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Session Three: Voices of the Survivors: Involvement in Legal Trials

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SESSION THREE: VOICES OF THE SURVIVORS: INVOLVEMENT IN LEGAL TRIALS

Remarks from Carlos Jibaja*

INTRODUCTION

Good morning. First of all, I want to thank the organizers of Washington College of Law to give me the opportunity to share to you the story of a torture survivor. Florencia is the voice of a sexually tortured survivor of an internal conflict in Peru. There is two places in Peru that I will refer to during the course of my presentation. One of them is Lima, the capital of Peru, and the other one is Ayacucho, which is where Florencia was raped. It is a region that was the main site of the internal conflict in Peru. It is very hard for me to explain what happened in Peru between 1980 and 2000, which would take me the entire presentation.

INTERNAL ARMED CONFLICT IN PERU

My overview of the conflict in Peru will therefore be brief. The internal conflict hurt mainly rural areas—the poorest, the excluded, the Quechua speaking women. It was a horrendous time in my country. It took the life of 70,000 people in Peru. Car bombs were frequent in the main cities. ‘Shining Path’ declared war on the Peruvian state at the beginning of 1980. Its Maoist tactics of terror expanded almost all over the country. On the other hand, state agents reacted with cruelty against Shining Path members and innocent civilians. Florencia was one of them.

Throughout the history of wars and confrontations, women have been subject to acts of sexual violence. The female body, as a trophy of war and as a form of control over the enemy, manifests as a way to demonstrate power and dominion over the bodies of “the conquered and submitted” women. Feelings of guilt, shame, humiliation, and fear of stigmatization usually cause the acts of sexual violence be kept quiet, hidden, and interior of individuals and communal subjectivities. The Commission of Truth and Reconciliation in Peru emphasized sexual violence as a form of torture during the internal armed conflict. As stated by advances in international normative of human rights, sexual violence manifests in the following modalities: rape, sexual slavery, forced prostitution, forced pregnancy, among others. Through its report, the Commission of Truth confirmed that



sexual violence, and not only rape, was an overwhelming form of torture directed at females by state agents. It established that sexual violence in Peru constituted a crime against humanity for its generalized and systematic character. 83.5% of rapes were committed by state agents and approximately 11% by subversive groups. The Peruvian females who were sexually attacked were primarily Quechua speaking peasants—poor and excluded.

THE CASE OF ‘FLORENCIA’

One of the cases studied by the Commission of Truth was that of Florencia, a victim of rape in Ayacucho by a state agent in 1980. On December 24, 1980, members of Shining Path violently entered a large state *hacienda* in *Vilcashuaman* in Ayacucho. The landlord was assassinated and two workers were injured. Family members of the landlord denounced the crime, and the police made several detentions in search of the criminals. While on a road, Florencia, her father, mother, and her youngest brother were detained. She was imprisoned for three days and finally released. Five days later, the police guided by a relative of the deceased landlord entered Florencia’s home, detained her for a second time and she was taken to the police station of *Vilcashuaman*. It was during this second detention that the sexual violation occurred. Seven policemen said, “You must talk, you must have seen them. You are a *terruca*” (terrorist). In view of her negative responses, they ripped her

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skirt, underwear, tied her hands and stuck a handkerchief in her mouth. They started to rape her. Florencia stated, “One left and another entered, sometimes between two, I even felt like I was raped by three people at the same time, I felt dead. I tried to get free, but I was raped again. I cried and they beat me. They said, ‘Shut up, shut up, you are not going to say anything.’ I was already unable to see because my face was bloody, my clothes torn. Suddenly, I felt dead. No pain. I felt nothing.” Days later, they transferred her to the city of Ayacucho. She was accused of the landlord’s crime and she was released after three months, no evidence at all.

In 1981, Florencia, a seventeen-year-old adult adolescent announced that she had been sexually assaulted and was pregnant. The evidence corroborated her claim. Not only she was expecting a child as a result of the rapes but also two gynecological exams determined that she presented defloration with the hymen, which was ruptured. On April 19, 1982, the process was sent to the *ad hoc* court in Lima, which was created for the trials of terrorism cases. The file was sent to the criminal district attorney office, which included names and last names the police officers that perpetrated the act of sexual rape. More than three years later, in 1985, all the accused were absolved from the crime stating that there was no probative evidence to convict them of rape. After the Commission of Truth final report, the Human Rights Commission (COMISEDH) legally represented Florencia and forwarded on November 2, 2005 a formal criminal complaint before the Public Ministry in Ayacucho City for the crime of rape as a form of torture. The complaint is still with the district attorney in Ayacucho, which has not yet even taken the declaration of the police officers accused of this act, clearly maintaining a setting of impunity.

How long is a reasonable time for the victims’ right to due process?

The first trial ended in a dismissal of the case for lack of evidence to accuse the police officers. It was 1985 and the struggle against Shinning Pace went hand in hand with the transgressions against due process in order to provide “licenses” to the armed forces in their anti-subversive actions.

Together, the fall of Fujimori government, the re-organization of the army and Peru’s democratic institutions, as well as the creation of the Truth Commission that registered 17,000 testimonies set up a new stage in the Peruvian judicial system, which reopened the case. However, notions such as *reasonable time* and *overload of the judicial obligations* are in practice a daily exercise of re-victimization and impunity of the system against the survivor.

What happened to Florencia’s life during these years? How have institutions such as CAPS and others been accompanying her throughout her recovery process?

The first decision Florencia made was to accept her daughter. “When I gave birth, I said, I am not going to see the baby,

better give her up for adoption. In my ignorance, I thought many things. When I left the hospital, I left my baby to a woman, but I had to sign the authorization. My lawyer told me to think clearly, and I answered—after making sure the baby was healthy—that I would raise her in any way I can.”

At the end of the 1980s, Florencia moved to a district close to Lima composed primarily of people displaced from the political violence. She married her husband, José, and had a second child. One of her means of support in her gradual recovery was the good spouse relationship that she established with José. He was a loving father for both children and, when she told him about what had happened to her, he was even more affectionate towards the eldest daughter.

