The Role of Mental Health Professionals in Political Asylum Processing

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Applying for asylum in the United States can be a strenuous process for both applicants and immigration attorneys. Mental health professionals with expertise in asylum law and refugee trauma can make important contributions to such cases. Not only can mental health professionals provide diagnostic information that may support applicants' claims, but they can evaluate how culture and mental health symptoms relate to perceived deficits in credibility or delays in asylum application. They can define mental health treatment needs and estimate the possible effects of repatriation on mental health. Mental health professionals can also provide supportive functions for clients as they prepare for testimony. Finally, in a consultative role, mental health experts can help immigration attorneys to improve their ability to elicit trauma narratives from asylum applicants safely and efficiently and to enhance their resilience in response to vicarious trauma and burnout symptoms arising from work with asylum seekers.

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The goal of this article is to build on previous work describing the role of mental health professionals in political asylee evaluations.[1–3] Toward this goal, we describe the legal context of asylee processing and the challenging tasks of immigration attorneys, identify concerns of particular legal importance that can be addressed by mental health evaluations of asylees, and discuss the role of mental health professionals in consultations with immigration attorneys, including training in safe and efficient interviewing of traumatized clients and development of skills to protect against the risk of burnout and secondary trauma among immigration attorneys.

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Refugees and Asylum Seekers Under United States Immigration Law

Definitions

Congress enacted the 1980 Refugee Act to bring the United States into compliance with its international obligations under the 1967 United Nations Protocol Relating to the Status of Refugees, which the United States signed in 1968. Under the Refugee Act, refugees are defined as individuals who are unable or unwilling to return to their country of origin because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. As the United Nations High Commissioner for Refugees (UNHCR) has observed, there is no universally agreed upon definition of persecution. The harm does not have to be physical to constitute persecution, and harms ranging from economic to psychological to physical have been recognized by the courts as rising to the level of persecution.

Under U.S. law, there are two ways in which an individual can be recognized as a refugee. First,

through the U.S. refugee resettlement program, individuals outside the United States can be interviewed by immigration officials, adjudicated as refugees and allowed to enter the United States as such. Second, individuals fleeing persecution may attempt to arrive in the United States (either with or without documents allowing them to enter legally), at which time they may apply for asylum and related forms of relief, such as withholding of deportation (also known as restriction on removal) or protection under the Convention Against Torture (CAT).

Applying for Asylum and Related Relief in the United States

The procedures that apply to an asylum seeker (i.e., a person who seeks protection after arriving in the United States) depend on the status and circumstances of the individual. An individual who is lawfully present in the United States (i.e., on a tourist or student visa, or other lawful status) or an individual who is not lawfully present, but who has not been apprehended by immigration authorities may apply affirmatively. Affirmative applications are adjudicated in a nonadversarial proceeding at Asylum Offices (AOs). In this case, nonadversarial means that the asylum officer interviews the individual as to his or her eligibility for protection, and there is no attorney representing the U.S. government, cross-examining the asylum seeker, and arguing against relief. The Asylum Offices are part of the U.S. Citizenship and Immigration Services (USCIS) of the Department of Homeland Security (DHS).

Individuals of unlawful status who have been arrested by the immigration authorities are put in immigration court removal proceedings to eject them from the country. They raise asylum as a defense against removal, and thus their claims for asylum are characterized as defensive. Individuals who apply affirmatively, but who are not granted asylum, also proceed to immigration court, where they are permitted to pursue their initial claims. The immigration courts are part of the Executive Office of Immigration Review (EOIR) within the Department of Justice (DOJ). Removal proceedings are adversarial, in that the judge hears the applicant's claim and also hears any arguments against the applicant's eligibility from the U.S. Government, represented by an Immigration Customs and Enforcement (ICE) attorney. Although the government is represented by an attorney in every case, asylum seekers often appear in court without an attorney, because they are not entitled to free representation, and many of them can neither afford private counsel nor secure *pro bono* representation.

All individuals who apply for asylum, whether affirmatively or defensively, must prove that they applied within one year of their date of arrival in the United States. According to government regulations, the one-year deadline may be waived on the basis of changed or extraordinary circumstances. Asylum seekers, as well as those applying for other forms of relief, such as restriction on removal, may also be barred from protection if they fall within certain other categories specified in the refugee statute. For example, individuals who are considered to have persecuted others, who committed certain crimes, and who pose a national security risk are statutorily precluded from relief.

