Clinical Examination and Reporting of a Victim of Torture

Jayantha C. Herath, Michael S. Pollanen

ABSTRACT

Torture is the most inhuman form of punishment. Forensic practitioners should be aware of the common forms of torture, their presentation, and the after effects. Forensic practitioners should examine victims and issue an impartial report to serve mankind in accordance with the United Nations organization. Clinical forensic medicine is the application of medical knowledge for the assessment of injuries in living persons for the purposes of administering justice. Unfortunately, the forensic examination of living individuals is a comparatively neglected field of forensic practice in some countries. In this article, common presentations of torture in the clinical forensic medicine setting are discussed, with special attention to physical forms of torture, common presentations, after effects of torture, and recognizing the difficulties encountered by refugee claims of torture victims. We also describe how to examine and report a victim of torture in clinical forensic medicine. It is a known fact that some of the refugee claimants who come before the refugee claim board have been subjected to torture. They are walking reminders of the worst ways people can treat to fellow human beings. It is sad to see some doctors still participate or collaborate with perpetrators and at the same time there are some reported cases of physicians being imprisoned due to reporting of torture victims in certain countries. *Acad Forensic Pathol.* 2017 7(3): 330-339

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INTRODUCTION

The origin of the word torture is from the Latin word *tortus*, which means twisted. The word torture generally means an act of deliberately inflicting a physical or a psychological pain on another person (or animal). By causing pain to another, the torturer fulfills some desire or compels some action from the victim. By definition, torture is a knowing and intentional act. Deeds that cause pain unknowingly, unintentionally, or inflict pain without a specific intent to do so, are not typically considered torture. Torture is a well-known form of violation of human rights. Violation of human rights and abuse has been carried out by individuals, groups, and states throughout the history of mankind from ancient times to modern days. Some of the reasons of torture are due to punishment, revenge, political differences, coercion of the victim or a third party, interrogation to extract information or a confession, or simply the sadistic gratification of those carrying out the torture. Some forms of torture result in psychological pain and leave as little physical evidence as possible while achieving the same psychological devastation. According to Amnesty International, some kind of torture is practiced in one-third of the member states of the United Nations (1). In 2012, the United Nations Worldwide Report encountered specific restrictions on free speech in at least 91 countries, as well as cases of people tortured or otherwise ill-treated in at least 101 countries (2). Most torture cases do not result in death, but there are sufficient cases of physical abuse of human rights that progress to fatality that a number of organizations offer expertise when any such alleged case needs to be investigated. In spite of the advancement of human society, unfortunately, abuse of human rights is so widespread on a global scale that it is necessary for the forensic community to be aware of this. It has come to a level that it is an essential component to teach and train in forensic medicine to encourage the forensic community to recognize and report such acts.

DISCUSSION

Torture is recognized at an international level and there are several medical organizations that have been

formed to safeguard victims. Physicians for Human Rights (PHR), the Medical Foundation for the Treatment of Victims of Torture, and many other nongovernmental organizations are working to protect the rights of victims. The United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which has been enforced since June 26, 1987, provides a broad definition of torture. Article 1.1 of the United Nations Convention Against Torture reads as follows;

For the purpose of this convention, the term torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as: obtaining from him or a third person, information or a confession; punishing him for an act he or a third person has committed or is suspected of having committed; intimidating or coercing him or a third person; or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from inherent in or incidental to lawful sanctions (3).

Unfortunately, this definition is restricted to apply only to nations and government-sponsored torture and clearly limits the torture perpetrated directly or indirectly by those acting in an official capacity, such as government personnel, law enforcement personnel, medical personnel, military personnel, or politicians. Apparently it excludes 1) torture perpetrated by terrorists, rebels, gangs, or hate groups who ignore national or international mandates; 2) punishment allowed by national laws, even if the punishment uses techniques similar to those used by torturers such as mutilation, whipping, or corporal punishment when practiced as lawful punishment; and 3) random violence during war. Some professionals working for the rights of the victims and in the torture rehabilitation field believe that this definition is too restrictive (4).

Forensic physicians are trained to evaluate violence against individuals and identify evidence of violence. The task of examining, interpreting, and reporting of torture victims is an important role of forensic physicians.