Florencia is a member and former president of COFADER, the National Committee of the Detained, Missing and Refugees, which is an institution, composed of survivors of the social and political violence of the internal conflict. COFADER has served as a reference group to help her voice along with other groups of people heard and not silenced to obtain comprehensive reparations for her condition as a victim of the state, and also to find and compensate the necessary support. Organizations such as CAPS and *Comisión Episcopal de Acción Social* (CEAS) have worked periodically with COFADER through informative workshops, group dynamics, and actions towards institutional strengthening.

In 2002, Florencia participated in the Public Hearing in Ayacucho offering her testimony before the Truth and Reconciliation Commission. Hundreds of victims gave their testimony in seven Public Hearings in different regions. It was a very important televised event, and a very strong tool for dissemination of what the Truth Commission was finding at that moment. All of them relied on the emotional accompaniment provided by the psychosocial team of human rights organizations belonging to the National Coordinator of Human Rights of Peru. The National Coordinator is like an umbrella organization, and it is composed by 79 organizations in Peru.

As part of the follow-up, Florencia was referred to CAPS for treatment. The public hearings were a very important period for the victims because they had the opportunity to say and put in words what they had felt. She initiated treatment at CAPS by the end of 2002. The services she received for a six-month period were individual psychotherapy, social assistance, and physiotherapy. The improvement with physiotherapy of her muscular ailments was notorious and relatively quick. The weekly sessions of individual psychotherapy provided a space to revise her history, express her fears, and put into words her current worries in regards to raising her children and her feelings towards them.

After many years in the psychotherapeutic practice with torture survivors, we know in CAPS that several of them with great resilient capacities are willing to open certain

THE WORK OF THE CENTRE OF PSYCHOSOCIAL ATTENTION (CAPS)

doors of the internal world, but others not. We respect that wish and do not insist beyond what the afflicted wants and can emotionally process. Sustaining an empathic therapeutic relationship allows the survivor to relieve the pain because the healing power over the burdens left by torture on body and mind of a person does not dwell in an impersonal medical relationship, no matter how professional it is; the therapeutic effort requires one primary condition: the encounter from the decision of the survivor to trust others again in order to alleviate his suffering and the sincere desire of reparation from the therapeutic agent. It requires a relationship based on trust to therapeutically repair what the torturer sought intentionally to destroy: the capacity to trust oneself when relating to others.

The relationship that Florencia established with her eldest daughter from her initial reaction and ambivalent character, sometimes violent against her, to a more caring mother-daughter relationship was a long process in her personal elaboration. To integrate what violence sought to destroy in her, as we have seen, did not start with CAPS' treatment or end with it. This is a point I want to underline. The marks left from the torture, the never-ending struggles to obtain fair trials, the profound alteration in the life projects of the survivor settled in context of impunity in a society such as Peru, require psycho-social accompaniments and a wide support network at different stages of the survivor's life.

So thirty years after the brutal rape, in 2011, grandmother of two beautiful children of her eldest child, Florencia enrolled in a four-month course in CAPS to strengthen productive skills among the affected by the political violence. Her entrance test showed ten percent of theoretical-practical knowledge on how to manage a micro-business. In her final test, after four months, Florencia obtained ninety percent and now has a working plan to improve her small business in repairing cellular phones.

Fighting torture and, especially, to make visible that sexual violence is a form of torture, is not an easy task in Peru as in many countries with obvious lack of protection of dignity, integrity, and freedom of the citizens. The psychological rehabilitation of survivors in the multiple areas of psychosocial functioning is a main task for the recovery, but insufficient if we want to defeat the blight of torture. We rehabilitate a few while torture as a form of punishment and repression continues to victimize thousands every year, many of them without formal complaints. The strategy must be multi-dimensional. While recovering the survivor and his family members, we must influence public policies and justice operators towards protecting and guaranteeing human rights as well as training and sensitizing state agents, along with the population.

CAPS adopts a psychosocial perspective, and a holistic view of the problem. An individual who suffers symptoms of post-traumatic stress disorder or depression as a result of torture must be set in the context of his family and communal milieu as well as in the factors and interactions that underlie and sustain environments of impunity, exclusion, and violations against human rights from the state against its citizens.

For instance, CAPS works in three groups within the National Coordinator of Peru. These three groups have different actions. One of them is a working group against torture. Our actions have been directed towards the implementation of a National Mechanism for the Prevention of torture—the Optional Protocol, through a proposal in Congress—to the training and sensitization of justice operators and police agents concerning the crime of torture, to statements regarding those cases where there is evidence of torture, as well as organizations and activities around June 26th. We are looking and really pushing to create the National Mechanism, which is kind of hard, but we are in the process.

Regarding influence on issues of public policy, CAPS and the feminist movement *Manuela Ramos* promoted the creation of a committee to elaborate an *Evaluation Guide of the Psychological Damage in Adult Victims of Torture and Sexual Violence* within the Public Ministry. Psychologists and psychiatrists from the Institute of Legal Medicine and Forensic Science of the Public Ministry work along with the mental health professionals and lawyers of *Manuela Ramos* and CAPS to develop this important tool, which has as a key reference the Istanbul Protocol.¹ This guide was approved in December 2011 after three years and is currently in the implementing process at the national level. This guide helps the expert to record the crimes step-by-step, making it possible for professionals of the Legal Medicine Institute and others to follow a uniform, systematic, and multi-dimensional procedure in their analysis of the case. We consider in this way that we are contributing to visualize the psychological damage, which is not recorded otherwise or not given the value it deserves.

CONCLUSION

I'm going to finish with some of Florencia's words about her legal process. Not so long ago, we asked Florencia about her disposition to continue fighting these legal battles. She told us, "After so much time, why give them the satisfaction? They are going to continue committing those abuses to the people and communities. It is not convenient for them to have everything they did come out into the light. I will continue to claim for justice, so there are no more abuses on others... so many years until when? I tell my lawyer that while he fights, I will continue to fight until the day I do not exist anymore."

Survivors, such as Florencia, guide our path. Thank you.

Remarks of Dr. Sothara Muny*

INTRODUCTION

Good morning to all the participants. Before I start I would like to say thank you to IRCT and American University Washington College of Law for inviting me and giving the opportunity to speak in this exciting conference.

We heard already, the true victims, Mr. Carlos Jibaja, the real victims speaking today. I am not a direct victim of torture. I can't say I'm a direct victim or I was a victim. But, my parents died during the bad period in Cambodia, and I am the only one in my family who survived. I can't say that I am a direct victim, but I am part of the victim side.