The number of individuals accepted as refugees through both the resettlement and the in-country application process is relatively small. In 2007, 48,217 individuals were admitted to the United States as refugees, and 25,270 were granted asylum.[4]

The granting of asylum confers several benefits. An asylee may bring his or her spouse and children to the United States and can eventually become a lawful, permanent resident and then a U.S. citizen. An asylee is also entitled to work and is eligible for a range of social services. The benefits that accompany the related reliefs of restriction on removal and CAT are less extensive, but they do prevent a person from being returned to the country where he fears persecution.

The Legal Requirements

Elements of the Refugee Definition

Obtaining the designation of refugee requires a three-part showing: that the form of harm is serious enough to be considered persecution; that the persecution has already been inflicted or that the individual has a well-founded fear that it will be inflicted if forced to return to the home country; and that the persecution occurred on account of race, religion, nationality, political opinion, or membership in a particular social group. This last requirement is generally referred to as proof of nexus.

Since 1980, when the Refugee Act was enacted, the courts have issued decisions fleshing out what is meant by each of the elements that make up the

definition of refugee. There have been, and continue to be, controversies surrounding each prong of the definition. For example, although court decisions all agree that persecution requires a harm that is more than trivial, they disagree as to when the harm is severe enough to rise to the level of persecution. Some courts tend to be more generous in finding that harms, even nonphysical ones, are persecution, whereas others might reject even serious physical harm as constituting persecution. The element of well-foundedness has also brought a range of decisions. There is consensus on the necessary requirements for well-foundedness: there must be a showing of subjective fear supported by an objective basis. Notwithstanding that consensus, the courts often disagree as to the type of facts that would demonstrate an objective basis for the fear.

Recently, the nexus element of the definition has been the subject of extensive controversy, especially when the claim is based on a nexus to a particular social group. Many refugee scholars and advocates argue that the ground of a particular social group should be broadly interpreted to include the many persecuted groups not encompassed by the other four grounds: race, religion, nationality, and political opinion. They argue for it to include groups such as those defined by gender, sexual orientation, or physical or mental disability. Those who are interested in limiting the protection of asylum object to a broad interpretation of the social group ground.

The Burden of Proof

The individual seeking asylum and other related forms of relief bears the burden of proof, which means that the asylum seeker must put forth the evidence establishing all the elements of the claim. In some cases, especially if a person had to flee on short notice, the only proof an individual may have is his testimony. Asylum seekers often have no time to gather documents that might help prove their claims. A case can be established on testimony alone, if the asylum seeker is considered to be credible. Attaining credibility can pose a challenge to asylum seekers, because the hallmarks of credibility in the legal system do not take into consideration the way in which the trauma many asylum seekers have suffered affects their ability to provide believable testimony.

The factors that courts consider in determining credibility actually often work directly against traumatized asylum seekers. For example, asylum officers and judges can consider the demeanor or general appearance and comportment of an individual to determine whether he is telling the truth. An asylum seeker who does not display what would be considered normal emotional responses in recounting events may be considered to be dissembling, as might one who appears uncomfortable or anxious. Yet the absence of normal emotional response (i.e., crying when recounting a tragic loss) or the appearance of discomfort could be the result of the trauma suffered. Beyond demeanor, asylum officers and judges look to the quality and quantity of testimony. Relying on the premises that the truth does not change and that a person who has lived through an experience should be able to recount it in detail, decision-makers evaluate whether the asylum seeker can provide consistent and detailed testimony and find those who cannot to be lacking in credibility. As with demeanor, these factors are poor indicators of truth telling. Trauma may affect memory such that both consistency and ability to recall detail are greatly compromised.[5–12]

Culture and Malingering in General Forensic Psychiatry

Culture and malingering are of central importance when evaluating an asylum seeker. Of course, these concerns are also important in the broader practice of forensic psychiatry. We will briefly summarize the general forensic psychiatry literature on the topics of culture and malingering before discussing the special case of the asylum applicant evaluation.

