

# **Psychological Preparation of Torture Victims as Witnesses toward the Prevention of Retraumatization**

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## ***Abstract***

*This work presents psychological specificities of situations where torture victims are witnesses at the court trial of perpetrators at the same time. Witnesses are subject to the risk of secondary traumatization, retraumatization and revictimization, which may lead to the deterioration of existing PTSD symptoms. Starting from the very act of reaching the decision whether to testify, witnesses are in a state of ambivalence associated with a need for truth and justice, the need that perpetrators should be adequately punished and thus certain compensation be provided as well as with fear of the course that the trial itself may take, they being partially aware of the risk for retraumatization and retraumatization. The author sets forth the need for psychological-psychiatric preparation of the witness prior to the trial, as well as co-operation between judicial organs and psychiatric-psychological service. The paper features examples from the Centre for Rehabilitation of Torture Victims – IAN Belgrade.*

## **INTRODUCTION**

One of basic aims of torture is to bring a person down to a position of extreme helplessness leading to a deterioration of cognitive, emotional and behavioural functions. The camp detention and exposure to psychophysical torture also results in damages of basic psychological and social functioning, the aim of torture being not only to physically break the victim but also to lead to the disintegration of his/her personality, its purpose being to destroy relations with family and society in their entirety, wreck fantasies and hopes in better future. Victimization represents the result of jeopardising fundamental preconceptions of an individual and his/her life. Those are preconceptions of personal inviolability, an assumption that the world has its meaning and order and a positive self perception (Janoff-Bulman & Frieze, 1983).

Besides bodily harm and permanent disability as a consequence of psychophysical ill-treatment, posttraumatic stress disorder (PTSD) represents one of the most frequently established psychiatric diagnoses in torture victims, but often there are concomitant psychiatric diseases such as alcohol dependence, depressive disorder, anxious, dissociative, somatoform and even psychotic disturbances (Arthur, 1982). Torture exposure may lead to permanent personality disorders after catastrophic experience, which is manifested through withdrawal from social communications and an experience of the world as a menace accompanied by constant distrust.

War crimes are imprescriptible and it is supposed that their perpetrators will be brought to justice when torture victims become key witnesses in court. Thus, one person may unite the victim, witness and patient regardless of the fact whether the person has received treatment or not so far.

In the eyes of the victim justice has different meaning and expectations vary: e.g. a person with an experience that he/she enjoys greater rights may expect higher reparation, or an individual with previous deprivations might paradoxically believe that he/she should receive more due to other »damages« in his/her life, while others may demand social injustice compensation (Raphael, 1992).

## **IMPORTANCE OF TESTIMONY FOR THE VICTIM-WITNESS**

No social process may annul the extreme torture effect. An impartial court trial of perpetrators may to a certain extent alleviate effects of a traumatic event, while, on the other hand, the torture victims' testimony is at the same time desirable and also problematic for the victim. It is desirable, since thus justice is satisfied and moral postulates undermined by torture are re-established and faith in people regained. Their testimony has a wider historical function - »the crime committed is not to be forgotten « by the disclosure of the truth, which is a step requisite for the transformation of interethnic conflicts (Ilic, 2002).

Concurrently, at the psychological level, subconsciously or partially consciously it comes to the obliteration of life threatening traumatic experience. This ensures reparation of a traumatic event experienced as a loss. It is determined that the very act of testifying has a healing function and helps in the therapeutic process: testimony enables a victim to recover helping him/her to regain control over his/her life. In the course of the eighties psychologists realised the therapeutic importance of testifying which has resulted in the promotion of an efficient but still controversial technique of counselling – a »testimony technique« where a statement is tape-recorded, and then revised jointly by therapist and patient into a written document to be further analysed (Cienfuegos & Monelli, 1981). Also, the trial and punishment regains the feeling of power as a rebalance of power over his/her torturers. Should this fail to happen, the feeling of helplessness remains and torture consequences are retained. Outside help is successful only if it stimulates self-help (Steinmetz, 1984), so that the failure to provide outside help certainly prevents a possibility of establishing restitution.