I work to support the survivors of the Khmer Rouge. This is a kind of motivation for me to work in this. So I would like to have your attention for the next twenty minutes to present to you about the Transcultural Psychosocial Organization (TPO); how TPO has been involved with victims of torture. And I will present some remarkable research findings related to victim experiences when participating in the criminal court proceedings. I will end with the lessons learned from our TPO work.

BACKGROUND

I would like to start with the historical background of Cambodia, but it's a very long time, a period of political turmoil in Cambodia, but I'll just be brief. From 1975, when the Khmer Rouge genocide originally took place. At that time, they declared democratic rule in Cambodia from 1975 to 1979, which resulted in the death of at least 1.7 million people due to starvation, overwork, torture, and execution. From 1979 to 1998, the country continued in a civil war, backed by Vietnam and against the Khmer Rouge rebellion. From 1991 to 1993, there was a decision from the United Nations to come as a mission—United Nations Transitional Authority in Cambodia—to restore the peace in Cambodia and to lead the general election backed by the United Nations in 1993. From 1993 to 2006, there was a negotiation between the United Nations and the



Cambodian government to establish the Extraordinary Chambers in the Court of Cambodia (ECCC), and its mandate was to try senior leaders of the Khmer Rouge and those who were most responsible for the crimes. But the time period is limited. Actually, this event could not have happened if there's no link to the past. But the mandate of the ECCC is to try those most responsible for the crimes, from 1975 to 1979 only.

The ECCC is a hybrid tribunal that permits victims to participate in the criminal proceedings as a civil party. It is a mechanism that allows for a level of victim's participation and is unprecedented in other hybrid tribunals. The civil party mechanism gives anyone additional procedural rights allowing for more active involvement in the legal proceedings and the right to seek collective and moral reparations.

In Case Number One, the trial against the former secretary of the torture center named S21, sixty-six survivors were accepted in this as civil parties in the first judgment, and then another nine more were accepted at the final judgment. Recently on February 3, Kaing Guek Eav (Duch) was sentenced to life imprisonment for crimes against Cambodian people. And now three other senior Khmer Rouge figures are currently on trial in what is known as Case Number Two and 3,866 survivors are recognized as civil parties.

WORK OF THE TRANS-CULTURAL PSYCHOSOCIAL ORGANIZATION

Now I would like to look at the TPO and then we'll see how TPO has been involved in working with the victims in the ECCC international hybrid court. TPO is a leading non-governmental

* Dr. Sothara Muny, Medical Doctor and Psychiatrist, works as Project Coordinator for the "Justice and Relief for Khmer Rouge Survivors Project" at Transcultural Psychosocial Organization (TPO). Since 2007, TPO has been implementing a project providing psychosocial support to victims of Khmer Rouge who participate in the criminal proceedings of the Extraordinary Chamber in the Courts of Cambodia (ECCC). Working closely with Witness Expert Support Unit as well as Victims Support Section of the ECCC, TPO aims to support active involvement of survivors in the justice process through the provision of a variety of psychological support services including preparatory psychological interventions, on-site support during the ECCC proceedings, intense psychological and psychiatric follow-up care and basic legal counseling, self-help groups and truth-telling platforms.

organization in the field of mental health since 1995. TPO provides culturally appropriate training, counseling, group therapy, family therapy, clinical intervention, and implements community mental health and psychological programs at the community and grassroots level. Since 2007, TPO has been involving in helping victims of torture who are actively participating in the ECCC in the proceeding. Based on a memorandum of understanding with the tribunal and in cooperation with the Witness Expert Support Unit, and later with Victim Support Section, TPO provides comprehensive support service to civil parties.

These are the victim support schemes of TPO. We start to prepare the victim psychologically before the trial. During the trial, we provide on-site psychological support, and we also do follow-up care for them after the trial through hotlines as well as face-to-face counseling. We also provide specialized trauma treatment such as testimonial therapy and cognitive behavioral therapy. We got the training from IRCT. In May of last year, with the support from IRCT experts, we did medical assessments of eleven torture victims and we are waiting for the result of the reports that we expect to use in the coming trial of Case Number Two. We also do self-help groups. We organize different kinds of self-help groups, like Group of Rape, Group of Forced Marriage, and Group of Torture. And we also do outreach intervention. We use different kinds of materials such as a film about the court. We got support from the German Development Agency to develop a film and we use the film to screen and at the same time we provide psychological and legal education to survivors in the community. We also provide training about trauma and its after-effects to the staff of the ECCC, to the staff of civil society organizations, and also to the public through regular outreach and IEC materials—information, education, and communication materials.

EXPERIENCE OF VICTIMS

Now we'll look at the experience and perception of victims, so I can tell this because I have been working closely with the victims, especially the vulnerable target groups—the “high level of exposure to trauma in the past” group, because they participate in the tribunal to fight against torture.

Before going to this, I just want to show you some quotes of the victims I work with. The first one is the quote of the Mr. Chung Mey, a civil party of Case Number One, from his testimony in 2009: “My feeling, after I received the summons to appear before the Chamber, was so exciting and so happy. I was so clear in my mind that I would testify to shed light before the Chamber to tell the truth. I felt so relieved. If I were not able to come before this court to testify before your honor, Mr. Lawyer, my mind was so disturbed, so battered, and I want to get it off my chest.” Another case, “It was very painful to me to recall my past. I felt so hopeless and lonely during that regime. It seemed like opening an old wound and I feel pain over and over.”

Most statements reflect the psychological risk for victims of severe trauma when participating in a justice process.

Experiences from the past international tribunals, national truth-telling, and accountability mechanisms do not always present relief of psychological distress in the long-term.

So what are the experiences of survivors of mass atrocities in participating in the ECCC criminal proceedings like this? In order to learn more about Khmer Rouge victim experience in their participation in Cambodia's hybrid court, TPO in cooperation with the Human Rights Center Berkley conducted a study with seventy-five cases, Cambodia cases, civil parties Case 001 in December 2010.² They used structured questionnaires to ask the civil parties about their knowledge, opinion, attitude and reaction to the participation phase, application phase, legal representation, information about legal proceedings and participation. Those who testified in the court were asked about their experience of giving testimony. The results are compared with data from a nation-wide study, a nation-wide survey of the general population, conducted in the same year.

