REGULAR ARTICLE

Clinical and Legal Considerations When Optimizing Trauma Narratives in Immigration Law Evaluations

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Asylum seekers in the United States face complex legal processes that require the construction of coherent and credible narratives to establish eligibility for legal status or immigration relief. In this article, we review clinical and legal considerations involved in optimizing trauma narratives in forensic psychiatric evaluations for immigration courts. We highlight significant challenges faced by asylum seekers, including the emotional impact of trauma and cultural factors affecting their ability to disclose their experiences, including the roles of symptoms and cultural and situational elements in disclosure and narrative development. We emphasize the importance of creating a therapeutic and empathetic environment to facilitate disclosure and partnering with interpreters across multiple culturally sensitive evaluations. We address the roles of common traumatic stressors in narrative development, including cultural challenges related to histories of torture, abduction, sexual violence, and human trafficking prevalent among asylum seekers, providing insights and guidance on each. Further, we address specific potential challenges to the forensic psychiatric evaluator during the narrative development process, such as transference, countertransference, malingering, and vicarious traumatization. We aim to provide guidance on the development of trauma narratives of asylees developed for both therapeutic and medico-legal effectiveness.

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According to U.S. law, refugees are 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.[1] Asylum seekers are individuals who claim that they meet the definition of a refugee, and their claims are yet to be adjudicated. At present, a record number of over 100 million people have been forcibly displaced.[2] In 2022, the refugee admission ceiling was increased to 125,000, whereas only 60,014 admissions were accepted in 2023.[3] Since the Refugee Act[4] was passed in 1980, the United States has accepted over 3.1 million refugees and asylum seekers.[2]

To obtain refugee status, a person must apply within one year of arrival to the United States. Individuals can include their spouse and children on their application.[5] The application process includes an interview with a U.S. Citizenship and Immigration Services (USCIS) officer to obtain the person's narrative and decide whether the person meets the definition of a refugee.[5] Individuals seeking asylum typically also undergo evaluation by various professionals, which can include doctors, lawyers, judges, and psychologists, during which they are asked to retell their experiences to establish their fear of persecution. When working in this setting, forensic psychiatrists not only obtain thorough psychiatric histories to establish any diagnoses but are also often tasked with evaluating and developing a cohesive trauma narrative. The forensic psychiatrist's goal in this endeavor is to translate a story through a medico-scientific lens to create a narrative that is useful and impactful within court systems.[6] This process is

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complicated when developing narratives with asylum seekers because of the profound trauma that many have experienced, the cultural context of their situations, and the legal implications of the narrative. It is also important to acknowledge that immigration law continues to evolve, with specific details frequently changing according to acts of Congress. Furthermore, there is a greater need for these forensic psychological evaluations than there are available providers, and it has been suggested that a broader range of trained individuals, like primary care providers, also complete them.[7] It is important that, despite a variety of training experiences, individuals completing asylum evaluations feel prepared to address and consider the specific challenges that often arise when constructing their trauma narratives.

In the process of determining refugee eligibility, the asylum seeker's credibility is evaluated.[5] Factors within the trauma narrative, such as omission of information, late disclosure, and discrepancies in the story, are often counted against the asylum seeker's credibility.[8] This can be challenging, as asylum seekers' ability to disclose information regarding their experiences is affected by their culture as well as their psychological state, especially when they have experienced trauma.[9] It is imperative to navigate the psychological impacts of this trauma in a therapeutic manner while also gathering data and reconstructing ideas so that they have greater legal utility.[6] Specific circumstances arise during asylum evaluations that also warrant consideration by forensic evaluators, including interviewing asylum seekers who have experienced human trafficking, imprisonment, torture, and sexual violence. Immigration courts have provided some guidance on what constitutes a "well-founded fear," which will be discussed in a later section of this article. In this article, we review and outline important clinical and legal considerations when constructing a trauma narrative in a way that is not harmful to the asylum seeker during the evaluation, while simultaneously maintaining objectivity and providing useful information from a medico-legal perspective.

