consider with regard to worker safety and well-being

### 2. Theory

#### A. Holistic rehabilitation as a process

3.2 The overall goal of holistic rehabilitation is to bring about healing for the survivor of torture and their family.

3.3 There are a number of strands involved in helping a survivor to rehabilitate.

3.4 Working with the survivor to promote their **health and wellbeing** is one such strand. A practitioner would do this by supporting the survivor to access health services (such as helping them register with a GP, encouraging them to consult the GP on their health concerns and ensuring they know how to explain these concerns to the GP and also advocating for the survivor with the GP where necessary).

3.5 Another strand of holistic rehabilitation may be providing **psychological support** for the survivor. This can be achieved through a variety of traditional and alternative therapeutic interventions according to a survivor's unique needs.

3.6 A third strand of holistic rehabilitation involves working therapeutically with the survivor and their **family** so that healing

takes place within the family, and for the survivor, within the family unit.

3.7 **Practical support** or social welfare is a fourth strand of holistic rehabilitation. This might include assistance with housing and benefits, advocating for the client with other professionals or agencies, providing emergency financial grants, food and clothing and advocating for children at schools.

3.8 A fifth strand of holistic rehabilitation involves working with the survivor so that they can achieve **economic self-sufficiency**. This might include supporting clients to access benefits or enter paid work or running teaching sessions with clients so that they learn how to manage their finances within the UK context.

3.9 A final strand of holistic rehabilitation is **“justice”**. This could include supporting the client to explore which avenues are open to them for seeking justice. As you will remember from Chapters 1 and 2 of this manual, there are many different ways in which a survivor of torture can achieve a sense of justice, including pursuing criminal conviction of the torturer or a civil case for damages.

## B. Interdisciplinary work

3.10 The process of holistic rehabilitation takes time and often requires multiple interventions. A web of support for the survivor is needed. Holistic rehabilitation requires a multidisciplinary approach.

### Medical/Psychological

3.11 Meeting the survivor’s health needs includes making sure any injuries or chronic problems resulting from the torture are addressed as well as monitoring the client’s overall health.

3.12 Holistic rehabilitation also focuses heavily on the client’s psychological well-being. Long after many of the physical injuries have healed, a survivor of torture may continue to struggle with psychological problems. It is vital that the survivor has access to proper psychological support to help them to address these issues.

3.13 Some survivors of torture might also require psychiatric assistance such as assessment, medication and the monitoring of psychiatric problems that may pre-date the torture or have developed following their experience of torture. (These might include severe depression, psychosis and suicidal ideation.)

### Legal

3.14 A survivor of torture may require legal assistance for protection across their entire spectrum of rights which could range from the securing of secure housing to a legal status (for immigration and asylum purposes), from the right to healthcare to education, etc. The survivor of torture may also require legal assistance in order to pursue justice (see chapter 2).

### Social welfare

3.15 A survivor of torture will potentially have a number of social welfare or practical support needs. As discussed above, professional support may include giving assistance with housing, benefits and employment matters, advocating for the client with other professionals/agencies, providing emergency financial grants for food and clothing and advocating for children at schools. Social workers and welfare rights advisors can play a crucial role in helping the survivor to get these needs adequately met.

## Group work and building communities

3.16 A vital strand of the survivor's 'web of support' is their community. The professional help and support that a survivor receives generally occupies only a fraction of their daily life. It is important that a survivor also has support outside the rehabilitation centre/professional's office. A survivor of torture might be dislocated from their community of origin if they are, for example, a refugee or asylum seeker. Some survivors might feel unsafe in their community of origin due to the ill-treatment they have experienced in that environment. Alternatively, a survivor might be physically living in their community of origin but not feel a part of that community due to their experience of torture. Many survivors of torture report an extreme feeling of isolation following torture. Accessing any community can seem like a terrifying and insurmountable task to torture survivors, but they can be supported to begin that journey through the use of group work. There are many types of groups, which can range from the more traditional types of psychotherapeutic groups to more activity-based and peer-support groups. Groups can provide supported and perhaps safer opportunities for the survivor to experience community integration than the wider community. .

## C. Enabling voice through survivor activism

3.17 The experience of torture is intended to silence individuals and can strip away a person's sense of self so that they feel as though they no longer have an identity or an 'independent voice'. An important goal of holistic rehabilitation is to support the survivor in finding and regaining their individuality and voice. A particularly

empowering way to reclaim survivor voices comes through survivor activism - as an activist the survivor can work to raise public awareness and to influence organisations and governments to bring about change. There are many activities a survivor can engage in, including: letter-writing; talking to the media or playing a part in media campaigns; giving educational talks; writing or creating art that highlights key issues; lobbying government officials and many more. In some cases these activities will involve the survivor talking about their personal experience of torture; however, in many instances the survivor will not focus on the details of the torture they have personally experienced. but speak out against torture and mistreatment in general, highlighting the struggles of living in society as a survivor or speaking in support of holistic rehabilitation on the macro-level. In the survivor activism movement, survivors are viewed as 'experts' due to their first-hand experience of torture.

### **"It's my history. It's my voice. It's my life."**

3.18 *"This is not a group for people looking for revenge or abstract idealism even though we have suffered injustice and mistreatment. Instead this is a group of people who have survived torture and are now keen to act as a network of effective campaigners communicating our opposition to the use of torture, based on our experiences as survivors, and supporting the rights of torture survivors."*<sup>18</sup>

FfT has created a programme for torture survivors that provides a safe space from which survivors can raise awareness effectively and safely about torture and its impact on individuals, families and communities.

3.19 There are a number of torture survivors who want to tell their story but need

<sup>18</sup> Quotations are from members of the Survivors Speak OUT network (April 2011 launch meeting).

support in finding ways to do so. FfT has provided the background, training and support to these individuals so they can express their vision about how to end torture and communicate their journey from torture to rehabilitation.

3.20 Stating that the prohibition against torture is absolute, that torture does not work and that it offends human dignity is not enough. At FfT we have found that the best way to reach those who believe torture works or simply don't know about it is to give a voice to survivors. Many torture survivors benefit from speaking out and sharing their experiences as survivors, telling others what happened to them and expressing their opinion about how to create a world without torture. This empowerment can have a very rehabilitative effect.

3.21 *"When I went to the Medical Foundation (FfT) for the first time, I couldn't read or write. In Africa I used to talk in front of crowds of people but when I became sick, I could no longer do it. Now I am proud to speak out about my experiences because I want to show people that it is really happening"*

Robert Kamemba, Torture Survivor

3.22 FfT continues to investigate ways to ensure that clients and ex-clients actively engage in the work of the organisation; these range from governance to advocacy. We are keen to embolden our clients' capacity to be the voice of survivors in the work of FfT.