The results show that the interviewed civil party showed a higher level of exposure to violence during the Khmer Rouge regime compared to the general population who live in the Khmer Rouge regime. We use the post-traumatic-stress disorder checklist, civilian standard scale, to assess post-traumatic-stress disorder, and the Hopkins Symptom Scale symptom checklist to measure depression. So among civil parties, there is a higher average score in post-traumatic-stress-disorder and depression than the rest of the population.

This is the general population and this is the population that lived under the Khmer Rouge, and these are the civil parties. We can see the level of exposure is still high compared to those of other members and even the symptoms of post-traumatic-stress-disorder and depression. The results suggest that the civil parties represent a group of individuals who are more severely affected by violence compared with members of the overall population. Look at the motivation to apply as a civil party. 68% of the individuals want to obtain justice for themselves and for their relatives. The civil parties define justice in terms of knowing who is right and who is wrong, being fair and applying the law. Among them, 43% apply because they want to know the truth about what happened to their relatives and 32% apply because they want to honor the memory of their relative.

Among the civil parties, twenty-two of them were denied their status as a civil party at the first day of the judgment. If you look at the reaction to the rejection, perhaps the most distressing issue from any civil party in Case 001 was the rejection of their status by the trial chamber, by the court. Those whose applications were denied reacted with anger, helplessness, shame, and feelings of worthlessness. I quote some statements of them: “I feel pain in my chest, my head. I feel so much ashamed. I am here to find justice for my mother, who was killed when I was twenty-one. If there is one civil party rejected, we all are feeling the pain.” It reflects that they come together with the same sense that just one is rejected, it sends the message to the others to feel

the same pain even though they are accepted as civil parties and only one is denied, the whole group feels pain.

Regarding the experience of the civil parties, among the twenty-five civil parties we interviewed, only seventeen testified in the Case 001 trial. Participation in the ECCC proceeding does not guarantee the opportunity to testify before the court. Among the seventeen, we can see fifteen feel satisfied, received satisfaction with their testimony at the court. Also, fifteen among them perceived that the lawyer treated them with respect. In general the majority, almost more than 75% feel that the court treated them fairly.

Regarding the perception on the trial as a whole, we can see that one in three civil party participants perceive that the hearing did not meet their expectation. A majority of them, 59% of them believe that the Case 001 trial was conducted fairly and most of them felt that the court gave the perpetrator too much time to explain himself whereas the victim did not have enough time to tell their story. Unlike the victim this morning, they have enough time and enough space and safety to speak about his own story. But in the court it is different. Time limits would not allow the victims express enough what they want.

We also looked at the reaction to the verdict in Case 001. Towards the first verdict the majority of civil parties expressed disappointment, because the first prison sentence was only thirty-five years. However, the reduction of 11 years for illegal imprisonment and another 5 years for his participation (the court declared his participation) remains only nineteen years in prison for the accused. So the civil parties were not happy and made their appeal. And in another area, the reparations, none of the reparation claims was taken into account by the trial chamber, especially memorial. Memorial is seen as very important for victims. Most victims want memorials. Towards the final verdict, most of the victims expressed relief because they saw the final judgment that Dutch will be imprisoned for life, but they were still unhappy with the reparations stated by the court. The courts still have limited statements on the reparations and now civil society, among civil parties they are working on non-judicial measures as a form of reparation for victims.

Look at the psycho-social impact of the trial compared to the participation of survivors in Case No. 2 which is almost 4,000. It is unlike the relatively small number of civil parties in Case 001. TPO has had the opportunity to build a close relationship with the civil party a long time before the trial started. Civil society organizations and the victims support section of the ECCC offered numerous platforms to victims to meet their lawyer, to get updated information about the case and discuss issues related to the justice process. For example, a monthly meeting organized by a human rights organization became an important platform for civil society to share their concerns to meet their legal representative to develop a sense of solidarity. This opportunity allowed TPO to get along with the civil party and be well prepared before the trial started. But it is so different with Case

No. 002 with the huge amount of civil parties and the same team numbers of TPO. We are struggling with this difficulty.

Civil party of Case 001 reported that they received an adequate amount of case support in this study. And when asked about important moments for survivors when participating, they said the important moments for them are when they are able to tell their story when they are recognized as civil parties and when the accused person was found guilty and in addition if the accused person said an apology it would effect a lot to the psychology of the victims side. We also asked the participants of the study about the perceived psycho-social impact of the participation in the Case 001 trial. Respondents assigned a score from 1-5 to a series of statement with 1 being the most negative and 5 the most positive. Civil Parties reported a sense of empowerment through participating in the trial. They also held more negative attitudes and perceptions than the overall population who lived under the Khmer Rouge regime especially in the relation to the resulting impact of the trial on their acceptance of loss and reaching closure, and on their forgiveness of the perpetrators.

FIGURE ONE. REPORTED PSYCHO-SOCIAL IMPACT OF THE DUCH TRIAL.

Mean score, maximum of 5 (SD)	CP	Pop lived under KR
I personally feel stronger 'mentally' after the Duch trial.	4.00 (0.9)	3.55 (0.9)
I have more hope for the future after the Duch trial.	4.03 (1.1)	3.72 (0.9)
The Duch trial helped me in accepting the loss of my loved ones.	2.41 (1.4)	2.93 (1.2)
The Duch trial has helped me in finding closure/coming to terms with my painful past.	3.35 (1.3)	3.62 (1.2)

We can see in Figure One the mean score of the above two statements. Civil Parties feel stronger after the trial and have more hopeful future after the trial compared with the general population. This score has a greater meaning because the victim who participated closely in the proceeding gained empowerment from this participation. However, in the last two statements, the score in accepting the loss of loved ones is lower than the general population, and in finding closure/coming to terms about the past, the score was also lower than the general population. This can help explain that the more that they are exposed to and participate closely in the proceeding, they know and they feel not enough because the long time waiting, because they are exposed to recalling the past creates intense feelings inside and difficulties in reaction of this.

The general conclusion is that civil parties perceive their participation positively; however, there is no feeling of sustainable physiological relief from their participation. Civil society organizations have important role in providing services to victims

such as providing legal representation, psychological support or providing court notification.

