

# Truth Without Consequence: Reality and Recall in Refugees Fleeing Persecution

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Truth is mighty and will prevail. There is nothing the matter with this, except that it ain't so—Mark Twain<sup>1</sup>

Truth telling is one of the most fundamental tenets, not only of forensic psychiatry, but also of life in general. Within bioethics, deontological principles espouse truth telling, and in consequentialist approaches, truth telling is thought to foster respect and autonomy and ultimately to promote the greater social good. Paul Appelbaum<sup>2</sup> writes of it as the first pillar of forensic ethics. Intuitively, it makes sense that the moral functioning of any individual (and by extension, society) is enhanced by truth.

In forensic psychiatry, where so much rests on truth, it is imperative therefore that we take a good look at what truth might mean and what are the consequences. I have borrowed (with permission) the title of my essay from Alan Stone's much-debated 1994 paper<sup>3</sup> about revisiting the parable of the black sergeant. Although it was first written<sup>4</sup> more than 25 years ago, the parable has become symbolic of the tension arising from forensic psychiatry's manifest obsession with truth. Everyone who has ever practiced psychiatry in court has a story about a black sergeant. Appelbaum's theory<sup>5</sup> of truth telling as the primary concern of the forensic psychiatrist has been challenged by Stone in his 1994 essay.<sup>3</sup> Griffith contributed to the debate by rightly pointing out the need for cultural connectedness<sup>6</sup> and understanding the power of narrative. I do not have the hubris to

even attempt to reconcile these three very different views of three noted scholars of our generation. I merely want to tell the reader the story of my black sergeant—sufferers of trauma, refugees, and victims of torture—when I get asked to comment on the truthfulness of a victim's account and the credibility of his testimony.

For something as pervasive as truth is, it is not so clearly defined. While one would think that there would be some uniformity in definition or etymology, it isn't so. The concept of truth has fascinated philosophers since the time of Aristotle.<sup>7</sup> Among the more widely held concepts of truth, we have metaphysical subjectivism that says that whether a proposition is true or false depends, at least partly, on what we believe. In contrast, metaphysical objectivism holds that truths are independent of our beliefs. It is thought that except for propositions that are actually about our beliefs or sensations, what is true or false is independent of what we believe to be true or false.

Relative truths, on the other hand, are statements or propositions that are true only relative to some standard, convention, or point of view, such as that of one's own culture. We all know that the truth or falsity of many statements is relative. That someone is to my left (or right) depends on where the observer stands. The doctrine of relativism says that all truths within a particular domain (say, morality or esthetics) are of this form, and therefore it follows that what is true varies across cultures and eras. An extension of this is moral relativism, which holds that a moral

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statement can be true in one time and place, but false in another. This is, of course, different from the relatively uncontroversial claim that people in different cultures and eras believe different things about morality: moral relativism claims that the moral facts themselves are different.

### **Postmodernism and the Vanishing Concept of Absolute Truth**

Despite the different understanding of the concept of truth (and the difficulty in teaching about it), when I talk to my students I always start with the example in the 1950 Akira Kurosawa film, *Rashomon*.<sup>8</sup> In the film, the same event is narrated through the experiences of four observers. Although the account given by each about the same event is very different, all of the narratives appear to be true to the viewer. How is this possible? Anthropologists have even coined a term to describe this phenomenon: the Rashomon effect. In a landmark paper, Heider<sup>9</sup> examined the cause of the Rashomon effect in describing differences and disagreement among ethnographers describing cultures and cultural differences. Heider's first explanation of this phenomenon is that someone may be plainly wrong, being consciously or unconsciously biased against a particular culture. It may be the result of spending too little time in observation. The shorter the observation time, the more error-prone observations become. Second, Heider suggests that this error could be due to examining different subsets within a given culture.

Heider's third explanation is that differences may be due to time differential, much like test-retest reliability. An observation made at one particular time may not be the same as that made at another. It is, of course, easy to assume that a culture behaves in a particular way the whole year round, when in fact a culture may be at different phases of a cultural cycle. It is also possible that examiners interpret (and examine) a particular society differently, perhaps because of the difference in cultural backgrounds between the society and the individual examiner, because of the personal characteristics of the observer, or even because of a language barrier. The ability of the observer to understand the nuances of the native language may help in interpretation of idioms or of actions by a particular cultural set. These differences illustrate the interrater variability all too common in psychiatric diagnoses.

Postmodern thinkers, on the contrary, do not worry so much about truth. The hallmark of postmodern thought is the death of truth. Matzat<sup>10</sup> noted, "The *only absolute truth* that exists in the post modern mentality is that there is no such thing as absolute truth, and as far as the post modern scholar is concerned, that is absolutely true." Note the intended irony (emphasis supplied) of this statement. Every area of our society has been touched by postmodernism, nowhere more than health care, psychotherapy, and the law. At times it seems that science, literature, and religion are all mutating under the influence of postmodernism.