## Survivor voice and rehabilitation

3.23 A representative of the group, 'Survivors Speak OUT' talks about how we can create a space from which torture survivors can safely speak out:

- All members of this network have one thing in common - they all experienced torture

- The network started with 14 people 3 years ago; we currently have 19 members
- After rehabilitation we decided to make something positive out of what happened to us by helping others
- The fact that we are not on our own is important; it is good to know that there are others who have experienced the same things. We can come together and support each other
- Like any organisation we had to define our aims and to concentrate on what was important for us

Aims and purposes of the network:

- To speak out about how poverty affects torture survivors living in the UK
- To increase understanding of what it is like to have to rebuild your life (in most instances alone) in a foreign country following such intense trauma
- To increase understanding of what it is like to not be allowed to earn your own money and choose how to spend it
- For the Government to believe us when we tell them that we are survivors of torture and that we cannot return to the countries we fled from
- To spread our message to key decision-makers, for them to understand that torture persists and to ensure that survivors have protection
- Help to rebuild our lives and begin the process of rehabilitation and access to care and treatment that meet our needs as survivors
- Examples of our work include talking with the UK Border Agency Inspector, to school and university students, faith and community groups (churches, mosques, temples), charity groups, local MPs, the media (local and national press), writing

messages on the FfT website, setting up a blog etc:

- As a network we decide who to speak to and how to communicate our message
- We choose not to talk about the torture experience (as this can have a negative impact on rehabilitation if not managed carefully). We focus on what we want the public and decision makers to know - that torture exists and the real extent of the hardships survivors face in the UK today
- Safety is a serious concern - if some survivors are identified as speaking out against torture or governments they can put themselves at risk. FfT will protect the identities of any network members not wishing to be identified. Members can choose to submit written statements anonymously, can choose not to have any pictures or film taken of them, or have their names published as part of any action.

### 3.24 Discussion of Survivors Speak OUT group between training participants and *Freedom from Torture*

**P:** Where is this group and its members based?

**FfT:** In the UK. Members of the group don't talk about their own personal experience. They talk about the changes that are needed. FfT takes the re-traumatisation of victims and their safety very seriously. They're also not involved in fundraising.

**P:** Do you still consider yourself a victim up to the present day? Or have you been able to integrate into society?

**FfT:** It's a gradual process. At first you need to understand that you want to change your life. Then later you realise that you need

to inform society about your experiences and the situation of survivors. I've been on training courses and increased my self-confidence.

**FfT :** Would it be possible to create similar groups in your countries?

**P:** There's only a very small chance because people are scared of publicity and of information being leaked. People aren't protected, so they prefer to stay silent.

**P:** The biggest and most serious problems arise during the period of integration of torture victims into society.

**FfT :** If torture victims could communicate anonymously and through the internet, do you think it would be possible to create a similar group in your region, as was done in Moldova?

**P:** Here's an example not connected to torture illustrating the difficulty even of using the internet apparently anonymously: students putting caricatures of the city mayor on the internet were arrested right in the internet café they were using.

**P:** The situation in our country is somewhat different. I hope to be able to get a group of prisoners together who were subjected to torture in order to activate their strengths and unite their efforts.

**P:** We can talk about the existence of torture in our country - victims can talk about it in court - but the problem is that the government doesn't acknowledge it as an act of torture. We speak out, but they don't listen to us.

**P:** We have the problem of torture in the army but soldiers don't talk about it even after they've finished their service. Recently on YouTube there was a video showing an officer bullying soldiers. That video provoked a massive response among the public, and because of public pressure the perpetrator was convicted.

**P:** How can we find you so that you can share your experience?

**FfT:** Because of safety concerns and long-term training, at the moment we only work with FfT clients. But the idea of widening our contacts is being discussed. Perhaps a subsidiary group of the network might appear.

**P:** Are you an initiative group or an independent legal entity?

**FfT:** We are part of FfT but our decisions are made independently inside the group.

**P:** If you are part of such a powerful organisation, what are you afraid of?

FfT: It's a complicated issue.

For example, I have a family back home in my country. What I do here can affect their safety.

**FfT :** It's very important to change public opinion about victims of torture because public opinion can influence politics. This is possible with the help of this network.

## Survivor participation

3.25 Survivor participation can also play an important role in holistic rehabilitation. Survivor participation means that the clients and/or ex-clients who have engaged in holistic rehabilitation have the opportunity to influence the shaping of those services. Again, this area of work encompasses a huge spectrum of activities. These can range from low-level participation activities such as suggestion boxes and surveys asking about survivors' satisfaction with services received, formal consultation with clients on specific issues to clients and/or ex-clients taking on key decision-making roles in the organisation such joining the Board of Trustees.

## D. Worker safety, self-care and well-being

3.26 Worker safety is a crucial component of holistic rehabilitation. It is important to think about your context (your country and/or region) and any potential hazards for the professionals working with torture survivors towards holistic rehabilitation. For example, if your government is involved in torture but denying that it takes place, think about whether workers supporting survivors tortured by that government might be at risk of reprisals?

3.27 When considering the professionals who support survivors of torture it is also important to think about their well-being. It is well documented that workers supporting people who are very traumatised can themselves be negatively impacted by exposure to the traumatic material. This phenomenon has been given a variety of names including: 'vicarious traumatisation', 'secondary trauma' and 'compassion fatigue'.

3.28 Below are some approaches to self-care for individuals and organisations that you may wish to consider in your context:

### Worker's input

- Recognise possibility of vicarious traumatisation
- Willingness to seek and use supervision for myself
- Willingness to seek the support of my colleagues/debrief
- Reflect upon (to myself and in supervision) any potential impacts the work is having on me
- Awareness of my needs, limits and resources
- Attend relevant training events
- Participate in forums exploring and

discussing issues relevant to my work with survivors of torture

- Know and adhere to my professional practice guidelines and codes of conduct especially concerning my responsibilities in working with vulnerable clients
- Continually work towards a healthy work/ life balance
- Look after my own health through beneficial lifestyle choices (for example, diet, exercise, rest, leisure)

### Organisation's input

- Recognition of the potential for vicarious traumatisation across roles
- Organisational policies put in place to support the well-being of all workers and an organisational commitment to carrying out those policies
- Structures in place that ensure debriefing, supervision and other forms of support for workers take place as needed
- Reasonable workloads with adequate time off
- Supportive team culture – encourages colleagues to offer support to one another

## 3. Holistic rehabilitation: what and how

### What?

3.29 Holistic rehabilitation can include interventions with the individual on their own or with their family as well as in groups and their community. As discussed above, these interventions must address a range of needs of the individual, including:

physical; emotional/psychological; practical and social welfare-based; community-based; spiritual and political needs. Thus, the individual is viewed 'holistically' or as a whole person, in contrast to more traditional ways of viewing a client where only certain aspects of the person might be considered. In the more traditional models of working with survivors, the person's needs tend to be evaluated according to the expertise of the particular professional working with the survivor; for example, by looking at the person from a 'medical model' perspective or by looking only at the client's legal requirements and without any regard for other needs.

### How?

3.30 All interactions between a professional and a client need to work toward and **support healing**. These might include therapeutic interventions, work on legal issues and supporting a client to access community and social welfare resources and other practical help. Thus lawyers, clinicians, social workers and befrienders alike need to be working with clients in a way that promotes healing.