Clinical Forensic Medicine and Human Rights

Clinical forensic medicine is the application of medical knowledge for the assessment of injuries in living persons for the purposes of administering justice. Unfortunately, the forensic examination of living individuals is a comparatively neglected field of forensic medicine in some countries. It is necessary to train medical practitioners to examine, document, and interpret injuries of living people for medicolegal purposes. There are certain countries that practice forensic medicine where physicians are trained to perform both clinical examination and autopsies for medicolegal purposes, while in other countries clinical forensic medicine is mostly practiced by forensic nurses without much involvement by physicians. The clinicians examining patients for treatment purposes are not suitable to issue reports for medicolegal purposes, as they are not trained to examine and report for this purpose. It is time to recognize clinical forensic medicine as a subspecialty of medicine, in particular in North America. Clinical forensic medicine practice includes examination of victims and suspected perpetrators of torture, child abuse, sexual abuse and neglect, adult abuse, domestic abuse, self-harm and mutilation, and traffic accidents along with examinations for the purposes of forensic age diagnoses, assessment and interpretation of forensic psychiatric patients, and evaluation of individuals to be identified whether they are fit to be detained.

Human rights are moral principles or norms. These are certain standards of human behaviour, which are regularly protected as legal rights in international law. According to the Universal Declaration of Human Rights, recognition of inherent dignity and of the equal and an inalienable right of all members of the human family is the foundation of freedom, justice, and peace in the world (5). According to Article 1 of the United Nations Universal Declaration of Human Rights, all human beings are born free and equal in

dignity and rights (6). The medical community, in particular the forensic community, has a right and duty to examine and report all forms of violation of human rights.

Forensic Examination of the Living

General Recommendations

- 1) Obtain an informed consent of the victim.
- 2) Examination has to be performed by an expert in the field, preferably by a forensic physician or by a forensic nurse.
- 3) Examination has to occur in an independent medicolegal institute away from the place where the alleged incident took place.
- 4) Have a neutral person present (e.g., a female chaperone if a male is examining a female patient).
- 5) Provide adequate light and a comfortable environment.
- 6) Establish a good rapport before starting the interview process and explain each and every step of the examination process.
- 7) Facilitate an interpreter for better communication.
- 8) The examination should include a standard head-to-toe examination using recognized draping techniques used in a clinical medicine setting to preserve the cultural and gender-based values.
- 9) Make the examination process reviewable to another expert and indicate if you record your evidence by video, diagrams, notes, or by photography, and make sure to get specific consent from the victim for this.

Injury Documentation and Interpretation

After obtaining an informed consent from the victim, the expert should establish a good rapport with the

victim. We recommend the following guidelines for recording of injuries of a victim of torture. It is advisable to supplement the medicolegal report with diagrams, photographs, and radiological evidence such as radiographs, computed tomography, and magnetic resonance imaging when facilities are available. It is advisable to refer the victim for specialist consultation such as radiology, stomatology, neurology, and psychology, when relevant.

In August 1999, a manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was submitted to the United Nations High Commission for Human Rights (7). This manual is also known as The Istanbul Protocol. The Istanbul Protocol contains details on how to perform thorough physical examinations on torture victims. Individual forms of torture according to Istanbul Protocol are given in **Table 1**, and the five classes of opinion are given in **Table 2**.

Table 1: Individual Forms of Torture According to Istanbul Protocol (7)

Beatings and other forms of blunt trauma
(a) Skin damage
(b) Fractures
(c) Head trauma
(d) Chest and abdominal trauma
Beatings to feet
Suspension
Other positional torture
Electric shock torture
Dental torture
Asphyxiation
Sexual torture including rape

Specific Types of Torture

The findings of torture are different depending on the type of torture and delay between the time the injuries were inflicted and the examination of the victim by a forensic practitioner. Some of the findings are familiar to most forensic pathologists, but certain specific terms are used in describing injuries and the method used. **Table 3** describes specific names, methods of torture, and findings. **Table 4** gives common types of torture and affected body parts.

Interpretation of Scars

Physical torture can leave telltale marks, such as scars and deformities, for years. Scars can be readily seen in darkly pigmented individuals, but with time it becomes more and more difficult to interpret the causative agent and exact age. Examination of scars should be done using a good light source with different wavelengths and injuries recorded with digital and infrared photography including a ruler and a color scale. **Images 1 to 4** show some torture victims presenting during various stages of healing after repeated beating.

Often, victims present to a forensic examiner with multiple scars as they will not be permitted to be examined by a forensic practitioner during the time of torture. Unfortunately, more sophisticated techniques are used by perpetrators to cause maximum pain, but leaving minimum physical evidence with the help of scientists and physicians.