Emotional State and Disclosure

Refugees, by definition, have been subjected to persecution, and many of them have been the victims of violence in their home countries.[8] As a result of the trauma they have experienced, many of those seeking asylum experience psychological manifestations that affect their storytelling ability. This makes it important to consider the effects of trauma on the individual during an evaluation. One in 10 adult refugees in western countries has posttraumatic stress disorder, and they are 10 times more likely than age-matched general American populations to have posttraumatic stress disorder.[10] The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR) criteria for posttraumatic stress disorder (PTSD) include witnessing or directly experiencing a severe traumatic event, followed by the development of intrusive symptoms, avoidance of stimuli associated with the event, negative alteration in cognition and mood, and alterations in reactivity for greater than one month.[11] Specifically, people often develop the intrusive symptom of dissociation, during which an individual feels as if the traumatic event is recurring.[11]

These symptoms have a profound impact on how one might behave and disclose information during an asylum evaluation. Reexperiencing can occur during the evaluation, which may make it difficult for an individual to provide adequate or coherent information.[8] There is a significant link between torture (particularly sexual torture) and the avoidance symptoms of PTSD,[12] which can lead to nondisclosure. Qualitative data from interviews with 27 refugees and asylum seekers in the United Kingdom found that 20 participants talked for the first time about their traumatic experiences only after entering the United Kingdom, and of those, 13 talked to Home Office officials, highlighting the significant avoidance associated with trauma in this population.[13] Alterations in behavior, including irritability, hypervigilance, and difficulties concentrating, can also affect disclosure.[8] Another prominent symptom of PTSD is the inability to remember important aspects of the traumatic event.[11] Emotional states have an impact on memory processes.[8] There is a large body of evidence documenting the repression of traumatic memories, particularly involving childhood trauma.[14] Distortions and the fragmentation of memories that are possible in PTSD can lead to omissions or late disclosure of information and carry the risk of affecting the credibility of the asylum seeker in legal settings.

A meta-analysis of the prevalence of serious mental disorders in refugees resettled in western countries indicated that one in 20 adult refugees struggles with major depressive disorder (MDD).[10] DSM-5-TR criteria for MDD include depressed mood, sleep disturbances, fatigue, psychomotor changes, and challenges

with cognition.[11] The manifestation of these symptoms during evaluation can include irritability and problems with memory and attention, which can similarly affect disclosure.

Shame is another significant factor that often leads to challenges with disclosure and has been shown to be linked closely with PTSD. Shame is related to both fear of being seen negatively by others and negative self-image. What someone views as shameful varies widely based on cultural background and family experiences. Shame has been shown to motivate people to avoid others, making them less likely to disclose their feelings.[8] Interviews with refugees and asylum seekers indicate that those who experienced sexual violence reported greater feelings of shame and more difficulty with disclosure during their Home Office interviews in the United Kingdom.[13] In this study, those with higher levels of shame also had higher PTSD scores and more avoidance and arousal symptoms.[13] This supports previous evidence from interviews with victims of violent crime that shame appears to contribute to subsequent crime-related PTSD symptoms.[15] Knowing that PTSD, shame, and depressive symptoms are prevalent in this population, it can be beneficial to incorporate nonverbal information present in interviews into interview reports, such as describing the evaluee's distress or PTSD symptoms.[9] In our experience, many asylum seekers choose to not disclose certain information that would be considered shameful, choosing instead to portray themselves as psychologically healthier than they are.

Understanding the complexity of the internal state of asylum seekers in this setting allows evaluators to better accommodate the evaluee while facilitating disclosure during the evaluation and thus construct a more accurate trauma narrative. Asylum interviews with asylum seekers revealed that the majority felt that their asylum interviews were difficult because of their emotional impact, including feeling traumatized and experiencing shame.[16] These individuals with a history of trauma often develop feelings of mistrust, lack of power, and suspicion toward their interviewer,[9] and others report that they feel unsafe and persecuted during their immigration interviews.[16] Some asylum seekers report increased symptoms after their asylum interviews, including nightmares, anxiety, depression, and paranoia.[16] Interviewers have noted the increased anxiety during interviews, as asylum seekers anticipate being discredited or disbelieved in the asylum process.[9]

The evaluator qualities that facilitate disclosure in asylum evaluations include empathy, patience, acceptance, and nonjudgmental listening.[16] Asylum seekers may disclose more information in the setting of a trusting relationship with the evaluator, often developed over a period of time.[9,16] If possible, it is most beneficial to conduct the evaluation over multiple interviews to facilitate this trust. Unfortunately, this is often limited by lack of financial reimbursement for the evaluation as forensic evaluations in immigration law settings are often done on a volunteer *pro bono* basis. Nevertheless, conducting multiple interviews would be optimal, especially in the presence of multiple highly traumatic events.

