

# Documentation of torture in children and young adults: Time to reflect

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Documenting torture in children and young adults (ChYA) is a challenge. Less than 3% of academic papers on documentation and rehabilitation of torture victims are focused on children and youth. In the Delphi study on research priorities in the sector (Pérez-Sales, Witcombe, & Otero Oyague, 2017), five lines were proposed regarding torture in children, which covered: developmental disruptions related to the torture of relatives; developmental deficits related to infant torture; the effect on caregivers of torture/kidnapping of their children; the impact of torture on identity and worldviews among adolescents; and transgenerational trauma. Only the latter was considered among the 40 top research priorities.

Although the Istanbul Protocol (IP), in the present version, devotes three paragraphs to the topic, it specifies that “a complete discussion of the psychological impact of torture on children and complete guidelines for conducting an evaluation of a child who has been tortured is beyond the scope of this manual” (UNHCHR, 1999, para 310-315).

There are many guidelines that contribute to the early detection (Hoft & Haddad, 2017) and forensic assessment of minors in cases of sexual abuse and

neglect (NICE, 2017). Although torture is a different entity from abuse, these guidelines are sometimes used as an alternative.

Den Otter and colleagues (2013) recently concluded that they could not find a comprehensive guideline that achieves for children what the Istanbul Protocol does for adults. The authors strongly recommended a child-specific, comprehensive guideline. Since this publication, the situation remains largely unchanged.

Regarding *legal aspects*, an Amnesty International (AI) report (2000), published nearly two decades ago, put forward the first comprehensive overview of legislation and areas of concern relating to children and torture. The report identified 40 policy recommendations in relation to: children in armed conflict; child soldiers; children in custody; children in detention; and children in schools and other institutions. AI referred to torture in children as the “hidden shame” given that most cases never come to light. A 2009 desk review in this journal, as part of a Special Section that included eight other research papers, highlighted key points of concern and challenges for the sector (Quiroga, 2009). Besides the above-mentioned paper by den Otter and colleagues, there has been a position paper by UNICEF (O'Donnell & Liwski, 2010), and reviews on epidemiological data (Slone & Mann, 2016) and health effects (Kadir,

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Shenoda, & Goldhagen, 2019). Although these papers are undoubtedly important contributions, more specific information is greatly needed.

From a broader perspective, children's rights are reasonably well defined outside of the specific focus on torture. The Convention on the Rights of the Child specifically addresses torture. It was adopted in 1989 and has been ratified by 193 States, making it the most universally ratified human rights treaty. Its committee ordered the Global Study on Violence Against Children as a joint inter-agency effort that provided a set of recommendations to states to strengthen the protection of children (Pinheiro, 2006). Guidelines on assessing the status of protection and monitoring centers have since appeared (Defence for children international, 2016; Holman, 2012), and a comprehensive legal compilation by the Anti-Torture initiative on protecting children in detention was also published (Center for Human Rights and Humanitarian Law, 2015).

Regarding forensic documentation, only some isolated works have provided specific practical guidance on medical and psychological aspects. The Defence for Children manual (2016) includes a section on interviews with children (p. 73), and a section on ethical considerations for interviews (see Annex 2, p. 160) that goes even beyond the recommendations of the IP for adults. There are other expert recommendations on how to conduct a victim-sensitive interview with children (Thakkar, Jaffe, & Vander Linden, 2015) that can also be applied to children who are torture survivors. Guidelines on physical exploration of sexually tortured children are also available (Kellogg, 2007; Volpellier, 2009).

Torture in adults and torture in children and youth are often quite different phenomena, which further contributes to

the challenge of putting forward specific guides. However, reviewing the differences and similarities could help to enlighten key complexities associated with building a corpus of knowledge on ChYA. In this editorial, we briefly review: aspects related to the notion of torture as applied to ChYA; specific ethical problems in forensic documentation; and challenges in the formulation of consistency statements. By doing so, we aim to outline key challenges that researchers and practitioners ought to pursue.