Beger and Hein[13] trace the roots of the cultural defense in criminal law to 1938, when Thorsten Sellin published *Culture Conflict and Crime.*[14] Sellin argued that legal conflicts can arise in pluralistic societies when individuals follow conduct norms that are unique to their ethnic group. Beger and Hein defined the current understanding of the cultural defense as a legal strategy that argues that immigrants should not be held fully accountable for conduct that is defined as culturally acceptable in their homeland but is criminal in the United States.[13]

The ongoing legal debate over the use of the cultural defense has implications for forensic psychiatry. Forensic psychiatry consultants may be asked to comment on the role of cultural factors in an individual's conduct.[15] Most of the current forensic psychiatric literature addresses the role of cultural evaluation in the context of criminal proceedings,

perhaps reflecting attorneys' tendency to use the cultural defense in criminal litigation.[15–17] Kirmayer and colleagues[15] gave an overview of cultural psychiatry as it pertains to forensic work and pointed out the dangers involved in incorporating cultural formulations into forensic evaluations. They noted the risk of failing to attend to the "culture of the familiar" and suggested that the U.S. legal system would not give equal weight to narratives of structural violence sustained, for example, in U.S. urban ghettos versus the explicit violence endured by international genocide survivors.

> This discrepancy between the response to the compelling story of someone from far away exposed to genocidal violence and the familiar story of yet another victim of the unjust social system close to home, points to the danger of focusing on "culture" as a construct that elides the social, political, and economic factors that create structural violence [Ref. 15, p 99].

Furthermore, they argued that using cultural formulations in forensic psychiatry can foster stereotypes and stigmatization of ethnic groups. Ultimately, Kirmayer and colleagues[15] stated that cultural considerations can be used to good effect in forensic psychiatry, but the lens should be reciprocal, such that the consultant is conscious of the power dynamics between minority and dominant cultures within their own society and considers the consequences of a cultural formulation for the larger society. Boehnlein and colleagues[16] discussed the practicalities of cultural consultation in forensic psychiatry and suggested that an analysis of cultural factors may have the most potent impact when used for mitigation at the penalty phase of criminal proceedings.

The problems of credibility and malingering loom large in the practice of forensic psychiatry and have generated a correspondingly large body of literature. For the purposes of this article, we will limit our summary of malingering to those points that pertain to post-traumatic stress disorder (PTSD), one of the most common and legally important diagnoses for asylum seekers.

Trauma and Memory

Historically, the dialogue on memory in the context of PTSD has been heated, with debates raging on topics such as the validity of recovered memories of trauma, multiple personalities, and dissociative amnesia. Recently, there has been greater consensus about the nature of traumatic memory. According to the dual-representation model, involuntary memories of traumatic events, such as flashbacks or nightmares, occur spontaneously, while verbally accessible, voluntary memories of the facts of the event are much more difficult to retrieve.[10] Although clinical research is not abundant, one study of active duty military personnel showed that subjects exposed to high-stress interrogations had greater difficulty in identifying their interrogators than did those who were exposed to low-stress interrogations.[11] The difficulty that individuals may have in recounting a consistent narrative of highly stressful or traumatic situations has also been noted in the context of childhood sexual abuse[18–20] and eye witness reporting.[11,21]

Even if memories of traumatic events are accessible to the victim, it should also be noted that there are often circumstances that could lead the individual to refrain from offering detailed factual information. For example, in her article, "Why Women Don't Report Sexual Assault," Binder noted that only 18 percent of rapes of women are reported.[22] The most commonly cited reasons for not reporting are guilt and embarrassment.

PTSD and Malingering

Rogers[23] proposed three explanatory models for malingering: pathogenic, criminologic, and adaptational. He described the pathogenic model as one in which the individual has genuine psychopathology, although not currently consistent with the malingered diagnosis. The criminologic model refers to individuals motivated by antisocial and oppositional attitudes to achieve secondary gain. In the adaptational model, malingering is a constructive attempt from the feigner's perspective to succeed in adversarial circumstances, based on a risk-benefit analysis.[24] Rogers[24] pointed out that the explanatory model used by the evaluating forensic expert may influence diagnostic and treatment considerations. As noted by Guriel and Fremouw,[25] PTSD is particularly susceptible to malingering, in part because of the high incidence of comorbid disorders and the frequent presence of financial or social secondary gain, such as disability benefits.