Conducting multiple interviews in an evaluation can be contrary to the established procedures of the asylum-seeking process that expect asylum seekers to disclose their history shortly after arrival in a limited amount of time. It also demonstrates the necessity of recognizing that these expectations are unrealistic for asylum seekers meeting the definition of refugee. Similarly, it highlights structural problems within the asylum process that requires asylum seekers to produce a coherent and consistent narrative within a limited period, despite impacts to memory and behavioral processes related to trauma. The role of the forensic psychiatrist would also include educating immigration officers and immigration courts on the role of trauma and emotional states on disclosures and providing some recommendations to improve disclosure, including interviewing in a less adversarial manner (for example, asking questions in a nonconfrontational manner), allowing adequate time for individuals to respond to questions, and providing frequent breaks as needed.

Retraumatization and Healing in the Process

The legal literature recognizes the phenomenon of trauma associated with trial and legal proceedings themselves.[17] Legal encounters may introduce retraumatization, whether through the adversarial nature of questioning or the asylum seeker's interpretation of the impartiality of judges (especially if the judge happens to be part of a group that includes the perpetrators of the asylum seeker's trauma) or being confused by the unknown nature of proceedings. It has been proposed that these may be addressed within the court system by avoiding adversarial cross-examination, more openly expressive and compassionate judging, and greater access to attorney guidance by asylum seekers.[17]

The process of conducting asylum interviews itself carries the risk of retraumatizing the evaluee, including triggering dissociation or flashbacks for those who have experienced trauma. But retelling one's trauma narrative can aid in recovery after traumatic events, especially when conducted in a safe and empathetic manner. In a literature review, Kaminer identified themes pertaining to posttraumatic growth that can emerge from such interviews: emotional catharsis involves facilitating emotional release through retelling experiences.[18] This is relevant to forensic evaluations, as the interview may be the first time that individuals are allowed a safe environment to disclose their experiences and release emotion. It has been shown that many asylum seekers do not disclose their trauma until relocation, with many of them disclosing for the first time to asylum evaluators.[13] Kaminer also discusses the theme of linguistic expression, which involves integrating traumatic memories linguistically and developing a meaningful trauma narrative. The act of synthesizing individuals' trauma into written reports can help asylum seekers organize memory fragments into cohesive narratives that they can integrate in a safe and controlled way should their evaluation reports be shared with them.[18] This also allows individuals to develop meaningful accounts of their experiences, in which they may understand and process what has happened to them, potentially reworking assumptions and negative cognitions about themselves.[18] This includes the development of an explanatory account of their experiences, potentially exploring links between the past and current behavior or symptoms in an understandable way. Finally, being an empathetic witness to the injustice of individuals' trauma can help establish a feeling of validity in their experiences and reestablish trust in others.[18] This re-emphasizes the importance of suspending prior assumptions about the evaluee and attending nonjudgmentally to the asylum seeker's account. Literature suggests the importance of meaning making after experiencing severe trauma, including potential progressive restoration of worldviews, self-realization, and newly found purposes, as well as its importance in clinical work to improve psychosocial outcomes for refugees.[19] Posttraumatic growth may play a significant role in the trauma narrative of asylum seekers.[20] There may be pressures to minimize such "positive" attributes, however, in favor of embellishing symptoms (discussed later in this article). There may also be pressures to overly emphasize posttraumatic growth because of perceived stigma related to the more "negative" features of trauma. These pressures may play variable roles in an individual's narrative expression, and the evaluator should be aware of these possibilities when conducting evaluations.

If evaluees experience retraumatization during evaluations, it is important to not confront them or press them to continue reporting on their traumatic history. We recommend allowing the evaluee to take a break or end the interview and offering to continue during a second evaluation. This approach attempts to maintain the trust between evaluator and evaluee, mitigate distress from posttraumatic symptoms, and optimize the chance of more complete disclosure. Respecting an evaluee's wishes to not disclose certain details can also mitigate the risk for retraumatization and sustain trust. As discussed previously, there is often significant shame, mistrust, and psychological distress that can prevent disclosure of traumatic memories. When an evaluator suspects retraumatization is occurring, it is important to document in detail the circumstances that led to this response, as these are also important data in the written trauma narrative.

