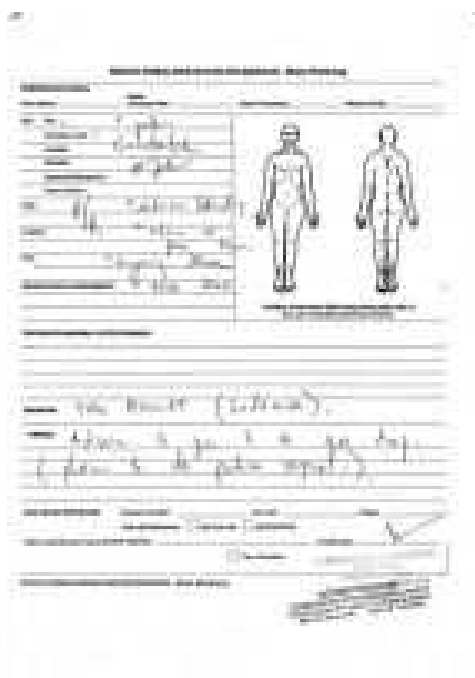




Training Session Plan

Examining, Documenting and Reporting Torture An introductory session



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The International Federation of Health and Human Rights Organisations (IFHHRO)

IFHHRO forms a unique network of active organisations committed to the protection and promotion of health related human rights. Members and observers are human rights groups which address health-related rights violations, medical associations involved in human rights work, and organisations that have been created specifically to mobilize health workers for human rights protection.

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Learning Objectives

- to enhance the capacity of doctors to conduct comprehensive examination of alleged torture victims
- to enhance the capacity of doctors to document the findings in a way that can be used as evidence in court
- to inform doctors of their obligations to report cases of torture



Target Group

Health workers who are likely to come into contact with alleged torture survivors



Duration

90 minutes



Materials

- Sheets of flipchart paper
- Markers



Training Aids

1. Case Study and Group Work Assignment
2. Doctor's Report



Handouts

1. Medical Examination and Documentation
2. Key Obligations and Standards for Health Practitioners



Session Plan

Preparation

Photocopy Training Aid 1: Case Study and Group Work Assignment for each participant and make 6 photocopies of Training Aid 2: Doctors Report. Also make photocopies of the Handouts, one for each participant to distribute at the end of the session.

Step 1 Introduction & Objectives (5 minutes)

Briefly introduce the topic and learning objectives of the session.

Step 2 Case Study (20 minutes)

Divide the participants into four groups and handout the case study (Training Aid 1) to every participant. Provide each group with a sheet of flipchart paper and a marker to write their answers down. Handout the doctor's report (Training Aid 2) to group 3 only.

Step 3 Presentation in Plenary (25 minutes)

Ask all groups to present their answer to their question in plenary in 3 minutes maximum. Allow some time for questions and answers and discussion.

Step 4 Examination and Medical Documentation (15 minutes)

Summarize the group work and pay extra attention to key examination and medical documentation issues (see Handout 1 for details). Include the following elements:

- General Interview Considerations
- Examining Allegations of Torture
- Steps in Examining the Torture Victims
- How to document your findings

Step 5 International Standards and Obligations (20 minutes)

Give a brief presentation about the key obligations and standards for health practitioners to report and deal with torture. The obligations are mainly legal and ethical, use Handout 2 for examples.

Step 6 Conclusion (5 minutes)

End the presentation by telling that health care practitioners may report findings of torture witnessed to:

- Relevant professional boards/councils e.g. Medical Boards, Nursing Councils
- With the consent of the patients to national human rights institutions, human rights organizations involved in investigation and documentation of torture, Ombudsman
- Management of the health institution involved
- Magistrates, judges or such other presiding officers during legal or quasi-legal proceedings
- The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. There is an online questionnaire available to report urgent appeal or allegation letters: <http://www2.ohchr.org/english/issues/torture/rapporteur/index.htm>

Distribute the handouts and mention links to some important websites where more detailed information can be found:

Istanbul Protocol online at: http://en.wikipedia.org/wiki/Istanbul_Protocol

IRCT preventing torture site at: www.preventingtorture.org

Training Aid 1 – Case study

Photocopy this page, one copy for each participant.