Reporting

Documentation of injuries can be done with diagrams, notes, photography, and radiology. A separate section

Table 2: The Five Classes of Opinion According to the Istanbul Protocol (7)

Class	Description
I	Not consistent; the lesion could not have been caused by the trauma described.
II	Consistent with: The lesion could have been caused by the trauma described, but it is nonspecific and there are many other possible causes.
III	Highly consistent: The lesion could have been caused by the trauma described, and there are a few other possible causes.
IV	Typical of: This is an appearance that is usually found with this type of trauma, but there are other possible causes.
V	Diagnostic of: This appearance could not have been caused in any way other than that described.

in the report should include interpretation of injuries with expert opinion and their limitations. **Table 5** outlines specific features that need to be included in the description of scars.

We recommend the following format of reporting:

- 1) It is preferable to issue the medicolegal report on official letterhead of your institution.
- 2) The heading of the report as: *Medicolegal Report and Opinion on the Clinical Examination of (name of the victim).*
- 3) The *Information and Qualifications of the Expert.*
- 4) *Declaration of the Expert* stating: "I have examined the patient (name) on (date) and (place) and/or I have reviewed the case synopsis and digital images of the patient."
- 5) *Statement of the Expert:* "I understand that my overriding duty is to the court, both in preparing reports and in giving oral evidence. I have complied and will continue to comply with that duty. I

Image 1: Man with a history of repeated beating using a rubber hose for two to three months prior to examination.

Table 3: Specific Terms, Method of Torture and Findings in Torture

Specific Term	Method of Torture	Body Parts Involved
Bell	The victim's head is placed within a pail or other metal container which is then struck repeatedly, causing sudden loud sounds and reverberations	Head
Buzzer	The victim is repeatedly shocked using wires or other conducting objects which are attached to parts of the body (e.g., eyes, eyelids, ears, genitalia, gums, soles of feet)	Sensitive body parts
Falanga/Falaka/Basinado	Repeated application of blunt trauma to the soles of feet	Feet
Necklacing	A tire, filled with gasoline or similar flammable liquid, is placed around the person's neck and set afire; and a method of psychological torture in which a landmine, grenade, or similar explosive is connected or tied around the person's neck in a way that it is difficult or impossible to remove without detonation	Neck
Parrot's perch	Hanging the victim from a stick between knees and arms bound tightly together	Total body
Dry submarino	Covering the head with a plastic bag, closure of the mouth and the nose, pressure or ligature around the neck, or forced aspiration of dusts, cement, hot peppers, etc.	Head, neck, respiratory system
Wet submarino	Forcible immersion of the head into water often contaminated with urine, feces, vomit, or other impurities	Head, neck, respiratory system
Cross suspension	Spreading arms and tying them to horizontal bar or beam	Arms
Butchery suspension	Fixation of hands upwards, together or one by one (reverse butchery suspension is used when fixation of feet upward, head downward)	Hands and feet
Palestinian suspension/hanging	Forearms bound together behind the back with the elbows flexed 90 degrees and the forearms tied to a horizontal bar or beam, or suspending from a ligature tied around the elbows or wrists with the arms behind the back	Arms, torso, and peripheral nerves

have done my best in preparing this report to be accurate and complete. I have mentioned all matters that I regard as relevant to the opinions I have expressed.”

- 6) Qualifications and a short biography of the expert.
- 7) The list of items reviewed.

8) Background information with subheadings: *Nature of Referral, Specific History, and Examination Findings.*

9) *Special Investigations and Findings.*

10) *Medicolegal Issues* (One can choose a questions and answers format).