*The Concept of Torture as Applied to Minors*  
Child abuse refers to physical, emotional and sexual abuse committed by parents, caretakers or other persons in a position of responsibility, trust or power vis-à-vis the child (Seddighi, Salmani, Javadi, & Seddighi, 2019). Although child abuse can overlap with torture in certain circumstances, there are many other situations of ill-treatment and torture that are not covered by the concept of child abuse. International institutions sometimes prefer the more general term of "child violence."<sup>1</sup> Child abuse is thus distinct from child torture and faces its own definitional problems (e.g., whether violence from peers should be included) and the definition of "child sexual abuse" is a particularly thorny issue (Mathews & Collin-Vézina, 2019). The Convention Against Torture (CAT) considers that torture happens when there is:

*"(a) intentional infliction on a person (b) of severe pain or suffering, whether physical*

<sup>1</sup> United Nations Committee on the Rights of the Child, General Comment No. 13 (2011): The right of the child to freedom from all forms of violence, UN document CRC/C/GC/13, Office of the High Commissioner for Human Rights, Geneva, 18 April 2011.

or mental, (c) 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, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, (d) 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. And that (e) It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

As highlighted in Table 1, applying this definition to the context of children and torture faces important dilemmas.

*Intentionality* as a required condition for torture becomes unclear in certain situations, such as those involving Female Genital Mutilation or Corporal Punishment in families or schools, where, from the subjective perspective of the caregiver, the situation may be perceived to be in the best interest of the child.<sup>2</sup> Particularly challenging situations are those in which children have witnessed the ill-treatment or torture of their relatives, or when ill-treatment is due to a lack of prevention or reckless attitudes (i.e., discrimination of any kind,<sup>3</sup> including severe cases of bullying).

The most recent definitions of child maltreatment have largely addressed the dilemma of intentionality. Today, there is enough evidence to accept that child maltreatment is not an isolated event, but a process determined by the interaction of

various amalgamated factors—biological, cultural, contextual—in which the intentionality of each element cannot be discerned. However, merely recognizing the presence of such dynamics does not detract from the child’s experience of suffering. Is there intentionality when child abuse is the result of a series of psychosocial factors—such as poverty—that prevent caregivers from meeting the child’s needs? Harm may or may not be the expected consequence, but in any case the intentionality of a behaviour should not define the existence or non-existence of abuse (Cicchetti & Toth, 2015; Pollak, 2015). The “intentionality” criterion is thus not easily applied in the context of torture in ChYA and requires careful consideration.

*Severe physical or psychological suffering* cannot be measured. In adults, medical and psychological consequences are often used as an approximation to suffering. This position has many problems, as the correlation between suffering and consequences is sometime weak or even non-existent.<sup>4</sup> This is already a challenge in adult forensic work but the situation is even more complex in children. It is often stated that children are “resilient” (UNVF, 2016). It should be said that children in “resilient environments”—including caring families—may *seem* to be “asymptomatic” or do not develop visible behaviors that are easy to detect. There are *always* consequences but detecting them can be challenging. The limited long-term follow-up studies that are available evidence both damaging clinical and non-clinical

<sup>2</sup> See Lenta (2017) for a debate on whether corporal punishment of children can amount to torture.

<sup>3</sup> See an analysis of discrimination against Roma as ill-treatment or torture here: <https://www.amnesty.org/download/Documents/64000/eu-r010122007en.pdf>

<sup>4</sup> Children subjected to watching crimes against parents can be victims of inhuman treatment because of the mental suffering intended by such conduct, regardless of whether the children present with post traumatic stress or not (Baro, 2006).

**Table 1:** *The difficulties in conceptualizing torture in ChYA*

CRITERION (CAT)	ADULTS	CHILDREN AND YOUTH
“Intentional harm”	- Intentional harm must be proven with adults	- Grey zone (i.e., female genital mutilation (FGM), corporal punishment)
“Severe physical or psychological suffering”	- Difficulties of “severity criteria” / forensic experts use assessment of clinical consequences as an alternative	- Often long-term attachment disorders, insecurity, lack of emotional regulation - In the short term, many children are resilient if the family is a source of comfort and understanding - Often non-clinical consequences (i.e., poor school performance, unspecific externalizing symptoms)
“Purpose”	- Information (i.e., confession, punishment, intimidation, discrimination)	- Exploitation (i.e., child soldier, sexual) - Submission / obedience - Adult ones (information, punishment, intimidation, discrimination)
“Public official or person in official capacity”	- Action by state agents - In non-state actors, the state can also be liable in certain cases if fails in its duty to protect	- The State is <i>almost always</i> obliged to protect and has a direct or indirect responsibility to protect infancy
“Not a consequence of a lawful sanction”		- What is a “lawful sanction”? (Are rules at closed institutions/schools, or cultural/religious rules imposed on children based on education or tradition, lawful sanctions?)