Case

A torture victim is brought to a government hospital by the police and has been examined by a hospital doctor. The policeman and the medical doctor happen to be high school buddies, they drink together and are neighbours. During the medical examination the policeman explains to the doctor that the detainee complained of stomach ache and fainted. The detainee is known for often being involved in fist fights. The waiting room is full of patients waiting to be examined and the report is required urgently.

On arrival the victim is unconscious with bruises on the lower back, blood stained clothes, and *haematoma* on the chest (left and right), bruises around the wrists. He also has a deep cut on the forehead, typical to one left by a sharp object. He is reporting a headache, chest pain, coughing blood and pain in his wrists. Medical tests have indicated blood in his urine. He cannot remember anything of what happened before he woke up in the hospital.

The doctor prepares a report.

Each group has to answer **one** of the following questions:

GROUP 1

Make a list of elements of *physical* evaluation/examinations

GROUP 2

Make a list of elements of *psychological* evaluations/examinations

GROUP 3

Study the medical report from the government doctor (Training Aid 2) and analyze and highlights important aspects omitted for legal processes

GROUP 4

Indicate obstacles and obligations for health practitioners to report about, and deal with torture

Training Aid 2 – Doctors report

MINISTRY OF HEALTH

FAKE HOSPITAL
EMERGENCY ROOM

Name of physician: Dr. U.A.Fees

Date: 17 September 2009

Diagnosis

Appears to have general soft tissue injuries, bruises on the forehead, blood in the urine, patient suffering from chronic kidney problem and is fit for detention.

Recommendation by the doctor:

Kidney Ultrasound
Decision on treatment will be made according to the pending results.

Signature



Handout 1 – Medical Examination and Documentation

Medical Evaluation of Torture Victims¹

Health professionals can provide critical documentation of torture and ill treatment in legal proceedings. Such evaluations are often conducted by treatment centers for survivors of torture and other non-governmental human rights organizations

General Interview Considerations

Clinicians should be aware of the following considerations in the course of conducting their medical evaluations:

- **Informed Consent:** Clinicians must ensure that individuals understand the potential benefits and potential adverse consequences of an evaluation and that the individual has the right to refuse the evaluation.
- **Confidentiality:** Clinicians and interpreters have a duty to maintain confidentiality of information and to disclose information only with the individual's consent.
- **Setting:** The location of the interview and examination should be as safe and comfortable as possible, including access to toilet facilities. Sufficient time should be allotted to conduct a detailed interview and examination.
- **Control:** Let the individual know it's all right to take a break if needed or to choose not to respond to any question he or she may not wish to.
- **Earning Trust:** Trust is an essential component of eliciting an accurate account of abuse. Earning the trust of one who has experienced torture and other forms of abuse requires active listening, meticulous communication, courtesy, and genuine empathy and honesty.
- **Translators:** Professional, bicultural interpreters are often preferred, but may not be available.
- **Nonverbal Information:** Include observations of nonverbal information such as affect and emotional reactions in the course of the trauma history and note the significance of such information.

Examining Allegations of Torture²

The purpose of examining a torture survivor is to establish the correlation between injuries seen and the cause of those injuries.

It is important to keep in mind that the essence of torture is an assault on a person's human dignity and self worth. It results in intense experience of helplessness and vulnerability. The clinical situation can easily mimic aspects of the torture experience (undressing, instruments, a detached person in charge of the situations, all-knowing and powerful while the patient is in a new and a vulnerable situation).

It is therefore important to take time, to explain why each step as it proceeds and to try to reassure the patient verbally and otherwise. Let the patient set the boundaries (e.g. "I need to examine your injuries. To do so I need you to be undressed. May I ask you to remove your shirt, please?")