Forensic Assessment of PTSD and Malingering

Much has been written regarding the evaluation of malingering in the context of PTSD.[25–30] To date, there is no gold standard for PTSD diagnosis. Some

have concluded that the best evaluation for malingered PTSD is a multipronged effort in which an awareness of secondary gain is combined with an evaluation of how multiple data sources (e.g. clinical, collateral, and psychological testing data) confirm or discount one another.[25,26] This point was made by Binder and McNiel[31] in a discussion of evaluations of alleged victims of sexual exploitation and boundary violations. Resnick[30] concurred, noting that assessment for malingered PTSD can be enhanced by comparing reports of premorbid functioning, collateral reports, and testing data to the subject's reports. He also noted the potential diagnostic value of attending to and attempting to elicit atypical signs and symptoms of PTSD.

There is a debate in the literature about the merits of different psychological tests in evaluations of malingered PTSD.[26–28] Drob and colleagues[32] described the importance of differentiating malingering from other failures of credibility, such as Ganser syndrome and other factitious disorders.

Culture and Malingering in the Evaluation of Political Asylum Applicants

Culture

Culture plays an important role in any forensic psychiatric evaluation, but it is critical in the evaluation of an asylum applicant. Culture informs emotional expression, norms, and pathology to such an extent that some in the field of global mental health and medical anthropology do not believe that the Diagnostic and Statistical Manual of Mental Disorders (DSM) categories of illness are cross-culturally valid.[33–37]

Numerous difficulties can arise in the assessment of an asylum applicant with a cultural background different from that of the evaluator. First, there is often a problem of linguistic equivalence. If the evaluator and evaluee do not speak the same language, then an interpreter must be obtained. Evaluees may arrive with a younger family member whom they plan to use as an interpreter. As with any area of medicine, the use of an interpreter who is related to the evaluee can create a challenging situation for all involved parties and is best avoided. Evaluees may be reluctant to elaborate fully on the facts or symptoms that they consider shameful or embarrassing if their family member is interpreting. Reciprocally, the family member, out of shame, embarrassment, or family dynamics or for other reasons may not translate exactly what the evaluee says. Even when an objective interpreter is used, any interview can be compromised by a loss of nuance or misunderstandings related to the translation.[38–40] In one study of health care interpreters, it was noted that physicians and patients often had different understandings in three domains that could lead to miscommunication: (1) ideas about the patient's health problem; (2) expectations of the clinical encounter; and (3) verbal and nonverbal communication styles.[39] Such misunderstandings can be particularly problematic in the case of mental health evaluations, where the nuances of emotions and delicate details of traumatic events can be obscured by translation.

Cultural differences can certainly lead to many challenges beyond those of linguistics. Discerning the facts of traumatic experiences can be difficult when interviewing asylum seekers who are from a culture different from that of the evaluator. One challenge is that evaluators may lack an awareness of the euphemisms or mechanisms of collective avoidance that a community uses for particular traumas. For example, in regard to the survivors of the Darfur genocide, the community described women who had been "away for several days," but did not explicitly acknowledge that they had been kidnapped and raped by Janjaweed rebels, in part because public recognition of the rapes could lead to rejection of the victims by their husbands and families (Meffert SM, Ali M, Abdo AO, unpublished data, year).[41] Similarly, when reporting incidents to the asylum officiants in Cairo, some Darfur women did not reveal that they had been raped in The Sudan, because this way of articulating events was at odds with cultural norms. As described earlier, the usual psychological mechanisms of shame and avoidance that complicate any evaluation of a traumatized individual are also at play with asylum applicants, expressed through their own cultural lens. Given that forensic evaluators must often consider how the reported symptoms relate to traumatic experiences, such difficulties with ascertaining and understanding the facts pose a significant challenge for the assessment of asylum applicants.