CONCLUSION

I would end this presentation with the lessons learned by the mental health professional TPO staff. Compared to the ECCC staff or lawyers, TPO staff do not need to follow a specific agenda shaped by specific judicial framework but can make use of their neutrality. TPO practices a non-judgmental attitude towards victims' needs and opinions and always have an open ear for the concerns that are not addressed by the legal proceeding. Also, TPO uses hotlines, and the phone hotline tends to be effective in accompanying victims through the numerous emotional ups and downs before the trial, during the trial and especially the time while waiting for the judgment. Emotional support through the TPO hotlines allows for counteracting the stress of protraction, reducing anxiety, and reducing frustration. TPO believes that preparing victims effectively before the proceedings is a key factor. Trustworthy relationships with civil parties can help in dealing with stress in later phases of

the criminal proceedings. TPO also provides treatment services to Civil Parties, such as specialized trauma treatment, conducts truth-telling sessions, and have also contributed to memorialization as a complementary element to healing. TPO also considers the social and economic needs of victims. We have a small grant prepared to help victims; so far three victims of Case 001, who had operations—abdomen operations and another one for broken leg due to a traffic accident. In another case, a woman's house was damaged by a storm and we used the small grant to start a small house for her.

Based on the experience in Case 001, the TPO believes that close cooperation between legal representation and mental expert is necessary in providing effective support to the victims. TPO staff members are frequently challenged by responding to victim's legal concerns and questions. Legal follow up information and support is highly needed for both TPO staff and victims. Moreover, all participants in the judicial process should consider how they could reduce the psychological burden of civil party participation without compromising the legal procedure. Thank you very much for your attention.

Remarks of Dr. Lilla Hardi*

INTRODUCTION

We all came from different parts of the world, so I try to demonstrate a quite different way of working, doing psychological psychiatric work with asylum seekers, with torture survivors in Hungary. I will try to describe the system in which we work in Hungary—in the Cordelia Foundation—in order to understand how and why, and with what methods, we document torture.

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The organization models of rehabilitation services are greatly shaped by the general health care system. The applied methods depend on the professionals' personal orientation. I think most of you know that Budapest is the city of the traditional Freud-Ferenczi School—the psychoanalytical school—so our older psychiatrists were trained as psychoanalysts, me as well. We train our younger colleagues in a school for doctors to gain a special attitude toward psychoanalytic methods. Although, our

working methods and how we approach our clients is holistic and comprehensive, and we have a bio-psychosocial attitude to our rehabilitation methods.

THE WORK OF THE CORDELIA FOUNDATION

The Cordelia Foundation was set up in 1996, with the objective to liberate the trauma of uprooting and torture, and to increase our clients' capacity and ability to cope with the challenges of integration into Hungarian society. It is itself a great challenge, first of all due to the Hungarian language, which is impossible to learn. It is even impossible to learn for us sometimes. Just imagine a person who used to survive horrible trauma, how they can study or how they can go forward in their studies or in the labyrinth of the Hungarian language. What we all know, but those who don't know have to know, that the experience of the trauma is not compatible with the individual's picture about reality, and therefore, the trauma cannot be fit into the person's experience about the world.

What do we treat in the Center? Post-trauma reactions are based on a multifactorial model, which depends on pre-morbid personality, ego vulnerability, and political meaning. What sort of symptoms do we treat? We treat complex PTSD, or disorders of extreme stress that are not otherwise specified—DESNOS, containing disturbed regulation of effects, attention problems, self-perception problems. It is different from the traditional concept of PTSD, involving relations with others, trust and intimacy issues, somatization problems, and some cognitive problems that changes the systems of meaning.

In 2010, the Cordelia Foundation treated 683 clients. About 40% of our clients belong to the classical torture survivor groups, including primary and secondary victims, and about 60% of our clients are seriously traumatized refugees.

STAFF TRAINING

We like if our coworkers are trained in psychoanalysis because of the attitude it creates; we have a certain attitude toward our clients and they know in their own psychoanalytic training our expectations as well and the general expectations toward the team. I think it's very important to have the team together because regular care and supervision of the persons in charge of the clients is very, very important. As you know, we might suffer serious vicarious trauma during a working day and without having a mutual attitude, without having the same attitude toward our colleagues that we should hold and regularly support each other and the team itself, the foundation breaks into pieces. Answering your first question, because it's the step-by-step and continuity is, the models are the following. Of course, being an NGO, there is a great resistance from the government and the social workers—the border guards of course they are employed by the government and at first sight they are very mistrustful and are used to being very mistrustful of us. But we never show them the weak points; we never refer to their weak points. We just try to help and through that help and our positive attitude they can be moderated somehow and they can form a

more positive attitude toward the client, and a more empathetic attitude toward the client can be built up and can be facilitated in them. So I think it is very important to have a friendly atmosphere in a refugee shelter not only on our side but on the side of the social workers, and the staff, and the eligibility officers as well.

THE "STAY AND GO" MODEL

When I am in the United States, I am enchanted buying coffee that the automatic question is: "coffee to stay or coffee to go?" So, when I went home after my first visit to the United States, I figured out that Cordelia is working on the "stay and go" model. What is the go model? There are refugee shelters all over Hungary. Most of the refugee shelters are quite far from the capital of Budapest, so we visit regularly—once or twice a week—with our mobile team at these refugee shelters. In this scenario, we are the guests and the patients are hosting us in their own place, as this is their first secure place in the host country. These secure places are very good places for family therapies as well.

The refugees, during their asylum process, are relocated from the first center to the second, from the second to the third shelter in the certain grades of their process. We follow them. We secure them. We are the stable personnel around them. We try to hold them, to contain them, during their process. Of course, we have local psychiatrists in the centers so if our patients cannot wait for our arrival, they can turn to the local psychiatrists.

Now for the stay part of our model. The clients have started to find us on their own. They visit us in our local units as well. They want to schedule an appointment for therapy, and they use the community room of the facility to wait for their turn. It is progress in the therapeutic process if they can wait because doing so often evokes trauma for torture survivors. This stay model provides the client with a sense of independences and empowerment. This is the last stop of the client in the refugee shelter before facing the challenges of integration into the Hungarian society. Here, in the therapeutic units, stable therapeutic units, the methods are more direct and they focus on creativity, productivity, inner strength and empowerment, to enhance the supportive network of the clients for their future independent life. Without going into much detail, we have different verbal, nonverbal, group and individual methods.