Rage and anger as the consequences of traumatisation are also retained unless there is trial held and may be a constant source of a desire for revenge. Testimony helps the victim to see whether he/she has survived and whether he/she is recovering as well as to show that to the torturer, which for the victim represents a highly sophisticated lawful and ethically acceptable revenge.

Kilpatrick says: “The perception-of-control variable has been identified as a key factor in understanding the impact of victimization...A criminal justice system that provides no opportunity for victims to participate in proceedings would foster greater feelings of helplessness and lack of control than one that offers victims such rights.” (Kilpatrick & Tidwell, 1989). The participation in the court proceedings may be of higher importance for the victim than the very sentence against the perpetrator (Kelly, 1984).

Material compensation to be ensured by such a trial should be also borne in mind, it representing a form of obligatory compensation for the majority of torture victims whose social and occupational functioning has been impaired, as well as for their family members. Such a form of reparation should be distinguished from gain tendencies in other psychiatric disorders (Daly, 1980).

In case of failure to satisfy this rational or irrational need for justice the search for satisfaction may to a considerable extent prevent resolution of and recovery from a traumatic experience.

## **DANGERS OF TESTIMONY FOR THE VICTIM-WITNESS**

As far back as in 1742 Montesquieu stated that "There is no crueller tyranny than that which is perpetrated under the shield of law and in the name of justice". However, in the same manner, most of victims who are concurrently witnesses in court, perceive the trauma

of a court process as an essential part of a wished-for outcome of punishing of perpetrators.<sup>1</sup> The justice system, with all its good intentions, may neglect and fail to recognise the needs of a victim appearing in the role of a witness. The court process may result in retraumatisation thus worsening the victim's existing psychological state, even if a complete recovery has been previously achieved.

As early as 1980 Symonds was the first to analyse the nature of this "second injury") to victims (Symonds, 1980). He described 4 phases of responses. The first two phases represent an acute response to a sudden, unexpected violence; namely: shock and disbelief and "frozen fear" which he describes as terror-induced, pseudo-calm detached behaviour. The third phase is "traumatic depression" but much of what is now subsumed in PTSD, characterised by apathy, anger, resignation, rage, startle reactions, reliving symptoms and nightmares. The fourth phase comprises resolution and integration of experiences into life style and behaviour. This second injury occurs when the victim perceives rejection or a lack of anticipated support from his/her family or society which leads to the sense of helplessness. Another component of second trumatisation is the failure to allow the telling of the story, the giving of testimony, which leads to the failure to recognise one's own strengths and restore a sense of control over one's own life.

Many victims fail to testify in court due to various reasons. In the investigations by Davis in other criminal literature fully 50% of victims do not want to testify, and one in three refuses to appear in court (Davis, 1992). Basic reasons lie in the lack of confidence in jurisdiction and justice system as well as the fear of retraumatisation (Kidd & Cajet, 1984). In torture victims distrust in jurisdiction constitutes a part of general distrust in the institutions of a system and feeling that guilty persons (perpetrators of crimes) will not be adequately punished due to political reasons, especially not in case that trial is held in the country where the traumatic experience previously occurred.

The fear of retraumatisation may also be understood as a portion of symptoms of avoidant behaviours within PTSD. A traumatic experience jeopardises the cognitive balance of the traumatic experience victim who is motivated to behave either completely differently than the negatively formed cognitive patterns or in compliance with them, or the warning signals are overestimated which leads to constant anxiety and avoidance, or underestimated which leads to revictimatisation. Sometimes there is also a phenomenon of compulsion to repeat the trauma (van der Kolk, 1989) while sometimes there occurs a pathological thirst for a revenge out of querulous motives being a consequence of paranoid disorders.

A series of factors throughout the very course of trial and preliminary investigation proceedings may result in retraumatisation.

Even prior to the commencement of court proceedings the victim's reflections on the court process, his/her decision-making with regard to whether to testify in court, security measures prior to and following the court proceedings, language barrier and

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<sup>1</sup> Office of Crime Statistics, Attorney General's Department South Australia, Adelaide: Victims&Criminal Justice, 1990.

anticipation of cultural differences, thoughts of transportation to the court (frequently agoraphobia manifested by an avoidance of means of transport) as well may be a source of anticipatory anxiety, sometimes up to the level of panic. Retraumatization may commence with an investigation procedure and method in which testimony is conducted by an examining judge.