effects of torture in children linked to emotional, cognitive, moral or developmental issues (Björn, Bodén, Sydsjö, & Gustafsson, 2011; Halevi, Djalovski, Vengrober, & Feldman, 2016; Kaplan, Stolk, Valibhoy, Tucker, & Baker, 2016; Vervliet, Lammertyn, Broekaert, & Derluyn, 2014). There are often long-term consequences linked to either difficulties in emotional regulation, insecurity and tendency, to depression or to cognitive and attentional deficits, which might not be initially observable. The concept of Developmental Trauma Disorder (Sar, 2011; Van der Kolk, 2005) is the diagnostic label in the DSM-V that comes closest to defining what happens to children exposed to chronic and systematic abuse.

The detection is difficult as symptoms are often minor (educational difficulties as compared to same age children, unspecific externalizing symptoms etc.) and can be attributed to acute stress and anxiety. Thus, documenting suffering in children based on the consequences that might appear in a long-term follow-up is inevitably complex. The expert is faced with the short term *resilience* dilemma. There are different approaches to dealing with this, such as: (a) putting greater emphasis on the monitoring of international conventions than the documentation of individual cases; (b) lowering the standard of probe for ChYA, something that has already been proposed (Mendez, 2015), and; (c) considering

**Table 2:** Purpose for ill-treatment and torture relating to ChYA

FEAR & SHORT-TERM SOCIAL CONTROL		IDENTITY CHANGE	
Punishment	Interrogation	Discrimination	Exploitation
<ul style="list-style-type: none"> <li>- Street children (police or paramilitary)</li> <li>- Children/ youth detained/interrogated in adult prisons</li> <li>- Children separated from relatives (i.e. US-Mex Border)</li> </ul>	<ul style="list-style-type: none"> <li>- Self-incrimination</li> <li>- Information from others (particularly parents and caregivers)</li> </ul>	<ul style="list-style-type: none"> <li>- LGBTQI discrimination</li> <li>- Torture in ethnic cleansing (for example, in the MENA region where basic rights are lacking)</li> </ul>	<ul style="list-style-type: none"> <li>- Child soldiers</li> <li>- Pedophilia</li> <li>- Sexual slavery</li> </ul>
Education	Humiliation	Next of kin/ secondary victims	Cultural identity
<ul style="list-style-type: none"> <li>- Corporal punishment at institutions/ isolation/ use of restraints</li> <li>- Corporal punishment at home when the State fails to protect</li> </ul>	<ul style="list-style-type: none"> <li>- Bullying and public humiliation</li> <li>- Internet-based exposure and harassment</li> </ul>	<ul style="list-style-type: none"> <li>- Children abducted and given up for adoption</li> <li>- Sons and daughters of torture survivors</li> <li>-Sons and daughters of persons detained or disappeared</li> </ul>	<ul style="list-style-type: none"> <li>- Female Genital Mutilation</li> <li>- Virginity testing</li> <li>- Sterilization</li> <li>- Handicapped ChYA</li> </ul>

intentionality rather than suffering as the basis for analysis, specifically when there is a clear purpose, as has already been proposed for adults (Pérez-Sales, 2017).

The convention suggests five examples of *purposes* of actions to be considered torture: information, confession, punishment, intimidation or discrimination. Although they can certainly be applied to children, particularly interrogation, the two main purposes of ill-treatment and torture in ChYA are not directly addressed. These are exploitation and submission. In exploitation, an adult aims to attain control through fear in order to use the ChYA, as exemplified by child soldiers or sexual abuse of any kind. In submission, an adult aims to entirely transform a youth's identity for many different purposes.

Table 2 demonstrates how, under the label "torture in children and youth," there are a plethora of situations in which torture can take place. Although commonalities between them are not necessarily obvious, fear and identity change can be common themes that cut across these situations. Impacts on identity can be multiple; from distortions in worldviews, to even fragmented or dissociated sense of selves.