The Interview Environment

It is important to consider environmental factors that can affect disclosure during evaluation. It can be beneficial to explain interview procedures to the evaluee before the evaluation,[8] as allowing the evaluee to know what to expect can ease anxiety. Lack of information or misinformation from family or friends can lead to misunderstandings about what is best for their case and can lead asylum seekers into altering or fabricating elements of their history.[9]

The setting of the interview room may also affect emotional states during the interview. Evaluations should take place in an inviting, private environment with enough space between the interviewer and evaluee so that evaluees may feel safe. Keeping in mind that many asylum seekers experience PTSD symptoms, noting the lighting and amount of noise in the interview room is also important. Small offices can remind asylum seekers of previous locations, such as prison cells, in which case the setting may contribute to difficulty with disclosure.[16] The literature notes that it can be beneficial to have another trusted person in the interview room to make the evaluee feel more relaxed and comfortable.[16] This is especially relevant for individuals who are survivors of sexual

trauma, as they may feel unsafe with evaluators of the same gender as their abuser(s). This is also relevant when evaluating juveniles. Nonetheless, we recommend caution if the evaluator is considering having a third party present. Although it can make the evaluee more comfortable, it may also be detrimental if the evaluee chooses not to disclose certain things (sexual trauma, for example) in the presence of a loved one. Having a third party can also compromise the neutrality and validity of the evaluation if there is suspicion of coaching. The gender and presence of the interpreter can also contribute to the client's sense of safety and will be discussed further below.

Roles and Challenges of the Interpreter

Several challenges arise with the use of interpreters during asylum interviews. Having a third individual in the room may alter the dynamic and can make the interview feel less private and safe. When an interpreter from the same ethnic background is used, the asylum seeker may experience fear and suspicion, as confidentiality may be a variable principle in some cultures. On the other hand, the interpreter can speak a different dialect or be a member of a different political group, which may either lead to bias in interpretation by the interpreter or fear and lack of disclosure by the evaluee.[16] There have been instances where an evaluee's abuser has acted as the interpreter and thus influenced what was disclosed during the interview.[9] Interpreters may also be trauma victims themselves, and this work has the potential of retraumatizing them[8] as well as biasing or altering their ability to translate accurately. Conversely, the shared experience of either the evaluator or the interpreter may also benefit trust building via degrees of self-disclosure or cultural sensitivity guiding appropriate questioning (for example, knowing of the existence of specific potential stressors).[21] Further, such shared experience by the interpreter may facilitate "cultural brokering," in which the interpreter partners bilaterally with the evaluator as a dyad in cultural information and responsive assessment.[22]

Attempting to create a narrative of a person's experience using translated versions of information introduces an additionally challenging layer when one is trying to understand the essence of another's experience. Griffith and Baranoski discuss writing as a forensic psychiatrist as "portraiture," in which one listens for the voice of the client. This entails listening to the story unfold in the context of the events and transactions of the situation.[6] If the asylum seeker's experiences are altered in the process of translation, this is an additional barrier in synthesizing the "portrait" of an individual's experience.

Before the start of the interview, the evaluator should ensure that the evaluee and the interpreter can understand each other and the role of the interpreter should be made clear.[16] It is also important that interpreters translate word for word as they are able, rather than attempt to summarize. Even with this, it is possible that the interpreter can miss cultural references that may be unfamiliar or attempt to explain cultural references that may be unknown to the interviewer.

Similar to the evaluator, the interpreter must gain the trust of the asylum seeker to facilitate full disclosure of the evaluee's experiences. Ideally, this would consist of the same interpreter being present across several interviews if several are needed.