3.31 There are some key principles of **'good practice'** relevant to all professionals involved in holistic rehabilitation which promote healing. As we discussed in chapter 1, one such good practice principle is that the work with the survivor be **'survivor-led'**. This means that the professional must ask the client what they want/need from the intervention. Survivor-led work focuses on the client's priorities rather than those of the professional. In addition, the professional should be working with the client in a way that supports the client's empowerment and encourages them to become more self-directed. The experience of torture and other forms of abuse can cause a survivor to feel extremely disempowered because torture and extreme violence strip away

a person's sense of control. The survivor may feel helpless and thus come across as wanting the professional to take charge of their life. However, a professional who takes on too much responsibility for the client runs the risk of actually contributing to that client's sense of helplessness in the longer run. The amount of input from the professional will of course vary with the client's needs and there will be periods when the client does require a high level of support. However, the professional should be working in a way that promotes a higher degree of autonomy for the client.

3.32 If a professional takes on too much responsibility for the client this might indicate that the professional has difficulties in maintaining appropriate **boundaries** with that client. It is crucial that any professional working with traumatised or vulnerable people observes appropriate professional boundaries - the professional must work with the client in a way that is neither over nor under-involved. This, in itself, is a skill that professionals need to develop in order to work safely and effectively with vulnerable individuals. Professionals working in this field should receive regular support due to problems with boundaries being, by their very nature, extremely difficult for the professional concerned to spot. Any professional working closely and regularly with vulnerable clients should attend regular supervision in which they look specifically at client boundary issues and the impact that the work is having on them.

3.33 The way in which a professional asks the client about their torture and how they then support the client to explore the issues around torture form an important part of the client's rehabilitation. The professional is working in a 'survivor-led' fashion by allowing the client to set the pace of disclosure and by encouraging the client to decide what is safe for them to talk about - and what is not. The aim is that the professional will be able to build a relationship

based on trust and to create a space where the client feels safe enough to disclose what is needed for the work to take place. But it is crucial that the client is not rushed in this process. Knowing when to ask the client a difficult question is both an important skill and a fine art, but it is also important to keep asking the survivor questions throughout the process as they develop and grow through the process of healing.

## 4. In practice/reality

### A. Practical aspects of holistic rehabilitation as a process at *Freedom from Torture*

#### Mini-Presentation: Holistic Rehabilitation Services with *Freedom from Torture* (FfT) Clinicians

3.34 The dialogue below is taken from a session at which ***Freedom from Torture*** (FfT) clinicians gave a brief presentation of their work. The session was then opened up for the participants to comment, ask questions and reflect upon the FfT approach to holistic rehabilitation clinical services.

3.35 FfT emphasises the importance of all professionals taking a holistic approach to rehabilitation when working with torture victims. It is also important to recognise the difference in context between the rehabilitation work carried out by FfT, which helps refugees, and that of participants who work with victims in their own countries.

- Art Psychotherapist and Group Therapist
- Clinical Practitioner; Trauma Care Specialist who works directly with victims from Iran

- Family Counsellor in the Children, Families and Separated Young People team
- Asylum and Immigration Legal Advisor
- Casework Counsellor in the Adult Assessment and Therapy team
- Education Counsellor in the Children, Families and Separated Young People team
- Natural Growth Project Co-ordinator / Group Therapist

### 3.36 Clinician's presentation:

#### Clinical Practitioner: Approach to psychological trauma

- Psychological trauma is one of the main consequences of torture
- The recreation of stable memory functions plays a crucial role in starting the rehabilitation process
- Experiencing of trauma/torture can affect memory (fragmentation) and cause post-traumatic stress disorder ("PTSD")
- Importance of gaining client's trust: effective therapy includes the development of a close relationship between the client and clinician.
- The aim for a clinician is to help the client to control their destructive emotions and to recall events clearly. The client can then move on to being able to tell their story.

### 3.37 Participants' questions

**P:** How long does it take to prepare the client for the rehabilitative process?

**Fft:** All clients are different: some take longer than others. Generally, 1.5 to 2 years.

**P:** Can you clarify what the process of rehabilitation includes?

**Fft:** A panel of clinicians agrees that during the clinical therapy period other processes must take place, such as dealing with legal, social and other issues, but it's impossible to start certain procedures before the client gets over the effects of post-traumatic stress (PTSD).

**P:** What about using hypnosis?

**Fft:** I don't practise it personally, but some colleagues use it for treating certain symptoms

**P:** How often do your sessions take place?

**Fft:** Weekly

**P:** How many clients do you work with?

**Fft:** 250-300 in a year

**P:** We have only 5 days to work with a client. Can you give any advice for such a limited therapy?

**Fft :** You need to concentrate on the most destructive symptoms and the methods to control them.

### 3.38 Clinician's presentation (Fft): Therapeutic use of art in rehabilitation

- Various types of art and art media are used to help clients express themselves including music, movement, sand and clay
- The main emphasis is on creating an atmosphere of trust and safety
- Clients use art to tell the stories which bring up pleasant memories
- Elements of trauma will gradually begin to appear in clients' art work; these are mostly represented as different parts of the body

- Having gained the experience of expressing themselves through art, our clients become ready to talk about what happened, to tell their story, to give evidence, to start working with documents and to start planning their lives.
- It's extremely important that clients work in a group to support each other and share their emotional experiences

### 3.39 Participants' questions

**P:** Do you have the same people in each group throughout the treatment period?

**FFT:** To start with we did. Now we've decided that people can stay in our group for as long as they feel they need to.

**P:** How many people are there in your group?

**FFT:** Usually 10. It's a lot, but sometimes people move, some can be deported, so we do not always have 10 in the end.

**P:** You might have clients with very different needs and backgrounds in your group. How do you adapt to their needs?

**FFT:** Despite the differences, all members of the group have one thing in common: Post Traumatic Stress Disorder.

**P:** How often does the group meet?

**FFT:** We meet on a weekly basis.

**P:** Is the individual work going along with group work?

**FFT:** We tend to rely on what comes naturally to client in terms of how they express themselves. For example, a lot of people in this group are from Africa. African folk music often uses drums, so we have a lot of drumming in this group.

**P:** Is there anything that you have learnt from your clients?

**FFT:** Tenacity for life.

**P:** Who chooses the kind of art used in a session?

**FFT:** To start with, the clinician would suggest a medium. If the problems are physical, it's normally movement. If they are on a psychological level, then the medium is normally drawing. Later, clients choose for themselves.

**P:** Are there any negative aspects of group work?

**FFT:** I will give an example. I had two members of the group who came from the same country. One of them was not opening up and didn't take part in any of the group discussions. It turned out that he had completely made up his case history, and in the atmosphere of trust established in the group he couldn't carry on lying about it. The group was very angry with him, so he had to leave.

### 3.40 Clinician's presentation (FFT): Specifics of work with different family members, including children

- I work with adults and with children of all ages
- Sessions are conducted every fortnight, each session lasting 1.5 hours
- We take a number of issues into consideration, for example, the family's cultural and social background and also the approaches to upbringing prevalent in their country
- When we work with children, our main aim is to help them adapt to life in a foreign country

- There can also be differences in how parents and children feel about what happened to them and this can create difficulties in the way they connect with each other
- Children and adults may experience different after-effects

### 3.41 Participants' questions

**P:** Do you work as a team or independently?

**FFT:** Sometimes as a team, sometimes on our own, but we can ask our colleagues for advice.

**P:** How do you organise your team work?

**FFT:** We have a manager who oversees our individual work - once a week we have a meeting to discuss the main issues. In our team there are 20 clinicians, but some of us work only 2 to 3 days a week.