It is important to be aware that Table 2 represents the view of the perpetrator, but the purpose may be perceived as an entirely different one from the perspective of the ChYA. Violence, suffering, and pain have social, political or economic contexts that may not be evident to the child and young adult in question. For example, physical and mental pain inflicted on a child may be

interpreted as related to interpersonal, family or community relationships rather than the social or political conditions that may have fertilized the ground for the infliction of pain to take place. There is a need to explore subjective meanings to determine the exact nature and intensity of suffering. This is also necessary in adults but it has a more central role in children.<sup>5</sup>

A way forward in the forensic documentation of torture in ChYA could be to scrutinize those *torturing environments* that foster control through fear and identity change.

*Involvement of the State:* The requirement of a public official or person acting in an official capacity also entails challenges, as the State has the obligation to protect children and, thus, a direct or indirect responsibility in all cases of ill-treatment to minors.<sup>6</sup> The State can be considered accountable in the majority of cases described in Table 2. An example of the complexity of this point is FGM, where there is often a gulf between the law of banning and the implementation

of formal laws (de jure) and de facto laws, such as traditions promoted by local authorities that they may perceive as licit acts (Table 1).

*Not due to a lawful sanction:* Children and youths are often subject to a plethora of regulations, such as rules and disciplinary measures at closed institutions, schools or social services facilities, or cultural and social norms at the family and community levels. The limit of a “lawful sanction,” when viewed in the light of the other rights of minors, is a constant source of debate in legal and social arenas (Center for Human Rights and Humanitarian Law, 2015).

Most of the situations identified in Table 2 do not fall into the classical interrogational or coercive models of torture in adults. Therefore, they are covered by softer law that tends to consider them as forms of cruel, inhuman or degrading treatment.

### **Age, trauma, torture and self-perceived identity**

Quiroga (2009) considers three different development stages of ChYA and how each group may be a target for different forms of torture:

1. Prenatal (1-4 years): Abduction of children born in detention, torture of pregnant women.
2. Early childhood (5-10 years): Forcing to witness atrocities against parents, committing atrocities, ill-treatment in closed institutions.
3. Adolescents (11-18 years): Torturing during detention as a punishment to the parents, torture for sexual orientation, political participation.

However, distinguishing ChYA torture from torture in adults may, in and of itself, be in contradiction with the self-perceived identity of someone who was adultized

<sup>5</sup> While an adult has an interpretation of the environment as something external to them, and can understand the origin of violence more easily, in the child’s symbolic world violence can be interpreted as a consequence of one’s own attitudes, emotions, thoughts and desires. There is a world of fantasies and meanings that can perpetuate abuse by justifying it. The victim-sensitive child interview will explore this world of fantasies and desires through non-verbal techniques that are rarely used on adults.

<sup>6</sup> See a discussion of the State’s duty to protect children from abuse in all situations in Louise O’Keeffe versus Ireland (European Court of Human Rights, 2016). See an analysis of the sentence in <https://strasbourgobservers.com/2014/03/13/the-states-duty-to-protect-children-from-abuse-justice-in-strasbourg-in-okeeffe-v-ireland/>

since a very early age. Take the case of a 14-year-old child that grew up in the streets of a town and assumes the care of the elder brothers and mother (Brueggemann, 2018). Consider too, the 17-year-old sexual slave who was abducted and forcibly married to a member of a militia and gave birth to three children during captivity; she developed the role and identity of a mother that cares and protects for her children, and is seen as the adult figure by them (Yüksel, Saner, Basterzi, Oglagu, & Bülbül, 2018). In legal terms, the division between torturing ChYA and adults is clear. However, the forensic expert and the therapist need to work carefully with the ChYA to detect self-perceived identity and to adjust the assessment and intervention to the identity of the victim, alongside considering the rights that the age entitles.

Beyond age, the complexities of the interplay between trauma, torture, and identity are exposed in a recent review aiming to unify the many different conceptualizations of child sexual abuse (CSA), the most complex form of child abuse (Mathews & Collin-Vézina, 2019). The authors suggest four questions that can help. Firstly, is the person a child? That is, is the person either: (a) developmentally a child, or (b) below the legal age of adulthood or otherwise considered by the society's norms to be a child? Secondly, is true consent for sexual activity absent? That is, is the child either: (a) unable to give consent due to their developmental stage or lack of capacity, or (b) able to consent, but did not actually give true consent? Thirdly, is the act sexual? That is, is the act done either to seek any physical or mental sexual gratification for the abuser or another person, or is the act otherwise legitimately experienced by the child as a sexual act? Fourthly, does the act constitute "abuse"?