Common Traumatic Stressors

Torture

Although some literature estimates that five to 30 percent of asylum seekers have been tortured,[23] other studies estimate torture to occur at a higher rate. A systematic review by Steel *et al.*[24] of 55 studies on refugee populations revealed that an estimated 36 percent of refugees had experienced torture in their home countries. Torture may be physical or psychological. Physical torture includes beating, burning, sexual assault, medical torture, and psychological torture can include water, food, or sleep deprivation, witnessing torture, threats, or confinement.[8] Forensic psychiatric evaluations of asylum seekers and refugees who have experienced torture are fraught with potential challenges. These include the psychological impacts of torture, including the lasting effects of subordination and intimidation. Victims of torture may exhibit symptoms such as hypervigilance and mistrust of authorities, which can interfere with their ability to engage effectively in evaluations.[25]

During forensic psychiatric evaluations, it is crucial to create a safe and nonthreatening environment for survivors of torture. Reminders of subordination and intimidation can trigger traumatic memories and exacerbate symptoms. Sensitivity to this is essential, as understanding the cultural context of torture (alongside a culturally informed interpreter) may

Table 1 Common Scenarios in Asylum Trauma Narratives and Suggested Areas of Inquiry

Common Scenario	Suggested Questions
Torture	Who was the perpetrator of the torture? What was the kind of torture, and what happened during torture? How often did the torture occur (one incident versus multiple incidents)? Did the torture occur in the context of an interrogation? Was the torture done to obtain specific or false confessions? Are there any scars or physical evidence of the torture? Did the person have access to medical care after torture? Did the person have access to any local, regional, or international NGOs to report the torture?
Imprisonment	What were the circumstances that led to imprisonment? How long was the imprisonment? Did the person have access to food, clean drinking water, toileting? Where was the person held (cell versus other settings)? How many others were in the same cell or holding environment? Were there any formal charges read to the person? Did the person have access to legal representation? Did family and loved ones know about where the person was held? Did the person have access to medical care during imprisonment?
Abduction	Who were the abductors? What were the circumstances around the abduction? Did the person have access to food, clean water, toileting? Was the person allowed any contact with family and loved ones? Was there a ransom, and if so, how much was the ransom? How was the ransom paid? What were the circumstances of the person's release? Did the person have the option of reporting the abduction to local authorities?
Sexual violence	Were the perpetrators known to the victim? What were the circumstances around the assault? How many incidents of assault or sexual violence occurred? How did the assault stop or how did the victim escape the assault if held captive? Did the person have the option of reporting the assault? Were there any family, community, or cultural barriers to reporting? Did a pregnancy occur as a result?
Human trafficking	What were the circumstances around the trafficking? How did the person know the activities were part of a trafficking scenario? Did the person attempt to escape or leave the traffickers? Did the person have access to food, clean water, toileting? Was the person allowed any contact with family and loved ones? Were there expectations regarding work duties (for example, manual labor, prostitution)? How did the person escape the traffickers? Did the person have access to any local, regional, or international authorities to report the trafficking?

NGO = nongovernmental organization.

help evaluators navigate sensitive topics and build trust with the individuals being assessed.[26] In this endeavor, during asylum evaluations that involve torture, it is important to gather specific information, including who the individual was tortured by, what the torture involved, and the frequency of the torture. It is also imperative to gather information regarding scars or physical evidence of the torture for documentation of evidence within the trauma narrative. When developing trauma narratives for asylum seekers and refugees who have experienced torture, it is imperative to prioritize avoiding a sense of coercion in assessment, which may be triggering for the evaluee. Forensic evaluators should be trained to recognize the signs of retraumatization and be prepared to provide appropriate support during the narrative development process.[25] Please see Table 1 for examples of areas of inquiry regarding torture and other common scenarios. Although they are listed as questions, we recommend that evaluators use their clinical judgment in tailoring the questions to their evaluees.

Abduction and Imprisonment

Abduction and imprisonment are traumatic stressors commonly experienced by asylum seekers and refugees in regions affected by conflict and persecution.[27] During the development of a trauma narrative within a forensic psychiatric evaluation, it is essential to consider the circumstances surrounding an asylum seeker's arrest, the duration of abduction, and the conditions of imprisonment. Many individuals may have been subjected to harsh and degrading treatment during captivity, which can have a profound impact on their mental health.[28]

Access to necessities such as food, water, and proper sanitation can be limited during abduction and imprisonment, leading to physical and psychological suffering. Additionally, the absence of legal representation, formal charges, and access to medical care can compound the trauma. The fear of repercussions, distrust of authorities, and concerns about confidentiality can also affect the willingness of asylum seekers to disclose their experiences during evaluations.[29] Evaluators should be prepared to address complex narratives that may involve periods of extreme distress and suffering. Trauma narratives should be developed gradually, considering the survivor's emotional readiness and comfort level in revisiting such periods during a narrative development.