**P:** Do you work with parents and children together, or separately?

**FFT:** We use different methods: there are groups made up of just parents or just teenagers. We also have sessions with each individual family member and with the family as a whole. Sometimes, a psychotherapist can be present behind a one-sided glass (the clients are aware of this).

**P:** Do children always know what happened with their parents?

**FFT:** It varies. Some children witnessed their parents' torture. Sometimes, for various reasons, children are completely unaware of it. Some families have become separated. Some parents don't want their children to know what happened to them and some children don't want their parents to find out what happened to them. That's

why clinicians need to be extremely careful. In some countries, for example, babies who are born as a result of rape are rejected by the victim's family.

**P:** How do you work with children separated from their parents?

**FFT:** It's extremely difficult, as some children cannot put into words what happened to them because they do not have the experience to compare it to - they don't know what the norm would be for certain situations.

### 3.42 Clinician's presentation (FfT)

#### Group Therapy: Natural Growth Project.

- FfT deals with differing aspects of rehabilitation
- We have professionals from various fields who work together. We realise that not every country has this kind of opportunity
- Group therapy is one of the best forms of rehabilitation. We have different types of groups - didactic groups in which we teach clients, short-term groups (lasting about a year) and on-going groups. Independent groups are led by former FfT clients. Some groups are unisex, some are mixed. Another kind of group is the support group - these differ from the deep therapy groups.
- Each client has a file in which the client's most essential identified needs are recorded

### 3.43 Participants' questions

**P:** Are your groups open or closed?

**FFT:** There are various different groups.

**P:** Why do you need men-only groups?

**FFT:** Many men have been raped and they're not willing to talk about it in the presence of women.

**P:** Is it possible to arrange for a male clinician to be present at group sessions for women?

**FfT:** We try to include people of both sexes in order to recreate the family situation.

**P:** Sometimes work with the opposite sex can lead to great results. For example, sometimes men who have suffered sexual abuse won't work with a male clinician.

### 3.44 Clinician's presentation (FfT)

#### Natural Growth Project

- The main principle underpinning this project is that people have a strong connection to nature
- A relationship with nature helps clinicians to understand what's going on with their client
- Human memory has a deep connection with many natural phenomena
- We use two venues: one is our FfT garden, the other is an allotment in a different part of London
- Different people express themselves in different ways. Some prefer quiet work: they can clean, tidy, plant; somebody might just have a tool and chop a plant in half.
- Torture destroys people's ability to express their opinion or make a decision. This project helps them to restore these abilities.
- An example of a client who spent a very long time in solitary confinement and needed to learn how to communicate with other people again: when he joined our group he realised that his country was not the only one where people had been unfairly treated. One day, he decided to plant 122 roses because 122 of his friends had died in prisons in his country. Now he works in a group which is politically orientated to his country.

### 3.45 Participants' questions

**P:** Do the torture victims want to resume fighting for their rights in their home countries?

**FfT:** This is a very complicated issue as many of them have been granted refugee status for the very reason that it's not safe for them to go back to their countries. That's why this question needs to be considered individually and lots of different facts need to be taken into the account. Some clients, having left their home country and acquired refugee status here, have lost sight of their goals in life and their sense of meaning in their lives. Many of them need to be convinced that surviving is also a goal.

**P:** How are the specialists selected to work for FfT? Can young people work for FfT?

**FfT:** FfT is a well-known organisation, so many people want to work here. We need experts with a lot of professional experience. A number of people are first invited to undertake voluntary work. It's important that young people join our team but they need to learn a lot. Due to the nature of our work all of our employees are rigorously monitored.

### 3.46 Overview: reflections and questions

**P:** In order to achieve holistic rehabilitation is there a precise plan one can refer to? Do lawyers and doctors work together?

**FfT:** Every case is individual - decisions are taken according to each individual's circumstances. The first person the client meets is a doctor. Clients don't meet lawyers in this organisation - they usually come with their own lawyers.

**P:** If the client is already living in the UK, how can one achieve justice for them, given that the culprits are in another state?

**FfT:** It depends on the client. Some are willing to talk openly about what happened to them, in which case the UK government

can pressurise the client's government at an international level.

P: Are there any statistics compiled on the most common types of torture clients have undergone? Do you have any British citizens among your clients or are they all foreigners?

FfT: The type of torture depends on the client's country of origin. We have very few clients from the UK.

P: What is the most common place for clients to have undergone torture?

FfT: Prisons.

## Rehabilitation as a process

### Interactive scene 1: Session between a patient (survivor) and a doctor who has adopted a rather aggressive approach

#### This is presented in a fishbowl style:

3.47 Trainers are playing the part of patient and doctor and are re-enacting a possible scenario (dialogue exchange). Participants are observing. After 2 to 3 minutes we pause for group reflection. Considerations include: what the group observed; what the group thought; what was done well; what could have been done better; is this scenario familiar; recommendations on what could be done to improve this session for the survivor.

#### Scenario:

3.48 This is the first appointment for this particular client who is very apprehensive; he/she doesn't fully understand why they are here, what is expected of them or who this person is in front of them asking questions. He/she is wary and shy and doesn't want to answer any questions.

3.49 The doctor is very busy with many appointments to get through today. Not having much time available, they just wants

to quickly obtain some basic information in order to start the session. The doctor doesn't make eye contact but looks down at the form and starts asking very practical questions – what is the client's name, address, why are they here, what is their problem, where is their pain?

### 3.50 Participants' comments:

- There was no connection between the doctor and the client,-the session was aggressive from the client's perspective
- At first one should get to know the patient better
- You should explain why you need to ask these questions and ask the client for permission to document the conversation
- You need to explain to the client her rights
- If necessary, offer the services of a lawyer if such services are available
- First you must identify the aim of the client's visit
- Until the client has given her permission the doctor mustn't write notes - it should be a confidential conversation
- Never tell the client that you have a limited amount of time for the session
- Never use the word 'torture' until the client has used the word herself
- Ask whether the client has a preference regarding the sex of the doctor

### Interactive scene 2: Session between a patient and a doctor who establishes a more therapeutic atmosphere

3.51 The trainers, now taking on board the reflections and advice of the participants, re-enact the scene for the group: changing body posture, tone of voice, mannerisms, questions asked...

### 3.52 Participants' comments:

- Better!
- The patient mentioned her psychological lack of peace – that's already a lot
- All the same, the doctor appears to promise too much – you should never promise that the patient will be able to achieve something specific

**FfT:** That's why we call rehabilitation a process – it's not only the what but also the how that's important. This principle applies to all workers (lawyer, doctor...), whoever they are

### Group Discussion: Rehabilitation as a Process, Part 2.

#### 3.53 What is good practice within holistic rehabilitation? What are its key components?

**P:** If you make clients the centre of attention, isn't there the risk that the client will like that and want to remain there forever?