That is, does the act: (a) occur within a relationship of power; (b) occur where the victim is in a position of inequality; (c) exploit the child's vulnerability, and (d) occur without true consent? All four should be met for CSA but in the experience of Mathews & Collin-Vézina most of these questions almost never have a binary yes/no answer. The ChYA may not be able to provide a clear answer, or the answer may be the consequence of power dynamics between perpetrator and victim. While these dilemmas might certainly appear when assessing sexual torture in adults, the abuse in ChYA is performed in an identity that is *under construction*. This implies that the desired objective of trying to take as a reference the voice of the children means that solving these ethical dilemmas demands a careful exploration of each of these four aspects. It does not have a straightforward answer.

The first section of this editorial has attempted to detail the ChYA group and its specificities and identify problems and challenges, while providing some preliminary suggestions related to possible ways to move forward in research. In so doing, the attempt has been to illustrate how this leads to more complexity for the Istanbul Protocol, a topic specifically addressed below.

### **Istanbul Protocol principles as applied to children and youth**

#### *Ethical Dilemmas*

The Istanbul Protocol has some ethical principles that must be respected to ensure that the documentation of ill-treatment or torture has been done correctly (see IP, chapter 4 and Annex 1). For the forensic expert, however, applying the IP principles can be a challenge if there are no clear rules and guidelines. Consider the following areas, which are non-exhaustive:

*Informed consent:* How informed consent can be applied to children needs careful consideration and probably a reformulation, especially when parents or caregivers are not available or are considered part of the problem, as is the case with child soldiers or CSA. The following questions pose important ethical quandaries:

- How can informed consent and its implications be explained to ChYA?
- Is it possible to ask for truly *free* informed consent when most adults will be seen as an authoritative figure, children need a lot of self-confidence to have their voice heard, and children tend to accept what they do not understand?
- Can informed consent be provided *at all* in certain environments (i.e., prisons, juvenile centers, schools) where so many things depend on showing submission?
- Is *ex post facto* consent a realistic option?

*Confidentiality:* The IP suggests that parents or caregivers shall always be present in the assessment of children, an assumption that not all experts share (Thakkar et al., 2015). Situations shrouded in a sense of shame may mean that children feel the need to hold back information—particularly if caregivers are involved in the situation. Research has shown that comparing interviewing parents with play-diagnosis methods, most parents did not reveal significant symptoms, while important elements of distress appeared using other methods of diagnosis with the children alone (Björn et al., 2011). On the other hand, being alone with an interviewer for a child that suffered ill-treatment may, in and of itself, be a threat. Therefore, confidentiality needs to be re-thought. A way forward could be to define confidentiality in ChYA in terms of providing a secure environment for an interview, including assessing which elements and persons

will guarantee this sense of privacy and confidence.

*Security:* Children and young people are particularly vulnerable to retaliatory measures when providing information on abuses. Monitoring mechanisms of juvenile institutions may underestimate the risks that ChYA victims assume when they denounce a situation. Most measures that can provide protection after the assessment are unsuitable; ChYA may not have the knowledge or the confidence to access a lawyer or a judge, make a complaint or answer a security phone.

*Double loyalty:* When parents or caregivers are involved in the ill-treatment or torture, either directly or passively, a challenging ethical dilemma is also presented to the ChYA. There is no “magic” solution, but clear rules and guidance are necessary for the forensic expert to protect the child from these “lose-lose” dilemmas and the almost inevitable subsequent guilt associated with them (Donohue & Fanetti, 2016; Mathews & Collin-Vézina, 2019).

#### *Methodology and Timeline*

*Symbolic expression of suffering and use of drawings or projective tests:* While acknowledging that non-verbal tools may provide useful information, there is also ample room for free interpretation by the expert doing the assessment. Drawings, sand play, and other similar methods of assessment can help to identify elements to explore. However, they have been questioned (Lilienfeld, Wood, & Garb, 2000; Veltman & Browne, 2002) and there have been calls for their use to be restricted in forensic assessment and court procedures (Allen & Tussey, 2012). They should not act as substitutes for the voice of the ChYA.