As mentioned, the topics of cross-cultural psychiatry and forensic psychiatry are fields of study unto themselves. The diagnosis of PTSD in populations exposed to mass violence has been the subject of particularly intense debate. In the face of rising asser-

tions that traumatized populations have high rates of PTSD, some have argued that the diagnostic criteria of PTSD are bound to Euro-American culture and are irrelevant, pathologizing, and detrimental when imposed on other cultures.[33,34,42,43] More recently, there has been an effort to reach a consensus about the existence and treatment of trauma-like syndromes in populations exposed to mass violence, although the cross-cultural validity of the PTSD diagnosis remains in question.[35]

Much attention has been directed toward the validation of psychological assessment instruments across the cultural and linguistic backgrounds that should be considered in deciding on the pertinence of psychological tests for an individual evaluee. Adapting and testing the validity of psychological instruments for use with a new culture is a complicated endeavor[44–50] and has not been accomplished for all cultural and linguistic groups. When psychological tests are used in evaluation of an asylum seeker, the evaluator should consider matters such as his own cultural and linguistic competence; the use of interpreters or translators; which language to use in the assessment of multilingual evaluees; the level of acculturation of the evaluee; aspects of test translation, adaptation, and interpretation; and application of appropriate test norms.[51]

Credibility and Malingering

Determination of factual credibility is not within the scope of a forensic mental health evaluation, but rather is a responsibility of the trier of fact. However, as with any forensic psychiatry evaluation, an assessment of an asylum applicant includes consideration of the possibility of malingering. A mental health professional's comments on this point can provide information that is helpful to the trier of fact in assessing credibility. Achieving refugee status can represent a strong external motivator and the psychiatric symptoms that support the application, such as those of PTSD, are subjective and susceptible to manipulation. As discussed earlier, an effort to assess credibility commonly involves the comparison of multiple data sources—for example, comparing the results of psychological testing or collateral information to the evaluee's report of symptoms. In the case of asylum applicant evaluations, such methods of corroboration may not be available for a given case. Lack of norms for psychological tests in a particular evaluee's language and/or culture may limit their applicability. Thus, their utility for corroborating symptoms or diagnostics may be attenuated when assessing asylum applicants. For some asylum seekers, collateral information is nonexistent because they have fled their country of origin with little documentation and have no close contacts in the area. Therefore, in the evaluation of the asylum seeker, the mental health professional is not only often faced with an assessment for PTSD, with its usual challenges, but must also contend with the potential distortion caused by differences in culture, linguistics, and the frequent unavailability of the usual sources of diagnostic and factual corroboration.

Despite these challenges, in many cases, mental health professionals are still able to offer information to the court that is useful in determining credibility among asylum seekers. Mental health evaluations can be helpful in explaining the general characteristics of traumatic memory and how such mechanisms apply to the case at hand. As already mentioned, memories of traumatic events are characteristically fragmented, are difficult to arrange chronologically, and can be suppressed altogether.[10,52,53] This, combined with an individual's avoidance of discussing traumatic memories and his culture's avoidance through the creation of euphemisms, can make understanding an asylum seeker's history of trauma a process of excavation, in which factual details are gradually revealed over time. A mental health professional with expertise in trauma can help the fact finder understand that inconsistencies of narrative may be a reflection of trauma rather than lack of credibility.

Credibility Case Example: Allen Mukamusoni

Allen Mukamusoni[54] is a woman who was born to Rwandan parents in a refugee camp in Uganda. Her mother was Tutsi and her father was Hutu. Her mother and siblings were killed by Hutu rebels. She was captured by the Rwandan Patriotic Front and was raped and tortured during her imprisonment. She entered the United States at the Houston airport on May 5, 1998, and stayed past the six-month expiration of her visa on November 4, 1998. She applied for asylum slightly over one year after her arrival.[54]

The IJ (Immigration Judge) found that Mukamusoni "ha[d] not established the truthfulness of what is stated in her asylum application." The Board of Immigration Appeals (BIA) denied her appeal, finding

that Mukamusoni "failed to meet her burden of proof in establishing past persecution or a well-founded fear of future persecution."[54] The BIA found it significant that she "testified that she was raped during her incarcerations, but provided no details about the incidents." On review by the United States Court of Appeals for the First Circuit, the BIA decision was vacated and the case remanded to the IJ. The mental health evaluation and records of mental health care were cited as an important validation of Mukamusoni's credibility:

> [T]he overwhelming weight of the evidence from the twenty-five pages of Dr. Wolfe's notes and Dr. Wolfe's psychological evaluation corroborates Mukamusoni's claims. The records are literally replete with information which supports the substance of Mukamusoni's testimony. Mukamusoni's account of her experiences in Rwanda to Dr. Wolfe is also consistent with the accounts given in her affidavit, application, and oral testimony. Dr. Wolfe noted the physical evidence that corroborated Mukamusoni's story: ulcers developed in prison, her independently sought HIV testing in light of her fear of having contracted AIDS from her rapes, trauma-induced PTSD symptoms such as nightmares, hopelessness, sleeplessness, distrust of others, etc. [Ref. 54, p 9].