### **Truth and Reality: Postmodernism or Postpsychiatry?**

Alongside truth lies the equally amorphous concept of reality. Ontology answers the question: what is reality? Before the modern era, the three major ontologies were idealism, naturalism, and realism. Proponents of these three ontologies believe that there is an essential reality. That is, reality can be defined as to its essence, and thus objective truth exists.<sup>10</sup> The modern era witnessed the development of the next two ontologies, pragmatism and existentialism, which state that no essential reality exists (more specifically that ontology is unnecessary and misguided) and thus there is no objective truth. Existentialists such as Kierkegaard, Nietzsche, and Sartre believed that the individual chooses reality; in other words, reality is whatever the individual wants it to be.

This postmodern interpretation of truth (and hence, reality) does, however, receive some support from the sciences. Neurobiology has progressed to such a level that we know more about the long-term effect of torture on memory and accurate recall. Recent awareness of torture<sup>11</sup> in various corners of the globe has highlighted how it is used to produce pathological fear and anxiety along the lines of what Seligman<sup>12</sup> described as learned helplessness.

### **Memory, Recall, and Reality: The Real Problem**

Long-term memory is codification of visual, verbal, or tactile information stored in chunks according to their meaning. Retrieval is essentially an association of current recall with some chunks of stored memory. In other words, what is recorded is not an

accurate copy of data but an interpretation of what we already know or believe. As early as 1932, Bartlett<sup>13</sup> described this process and introduced the idea of schemata to explain inaccurate recall of a story. As we do not know what is being recorded (as it becomes known only later, at retrieval stage), retrieval is influenced by our knowledge, beliefs, and experience. People reconstruct stories in light of their own beliefs and knowledge. In this regard at least, the postmodernists got it right. Or so it seems.

Gudjonnsen<sup>14</sup> suggested that cued recall after free recall could elicit more full account and testimony. He cautioned against cue-influenced recall, which can be misleading, amounting to postevent interference. Gudjonnsen recommended asking further questions to distinguish between real and perceived memory and suggested and confounded memory. We know that real memories contain more sensory information such as colors, size, shape, and sound. On the other hand, suggested memories tend to be long-winded, but essentially lacking in vividness. In an earlier paper, Schooler *et al.*<sup>15</sup> suggested that real memories contain more sensory and geographic detail and are expressed with greater confidence. Suggested memories, on the contrary, are described with more words, verbal hedges, justifications, and rationalizations. Essentially there are more descriptions of function in the narrative than there are actualities.<sup>16</sup>

What does this mean for the assessment of torture survivors? Torture is usually thought of as the most extreme form of human aggression, whereby the victim is not only overwhelmed by fear and rendered totally helpless, but he is also left feeling humiliated. This may lead later to passive avoidance (e.g., dissociation) as a coping mechanism. Torture as such may thus produce a distorted memory process and affect recall. In other words, it may affect truth if not enough attention is paid to the narrative. It is well known that the primary defense used to cope with extreme trauma (and torture) is dissociation. This defense is almost universal across cultures. Simply stated, it is a structured separation of memory, emotions, thoughts, and identity, which are ordinarily integrated as the whole of self. A distortion of reality or derealization is therefore just another major dissociative experience in trauma sufferers, much like depersonalization. Because time and ideas of self are distorted, they negatively affect autobiographical memory. Inconsistencies in autobiographical mem-

ory, which are almost the norm in trauma victims, can therefore be seen as lying or deception.<sup>16</sup>

## The Problem of Accurate Recall

Law enforcement officials have used the apparent effectiveness of cues in aiding recall. In the method called cognitive interviewing, witnesses are sometimes encouraged to remember as much detail as they can about an event, no matter how irrelevant. The rationale is that even small details may trigger further recall of more relevant information. Memory research indicates that trauma survivors, especially those with the diagnosis of post-traumatic stress disorder (PTSD), are characterized by retrieval difficulties of specific memories from their past in response to cue words.

Reading the transcript of interviews of those seeking asylum, for example, illuminates this approach. Initial asylum interviews (at least in Britain) tend to contain closed questions that produce little detail; in later interviews, the questions are more open and the interviewee is encouraged to give as much detail as possible. It is therefore of some concern that in research on refugees, de Jong<sup>17</sup> found that interviewers were reluctant to ask about experiences of rape even though most women were actually willing to talk about such events in an interview.