*Time framework:* As Anna Freud (1943) already identified, contrary to adults, young people do not tell their story to be able to deal with painful emotions but tell their story when they have dealt with their emotions and are thus able to tell their story. Creating a narrative can take months and even years. Therefore, it is very important to respect their time to talk (Jones, 2008, 2018). This clashes with the needs of a forensic report, particularly with an assessment in detention. Clear guidelines are thus needed on the minimum information required and the standard of probe to support allegations of ill-treatment without entering into unnecessary details of what happened. Especially in young adults, eliciting a detailed narration for forensic purposes (i.e., asylum claim) when the person is not prepared to process the strong associated emotions can lead to numbing behaviors (i.e., drug consumption, cutting or other forms of self-aggression) or externalizing conducts (Donohue & Fanetti, 2016). It is not always clear how much the expert needs to press the young survivor for a detailed account when even the concept of a “report” and its usefulness might not be self-evident, and when talking is extremely painful.

*Privacy:* Information can be stigmatizing and harmful, particularly among teenagers and children. Information of a case coming to light can lead to stigma. Access to forensic reports, especially to perpetrators or institutions linked to abuse, can be an important issue to consider.

*Witnessing in court:* Beyond the forensic work are the special provisions to protect children when witnessing in court, but there are additional important measures to be taken (Beresford, 2005).

### *Assessment of Consequences*

*Resistance:* In the short term, most children may be resilient if they can be reassured and find an internal logic to what is happening to them. But resistance does not mean resilience (Masten, 2019). The child might present with unspecific symptoms of anxiety and fear. Damage and consequences are often developmental and thus long-term. In contrast to adults, the forensic expert, besides paying attention to acute suffering and acute stress symptoms, might have to assess risk factors and vulnerabilities. Acute symptoms could be misleading, and resistance (e.g., understood as adaptation) may wrongly suggest a low level of suffering (Halevi et al., 2016; Montgomery, 2010; Panter-Brick et al., 2018; Suarez, 2013) or an apparent absence of damage. Nonetheless, assessing suffering and damage must at least include: (a) traumatic symptoms (including dissociation); (b) developmental problems, and; (c) attachment disorders.

### *Subtle damage when ill-treatment is prolonged:*

It is particularly important to consider the torturing environments in any evaluation. With children, there are two aspects that will need particularly careful assessment, yet marginal attention is given to them in adult cases (Table 4):

1. *Elements that foster fear:* especially threats (i.e., of pain to relatives, peers and others) and the context in which the ChYA is isolated from their parents and caregivers that could be a source of security and reaffirmation.
2. *Elements that question the self and identity:* especially when these elements are not defined, but in construction, and the ChYA is particularly vulnerable to emotional, cognitive and group manipulation.

**Table 4:** Elements to be explored in forensic assessment of torturing environments that target identity in children

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| <ol style="list-style-type: none"> <li>1. <i>Isolation:</i> Isolate the child physically or psychologically from the influence of care givers or normal environments.</li> <li>2. <i>Break-up with the past:</i> Everything that belongs to the past must be eliminated, including family and community ties.</li> <li>3. <i>Stimulus control:</i> Regulations, rituals, codes, structures and planning prevent children from developing and exercising free will by accustoming them to a planned and submissive life.</li> <li>4. <i>Fear to terror:</i> It can be caused by threats of pain or actual pain (e.g., trafficking, child soldiers, street children) or by the psychological internalization of fear, for example through the use of humiliation, rejection or differences in use or handling (e.g., child abuse, bullying, gender violence, sects).</li> <li>5. <i>Lack of control:</i> Environments where everything is under strict rules and norms and prevents the child from exercising any control (e.g., seclusion centers, institutions).</li> <li>6. <i>Helplessness and arbitrariness:</i> The institution or the perpetrator is the ultimate decision-maker without necessarily having to be logical in these decisions (e.g., child soldiers, sexual exploitation).</li> </ol> | <ol style="list-style-type: none"> <li>7. <i>Use of the body:</i> Normalizing the breaking or dissolution of bodily limits and intimacy.</li> <li>8. <i>Affective and emotional manipulation:</i> The child is involved in overwhelming emotions that progressively lead to confusion and ambivalent attachment and dependency on the perpetrator (e.g., corporal punishment, interrogation).</li> <li>9. <i>Breaking cognitive patterns, beliefs and worldviews:</i> Irreversible changes in the way human beings are perceived, in the principles of trust, kindness and reciprocity.</li> <li>10. <i>Questioning of moral principles:</i> The child/young adult experiences how the differences between right and wrong, between good and evil, are blurred, subject to ethical dilemmas in which survival is at stake (e.g., interrogation, child soldiers, abuse).</li> <li>11. <i>Group pressure:</i> Exploiting the need for belonging and attachment needs (e.g., closed institutions, LGBTQI discrimination).</li> <li>12. <i>New paradigms:</i> Readings, re-education, control of behavior and attitudes by supervisors or leaders and internal control systems, achievement of objectives, reinforcement of progress in the right direction and punishment of deviations (children abducted, LGBTQI discrimination).</li> </ol> |
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*Assessment of what the child suffered and lost:*