THE FOUNDATION'S NETWORK

Some words about the Cordelia Foundation's network. We have realized that alone you cannot be on the battlefield, and you have to liaise with other NGOs. To that end, we have built up a very constructive relationship the lawyers of the Helsinki Committee, the social workers of the Asylum Association, the caretakers of UNHCR, and officers of the Hungarian government. It might sound quite strange, from an NGO perspective, that we liaise with officers from the government. With the stay and go model, in the first years we had to build up a good relationship with the staff of the social workers and with the

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eligibility officers located in the refugee shelters. They meet our clients every day. These governmentally employed persons have their own needs, their own psychological needs, so we turn to them like we came here not simply for the refugees, but to offer them help or care as well. This is how training and supervision was spread all over Hungary among NGOs and among the governmental persons, who began to collaborate with us and support our daily work.

The first important issue was to elaborate a manual, titled *Care for Caregivers*. I was regularly invited to York University in Toronto, Canada to teach summer courses on Care for Caregivers. After five years of going to Toronto, it became more and more popular in Hungary as well.

We have elaborated on special training for interpreters, the key persons in the therapeutic process and in the writing of medical-legal report. At the Cordelia Foundation, we never ask a person to interpret for us who is him- or herself a trauma survivor, as we try to emphasize the importance of avoiding the traumatization or the re-traumatization of the interpreters.

Step by step, we have tried to demonstrate that we are working for the refugees, and we are working for the torture survivors. We come to offer support. We reinforce these ideas during regular trainings of NGOs, social workers, health professionals of refugee shelters, and eligibility officers. We also elaborate a new system for training border guards, policemen, and lawyers and judges as well. So, this is how the whole idea of the psychosocial complex rehabilitation and the care with the torture survivors came to grow more and more *digestible* for the authorities.

The step-by-step model opens a path to the continuity model. Through regular communication, support, permanent discussions, collaboration, we try to build a constant working relationship on the NGO and on the governmental level. Of course, criticism is also allowed, so we try to open up lines of direct communication among us. Care for Caregiver programs are particularly important here, and they not only seek to prevent persons from vicarious traumatization, but they also increase the level of psychological mindedness. In certain countries the general psychological mindedness is not at an ideal level.

We have collaborated with our colleagues to create a special questionnaire for identifying vulnerable groups in the refugee shelters and detention centers. The attitude of the authorities is not very positive, but step-by-step, we will go forward.

By training and supervision, it is very important to write medical legal reports for the legal process or for the court process. We have organized several trainings for us and for our colleagues how to not only adopt, but actually implement the Istanbul Protocol in the proper way in the description and documentation of torture.

That is an ongoing debate as to whether we are the proper persons to write a medical legal report. We are not forensic experts, and we are not officially specialized in the documentation of torture. At certain points of this process, we have the real tools, facilities, and knowledge to document what our clients have suffered prior to arriving in Hungary. Of course, when a client or lawyer introduces a report in court, very many times the court asks for a forensic expert, and subsequently there are open debates between the forensic experts and our specialists about certain components of the reports. Often times, we ascertain that both parties are right and that we simply have different aspects, different attitudes. So, this is an open question. What is the real medical-legal report. Who knows? I will discuss that question later.

In most of the cases, the collaboration is becoming increasingly stable between the legal and medical professions in Hungary. Because of the Istanbul Protocol, medical reports are highly respected in the legal process. There were groups for which we made a medical-legal report for every person, Somalian refugees for example, and there was one year when nearly one hundred percent of the Somalian refugees were given refugee status based on these medical-legal reports. But times change and attitudes change permanently so continuity doesn't exist for the victims. But the victims must create continuity for themselves and we must create continuity for ourselves. Multidimensional and multilevel therapies with multidimensional teams are needed to lead the victim from the "life before" to the "life after." Thank you for your patience.

Remarks of Carlos Mauricio*

INTRODUCTION

Thank you so much. It is an honor to be invited and to come here to talk. I love this topic of having the voices of the survivors. It is so important for we the victims to be allowed to say what happened. It is so important because what happened to us is that in many ways the real fight has been looking for justice. But you know, on the way to find justice, we have to find the truth first. But in order to find the truth, the survivors must be allowed to speak. Otherwise it is impossible, and that is what I have been doing for many years.

EVENTS IN EL SALVADOR

I was kidnapped by the National Police members in El Salvador back in 1983. I was kidnapped from my classroom. I was a Professor at the University in El Salvador, when a group of armed men came to my classroom, and I was just abducted from my classroom. First I was badly, badly beaten with the butts of the rifles, and then, after being beaten, I was taken into a waiting car. I was blindfolded, and I was handcuffed, and I was bleeding from a big gash in my head. After I was placed in the floor of the car, I knew that I was going to be killed, I knew it, I knew my fate, because I had been witnessing my friends and my colleagues, relatives, being kidnapped by the Salvadorian armed forces, and then a few days later, their corpses, mutilated, thrown on the streets. And I knew that I was a person who they were looking for. So when I was taken to that car, and they drove away with me, I knew that I was going to be killed. I knew because I'd seen so many cases of my friends being kidnapped and then later,



their bodies, dumped on the streets. I was taken to a place and didn't know where I was because I was blindfolded. You know that for the eleven days that I spent in the chamber of torture I was blindfolded, so I couldn't see anybody, because I was blind. After being there, in the chamber of torture, the worst, the worst, the really bad days, of the torture, probably the tenth, or the, I mistake, the seventh or eighth days in the chamber of torture, was so incredible, the pain that I was given. And I remember that because I couldn't, I couldn't take any more torture. And then, after being badly, badly tortured, and not confessing, and refusing to say what the torturer was asking me to confess, because I didn't do it, finally, after ten days, or eleven days of being tortured, I accepted it. And I said, ok, I did it. I didn't do it, but I said, ok, I did it. Please stop torturing me. They did not believe me, and they continued torturing me, because when they accepted it, they wanted me to accept that I went to Cuba. I've never been to Cuba, never ever in my life, never been to Cuba. But they wanted me to admit that I'd been to Cuba getting training. I'd never been to Cuba, never ever. And they said, you won't confess, because you have been trained not to confess. And finally, I repeated myself, I said, ok, I've been to Cuba. The guy says, "OK, you see, you are an idiot. Why didn't you confess from the very beginning? Look at yourself." I said, "Yeah, I went to Cuba. That's alright. I did it. OK." The guy says, "Now you've got to tell who gave you the money. You've got to tell me who went with you. You've got to tell me in which military training camp you have been in Cuba." And I said, "I've never been in Cuba." What can I do?