¹ More details can be found online at: <http://www.ircct.org/investigation---documentation/medical-documentation.aspx>

² From: *Forensic Medicine, Medical Law and Ethics in East Africa*, page 169-173, edited by Dada, M.A., Olumbe, A.K., McQuoid-Mason, D.J., Kalebi, A.Y., Independent Medico-Legal Unit (IMLU), Kenya, 2005.

Steps in Examining the Torture Victims

- **Introduce yourself:** Explain why you are there and what you intend to do. Get consent: This should preferably be in writing, detailing possible use of the information for legal purposes as well as advocacy.
- **Listen to the history:** How much you will be told depends on the context of examination. A short visit to a prison or police station will not allow for a long story. But if the survivor is free: take time to listen. Ask what happened. Do not mind if the story is rambling – you can always go back to the details later.
 - Let the person talk and have a free hand to determine how much s/he wants to reveal at a given time.
 - It is usually counterproductive to ask direct questions like, “were you raped?” Until the person trusts the examiner, a direct question will be answered in the negative and it can be very difficult for the survivor to reveal what happened later, as it will seem like s/he “lied” earlier.
- **Previous medical history:** It is important to know what has happened before the torture: maybe he lost an eye during an accident a long time ago. Old fractures should be determined to distinguish them from recent injuries. Your report is more credible if you have an explanation for old scars you might find on the later examination. Also note allergies, use of medication and for women, parity. You never know what a lawyer might ask during cross examination.
- **Physical examination:** Examine the whole body systematically (from head to toe). If it is in the acute phase, and the person is obviously bleeding or has a fracture, attend to it but go back to do a complete check. Imagine yourself doing your final examination at medical school: nothing should be left out. Explain to the survivor that you are looking for normal functions and abnormal function. Do a neurological examination including vision test (it is embarrassing to find out in court that the patient is blind on one eye and forgot to tell you). Check mobility of every joint and measure any deficit in degrees. Describe all wounds and scars fully, measure their size and distribution, and plausible age.

Ask for permission to see the genitals. This may be the time that the survivor feels free to confide that he was sexually assaulted. It is better to have examined everything than to regret later that you did not do it.

Note both normal findings and abnormal findings. Examine function and quantity its effects on daily living e.g. “the patient has pain when walking” versus “the patient can only walk twenty metres before the pain forces him to sit down. Hence he has difficulty in getting to the toilet in time”.

- **Psychological assessment:** Many doctors neglect to document psychological assessment. But no medical report is complete without mentioning the patient’s state of mind at the time of examination. Is the person fearful, tearful, anxious, calm, and collected or depressed? Is the person oriented in time, place and situation?

Always ask about consumption of alcohol, cigarettes, cannabis, khat or other drugs. Ask if the use has changed. What explanation does the patient give for this change; what does alcohol do for them.

Additional Tests

X-rays, laboratory tests, ultrasound scans, biopsy, hearing test, nerve condition tests, toxicology

How to document your findings

- Make notes and sketches as you examine the victim.
- Take photos: Woods light can show bruises on dark skin to allow photographic documentation.
- Make the patient sign a statement, even if it is some days after the initial interview. Lawyers do not like this as the statement signed in the doctor's office may differ from the formal statements they take. However, it has been known for the doctor to be set up by someone claiming to be a torture survivor and then the doctor facing the accusation of making up malicious stories against the State. It is, therefore, important for the doctor to know the aspects that should be included in a medico-legal report and to tackle all of them in this report

Writing the report

The report should be clearly presented and orderly. It should include all information described above, the identity of the person writing the report, the purpose for which the report has been prepared and the person who commissioned the report.

Start with the history and presenting complaints, the physical examination with both normal and abnormal findings, the psychological assessment and the extra tests done. Diagrams are allowed. Attach all supporting documentation, such as laboratory tests, X-ray reports, hearing tests and label the annexes.