The court process retraumatizes the victim-witness in several ways: the justice system may disempower the witness out of ignorance of psychological-psychiatric guidelines related to victim's psychological-psychiatric state as well as due to ritual practices and the status of the witness in the hierarchy of power that exists within the justice system. The court proceeding and attendance in the courtroom may reactivate memories for a previous attendance in the courtroom in case that court proceedings were conducted against the victim. Even if it is not a case, the victim may experience it as a trial against him/her not against the accused persons. The encounter with the accused is almost always dramatic and retraumatizing. The identification of one's own torturers presents acute stress and reactions to it are often dramatic. Loss of consciousness and attention is likely to occur as well as triggering of dissociative defensive mechanisms, disorientation up to psychogenic stupor or less frequently agitation as well as a loss of control over aggressive impulses. Frequently it is accompanied by vegetative signs of panic anxiety. Such symptoms may to a great extent influence or make testifying entirely impossible in the further course of court proceedings.

Victims may have difficulties in the verbalization of a traumatic experience due to the fact that Broca's area of the brain is »shut down« throughout a trauma as well as due to the long-term biological brain damages – the hippocampus cells death- caused by an abrupt elevation of stress hormones and memory impairment (van der Kolk, 1996). Also, the survivor is often not able to describe what has happened to him since he/she lost consciousness or suffered a head injury. Further memory impairment may also ensue from a frequent alcohol abuse. Some witnesses may fill »holes in memory« by confabulations.

The defence of the accused may make the victim-witness feels powerless and put him/her in the position in which he/she has to »prove« his/her traumatic experience and suffering, while this certainly does not represent a framework for resolution as a victim's central need, but for retribution, reparation or sentence<sup>6</sup> which is a function of the justice system. In the eyes of the victim, the behaviour of the defence is felt as an attack, charge and accusation which may cause an experience of humiliation and deepen uncertainty. Especially stress-inducing experience for a victim represents cross-examination.

The atmosphere during trial, especially if the trial is held in the place where the accused come from or even where the traumatic experience occurred, may to a great extent revictimize the witness. Praises to the accused and their glorification as heroes accompanied by the insulting of the victim may deepen an experience of injustice and cause a series of emotional reactions which are intensive and overwhelming, deactivate usual stress coping strategies and reactivate PTSD symptoms.

## VICTIM-WITNESS PSYCHOLOGICAL PREPARATION

While the victim's needs received little attention in the past, interest in legal and psychosocial assistance to witnesses in criminal procedures has grown all over the world. There have been a large number of centres and services for support to witnesses opened aimed at the provision of information and assistance to witnesses.

The basic objective of the psychological preparation of the witness is the prevention of retraumatisation and revictimatisation. The best preparation of the witness for testimony delivery in court is a usual therapeutic procedure applied in the every day psychological-psychiatric practice which must be commenced as early as possible regardless of the fact whether the torture victim is to testify or not. Therefore an approach to the traumatised person does not differ much dependent on the fact whether the person has already received a treatment or he/she, having already decided to testify, is coming for the first time, asking for psychological assistance on that occasion. Here, in order to determine an appropriate type of intervention, an important role also plays the factor of time remaining up to the court process.

At all events, every psychological-psychiatric intervention must be modulated in such a way which ensures that any disruption of the statement authenticity is avoided and no distortion of facts throughout court process is caused or no impact on the witness and his/her testimony in court is made in any other way. It is groundless to believe that psychological and psychiatric interventions, regardless of the type of psychiatric method used, may to a varying extent impair memory. We share Alexander's opinion that »A person is not restored to health remembering but starts to remember restoring health«. Psychotherapy in work with the traumatised is aimed to reduce the level of overwhelming emotions jeopardising the process of thinking thus alleviating potential effects of retraumatisation.

The psychiatrist's role is not without an impact on the patient's decision and will to participate in the court proceeding as a witness. A successful psychiatric therapy is supposed to ensure a patient's better insight into a situation and easier decision-making due to the reduction of symptoms and restoration of self-esteem. Thus empowered, the torture victim with less difficulty accepts the court process and determines to testify.