Table 4: Common Types of Torture and Affected Body Parts

Body Part	Type of Torture
Head, torso, and arms	Blunt force trauma/beating with fists, knees, and heels and with specific objects such as rubber hose or other cylindrical and pliable objects leading to formation of tramline contusions and or scars. Whipping and repeated beating with pliable objects like rulers or belts can leave specific marks.
Torso and arms	Burns and scalds: burning with heated objects like iron rods, cigarettes, acids, or alkali can lead to specific marks.
Head	Deliberate striking to both ears and placing a book or any thick soft object on head and beating with a large heavy blunt weapon may not leave any physical mark.
Sensitive body parts including genitalia, anus, and nipples	Electrocution in particular involving sensitive areas like genitalia, nipples, and anus can be missed without detailed examination.
	Sexual torture including rape, insertion of objects, mutilation of genital parts; blunt trauma to sexual organs, forced sexual acts, forced nudity.
Feet	Forced walking on salt, chilli powder, or on glass fragments.
Arms and scrotum	Crush injuries including crushing of scrotum and testicles.
Gastrointestinal tract	Forceful feeding of certain type of food including water intoxication.
	Providing insufficient food or contaminated food leading to diarrhea, malnourishment, and dehydration.
Hair, arms, limbs, and digits	Pulling out of body parts and body hair and amputation of body parts.
Arms, legs, and torso	Positional torture: suspension of body in abnormal position including “Palestinian hanging,” from ankles, or in keeping in abnormal positions like “parrot’s perch” position.
Joints and teeth	Dislocation of joints or teeth.
Total body	Positioning in abnormal forced posture in a small cage.
	Prolonged standing and keeping in abnormal postures for extended period.
	Environmental exposure such as exposing someone to extreme hot or cold weather conditions.
	Application of high pressure water and air into body orifices and on vital organs.
	Exposure of genitalia and other body parts to animals including poisonous snakes, insects, and poison ivy.
Nails and sensitive body parts	Piercing nails, genitalia, or sensitive parts.
Nails and teeth	Forceful removal of nails or teeth.
	Sleep deprivation.
Psychological torture	Psychological torture including threatening to harm or kill the victim or the victim’s relatives; forced witnessing or hearing the torture of others, mock execution, forced to harm others, humiliation and denigration, threats of attacks by animals and violations of taboos, violation of religion.
Environmental torture	Environmental torture (8) including sleep, light, or hygiene deprivation; exposure to extremes of temperature, sensory overload - loud noises, lights; isolation; denial of privacy; overcrowding.
Pharmacological torture	Pharmacological torture including forceful ingestion of various drugs and medications, hallucinatory drugs, toxic doses of sedatives or muscle-paralyzing drugs.

Image 2: Man with a history of repeated beating with a polyvinyl chloride conduit for three months prior to examination.

Table 5: Features That Should Be Recorded When Describing Scars

Size
Shape
Location (general, with closest anatomical landmark, from head and from midline plane)
Color
Contours
Any signs of infection
Tenderness to palpation
Any nature of patterned injury
Raised vs. flat compared to the skin plane
Pigmentation compared to skin color
Hyperpigmented, hypopigmented or normopigmented lesion

11) *Observations and Findings of Specific Injuries.* If they are fresh, state it and categorize them into abrasions, contusions, lacerations, fractures, and other. If they are old, it is necessary to state the stage of healing. The scars will be described later. The injuries should be described with different descriptors including general location, size, shape, position according to major body landmarks, borders of the injury, and the color. Specific descriptions and examination findings may be described for the response to gentle touch and palpation, such as tenderness versus nontender.

12) *Opinion* can be given under the following subheadings:

- The Nature of the Injury*
- How Did the Injury Occur?*
- Were the Injuries Life-Threatening?*
- Are the Weapon or the History Given in Keeping with the Injury Findings?*
- Are There any Limits to the Expert Opinion in This Case?*

Image 3: Man with a history of repeated beating using a polyvinyl chloride conduit for three to six months prior to examination.

13) The *Conclusion* should include the ultimate opinion in point form.

14) The signature, date, and name of the expert, including designation and the office address.

15) We recommend this report to be peer reviewed by another expert with similar experience and qualifications.

Mental Health and Psychiatric Aftermath of Torture

The intention of the perpetrator causing psychological torture is to cause suffering without leaving physical marks. After causing physical, sexual, or psychological torture, most individuals suffer mental and psychiatric harm for years and some may suffer during their entire life. The victims will suffer from sleep deprivation, avoidance, depression, becoming violent, lack of interest in life including regular sexual activities, forceful solitary confinement, posttraumatic stress disorder, and even suicidal ideations. Complex post-traumatic stress disorder (C-PTSD) refers to psycho-

Image 4: Hypertrophied scar of a young man who presented with a history of burns caused by a heated iron rod five months before examination. He was not provided adequate medical care after the burns.

logical symptoms that develop as a result of severe and persistent physical, psychological, and sexual trauma following torture. Complex posttraumatic stress disorder differs from simple PTSD and shows signs of a broad range of cognitive, affective, and psychosocial impairment that persist over a prolonged period of time. It is necessary for a forensic practitioner to be aware of early signs of psychiatric aftermath of torture and refer the victim to an expert in psychological and psychiatric assessment for counselling and follow-up.