Neurobiology tells us<sup>18</sup> that traumatic memories are stored in the limbic system of the brain, which governs emotion. Functional images of the brain show that when traumatic memories are rekindled, there is a slowing in neural activity in the part of the brain related to speech and an increase in the area in which intense emotions are processed. The problem of recall is particularly great when the trauma survivor is exposed to further stress such as an asylum interview or an immigration hearing. In such situations, survivors of torture or trauma are forced to recall frightening or painful, even humiliating, experiences. These experiences may not have been integrated successfully into the survivor's narrative memory. The refugee is then forced to reconstruct his experience by weaving together a montage of disparate images, and the story changes over time. The discrepancy in recall or the greater disclosure in subsequent reports is then seen as evidence of lying.

## Falsity, Fabrication, and Perfidy

In the context of developed countries, people with similar traumatic experiences may have different perceptions of their rehabilitation and healing processes.<sup>17</sup> Much depends on whether they are asylum seekers granted temporary protection, with the ever-present threat of deportation, or refugees who have been afforded permanent protection. These differences, along with the integrity of the family unit, reflect the state of mind of the refugee, access to services, and rehabilitation potential.

For many people seeking asylum, there is a lack of objective evidence to support their claims. Perpetrators typically deny atrocities, and the local press reports may be biased. Much then rests on objective country information and gathered history. Objective country information can vary between that obtained by nongovernmental bodies such as Amnesty International and that from official governmental bodies. Someone who has not experienced such trauma may not understand the trauma experienced by the survivor. Accounts then can easily be discarded as false. In the United Kingdom, official immigration guidelines<sup>19</sup> state that “discrepancies, exaggerated accounts, and the addition of new claims of mistreatment may affect credibility” of survivors. Such commentary ignores the fact that consistency and coherence cannot be expected to characterize the narratives of those who have suffered extraordinary, life-threatening trauma. Canadian guidance<sup>20</sup> declares that “The existence of contradictions or inconsistencies in the evidence of a claimant or witness is a well-accepted basis for a finding of lack of credibility.”

## The Whole Truth?

A host of conditions common in refugees, such as sleep deprivation, head injury, and chronic pain, affect accurate recall. Depression, in addition to PTSD, is a common finding in trauma sufferers and displaced persons. It is well known that depression and severe trauma affect an individual's ability to recall accurately and consistently.<sup>21</sup>

In a recent paper, Herlihy and colleagues<sup>22</sup> reported a study among Kosovan and Bosnian refugees who had permission to stay in the United Kingdom. They found that up to 65 percent of the details provided by the subjects changed between interviews conducted from 4 to 30 weeks apart. The longer the

delay between interviews, the more inconsistent the account was at re-interview in patients who had a high degree of PTSD. This inconsistency may mean that the narratives of those suffering the most distress following traumatic experiences are more likely to be inconsistent and therefore could be judged to be fabrications if there are long delays between interviews and court proceedings. The United Nations High Commissioner for Refugees (UNHCR) has clearly stated<sup>23</sup> that difficulties in recall or reluctance to disclose the true extent of persecution is common and may not signify deception.

The context of the interview may also affect recall. It is generally advisable for female officers to interview female refugees, but often female asylum seekers are interviewed by male officers aided by male interpreters. In addition, reliance on interpreters from the same background (as the refugee) may hinder disclosure, as there may be fears of information leaking to the ethnic community. Disclosures made at the last moment as new claims of mistreatment are therefore not necessarily fabrications to avoid deportation, but are a last-ditch, high-stakes gamble to prevent deportation to the home country that perpetrated the atrocities. The initial reticence to disclose sexual violence can be easily understood in some cultures where no matter what the context, sexual contact with other men may lead to a wrecking of marriages and loss of family. This is truly a no-win situation.

## Whose Truth Is It Anyway?

Clinicians working with refugees and torture survivors may face additional challenges to Appelbaum's truth telling.<sup>2,5</sup> We cannot decide if someone is at risk of future persecution, nor can we state with medical certainty that the individual has been subjected to persecution. The presence or absence of PTSD merely complicates the matter, as there is circularity in the argument that current diagnosis proves past history. A clinical diagnosis of PTSD with characteristic symptoms and signs does not prove that the claimed trauma took place (although, ironically, there has to be a history of trauma to sustain the diagnosis); it merely makes it more consistent with the claimed trauma. Nor does the absence of PTSD rule out trauma, as we know that only a small portion of trauma survivors go on to develop syndromal PTSD. The obvious emotional investment and the politics of immigration aside, clinicians in the legal arena ought to stay within the realms of clinical find-

ings and opinions derived from such findings, in keeping with the rest of Appelbaum's theory of ethics. The decision based on the facts or allegations are the remit of the fact finder, not the expert. That is the only absolute truth.

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