They continued torturing me because they didn't believe me. Finally, because I am a very lucky, lucky, lucky guy, and because of many things that happened when I was in prison—a big campaign happened in the newspapers and international organizations were

* Carlos Mauricio is the Executive Director of the Stop Impunity Project, which he founded in 2002. It works to bring an end to the impunity enjoyed by human rights abusers in El Salvador. Carlos has worked closely with the School of the Americas Watch to close the Pan American training facility. Last year, for the sixth time, he took a caravan from San Francisco through twelve cities across the country to the annual vigil to close the School of the Americas at Fort Benning, Georgia. Carlos has also taken part in SOAW delegations to Argentina, Uruguay, Bolivia, Ecuador, Peru and Chile in 2006, and Guatemala, El Salvador and Honduras in 2007. He was instrumental in persuading the governments of Argentina, Uruguay and Bolivia to stop sending troops to the School of the Americas. In 2006 and 2007, Carlos lived in Burma, closely monitoring the human rights situation. In 2007, he visited Cambodia, to meeting with representatives of human rights and museums of historical memory to research the Cambodian struggle against impunity. In 2008 and 2009, he lived in Peru, closely following the trial of ex-president Fujimori, as well as the indigenous uprising in the Amazon. In November 2009, as a member of a delegation invited by President Mauricio Funes, and together with representatives of Amnesty International, the Center for Justice and Accountability, he attended ceremonies in San Salvador to commemorate the assassinations of the six Jesuit priests and their two housekeepers. In his efforts to build a Museum of Memory in El Salvador, he is currently working with an organization of former political prisoners and torture survivors and returns to El Salvador regularly.

asking for me, including the University of El Salvador etc.—I was finally transferred from the torture chamber to the common cells. And in that cell my blindfold was taken off and then I was able to see the surroundings and perhaps I was there in the National Police Headquarters. And the guys who came to kidnap me and torture me were indeed members of the National Police. I was able to see everybody there and to see the other prisoners there. The second day, I was able to see everything. I was taken down to the underground cells of the National Police Headquarters in San Salvador. This was horrible. This was really, really, really horrible. In the underground cells, I was there waiting to be killed because I knew that that's the place where the police killed the prisoners. I was waiting there to be killed. It's a horrible, horrible place. It's underground and I knew that it was underground not only because I stepped down, but also because I remember that I saw above my head a huge, huge ball of cucarachas [cockroaches], all of them alive—a big ball close to my head. So I knew that I was underground. I was there for two days. And then the guard came back for me and took me upstairs again. So I asked myself, "Why did they take me down two days ago, now I am back?" Then I was able to see everything.

By a mistake of the guards—because they forgot to take me down again—that's why I'm alive. The evening of that day a member of the International Committee of the Red Cross came and found me. He said, "What are you doing here?" And I said, "Well I was here." "No, no, no," he said. "We came yesterday and you were not here." I said, "Well, I was down there in the underground cell." So by mistake, the guards allowed him to find me. And he told my family that I was there, because the military denied that I was there, although I always was there. So, my family began to send friends asking for me and then finally, I was allowed to leave the prison.

There are other facts that indeed allowed me to get out, but I want to be short with this long story. I came out of the prison and I went into hiding. I was badly, badly wounded. I was so wounded that I decided to leave the country. And one of the things that I want to tell you is that one evening at my home, probably the third or fourth day after leaving the prison, I came out of the house, probably to buy the newspaper or something, and this is what happened to me: as I was walking toward the store, I saw a big truck with soldiers and I couldn't look at them. It was impossible for me to look at them because of what happened. And I have seen this only in the cartoons—what happened to me when I saw the soldiers. My hair completely stood on end. You see, it grew like this. [gesturing with hands] And I didn't know why. The huge trauma that I had inside was working at that moment but I didn't know.

MOVE TO UNITED STATES

I came to the United States. Before coming to the United States I went to Mexico first. I had gotten my Master's degree in Mexico so I went back to Mexico, Mérida, Yucatán, for a while to heal my wounds. And then my idea was to go to Europe to continue studying there. But I stayed in Mérida, Yucatán, and then my sister from California asked me to come to visit. So I took a plane from Mérida, Yucatán to Miami. After thirty minutes of taking off, the captain of the plane said, "The passengers in the right side of the plane, look

down, there is Cuba there." And I looked. It was Cuba! A green long island, a coast line made of serene white sand beaches. It was like, wow, that's Cuba. So, what the Cubans are doing? I was tortured because of a visit that I never made. Why did the police torture me? I kept looking down at Cuba, a long, very long green island.

I came to the United States and stayed with my family, but the nightmares never left me. Every night I had bad nightmares; I couldn't sleep and I was afraid of going to sleep because I knew that I was going to have a nightmare. But finally, finally one night I dreamed of one of the streets of San Francisco and I dreamed of Dolores Street and I said: now, something is changing here.

But this story of mine, I couldn't tell it. I was not able to tell what happened to me. I refused to say a word about it. Now I understand a lot of people who have been victims of torture or a violent situation. I know the reason why they do not want to talk about it. I know that. And I didn't want to talk either. I refused to talk about my experience in the prison for eleven years. I couldn't. However, the experience was pushing itself up. The story was coming out and I couldn't suppress it anymore. When it surfaced I began to tell the story. I began to tell people what happened to me. Although I may say that at the very beginning tears could not allow me to continue.

I was able to get therapy for several years. My therapist was a very good and very nice person. As I was telling the story and getting treatment, she told me something very, very important for me. She said, "Listen Carlos, therapy can explain to you why you are so sad, therapy can explain to you why you have bouts of sadness, or why you behave in such and such way. But Carlos, what you really need is justice. That's the situation in your case—you need justice." And it happened, by chance, one week after I spoke with my therapist, that the Center for Justice and Accountability approached me and said, "You know Carlos, we have found two Salvadoran generals, both former Ministers of Defense, General Vides Casanova and General García, responsible for the killing of thousands in El Salvador and we found them in Florida. Would you like to participate in a lawsuit against them?" And I wanted to, but I had to think about it because of the safety of my family in El Salvador. After one week I said, "Yes, I want to do it. I want to come to Florida." This was Florida in 2002. "I want to come. I want to come to Florida." And I think that is one of the best things that happened to me as a torture survivor and victim. I had my day in court. That's very important, very, very important.