An important difference is also to assess what could have happened to them if the ChYA had not been submitted to the situation in areas such as family, life projects and goals, and community damage.

*Psychometric analysis:* There is also an urgent need for validated trauma and mental health screening tools for children and youths who might have undergone ill-treatment and torture (Gadeberg & Norredam, 2016).

*Consistency Analysis*

Consistency analysis also poses specific challenges when:

- No clear description of events can be obtained in relation to trauma, but also to difficulties of expression due to age, education and developmental stage.
- Few cases have physical sequelae.
- Psychological symptoms are quite unspecific and elusive (i.e., bedwetting), and depend on being in a supportive family environment. Distress is mostly expressed through syndromes, while a court expects a diagnosis, such as PTSD in adults.
- In detention and other situations, ChYA have lost regular contact with parents or caregivers, and access to sources that enable triangulation of information are unavailable.

All these very specific difficulties have one clear implication: using the four standard levels of consistency analysis as those suggested by the IP for use with adults (maximum consistency, highly consistent, consistent, inconsistent) would probably mean that in most cases the forensic expert would have to resort to the lower levels of consistency. Although there is no data comparing consistency in adults and ChYA, it would be appropriate to assess whether the categories in the case of ChYA should be adjusted to the kind of information that can be obtained in a child interview.

*Credibility in the forensic assessment of children:* Additionally, in children, there are specific concerns related to credibility. There are no reliable estimates of false allegations of abuse in children and how many of them are due to lies, and how many to false or induced memories (Laney & Loftus, 2013).

A conceptual distinction should be drawn between “credibility” and “reliability.” While in penal procedures credibility of the description of events is important, in administrative procedures, such as an asylum claim, it is important to assess that the child provided a truthful account, even if some of the facts are incomplete, out-of-date or inaccurate. There should be different levels of standard of probe (UNHCR, 2015). There is no agreement on how best to assess credibility in children. Content-based analysis is accepted as the best available procedure in some courts, although most reviews show, that in fact, it lacks enough basis to be accepted as evidence (Vrij, 2005). A good investigative interview with open questions seems still the best option (Beresford, 2005; Donohue & Fanetti, 2016; NICE, 2017) when added to an analysis of contextual and relational criteria (Baita & Moreno, 2015). From the perspective of the forensic expert,

in spite of the recent increase in research on how experts, jury, and courts make an impression on the credibility of the child, there is no agreement on how to conduct this properly and measure it (Voogt, Klettke, & Thomson, 2017).

### **Summary**

The forensic assessment of ill-treatment and torture in children and young adults has important challenges. It draws its conceptual grounds from the theoretical fields of child violence, child abuse, and child sexual abuse, but there are distinctive elements in torture that need to be addressed.

Children and youth are a unique group, yet this uniqueness is not fully researched or reflected in the IP guidelines in its present conceptualization. Patently, there is ample ground for theoretical research from ethical, conceptual and clinical perspectives.

In this editorial, we have attempted to outline a map of core elements that would help readers to have an overall view of challenges and possible ways forward. We have emphasized situations in which severe suffering is inflicted on children and youth but the intentions and purposes are blurred, and specific elements regarding purpose imply a different consideration of what can be considered as torture methods or torturing environments. Documentation of suffering when many ChYA are apparently resilient or have minor complaints is also a challenge, because the impact can sometimes be devastating yet undetectable until many years after the events. A way forward is to explore risk assessments and link clinical findings with protection issues. Finally, the way that consistency statements are made, and the complexities of credibility analysis, add additional elements that need guidelines. Perhaps not everything can be solved, but academia has a clear role to play

in supporting the forensic investigation, documentation, and rehabilitation of victims of torture in children and young people.