Table 6 outlines some physical and psychological effects of torture.

Specific Issues in Clinical Forensic Medicine Claiming Refugee Status

Victims of torture may not feel safe to live in the environment where they were tortured. Some countries offer refugee protection for victims of torture. When the

victims feel unsafe, they usually have to go through an immigration and refugee board to get them protected. In some countries like Canada, the Immigration and Refugee Board of Canada (IRB) collaborates with several nongovernmental organizations to help refugee claimants prepare for their upcoming hearings through Ready Tours. Canada offers refugee protection to some people in Canada who fear persecution or who would be in danger if they had to leave. Some dangers they may face include torture, a risk to their life, or a risk of cruel and unusual treatment or punishment. If the victim feels he or she could face one of these risks if they go back to their home country or the country where they normally live, they may be able to seek protection in Canada as a refugee (9).

It is a known fact that some of the refugee claimants who come before the refugee claim board have been subjected to torture. They are walking reminders of the worst ways people can treat fellow human beings.

Table 6: Physical and Psychological Effects of Torture (8)

Physical Effects of Torture	Psychological Effects of Torture
Musculoskeletal aches and pains	Detachment of society and social withdrawal
Numbing and weakness	Anxiety, depression, and panic attacks
Neurological damage (numbing, weakness, motor function, strength, or coordination)	Sleep disturbances and nightmares
Headaches	Reexperiencing the trauma
Fractures of bones	Psychic numbing (showing no signs of emotions or inappropriate emotion)
Skin and soft tissue damage (abrasions, contusions, lacerations, burns, scars, and infected wounds)	Impaired memory/loss of concentration/confusion
Head trauma	Somatic complaints (e.g. generalized aches and pains, headaches, stomach aches, nervousness, fatigue, weakness, loss of appetite, or weight gain)
Damage to internal organs	Fear including fear of authority and various phobias
Gynecological or other genital problems	Mistrust/suspiciousness/paranoia
Vision and hearing loss	Feelings of helplessness or feelings of hopelessness and feelings of isolation/alienation/disorientation
	Hypersensitivity
	Damaged self-image and self-concept (feelings of shame, humiliation, worthlessness, loss of confidence)
	Outbursts of anger/aggressive behavior/irritability
	Dissociation/detachment and depersonalization
	Thoughts of self-harm or suicide

The torture victims should undergo a proper procedure of the refugee claim when dealing with the aftermath of torture, while at the same time taking any special needs they may have into account. The forensic practitioner and the refugee board should address issues relating to credibility and false allegations of torture.

The victim must have undergone torture sometime in the past and the hallmark of the survivor can be scars, marks or deformities, PTSD, or pure depression. The refugee claim board should refer suspected victims of torture to be examined by a forensic medical expert including psychological assessment.

A refugee hearing is stressful for any claimant and it will be even more so for a victim of torture, even if he or she is not questioned directly on the torture experience itself. It is usual for a victim of torture to feel stressed, vulnerable, powerless, and even fearful in the setting of a refugee hearing. A victim of torture may be affected by the traumatic experience and will probably be reluctant to talk about their physical, sexual, or psychological torture. It is not unusual for a victim of torture to have difficulties with memory and concentration and to behave emotionally in an unusual manner, even though the torture may have taken place many years earlier. The claim board and the forensic practitioner should be aware of this and one must take extra precautions when they question sensitive matters of torture survivors.

One should not forget false allegations about torture in refugee claims. Malingering is a valid concern in the refugee status determination process because a diagnosis from a professional can corroborate the story of torture and contribute to a positive decision. It is important to understand that malingering can be very difficult to detect or prove. If no physical evidence or some telltale marks of trauma are identified, one can report that there is no evidence of physical trauma. However, the psychiatrists are at a disadvantage compared to forensic physicians when confronted with the possibility of a malingering patient (10).

CONCLUSION

Torture is an act of deliberately inflicting a physical or a psychological pain on another person (or animal). Clinical forensic medicine should be recognized as a medical subspecialty. Forensic physicians should be aware of the common forms of torture, their presentation, and the after effects of torture to examine victims and issue an impartial report in accordance with the United Nations conventions. Medical and legal professionals should be aware of this entity to recognize it and to refer the victim to a suitable specialist for examination, treatment, and follow-up.

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