Countertransference With Political Asylum Applicants

As with any forensic mental health evaluation, it is the evaluator's professional responsibility to complete as objective an assessment as possible. Evaluation of an apparently traumatized individual who is the alleged victim of atrocity, genocide, torture, or other horrific events tends to have an especially strong countertransferential pull toward advocacy. Indeed, some psychiatrists who perform asylum applicant evaluations are motivated by altruism and the hope that their evaluations will help the applicants achieve refugee status. Altruistic goals do not necessarily preclude an objective position, particularly since the most effective forensic evaluation is generally one that the trier of fact trusts to be objective. However, the presence of such motivations in political asylum work means that mental health professionals who conduct evaluations must be particularly vigilant about their own desires for the outcome and how these desires could bias the content of their work products.

Well-trained mental health professionals have an understanding of how to maintain their emotional stability when interacting with symptomatic patients, especially if the evaluator has witnessed the progress toward recovery of severely distressed patients. However, the intensity of the trauma experienced by some asylum seekers can be overwhelming, even to an experienced professional. Although the existence of vicarious trauma among trauma clinicians is debatable, peer support and supervision by other mental health professionals are presumed to have prophylactic value.[55–58]

Rationale for Delay in Application

As mentioned earlier, individuals who do not apply for asylum within a year of arriving in the United States may be barred from asylum unless they can show changed or extraordinary circumstances that would allow them a waiver. Many asylees do not apply within one year. For some, mental health factors may contribute to the application delay. One of the diagnostic criteria for PTSD consists of a cluster of avoidance symptoms. Individuals with severe avoidance symptoms related to their persecutory experiences may have difficulty discussing these events and may therefore avoid engaging in a process of applying for asylum that would require communication and repeated discussion of the details. It is worth noting that the concept of extending a statute of limitations based on mental illness is not limited to asylum cases and has been active in case law and legal discussion for many years.[59–62]

One-Year Bar Case Example: Ms. X.

Ms. X., a young woman from Guatemala was threatened by villagers who believed that her husband had collaborated with the guerillas. The villagers came to her home and threatened to kill her, her mother, and her sister. Shortly thereafter, three men came to her home with rifles and machetes and raped her and her sister. She escaped to the United States, where she joined her husband, a permanent U.S. resident. She filed for asylum more than one year after her arrival in the United States The mental health evaluation showed that Ms. X. had symptoms of PTSD and major depressive disorder. Her symptoms of PTSD included avoidance of any reminders of traumatic events as well as agitation and distress when confronted with reminders or thoughts of these events. The mental health evaluator explained that her failure to file for asylum in a timely manner was probably related to her PTSD symptoms, particularly the avoidance symptoms that made her extremely averse to discussion of past persecution. Ms. X. was granted asylum (Hreshchyshyn MA, East Bay

Sanctuary Covenant, personal communication (interview), 2008).

Treatment Recommendations

A skilled psychiatric evaluation can provide recommendations for treatment, including the specific types, names, and doses of medications; the monitoring required for medications; and the best psychotherapy choices. A detailed treatment plan can be relevant to immigration attorneys, as they can compare the needed treatment to the available treatment in the host country.

Mental Health Implications of Repatriation

Forensic psychiatry evaluations can also be relevant to the immigration attorney when opinions can be offered on the likely impact of repatriation on the mental health of the asylee. The assessment of possible impact should take into account not only the availability of the needed treatment in the host country, but also how re-exposure to traumatic cues could affect current mental health symptoms.

Psychiatric Consultation With Immigration Attorneys

Obtaining the Trauma History Effectively and Efficiently

Acts of persecution can cause mental health trauma. Obtaining the facts of traumatic events from the individuals who have experienced them is a complicated process in which mental health professionals can be of assistance. Although many immigration attorneys have vast experience in helping their clients discuss traumatic aspects of their cases, in some situations, a mental health professional who is focused solely on the client's emotions and mental health history and has the training to carefully discuss traumatic events in a culturally appropriate manner can safely elicit details of past events that may not be accessible to attorneys. One immigration attorney reported that he felt unable to argue a case effectively until the client was seen by a psychiatrist who elicited previously unknown details of past persecution that proved critical to the case (Gueron H, personal communication (telephone interview), 2009).