Beside the fact that a therapist does not try to persuade or convince the patient to make his decision to testify, he/she should assume an unambiguous and clear attitude that offenders must be identified and punished, since therapeutic neutrality may be understood as forgiving the perpetrator of the crime. This also enables basic patient's confidence in his/her therapist to be established. Balanced provision of necessary information on the court process and possible sources of fear likely to occur throughout the court trial may reduce irrational fears. Balance is indispensable to avoid an increase in fear and anxiety. Besides, all the time a therapist should also be aware and certain of the fact that the benefits from the intervention far outweigh possible adverse effects.

Concurrently, a therapist must be aware of the needs of the victim, which directs and determines the further approach. These needs entail the respect of their (victims') boundaries, the need to feel acknowledged, not assessed, to talk and be listened to, to pay attention to their feelings and to recognise their individual time lines of recovery. Therefore, the therapist's approach should allow presence, care, listening and empathy, with the optimum measure of neutrality retained. Special care should be taken that the setting provides an intimate and comfortable atmosphere and that all objects are visible (the absence of screen) always bearing in mind that tension may provoke the presence of things which we pay no attention to. Any possibility of surprise should be carefully eliminated to ensure the patient's sense of control.

The objectives of psychological preparation are: the diagnostics of current psychiatric disorders and their healing as well as the reduction of anticipatory anxiety related to the litigation process. It is necessary to establish a diagnosis in order to determine a strategy of further therapeutic treatment as well as predict possible reactions throughout the court process. Diagnostic documents may also have forensic significance in the event of forensic expertise or compensation proceedings.

Components of CISD (Critical Incidence Stress Debriefing; Busuttill et al., 1995), crisis interventions, cognitive behavioural methods which also encompass EMDR (Eye Movement Desensitisation and Reprocessing) are used for therapeutic purposes, but brief focused analytically oriented methods and supportive psychotherapy are also applied. The reduction of anxiety is achieved by means of relaxation techniques. Frequently it is necessary to administer psychotropic drugs in the course of a certain period prior to and immediately before the court trial. Besides anxiolytics and hypnotics, beta blockers may also be administered while the administration of antidepressants should be introduced at least a month prior to the court process.

In many courts throughout the world there are services providing support to victims whose staff also include psychologists and social workers. Such a profile of experts is especially required in courts where war crimes are processed (e.g. the International Criminal Tribunal for the Former Yugoslavia in The Hague) and their role is clear in the period prior to, during and after the testimony. Prior to the testimony the victim is confronted with an unpredictable period of waiting, closed or isolated environment, expectation of the unknown, cultural and language barriers, and so forth. The psychological preparation in this phase is aimed at helping the person to relax, which is achieved by constant informing, paying attention to practical needs and relief from anxiety.

During the court proceedings, which represents the most stress-inducing part, the best prevention of retraumatisation is achieved by means of technical measures for the witness protection such as: testimony delivery in writing or behind the screen or via direct television transmission, by which the direct confrontation with the accused is avoided unless the witness himself/herself insists on the direct confrontation. The psychological support throughout the litigation is limited to the provision of surroundings which allows release, rest and self-possession. Here attention should be also paid to the practical needs,

maintenance of the link between the witness and court procedure and the relief from strong emotions with their control and restraint.

Following the court process the witness faces the experience that the work has been done, but there is the need for feedback information on his/her testimony accompanied by the sense of accomplishment. There is still a high degree of excitement with the symptoms of an irritated vegetative nervous system present. Of the psychological interventions CISD is applied and the aim is to unite the past, present and future.

Throughout the very court trial the presence of a psychologist, psychiatrist or trained social worker in case of the most severely traumatised persons may be of decisive importance for the reduction of symptoms, though the presence of a witness co-ordinator seems justified to us, provided that this person is known and trusted by the witness. This person, of course, may be a psychologist or psychiatrist from the preparation phase. If this is impossible to achieve, it is requisite to ensure the co-operation between the court support staff and psychiatrists and psychologists who know the witness quite well and who took part in his/her preparation. The co-operation should commence well before the trial itself by the exchange of information and diagnostic results, which signals possible reactions. Also, it is necessary that feedback information be provided by the court so that the monitoring of the witness's psychological condition may also be continued for a long time upon the completion of the trial expressly due to the possible lasting consequences of retraumatisation.