**FfT:** There are other ways of empowering clients. For example, you can help them engage with the media and continue their political fight in their native countries.

**P:** Does the FfT's work feature among the UK's positive obligations? Or is it an independent NGO?

**FfT:** We're independent of the government but we're accountable to the Charity Commission for England and Wales with whom we are registered – for example, every year we need to report to the Commission on how we spent our money that year.

**P:** What means does the UK Government employ to fulfil its positive obligations regarding the rehabilitation of torture victims?

**3.54 FfT:** FfT's model is specific to the context we have here in the UK which

enables us to run on mainly private donations. Your own regions will most likely differ. The governments of your countries also have a positive obligation to rehabilitate torture victims, however, the realisation of this obligation can be a complicated process where the State itself is carrying out torture without admitting to doing so. However, there are workarounds: for example, states torturing their own citizens can provide medical and other services to torture survivors without explicitly stating that these services are intended for torture survivors.

## B. Rehabilitation in the context of your countries

### With which organisations and/or individual people can you co-operate in order to realise rehabilitation in your countries?

3.55 The following section reflects the work of groups looking at rehabilitation in the context of their own countries.

3.56 The rehabilitation process is complicated and many different personnel are required. Even though FfT is a big organisation, it still needs outside support. That is the reason why you need to consider which other organisations you could work with to achieve the goals of rehabilitation.

3.57 You need to think about your own context. It's best to look at different levels:

- Organisations situated in your local area
- Organisations situated at a regional level
- External organisations: international or similar organisations in other regions

3.58 You need to think about which organisations you could establish links with.

3.59 Another technique which will help you is to start with the needs of your

clients and consider which links to other organisations or people would assist in their rehabilitation.

3.60 Also, you can look at the links which you have already developed, consider which aspects of rehabilitation they connect with and then identify which rehabilitation aspects are not yet addressed.

### 3.61 An example session

**P:** Three organisational branches situated in different regions have the following well-established links::

- A referral network, which is well-developed (clients being referred externally for consultations and clinical investigations).
- Legal firms providing legal services, for example, the Association of Young Lawyers of (a participant's country) which has local branches.
- Government ministries, for example, the Ministry of Education
- Penal establishments
- Red Cross representatives
- The weak link, however, is social support

**P:** The Government provides social services

**P:** But these aren't providing any real help.

**P:** Financial help?

**P:** The European Union

- PRI can support measures aimed at the prevention of torture:
- Students can do voluntary work
- Community links: churches, mosques, political opposition
- Ombudsmen: can monitor governments' adherence to international conventions

- European Court of Human Rights
- National Protection Mechanism ('NPM')
- Monitoring Group of the Committee Against Torture
- Mass media
- Amnesty International

**FFT:** World Health Organisation (for financial help)

**P:** The local passport and visa section; the Mayor; the Ministry of Social Protection; the Police; protection of children's rights

**FFT:** You need to create a whole network of support around your clients. Remember to cover all aspects of rehabilitation (legal, clinical etc.) and cover all the levels (local, regional, international etc.)

**FFT:** What often happens is that the links are established by working organisations and then they are reflected in domestic legislation

### 3.62 Participants' suggestions as to establishing links:

- Mass media
- Human rights organisations such as Human Rights Watch, Amnesty International, the Red Cross, the International Federation for Human Rights, the United Nations and the European Committee for the Prevention of Torture
- Ombudsmen
- Chamber of Lawyers
- The Ministry of Justice which monitors prisons, prepares amendments to law, and provides Parliament with bills
- The Ministry of Social Services - to provide survivors with financial help
- The Ministry of Health and its medical institutions

- Foreign embassies
- Prison administrations
- Prisoners' relatives and friends
- Independent psychiatrists and psychotherapists
- Independent lawyers
- Independent medico-legal expertise
- Churches, mosques
- **Freedom from Torture**
- International networks of lawyers
- Professionals we know personally such as lawyers and medics, including in a voluntary capacity
- Inter-state organisations

## C. Psychotherapeutic treatment for trauma

The following was written by a **Freedom from Torture** Counsellor and describes common phenomena observed by counsellors and psychotherapists across the organisation in their therapeutic work with survivors of torture.

### Relationship

3.63 Effective therapy lies in the quality of the relationship established between the therapist and the client which should provide safety, intimacy and trust. To create such a relationship, the initial contract should convey the necessity for these essential conditions. Client 'casework' (a process whereby the therapist looks at and supports all of the client's needs through addressing practical as well as emotional and psychological issues) can be an important part of building the relationship. The relationship should also provide the client with care and containment.

The following treatment concept is not intended as a blueprint, but is a description of observable client phenomena common, in varying degrees, to most of our client sessions. These phenomena can be broken down into four distinct stages of focus, although elements of each are also continually present to some extent.

### Symptoms and normalisation

3.64 Images, flashbacks and intrusive memories are constant features throughout the early sessions. Treatment throughout this period focuses on controlling symptoms and consists of exploring memories, managing panic, flashbacks and nightmares, and working with relaxation techniques.

3.65 After some time, flashbacks and intrusive memories begin to occur less frequently and the client's quality of sleep tends to improve. As trust is established further, we begin working at greater depth on the therapeutic level, focussing less on overt symptoms and more on the symptoms' importance to the client and their content. We also focus on the details of the client's life and what happened to them

### Restoring narrative and ordered memory

3.66 Treatment during this period focuses on restoring ordered memory and narrative. That is, processing feeling and memory so that trauma memory, often reactive (such as startle responses to associated sounds and feelings) can be re-framed to become less disruptive in the client's life.

3.67 These traumas are thought to be stored in a primitive part of the brain (the amygdala) and as such are inaccessible to conscious control. As therapeutic processing occurs, the traumas are re-ordered and stored in the brain's cognitive centre (the hippocampus). They can now

be recalled and analysed and eventually find a place within the body of conscious memory, thus reducing symptoms.

3.68 In some clients, dreams of a vivid and disturbing nature can become more frequent as memory and narrative (contextual and cognitive processes) are restored. Flashbacks from these dreams can replace flashbacks of the actual torture events. That is to say, as the client's ability to process experiences in a narrative or cognitive way increases there is a corresponding decrease in flashbacks which re-live actual experiences. The images and representations of the feelings associated with past events begin to surface in the client's dreams, creating images and responses that can be traumatising in themselves.

## Transition and rehabilitation

3.69 As shock and its numbing effects recede and memory and cognitive function are restored, it is common to see the emergence of depression, anger and grief as well as other emotions (often experienced by the therapist as disruptive). These are key expressions of trauma at this stage. Therapeutic work continues on symptoms of PTSD (Post-traumatic Stress Disorder) and on restoring a narrative. Symptoms may be greatly reduced as the client develops an increasing ability to see a time-line and a 'past' as part of this therapeutic process. Along with the remission of the client's symptoms, their confidence and capacity for rehabilitation increase.

3.70 Treatment in the final period continues as in the previous stage but with the emergence of a new focus and rehabilitative process, with the client now living in the present, functioning well with others and re-integrating into society.