Mental health trauma experts also have an important role in collaborating with immigration attorneys or immigration law clinics to teach effective methods of obtaining the trauma details. There are numerous strategies for effectively obtaining the necessary information about a traumatic event. Important techniques include titration of exposure to recollection of events, recognition of when clients are shutting down their memories, and understanding how to start and end sessions to maximize the emotional capacity of clients to tell their stories.

Safety

Obtaining the facts of traumatic events is a specialized skill. The principal danger is emotional destabilization of the client, resulting in functional or emotional decompensation, including possible attempts to harm or kill oneself or others. Immigration attorneys are given the difficult task of obtaining the facts of traumatic events to help their clients avoid further persecution, with the knowledge that relaying the facts could itself be a traumatizing experience for their clients. The attorney must balance safety against the time limits of the legal process and the need for compelling details of the trauma to present to the trier of fact who is considering the request for asylum.

Mental health trauma experts can be helpful in teaching immigration law clinics strategies for maintaining safety while obtaining the necessary factual details. Strategies include adequate emotional preparation for the client, strong working alliance, frequent checks on emotional welfare, rallying social, community and spiritual supports for the individual, knowledge of the warning signs of mental health decompensation, and the ability to recognize mental health emergencies.

Vicarious Trauma

Immigration attorneys are under stress in regard to potential vicarious trauma. Unlike many other areas of law, they are required to obtain and present an understanding of their clients' subjective fears and often horrific experiences. One study found that attorneys specializing in areas such as domestic violence, family law, and legal aid criminal services experience significant symptoms of burnout and secondary traumatic stress. Their symptoms were reported to be higher than those of mental health professionals or social services workers.[63]

There are multiple possible reasons for the high rate of secondary trauma among attorneys working with survivors of violence. First, there is often a high case load, with frequent, brief exposures to many

different cases, resulting in a total exposure to multiple trauma stories with little time to process the experiences. Second, there is often a lack of emotional support for attorneys, in both material and cultural terms. Unlike mental health professionals, there is no tradition of using peer groups to provide emotional support and supervise one another during difficult cases. There is often a cultural bias within the field of law that causes one to avoid acknowledgment of emotional stress or the emotional impact of cases. These factors work synergistically to minimize the one factor that has been most clearly proven to protect against vicarious stress and burnout: social support.[64–66]

Testifying

The psychological stress experienced by asylum applicants is particularly high in cases in which they must testify and submit to what can be aggressive cross-examination. Immigration attorneys may attempt to enlist the help of mental health professionals who are experienced with refugee trauma and asylum proceedings to assist with preparation of clients for the stress of testifying (Gueron H, personal communication (telephone interview), 2009). As discussed earlier in the Countertransference section, there can be a strong pull toward advocacy in political asylum cases. The ethics of forensic psychiatry advise that mental health professionals should strive for objectivity.[67] Therefore, a request from an attorney to help stabilize or treat a client may best be responded to by referral to a treatment provider. Ultimately, this referral may be more beneficial to asylum seekers, as they will gain an identified mental health care provider with whom they can continue, if needed, after the conclusion of the case.

Conclusions

The process of seeking asylum and related forms of relief can be a strenuous process for both clients and their attorneys. Evaluation of asylum applicants by a mental health professional with expertise in the field of refugee trauma can be of particular value in the presentation of a case. Such evaluations can provide medical opinions regarding the client's mental disorder, the implications of which bear on the client's credibility, delay in application, culturally informed emotional expression, treatment needs, and mental health consequences of deportation. Mental health professionals can also be advisors to attorneys in the preparation of clients for the stressful process of testifying for asylum.

Mental health professionals with expertise in refugee trauma also have an important role as consultants to immigration attorneys and immigration law clinics. They can teach strategies for effective and safe methods of eliciting the details of persecution. Mental health professionals can also help to educate practicing attorneys and law students on the signs and symptoms of vicarious trauma resulting from work with asylum applicants, as well as the most useful coping skills. Such skills may help to decrease the risk of burnout among attorneys working with traumatized populations and protect the attorneys' personal relationships from the damaging effects of secondary trauma.

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