Sexual Violence

Sexual violence is a distressing and prevalent trauma experienced by many asylum seekers and refugees. Studies indicate that a significant proportion

of refugee women have experienced gender-based violence. For example, a study in Montreal, Canada found that 80 percent of a sample of asylum-seeking women reported gender-based violence, with more than one-third seeking refugee status primarily because of these experiences.[30] In a qualitative study involving interviews with professionals who elicited trauma narratives from asylum seekers, it was found that sexual trauma was one of the most difficult experiences for individuals to disclose, as it was linked to feelings of shame and embarrassment as well as fears of social stigma and exclusion.[9] Men also tend to underreport incidence of sexual abuse, which could be attributed to associated shame.[31] A woman being interviewed regarding her experience with her Home Office interview in the United Kingdom disclosed that she was worried about sharing her history of rape because of fear of shame reactions from males in the room, fearing that they may leave the interview.[16]

The cultural context of sexual violence and shame are also important factors to consider within the development of the trauma narrative. In a study that included interviews with 27 refugees and asylum seekers, many participants reported that, in their culture, sexual topics were not discussed and that this prevented disclosure of such information during their Home Office interviews.[13] Some asylum seekers do not disclose sexual and physical violence for safety reasons, including threats, social stigma, and lack of understanding of protective laws in their country of relocation.[30] Some asylees fleeing violence by intimate partners and family members may have also suffered the loss of a significant support group. Some choose not to disclose this information to maintain their family structure and social connections, even if it weakens their refugee claim.[30]

Forensic evaluators working with survivors of sexual violence should prioritize creating a safe and nonstigmatizing interview environment. It can benefit disclosure to have a female interpreter and interviewer in the room when evaluating women, especially if they have a history of rape.[8] Trauma-informed interviewing techniques should be employed, taking a culturally sensitive approach to sexual violence into account.[9] Evaluators should be aware of the potential impact of shame on PTSD severity and avoidance symptoms, ensuring that survivors are supported throughout a nonjudgmental narrative development process. Recognizing the complex decision-making process of evaluees regarding disclosure, which can include concerns for safety, family structure, and social connections postdisclosure, may be vital in eliciting and communicating the survivor's perspective on sexual violence.[30]

Human Trafficking

Human trafficking may be a prominent traumatic stressor within the histories of asylum seekers and refugees worldwide. According to the United Nations Office on Drugs and Crime (UNODC), victims of trafficking are commonly refugees or asylum seekers, and migration status is often used against victims of trafficking by their abusers.[32] Trafficking may involve histories of recruitment, transportation, harboring, or receipt of individuals through force, coercion, or deception for the purpose of exploitation.[32] The prevalence of human trafficking among asylum seekers and refugees varies depending on regions of origin, cultural context, and other specific circumstances.

Forensic psychiatric evaluations of asylum seekers who have been victims of human trafficking face several common challenges. Asylum seekers may omit information because of fear of repercussions from others, such as sex traffickers or authorities from their home countries.[9] Asylees may transfer such feelings of fear and distrust toward other perceived authorities, such as asylum officers and evaluators.[33] This may lead to reluctance in disclosing sensitive information about their trafficking experiences. It is also common that individuals have been given false information by their traffickers that they believed to be true, such as previous locations they had been to before arrival in the country of relocation. Others are threatened by traffickers so they will tell a false story.[9] Such factors can hinder the accurate development of a trauma narrative and contribute to discrepancies in forensic reports.

To address the challenges in forensic psychiatric evaluations of asylum seekers who are victims of human trafficking, mental health evaluators may consider several strategies. Fostering a safe and supportive environment in which trust can be built remains crucial. This should include taking care to explain plans comprehensively, ensure informed consent, and, whenever possible, allow individuals to participate in shared decision-making regarding the narrative development and legal process.[34] Depending on the location of the country of relocation, specific legal protections and processes may exist for victims of human trafficking. For example, victims of human trafficking in the United States are eligible for immigration relief through the T-visa program.

Informing evaluees of this relief may encourage or facilitate disclosure of their experience.