Making a conclusion

This is the most important part of your report. Failing to conclude renders the exercises pointless. The Istanbul Protocol offers five categories of conclusions in Chapter V: Physical Evidence of torture, Section D Examination and evaluation following specific forms of torture:

article187 [.....] For each lesion and for the overall pattern of lesions, the physician should indicate the degree of consistency between it and the attribution given by the patient. The following terms are generally used:

- (a) *Not consistent*: the lesion could not have been caused by the trauma described;
- (b) *Consistent with*: the lesion could have been caused by the trauma described, but it is not-specific and there are many other possible causes;
- (c) *Highly consistent*: the lesion could have been caused by the trauma described, and there are few other possible causes;
- (d) *Typical of*: this is an appearance that is usually found with this type of trauma, but there are other possible causes;
- (e) *Diagnostic of*: this appearance could not have been caused in any way other than that described.

You must be able to make up your mind into which category your findings fall. Are these injuries consistent with the history? If so, to what degree of likelihood could the method described have caused the injuries? What is the differential diagnosis/degree of certainty? Write what you are comfortable with defending in court: expect to be challenged. If you find no injuries to substantiate to torture, say so. But you may choose to qualify the negative findings, for example, "since five years have gone by from the time to the alleged torture, I do not expect any bruises to have remained on the skin".

Handout 2 - Key Obligations and Standards for Health Practitioners

There are some key obligations and standards for health practitioners to report and deal with torture. The obligations are mainly legal and ethical.

Legal obligations are codified in:

- The Convention Against Torture and Other Cruel and Inhuman Degrading Treatment (CAT)
- The Optional Protocol to the Convention Against Torture and Other Cruel and Inhuman Degrading Treatment (OPCAT)
- The Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- Geneva Conventions of 1949

Ethical obligations are based on the moral principles that are the foundations for the practices of the different health practitioners. Some of these moral principles may be found in the ethical rules of the different professions. Ethical rules do not have the weight of law, but maybe relied upon by the courts as guidelines to determine whether or not a health worker has acted unprofessionally. A breach of an ethical rule may however, result in disciplinary action for unprofessional conduct³.

Ethical obligations are, for instance, codified in:

- World Medical Association (WMA) Declaration of Geneva
- WMA Declaration of Tokyo adopted by the 29th World Medical Assembly, Tokyo, Japan, 1975
- WMA Resolution on Physician participation in Capital Punishment, 1981
- WMA Resolution on Human Rights
- WMA Declaration of Malta
- WMA Declaration of Hamburg
- International Council of Nurses (ICN) Code of Nurses
- ICN: Nurse's Role in the Care of Detainees and Prisoners, Adopted in 1975
- ICN: Nurse's Role in Safeguarding Human Rights, Adopted in 1983
- ICN: Nurses and Torture, Adopted in 1989
- ICN: Death Penalty and Participation by Nurses in Execution, Adopted in 1989
- Guidelines Concerning Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, Adopted at the World Confederation for Physical Therapy 13th Meeting, June 1995

In the WMA Copenhagen Resolution of 2007 special attention is paid to the role of National Medical Associations. They should:

- Promote training of physicians on the identification of different modes of torture, in recognizing physical and psychological symptoms following specific forms of torture and in using the documentation techniques foreseen in the Istanbul Protocol to create documentation that can be used as evidence in legal or administrative proceedings.
- Promote awareness of the correlation between the examination findings, understanding torture methods and the patients' allegations of abuse;
- Facilitate the production of high-quality medical reports on torture victims for submission to judicial and administrative bodies;
- Attempt to ensure that physicians observe informed consent and avoid putting individuals in danger while assessing or documenting signs of torture and ill-treatment.

³ From: *Forensic Medicine, Medical Law and Ethics in East Africa*, page 40-41, edited by Dada, M.A., Olumbe, A.K., McQuoid-Mason, D.J., Kalebi, A.Y., Independent Medico-Legal Unit (IMLU), Kenya, 2005.