New generations are emerging in many countries in the Global South that demand strong social changes, especially relating to gender issues and democratic liberties. The experience of some failed *spring movements* and the plethora of ongoing democratic challenges around the world suggests that ill-treatment and torture of young people is likely to increase in future years, to repress these movements.

In a time when there is an update of the Istanbul Protocol and children and torture is one of the topics for a cross-cutting analysis, it might be interesting to consider gathering information within a special section or chapter that unifies and addresses all relevant information.

In this editorial, we can only highlight some of the issues in the field of torture of children and young adults; unfortunately we cannot explore them further due to the dearth of published studies. Researchers must dedicate more energy to this area and many of the points raised in this editorial identify challenges that ought to be taken on, as well as possible strands of research to be explored further.

In this issue we develop a special section on *Forensic documentation of torture: Reflections and learnings on the Istanbul Protocol*. In the Delphi study on priorities for research in the field, recently published in this journal (Pérez-Sales et al., 2017), the panel of experts considered as the second most important topic: “Outcomes of the Istanbul Protocol. Impact of documentation of torture in the decisions of the judicial system.” The experts were interested in knowing if forensic documentation of torture really impacts judges in their decisions and which elements are most influential. Overall,

the five papers collected in this section give a global perspective to elements that explore this line of research into pertinent issues for which we lack empirical data. There are more articles to come that could not be included in this issue.

Myriam Rivera and co-authors have conducted a mixed methods analysis on how to integrate a participatory approach with anthropological perspective in the forensic assessment of the survivors of the Santa Barbara massacre in Peru, in the framework of a litigation in the Inter-American Court of Human Rights. The authors show that the Istanbul Protocol can successfully include a participatory approach and an anthropological perspective. Rembrandt Aarts and colleagues analyze a broad sample of nearly one hundred medico-legal reports from the Netherlands within the framework of international protection applications. They show that only medical evidence, and not psychological evidence, predicts a positive outcome. Francesca Magli and co-workers analyze forensic medical reports based on the Istanbul protocol carried out by the Milan Institute of Forensic Medicine to show the limitations of undertaking only medical assessment of external scars, making the case for a full application of the IP. Vesna Stefanovska analyzes the landmark 1976 Ireland vs UK judgement of the European Court of Human Rights, which established jurisprudence on the distinction between torture and cruel, inhuman or degrading treatment, based on the severity of suffering criterion. The author analyzes the available data on the long-term evolution to show that there now is sufficient evidence that the cases involved torture. The fact that the Court recently refused to re-open the case with this new available evidence constitutes, in the author’s view, the loss of an historic

opportunity to redefine the criterion of severe suffering in the context of the distinction between torture and CIDT. Rohini J Haar and colleagues present the results from a worldwide survey on the uses and applications of the Istanbul Protocol and the potential risks and benefits of updating it. Connected to this main section, Bojan Gavrilovic puts forward a psychosocial and legal reflection on the difficulties for prosecution of perpetrators of sexual violence in post-conflict Iraq.

This issue also includes a small section on *Sport and Exercise as Rehabilitation Tools for Torture Survivors*. Shakeh Momartin and colleagues from the STARTTS center present preliminary results of using Capoeira with refugee adolescents and youths in schools in Australia, showing positive results in the areas of emotional regulation, self-efficacy and adaptation to the environment. Rebecca Horn and co-authors present preliminary qualitative data on the collaboration between the Arsenal Football Club and Freedom for Torture, whereby Arsenal coaches use football as a healing tool. The paper offers numerous and very practical reflections from both participants and coaches.

Following our past Special Section on Forced Migration and Torture—see *Issue 2018(2)*<sup>7</sup>—Fabio Perocco reflects on the positive and negative aspects of the recently approved Global Compact on Migration, Prof. Nils Meltzer on the importance of torture in the context of migration as a priority for governments and organizations, and Gerald Grey on the separation of children from their relatives in the US-Mexican border as a form of

torture. Together, articles—along with other important contributions in the form of book reviews, a news story and letters to the editor—put forward an exciting collection of papers that combine theory and practice that we hope will be both stimulating and useful to readers of the *Torture Journal*.

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