Building rapport and reminders of confidentiality within the evaluation reporting and legal system may help individuals feel more comfortable disclosing their traumatic experiences. Furthermore, evaluators should be culturally sensitive to the contexts of human trafficking and aware of the potential cultural differences in the presentation and expression of trauma symptoms following trafficking.[34] This includes addressing how individuals' understanding of their trafficking history (including other individuals, groups, and communities involved) fits into their overall trauma narrative, fear of potential further persecution, and cultural stigma related to disclosing trafficking.

Legal Considerations and Guidance

Courts over the years have struggled with the question of what constitutes a "well-founded" fear when adjudicating asylum claims. Individuals fleeing their countries of origin and seeking asylum often do not have objective evidence corroborating their reports, such as court documents, arrest documents, or medical records. Overall, immigration courts have agreed that very generalized statements of fear alone do not suffice to determine that an individual has a well-founded fear. In *Garcia-Ramos v. Immigration and Naturalization Service (INS)*,[35] the U.S. Court of Appeals, Ninth Circuit, ruled that well-founded fear would be subjectively genuine and objectively reasonable. They defined "objectively reasonable" as a fear where "there must be some basis in reality or reasonable possibility that a petitioner would be persecuted" (Ref. 35, p 1374). The same court then added in their decision in *Guevara Flores v. INS*[36] that a reasonable person standard applies to determining well-founded fear: "An alien possesses a well-founded fear of persecution if a reasonable person in her circumstances would fear persecution if she were to be returned to her native country." (Ref. 36, p 1249).

In 1987, the Board of Immigration Appeals (BIA) ruled in *In the Matter of Mogharrabi*[37] that a well-founded fear is based on four distinct elements, often referred to as the Mogharrabi Test. The four elements that determine the fear are possession (the alien possesses a belief or characteristic a persecutor seeks to overcome in others by means of punishment of some sort), awareness (the persecutor is already aware, or could become aware, that the alien possesses this belief or characteristic), capability (the persecutor has the capability of punishing the alien), and inclination (the persecutor has the inclination to punish the alien). When conducting forensic evaluations on asylum seekers, it is often helpful to use the Mogharrabi Test to guide the questions of the interview and compose the trauma narrative.

It is important to note, however, that explicit writing of these elements and that the individual has a well-founded fear in the forensic report may adversely affect the impact of the report, as these opinions refer to the ultimate question to be decided by the asylum officer or immigration judge. In a recent survey of immigration judges that looked at their perceptions of forensic mental health evaluations,[38] judges who participated "strongly advised against using technical legal terminology" (Ref. 38, p 244), such as "credible" and advised against "opining on legal aspects of the case" (Ref. 38, p 244). Further, "participants [Immigration Judges] cautioned that judges view affidavits negatively when they 'usurp the judge's judicial fact-finding role'" (Ref. 38, p 244). Therefore, although we recommend exploring the facets of the Mogharrabi Test with evaluees, we recommend against using legal terms and rather only including the facts and the evaluee's answers to these questions in the narrative, without opining on the ultimate question at hand.

Malingering and Embellishment

Malingering and potential embellishment of experiences are complex concerns that can arise in forensic psychiatric evaluations of asylum seekers. Malingering is the intentional production of false or grossly exaggerated physical or psychological symptoms motivated by external incentives.[39] Malingering and intentional deception are very common in forensic settings and continue to be a major challenge for forensic evaluators.[40] Malingering and mental illness commonly coexist, and some subtypes of feigning behaviors, such as partial malingering, dissimulation, and false imputation, can be suspected in asylum seekers with marked discrepancies in their trauma narrative and reported symptoms.[39] Among asylum seekers and refugees, malingered PTSD is a particular concern. Individuals may exaggerate or fabricate trauma-related symptoms to bolster their legal claims.[41] They may fear that a lack of visible symptoms and harm may lead to deportation. Prevalence data specifically regarding these challenges among asylum seekers and refugees are limited, but studies have highlighted the importance of assessing for these concerns in

forensic evaluations to ensure the validity and accuracy of trauma narratives.[42]