## D. Holistic rehabilitation services

3.71 Holistic rehabilitation offers a range of interventions to a survivor of torture. The specific types of interventions offered are matched to that individual's particular needs. No two people will require exactly the same type of support and help. At ***Freedom from Torture***, we carry out a careful assessment of each person so that we understand their particular needs and can identify what type of help is likely to be most beneficial for them.

3.72 Some of the professionals involved in holistic rehabilitation at ***Freedom from Torture*** include:

- Counsellor/caseworker
- Clinical psychologist
- Art or alternative therapist
- Group worker and Natural Growth Project therapist
- Social worker
- Befriender
- Educational counsellor
- Physiotherapist
- Psychotherapist
- Social welfare advisor
- Legal advisor

3.73 ***Freedom from Torture*** has a specialist Children, Families and Separated Young People team, which includes the professionals listed above who are experienced in working with children and families.

3.74 Intervention types available for both children and adults include:

- Individual therapy
- Group therapy

- Family therapy
- Group activities

3.75 In addition to traditional psychotherapy and counselling, ***Freedom from Torture*** offers a number of alternative therapies such as:

- Natural Growth Project (individual and group)
- Bread-making group
- Mother and baby group
- Music therapy (individual and group)
- Art therapy (individual and group)
- Write-to-life group
- Survivors Speak Out

## 5. Ethical issues to consider

3.76 The main ethical issues that need to be considered in this section are those of the safety and protection of the survivor during the process of holistic rehabilitation. Dealing with the trauma of torture can be an extremely frightening undertaking for a survivor. Any work with a survivor of torture that requires them to think and talk about their experiences of torture must be undertaken with great care. It is crucial that the client's needs (as the client sees them) are put first. For example, as a professional, although we might passionately believe that the perpetrator must be held to account, it might not be in the client's best interests to pursue a legal case at that moment in time. The client may still be too vulnerable to do so due to ongoing emotional and/or psychological problems. In a therapeutic setting, we may believe that the client needs to face and deal with their trauma in order to recover, but pushing them to talk about the torture when they do not feel ready could have an extremely detrimental

impact on the survivor's emotional and psychological state. As previously discussed, it is extremely important to work with survivors of torture in a way that supports them in regaining a sense of personal control. We do this by ensuring our work with torture survivors is survivor-led and works toward their empowerment, and also by ensuring that we maintain healthy boundaries between ourselves as professionals and the client.

3.77 There are also practical aspects we need to consider in order to ensure our clients' safety and protection. These include protecting our clients' confidentiality and guaranteeing the safekeeping of any information we hold on them. We need to make sure that client files are kept in a safe place. If there is any chance that client files might be seized or stolen, then we must think about ways to anonymise the information held in them.

3.78 We also need to support those of our clients who wish to become involved in survivor activism by helping them to think carefully about any potential risks associated with those activities and finding ways to minimise those risks for the client.

## 6. Supplementary materials

### 3.79 Case study: Ali

The aim of the following case study is to demonstrate the potential range of needs survivors may have, and the importance of a good assessment.

3.80 *Ali lives in a Kurdish village in Kyrgyzstan. In late April 2010, ethnic Kyrgyz mobs attacked Kurdish, Meskhetian Turk and Russian villages across the country, looting and destroying properties and livestock. In these attacks, Ali's father was killed as were several other people from his*

village.

3.81 Following the violence in April, Ali and his neighbours continued to be targeted for harassment and repeated searches of their homes. This escalated to torture and ill-treatment when he was brought into the police stations for interrogation and held in pre-charge detention centres.

3.82 Ali continues to try to work to support his family, but he is very anxious and suspicious of every one. He is jumpy and nervous and believes he will be arrested again at any moment. Ali has difficulty concentrating and remembering. He keeps forgetting things at work and he has been threatened with being made redundant from his job.

3.83 Ali says that he is happy to see a doctor but he resists any suggestions to speak to a therapist. He is losing weight

slowly and says that he is not sleeping. Ali's drinking is increasing, and despite having little money, is always well dressed.

3.84 Ali has spoken to several lawyers about the torture and ill-treatment. He says he wants to prosecute the perpetrators. However, he has argued with each of the lawyers with whom he has met. Ali says that they are 'interrogators'. In turn, the lawyers have refused to represent Ali.

- As a lawyer, what do you need to know in order to assess and prioritize Ali's rehabilitation needs?
- As a clinician, what do you need to know in order to assess and prioritize Ali's rehabilitation needs?

### **Additional Reading**

#### **3.85 IRCT Handout (pdf) – 'About Rehabilitation'**

# Chapter 4

## Communicating rehabilitation externally

1. General overview
2. Theory
  - A. Policy and advocacy workers
  - B. Campaigners
  - C. Researchers
  - D. Community development workers
  - E. Training and capacity building

Example
3. Ensuring your public-facing work is survivor-led
 

Example
4. Ethical issues to consider
5. Conclusion

### 1. General overview

4.1 By the end of chapter 4, participants will be able to:

- Recognise the role human rights outputs can play in promoting rehabilitation and describe a range of effective tools and approaches
- Investigate/explore how to make their public-facing work more survivor led and include the voice of survivors

4.2 This chapter is relevant to all specialists and service providers who work with survivors of torture. As a lawyer or clinician, we are not expecting you to become an expert journalist or campaigner. Instead, we will propose these functions as key allies in your work to support survivors of torture.

### 2. Theory

4.3 There are various professionals who have specialist expertise who can help support you in your efforts to communicate holistic rehabilitation within your community or region. These can include:

#### A. Policy and advocacy workers

4.4 These are usually people who are legally trained, but rather than focusing their expertise on supporting clients in litigation, they examine government policy. They usually focus on how the policies and laws relate to a specific target group such as women, prisoners, children, disabled...

4.5 At ***Freedom from Torture***, our Children's Law and Policy Officer deals with young people and families. Principal areas of work include:

- Casework: advises clinicians on legal aspects of clients' cases. Sometimes consults with and advises clients' lawyers
- Policy: examines government policy and advises clients accordingly
- Training provision within FfT, usually on new cases or changes in the law that affect children who have been tortured
- Building capacity through working with organisations dealing with children who have been tortured

## B. Campaigners

4.6 Human rights defenders who specialise in campaigning will have knowledge of good practice on how to change public perceptions, including changing pre-conceived ideas and stereotypes concerning unpopular or controversial issues. These individuals will usually have extensive experience in creating sympathy or empathy for a cause and in encouraging action and support.

4.7 The Campaigner for ***Freedom from Torture*** works closely with victims of torture to make their voices heard and to inform the victims, and others affected by torture, of their rights

## C. Researchers

4.8 Professional researchers will have knowledge and awareness of how to collect and collate data ethically and effectively and then to analyse this information. Those who conduct research outside of academic settings are often skilled in targeting and tailoring their research reports to maximise their relevance to a specific audience.

4.9 *The Freedom from Torture* Researcher provides colleagues with the evidence necessary for them to argue for changes to policies, practices and attitudes. The Researcher will often examine evidence derived from client records or from interviews with clients or staff members.