### **PSYCHOLOGICAL PREPARATION EXPERIENCES OF THE CENTRE FOR REHABILITATION OF TORTURE VICTIMS – IAN BELGRADE**

The court process against eight former military policemen charged for maltreatment in the prison camp Lora was to a great extent commenced due to the endeavours of the Croatian non-governmental organisation *Altruist Centre for Protection of Human Rights and Freedoms*. From the moment of summoning 14 witnesses of the SR Yugoslavia for the Principle Debate in the Court of Split, the *Centre for Rehabilitation of Torture Victims – IAN Belgrade (CRTV)* launched its co-operation with the *Altruist Centre*. The *IAN* representative together with the *Altruist* representative contacted and visited all the witnesses with the aim of motivating them to testify and informing on the security measures.

There were five psychiatrists and five psychologists engaged in the psychological portion of preparation. Apart from an enormous effort and work on motivation invested, of fourteen potential witnesses only five victims of torture in the Lora came to attend the psychological preparation. This is not hard to understand considering the fact that the trial was held in Split, the town where the potential witnesses were exposed to torture and that their fear was real apart from all the promised security measures. Also, the majority of the witnesses have their family members in Croatia and they are worried about their security following the trial as well.

The preparation lasted two days, 7 hours per day including the joint working lunch break. On the first day, the activities encompassed the meeting with the people summoned to testify in the Lora case, attendance at the preparation meeting conducted with them by the activist of the *Altruist Centre* from Split, engaged in the search for witnesses and assistance in safeguarding their security measures in the course of their stay in Croatia. The first day passed primarily in informing the potential clients on all the relevant issues with regard to their departure for Croatia, that is, protection measures to be provided to them, as well as in the motivation of these people to co-operate with the *IAN* psychologists and psychiatrists, regardless of their decision whether to testify or not.

The second day focused on diagnostics and psychiatric work on the prevention of retraumatisation. The diagnostic assessment was performed by the psychologists based on interviews (*Structured Clinical Psychiatric Interview - SCID-I*; Spitzer, Williams & Gibbon, 1992, *Clinician Administered PTSD Scale for DSM-IV - CAPS*; Blake et al., 1990), and a battery of tests (*Impact of Event Scale - IES*; Horowitz, Wilner & Alvarez, 1979, *Symptom Check List Scale - revised version - SCL-90-R*; Derogatis et al., 1974, *Types of torture - VM*). In the majority of the clients there was either current, chronic or lifetime PTSD diagnosed. The two patients had already undergone psychiatric treatment for torture-induced psychotic disorders. The second part of the work consisted of individual sessions. In two cases the EMDR – method was applied, as well as supportive psychotherapy including the counselling how to cope with the stress throughout the trial.

It has been perceived that generally the work had positive effects on the patients, especially when the EMDR method was applied, by means of which successful desensitization of traumatic events was achieved. Following the session, all the patients reported a reduction of excitement on the appropriate self-report scale, there was complete cognitive restructuring achieved, also validated on the appropriate self-report scale, as well as the relaxation of body which resulted in the integration of traumatic experiences. All the patients stayed in contact with us and they were offered, unless they are already the clients of our centre, to keep coming to our CRTV and continue the launched psychotherapeutic work. However, none of the witnesses attended the trial in Split as all the security conditions were not provided, which was also the recommendation of the governmental bodies of the FR Yugoslavia.

## CONCLUSIONS AND RECOMMENDATIONS

Torture victims represent the population which is the most endangered by war traumas. Testimony in court has a reparatory, compensatory and healing function for the victim, at the same time also representing a possibility of retraumatisation and deterioration of the victim's psychological condition. We support psychological preparation which is to be conducted by educated psychologists and psychiatrists who should also attend the complete trial process. Witnesses should be protected to a maximum degree from revictimatisation in court. In case that the psychological preparation is taken over by the service for victim/witness support, close co-operation with psychiatrists and psychologists who carried

out the preparation is necessary. Also, there is an essential need for constant sensitization of lawyers participating in the trial commencing from investigatory bodies through judges and lawyers of the accused in order to prevent the retraumatisation and revictimatisation of torture victim-witnesses.

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