Because of the potential for these challenges, the presence of trauma-related symptoms alone should not be taken as definitive evidence of a diagnosis by a mental health evaluator. Across multiple assessments, forensic psychiatrists and clinicians must employ rigorous assessment techniques to detect malingering and embellishment while maintaining sensitivity to asylum seekers' potential trauma. This includes potentially using standardized assessment tools, such as the Miller Forensic Assessment of Symptoms Test (M-FAST) to help assess credibility.[43] The M-FAST takes five to 10 minutes, can be administered via telephone, and has sensitivity and specificity to malingering of .83 and .85, respectively.[44] Another tool that has been used for detecting feigned PTSD is the Morel Emotional Numbing Test (MENT).[45,46] Corroborating evidence whenever possible using secondary interviews of collateral sources is also recommended.[42] Furthermore, it is essential for mental health professionals to be aware of the unique challenges faced by asylum seekers and refugees in navigating the asylum process, which may influence their behavior and symptom presentation.[47] Addressing such structural pressures with the asylee directly may contribute to a more accurate, comprehensive, and culturally sensitive synthesis of a trauma narrative.

Countertransference and Vicarious Trauma

It is also important to consider countertransference when completing asylum evaluations. Countertransference in the context of psychotherapy relates to the emotional reaction to a client by the therapist.[48] This can affect how one completes an asylum interview, especially if the evaluator is a refugee, survivor of war, or victim of trauma. Another concern is vicarious traumatization to the evaluator. This may be described as Secondary Traumatic Stress, resulting from knowing about a traumatizing event experienced by another and wanting to help the traumatized person. Figley argues that Secondary Traumatic Stress Disorder manifests in nearly identical symptoms to that of PTSD.[48] The DSM-5-TR now recognizes indirect trauma exposure occurring through professional work as fulfilling criterion A of PTSD.[11] A study involving psychotherapists working with survivors of ISIS terror in refugee camps in Iraq showed that 44.4 percent of local therapists showed signs of severe secondary traumatization, which included symptoms of intrusion, avoidance, and hyperarousal.[49] They also found that an individual's trauma history is a risk factor for development of secondary trauma.[50] Not dissimilar to therapists, forensic evaluators conducting this work are at risk of burnout, although literature suggests that caseworkers doing asylum work identified organizational and psychological support as crucial to address secondary traumatization.[51] This is important to consider, as it may affect interviewers' quality of life as well as their evaluations. A study that interviewed 27 refugee and asylum seekers in the United Kingdom noted that some of them were not given the opportunity or were prevented from disclosing certain information by the interviewer.[13] This may be a manifestation of this secondary traumatization, in which evaluators are themselves displaying the trauma feature of avoidance. Because of this potential risk of vicarious traumatization, we recommend that evaluators seek supervision and individualized support when needed and not overburden themselves with numerous evaluations at the same time. We also recommend that evaluators not work on cases that have significant similarity with their own previous trauma so that they do not risk affecting their objectivity. Despite these risks, participation in these interviews is potentially fulfilling and transformative. Literature discussing the experience of asylum caseworkers identify that they often experience a process of inner transformation, more self-awareness, reevaluation about what is normal, and development of self-identity throughout their work.[51]

Conclusion

Constructing effective trauma narratives for asylum seekers undergoing forensic psychiatric evaluations requires multifaceted considerations of factors contributing to disclosure as well as a prominent role of cultural sensitivity throughout. As intrinsic components of their asylum claims, asylees often carry the burden of trauma, significantly affecting their ability to disclose experiences coherently and consistently. The emotional impact of their experiences, coupled with cultural factors and the fear of repercussions, creates substantial obstacles in the narrative development process. There is an underscored necessity of a therapeutic and empathetic approach during evaluations, emphasizing the importance of trust-building, empathy, and nonjudgmental assessment in partnership with a culturally sensitive interpreter across time. Recognizing the influence of mental health symptoms, stigma, shame, avoidance behaviors, and the pressures to

embellish are all crucial for interviewers to facilitate disclosure effectively. In addressing common traumatic stressors, such as torture, sexual violence, and human trafficking, a trauma-informed approach and a safe, nonstigmatizing interview environment are vital. Ultimately, optimizing trauma narratives in forensic psychiatric evaluations for asylum seekers requires a nuanced understanding of the interplay between clinical and legal considerations, cultural factors, and reactivity to the profound impact of trauma on individuals being interviewed. It is essential to prioritize the well-being of asylum seekers while navigating the intricacies of the legal process to ensure that their experiences are accurately and effectively documented in their pursuit of refugee status.

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