## D. Community development workers

4.10 Community activists; human rights defenders; development workers – these are all different titles for similar

functions. These individuals will work with multiple stakeholders to ensure better communication and promote more effective partnerships and working relationships between organisations and services. Often, community development workers represent the needs of specific client groups, such as victims of domestic violence, children living on the street and other marginalised groups who have complex needs and can be hard to reach.

4.11 “I work as a counsellor at ***Freedom from Torture*** and am also a Development Worker. I work in Sunderland, a poor city in the north of England. I am the only person in Sunderland working with survivors of torture, so all of my work is devoted to forming working relationships with other professionals and organisations in the city, such as senior clinicians, doctors, faith groups, and refugee support agencies.”*занимающимися вопросами беженцев.*”

## E. Training and Capacity Building

4.12 Skilled trainers and facilitators often have specialist knowledge of adult learning theory and creating effective programmes which foster learning. The aim is generally to create a space for reflection and the processing of novel ideas and theories so as to promote new skills, knowledge and attitudes. Effective training programmes often involve multiple ‘steps’ of learning to ensure adequate application of the new learning to day-to-day practice.

- 4.13 The aim of any training or capacity-building initiative by **Freedom from Torture**, whether in the UK or abroad, is:
- To build the capacity of service providers currently working with survivors of torture – by ensuring that they have the appropriate skills, knowledge and attitude as well as the capacity and levels of support needed to deliver a suitable level of services

and/or

- To open the doors of services currently resistant to the idea of working with survivors of torture. In some cases, this involves introducing service providers to the rights of survivors and explaining their statutory obligations to service this client group.
- To create links to encourage appropriate referrals to be made to FfT - and also from FfT to additional service providers for support

Ultimately, our training and capacity-building initiatives are intended to ensure that survivors of torture are able to access a web of services to support their rehabilitation

4.14 All of the above specialists can become your allies. They can help you to address a need or respond to a concern relating to a survivor's ability to fully realise their right to holistic rehabilitation. These specialists are at their most effective when they work proactively together to co-create strategic plans responding to specific issues and to collaborate on actions and interventions more generally.

## Example: Freedom from Torture

4.15 For example, at **Freedom from Torture**, a number of in-house staff, including our Policy Officer, Researcher, Media Officer and Training team, worked together to try and improve how UK Border Agency ("UKBA"), asylum caseworkers and immigration judges treat medical evidence when an asylum seeker claims that they have been tortured in their country of origin.

### I. Identify the problem

One of our doctors who works with a wide range of clients at **Freedom from Torture** noticed a disturbing trend – an increasing number of her clients were having their asylum claims refused and in their refusal letters, UKBA's asylum staff appeared to be making their own personal clinical judgements and dismissing the opinions of qualified and specifically-trained medical doctors. She also noted that similar dismissals of clinical evidence were being made by some immigration judges

- **Freedom from Torture** documents instances of torture by creating medico-legal reports in line with the Istanbul Protocol
- These reports are used in asylum claims

### II. Identify the rights violated or at risk of being violated

The doctor raised her concerns with our Policy Officer and our Asylum and Immigration Advisor. Both acknowledged that due to the dismissal of medical evidence by UKBA staff and immigration judges, increasing numbers of torture survivors were being returned to countries where

they were at risk of being tortured again. (The right being violated here is **non-refoulement**)

### III. Evidence gathering

**Freedom from Torture** brought together the relevant stakeholders who agreed to gather data with the intention of using it to pressure UKBA and the Immigration Tribunal. Our Researcher collated 50 refusal letters and wrote a report of her findings entitled *Body of Evidence*.

- We found that in these cases, UKBA had failed to sufficiently consider the medico-legal evidence, resulting in denied asylum claims during status determination procedures
- Where, however, the evidence in a case's medico-legal report was properly considered by UKBA, there was a 70% overturn rate at appeal
- High level of inconsistency in decision-making at the tribunal/appeal level – some judges followed the Istanbul Protocol very carefully, others did not

### IV. Negotiations and pressure from State actors

- Evidence from the research is very compelling and reveals systemic poor practice across Government functions.
- Also demonstrates how this poor practice is not in line with international practice standards and guidelines
- The Government is under pressure to speed up the asylum process and reduce the amount it spends funding it; the evidence contained in medico-legal reports prolongs asylum cases, therefore UKBA mistreats/discounts these to speed up the process
- *The Body of Evidence* report demonstrates that it costs more money

for a case to go to the appeal stage than for the medico-legal report evidence to be treated correctly as part of the less costly initial claim

- In the report we made clear and specific recommendations for actions we wanted to see that would demonstrate change

### V. Media pressure and promotion

- Best tactic to create policy change was to bring this information to the public's attention
- Relied on British media to create pressure through press coverage
- Survivor voice and personal narratives were not included in the report but were added through media coverage

### VI. Training negotiated

- A combination of policy negotiation and media pressure created successful changes
- **Freedom from Torture** was able to negotiate training for UKBA staff and judges which was rolled out in 2011.

4.16 You may not have the same range of specialists in your organisation as we have at **Freedom from Torture**. But that doesn't mean you can't engage in this vital work – you can collaborate with experts in your community in order to create similar change. Even if these specialists focus on a different client group, their skill sets and experience can help inform your work. For example, a journalist who specialises in political analysis will have transferable skills and experience which they can use when working with NGOs and supporting survivors of torture.

4.17 Reflect on the specialists you may wish to work with more closely. What specialist services do you lack in your organisation?

4.18 Also, think about how you can support the work of others. Do you have

clinical data that may be of use to a lawyer involved in strategic litigation? Do you have links with civil servants who are willing to speak with the NGO sector? Do you have knowledge of case law which may help a researcher with their data analysis?

### 3. Ensuring your public-facing work is ‘survivor-led’

4.19 In our training programme, we asked a panel of experts from ***Freedom from Torture*** to share ways in which their work is survivor-led:

#### 4.20 Policy Officer

- Our Government hasn’t thought about survivors’ participation in the process other than in court; participation in court proceedings is not real participation
- There is nowhere else for them to speak out about their experiences. At ***Freedom from Torture*** we adopt a human rights-based approach, all advocacy work is survivor-led
- Any initiative we take that is client-based carries much more weight
- Survivor involvement has a rehabilitative effect

#### 4.21 Researcher

- Direct voice not included in the body of the research presented in *Body of Evidence*. We used anonymised case examples instead
- We want to develop new ways of working with victims to give them a more active role in the research process. Our aim is to involve survivors at every stage of our research, for example,

to get them to do research with other victims. Our next project will involve survivor voice in research – we will look at the poverty which survivors of torture experience living in the UK as asylum seekers and refugees. It is important to work closely with survivors - this may include facilitating a survivor-led focus group or working with survivors as peer-researchers

#### 4.22 Question to participants:

What is your primary objective - to secure social benefits or employment for your clients?

- We want to improve the level of support given to survivors
- Most importantly, we want to make the link that these issues are part of a survivor’s right to rehabilitation.