SEEKING JUSTICE

The case is *Romagoza v. García*.³ You can find it on the Center for Justice and Accountability website. It's a seminal case. It's so important because it is the very first time that the two Salvadoran generals were taken to the courtroom, because nobody, nobody in El Salvador ever had been accused of human rights abuses in El Salvador. The only two cases had been the four North American religious women killed in 1980, where foot soldiers were brought to trial in San Salvador, and the case of the Jesuits killed in November, 1989. Again, lower ranking officers of the Salvadoran army were brought to trial, but not the masterminds, not the guy who ordered the killings, not the generals or colonels. So it was the very first

time that the two Salvadoran generals were in the court, and I was there. It was so good that I went because in those days I was able to confront the perpetrators. I was able to confront General Vides Casanova and General García. When I spoke, I asked General Vides Casanova, “Why did you do nothing to prevent me from being tortured? Why did you do nothing? Because you should have known what happened.” They gave the orders, they were participants, it was planned. The whole killing of the Salvadoran people was their plan. It was so good that I went to that place, and after I was in the courtroom and I confronted General Vides Casanova it was really good for me. I felt vindicated in many ways. I felt good and I may say that after I left the courtroom I felt like it was worth maybe a hundred hours of therapy. Finally, after a trial of four weeks, the jurors found the Generals responsible for what happened to us—Dr. Juan Romagoza, Neris Gonzalez, and myself. That’s the icing on the cake. They were found guilty for many, many things, and they were asked to pay \$54.6 million.

It is for me a very important question when I am asked what happened in the courtroom, because when as I was talking in the courtroom, I was not alone at any moment, I felt the company of many who died under torture, who were therefore unable to come. After I left Florida and came back to teach again in San Francisco—because I am a high school teacher—a lot of people were asking me about my experience and a lot of organizations were wanting me to talk about it. So I gave up my teaching position in San Francisco and began to do activism. And I became an activist. I am a human rights activist. I gave up my teaching position and I began to do tours in the United States and elsewhere.

STOP IMPUNITY PROJECT

But what is important is that the next year after the trial, torture survivors from El Salvador—myself and six other victims—we decided to organize ourselves in an organization: The Stop Impunity Project. It’s an organization made of Salvadoran torture survivors. And we are pushing for justice, but also against torture and impunity, because it’s been said here, and it’s clear, the main supporter of torture is impunity, indeed, and if nothing happens to the torturers, they will do it again.

I’ve been working at this for many, many years now, and I’ve been in many places. I went to South America, Asia, and Europe. Also, as I was working in South America, I went to Paraguay and met torture survivors in Paraguay. I went to Buenos Aires and met torture survivors there and also in Chile, Cambodia and Peru. In those countries I have seen something that I want for San Salvador. I have seen in those countries a museum of Historical Memory. And I want that in San Salvador. I know that we can do it. In every place I went, Paraguay, Argentina, Chile, or Cambodia, the museum is located at the main center of torture. In El Salvador we

had three main centers of torture: la Policía Nacional, la Policía de Hacienda y la Guardia Nacional. So I want a museum in San Salvador and now I am working with former political prisoners in San Salvador and we are pushing for a museum.

Just one year ago, I got into the National Police Headquarters in San Salvador. It was so difficult for me to enter a place in which people have been tortured. But I had to do it in San Salvador. But when I went to visit the National Police Headquarters in San Salvador, at that time Chief of the Police was a very friendly person. He’s a former guerrilla commander and a doctor. When I told him my idea of having a museum there, the main center of torture in San Salvador, he agreed. He asked one of his subordinates, a lieutenant, to take me on a tour in the National Police Headquarters. I was very, very afraid, you know, I couldn’t. But I had to do it anyway. I went with this young man and he was telling me about what the past government did. They destroyed all the areas of torture. There is no longer an area of torture in that place. And in the area in which I was taken in which the men parked, that is no longer a parking lot there. Now they have a garden and also a big and beautiful fountain. So they are trying to erase the whole proof of the areas of torture there. But this is important and I want to finish with this: You know what happened? As I was there, as this guy was telling me about what the government did to change the place, I began to remember what happened to me in 1983 when I went there and I said, “Well I was here but I was blindfolded. I couldn’t see anything because I was blindfolded.” Although, the only thing that I was allowed to see was the floor because of the space left between the cheek bone and blindfold. And I told the lieutenant, “Wait a second, wait a second, this is the same floor that I saw twenty-eight years ago. The same! They forgot to change the floor!” And I saw it. And then I began to follow the floor and I found the places to which I was taken. That’s what is so important: that we are given a voice. That’s why it’s so important that torture survivors can come and say something. This is the place in which I was tortured. They took away so many things, but myself, as a victim, as a person who was there in the chamber of torture, I have been able to find the clues and the places to which I was taken.

CONCLUSION

Several months ago, last May, I went to Orlando, Florida to witness General Vides Casanova coming to an immigration court there. I went to see him and remind him that we have not forgotten, that he’s still on my mind. General Vides Casanova came to what is called a deportation hearing. Today or tomorrow, the immigration judge is going to make a decision if General Vides Casanova is going to be deported. I was there in Florida to remind him that I was the guy who was in the chamber of torture and now things have changed. I am the guy who has the power. I am the guy who came to bear witness of him. Probably he’s been deported to San Salvador. Thank you so much.

ENDNOTES: Session Three: Voices of the Survivors

¹ U.N. Office of the High Comm’r for Human Rights, *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)*, 2004, HR/P/PT/8/Rev.1, available at: <http://www.unhcr.org/refworld/docid/4638aca62.html>.

² University of California, Berkeley, School of Law Human Rights Center, *After the First Trial: A Population-Based Survey on Knowledge and Perception and the Extraordinary Chambers in the Courts of Cambodia* (2011).

³ *Romagoza v. García*, 400 F.3d 1340 (11th Cir. 2005).