#### 4.23 Campaigns and Communications Manager (speaking about campaigning and survivor activism at ***Freedom from Torture***)

- Survivors engage in creative writing: we publish their works in the press and publish our own books
- We have a Survivors Speak OUT network of survivors – they are activists who speak to government representatives and community groups. The network also likes to speak to young people because their opinions on torture victims are not fully formed
- They’ve been involved in short films, animations
- They send regular letters to FfT supporters, including sponsors, as we need to explain that we need not only financial help, but also help in campaigning

## Media Officer

4.24 The survivor's voice must be at the forefront; the client must speak for themselves. Also, a survivor talking about their own experience resonates more with the reader or viewer – this helps to break down negative stereotypes.

4.25 There are two types of media work with survivors:

- 1) Victims representing other victims and speaking about issues affecting those victims
- 2) Survivors talking about their own experiences - what's happened to them

4.26 The media tend to want the second type, that's to say, personal testimonies. Many clients find speaking about the injustice they have suffered beneficial. However, there are also problems associated with the second type:

- Potential harm to the survivor (risk of re-traumatisation; risk that the survivor gets stuck in the role of victim because they repeat their story so often or because of all the attention they get, i.e. they are almost rewarded for being a victim)
- Risk of the media controlling what a 'victim' looks like; often portrayed as downtrodden victims, not empowered survivors

4.27 The most important consideration is to let the client decide how to be represented.

4.28 Also, it is important to brief journalists so that they don't give survivors of torture a hard time.

## Example

4.28 *"We tell our clients not to speak to the press - we take no part and no responsibility if the client decides to do so. However, sometimes we ask victims if we can employ an actor to represent them to journalists, in which case we do take responsibility."*

*Participant from Azerbaijan.*

### Participant questions:

How do you know what readers or viewers actually think?

- It's hard to get this kind of feedback
- We might get an idea from blogs or online responses to articles

What do you do to combat negative responses in these cases?

- We find that if a negative comment is written, someone else usually rebuts it with a positive argument

Do you reply to the negative comments?

- Not unless they are made on our website or on our social media pages.

Who are your main opponents?

- Migration Watch (a conservative, far-right group) and certain communities and private individuals
- Our target audience is people who are still undecided because they lack information

*"We get a lot of coverage in the press; when we register violence we urgently submit a report to the Ministry of Justice. According to the law, the Ministry must respond with comments within 3 days, otherwise we have the right to print in the press."*

*Participant from Armenia.*

## 4. Ethical issues to consider

4.29 In our training programme, we asked a panel of experts from ***Freedom from Torture*** to share what they feel are the key ethical issues in their roles:

### 4.30 Conducting research

- Need to remember that our primary duty is to the client/survivor
- Asylum claims are very sensitive; information must be confidential
- Need to have client's permission and any mention of a specific instance/client needs to be anonymous

(from June report)

- Need professional standards in place regarding use of client data.
- Priority at all times is the interest and welfare of the survivor of torture.
- Confidentiality:
  - We need to understand that our work is intrusive
  - At all times the client has the right to decide what is done with their data
  - The client has the right to have a copy of their data
  - We have no automatic right to the client's data
- Anonymity of data: client must not be identified
- Informed consent:
  - Client must know that they are under no obligation to divulge data and that the availability to the client of services rendered by FfT do not in any way depend on their giving consent
  - Client has the right not to give consent
  - Must tell client the reason for obtaining consent, for example, medical, legal

- Client must have a way of contacting the researcher
- Protection and security of client data:
  - Need to tell the client how we guarantee their data are secure
  - Client themselves must declare that they are voluntarily participating and that it is their wish for the data to be divulged

### 4.31 Participant shares his experience of data protection difficulties in Azerbaijan:

- Individual's security is under threat
- Possibility of those who provide rehabilitation services for torture victims being forced by authorities to disclose information

#### Two main ways to combat this problem

- Restrict access to the data
- Keep anonymised records

#### Participant shares how data protection works on the ground in his organisation:

- Workers tell clients there is no need to give their names, addresses, etc.
- However, these details are needed if the client wants to take their case to court – in that case P3 gives the client's records to the client themselves, not to the legal professional
- However, the records provided by P3 are taken by the courts only as witness statements, not as evidence
- Organisation has a back entrance
  - clients visiting the premises can't be seen using it. There is also an emergency exit for client use. (Sometimes there are pickets against the organisation, for example, those organised by the ruling party)

### 4.32 Influencing policy

- What is the change you are trying to bring about?
- Who will the change really benefit – your organisation or the client?
- Do you have the necessary resources?

### 4.33 Media: involving clients with the public

- Need to ensure client consent is obtained without the use of influence or coercion
- Need to explain to the client that media participation will not benefit their application for asylum

#### 4.34 Participant question

In your media work relating to Body of Evidence, which forms of media were used to tell clients' stories?

*“Because the issues in the report were not big enough to get national attention we used one newspaper and one radio programme. Whenever we involve survivors, we choose the media source that is the most sympathetic to our cause and whose journalists are trustworthy. In this case we used ‘The Guardian’ (national UK newspaper), which is politically left-leaning, and the radio interview was with the BBC.”*

## Campaigner

4.35 **Informed** consent: need to ensure the survivors of torture understand

- Who I am and what I do
- That it is up to them how they shape their role in the process (i.e. campaigning, external communications such as websites etc)

- What will happen with their story and who will read it
  - That it's impossible to completely control such things as who will read their story
  - The need to ensure nothing in the story could reveal the individual's identity
- The need to consider practical issues when asking a client to be involved in our public work; for example, to enable clients to attend meetings, we pay for their childcare (which would be prohibitively expensive for them)

### We asked participants which of the issues and strategies discussed could be used in their countries – their responses varied

4.36 *“In theory, we can use a lot of the strategies discussed, but we are disadvantaged in practice because our countries are still trying to build up our civil society. This is not to say that we won't strive to achieve these goals.”*

4.37 *“I like that you have a multidisciplinary approach, but I am afraid that this is impossible in my country because lawyers won't want to leave their jobs to make less money”. (Freedom from Torture responded, “It is the same in the UK but there are still many committed lawyers and doctors who do work for NGOs”)*

4.38 *“We have started to report torture cases to the media but these reports are limited to high-profile cases and reporting is done by officials, not by NGOs. Also, the media feels more pressure from the government in our country than you do in the UK. We do hope to increase our impact through the media.”*

## 5. Conclusion

4.39 In this chapter, we explored how we, as lawyers, clinicians or community

workers, can promote change so as to more fully realise holistic rehabilitation as a right and a process in our communities.

4.40 We began by exploring the role of media, campaigning, training, policy and advocacy work in promoting change for our clients and looked at some examples from our work at ***Freedom from Torture***. We then examined some key ethical issues that need to be considered and incorporated into any plans you may devise to facilitate greater access to holistic rehabilitation for torture survivors, including those specific to working directly with survivors in your public-facing work.

4.41 We understand that the realities in the UK and in your countries are different. We encourage you to reflect on how you could use some of the ideas explored in this chapter in your own work to promote the holistic rehabilitation of torture survivors in your communities.

4.42 We hope that by sharing some of the strategies used by ***Freedom from Torture***, we have given you some inspiration for new ideas and fresh approaches that you can successfully apply in your own contexts.

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For more information on PRI's work on the Holistic Rehabilitation for survivors of torture please contact:

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