Assisting asylum seekers in a time of global forced displacement: Five clinical cases

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ABSTRACT

According to the United Nations High Commissioner on Refugees, over 65 million people were displaced from their homes due to conflict and persecution in 2015. Many physicians express an interest in human rights and a desire to assist this group of refugees and asylum seekers. Physicians are able to use their unique skills by performing medical forensic evaluations of individuals seeking asylum. Some asylum seekers have psychological or physical scars or functional abnormalities relating to injuries or ill-treatment they experience due to persecution. Documenting these findings can significantly improve the likelihood that they will be granted asylum. This manuscript outlines the historical and legal background of asylum. Each of the individuals presented in this paper experienced persecution in different forms. One person was tortured due to his political opinion and one was assaulted because he was gay. One woman sought asylum due to domestic violence, another woman because she had been subjected to female genital mutilation/cutting (FGM/C) and the last suffered severe psychological trauma related to a forced marriage. Five typical clinical cases of medical forensic evaluations are outlined, each with different forms of persecution and physical or psychological findings. Physicians have an interest in using their expertise to help this underserved population. They report that working with asylum seekers is rewarding, intellectually stimulating and a novel way to use their training and skills.

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1. Introduction

Human rights abuses, torture and conflict caused 65 million individuals to be displaced from their homes in 2015. In 2015 more than 172,000 individuals applied for asylum in the US. Physicians have skills that allow them to contribute in a significant way to this vulnerable group of people. Their training provides them with the opportunity to practice “local global health” by performing medical forensic evaluations of asylum seekers. Individuals who have been injured because of torture or persecution may have physical scars or functional impairments. Medical evaluations that document the existence of such scars or impairments and thereby corroborate persecution can provide powerful evidence that increases the likelihood of asylum being granted. Because medical evaluations can play a crucial role in persuading the adjudicator that the applicant’s account of persecution is credible, physicians are uniquely positioned to perform forensic examinations on asylum seekers.

2. Historical and legal background of asylum law

International guidelines and domestic laws direct that asylum seekers be given protection from persecution. Shortly after the
Second World War, the United Nations (UN) Universal Declaration of Human Rights stated that “[e]veryone has the right to seek and to enjoy in other countries asylum from persecution.” In 1980, the U.S. enacted the Refugee Act, which made this international obligation part of U.S. law and created a procedure for granting asylum to noncitizens who face persecution in their home countries.

According to the UN definition, a refugee is “a person who owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group ... is outside the country of his nationality and is unable ... to avail himself of the protection of that country .....” Claims covered by the “particular social group” category may include persecution based on sexual orientation, domestic violence, female genital mutilation, and targeted gang violence.

Although an asylum seeker is a type of refugee, in the U.S. the immigration status “refugee” is applied only to persons who are admitted to the U.S. from abroad through the refugee resettlement program. In contrast, any person who is physically present in the United States or arrives at a U.S. border has the right to apply for asylum. In order to be granted asylum, the applicant must meet the definition of a refugee.

An asylum seeker may initially enter the US with legal documentation and apply for asylum once in the country. The assessment of whether asylum seekers meets the refugee criteria and is eligible for asylum is made by an asylum officer or an immigration judge. This process can take years in some cases, a time during which the applicant exists in a legal limbo.

3. Torture and persecution

Some asylum seekers have been tortured. Torture is considered a form of persecution and is defined as “any act by which severe pain or suffering ... is intentionally inflicted on a person for such purposes as obtaining from him ... information or a confession, punishing him for an act he ... has committed or is suspected of having committed, or intimidating or coercing ...” Individuals who seek asylum may experience forms of persecution other than torture, such as repeated physical abuse, that can result in scars. Some types of torture, along with typical injuries and scars, are outlined in Table 1.

4. Examining and characterizing scars

The Istanbul Protocol Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (IP) was written to establish guidelines for performing forensic evaluations of asylum seekers. Once a scar has been examined, a physician must render an opinion about how consistent the scar is with the injury described. A taxonomy for objectively classifying scars is included in the IP and is outlined in Table 2. In addition, if a scar is not due to the trauma related to the claim of persecution, it should be characterized as “not related to.” Clinicians supplement the skills they have from medical school and residency by attending sessions provided by human rights groups such as Physicians for Human Rights and HealthRight International for advanced instruction on mechanisms of injury in trauma and scar description.

Many cases require working through an interpreter, a circumstance that presents its own unique challenges, especially when significant cultural differences exist as well. Torture can also include injuries that do not result in scars. For example, suspension torture can result in chronic shoulder pain. Repeated head trauma can result in traumatic brain injury. Applicants’ memories and recall can be impaired and impact their ability to recall precisely and consistently the trauma they experienced.

A general knowledge of country conditions can be helpful to the evaluator. Although clinicians are not required to understand the nuances of political and legal circumstances of the country from which the applicant has come, it can be helpful to understand some background information.

Many asylum seekers display symptoms of PTSD and depression but have no lasting physical scars. For these individuals, an evaluation by a mental health clinician can become a key part of their asylum appeal. In those with both physical and psychological evidence of persecution, some undergo extensive evaluations by a mental health professional, while others have their mental health symptoms documented by the physical evaluator.

4.1. Case 1: a man detained and tortured due to his political opinion

AN was born in the Democratic Republic of the Congo (DRC). The DRC has long been a country rife with political instability and has had a corrupt autocratic government known for its poor record on human rights. AN was harassed and verbally threatened for years by the ruling government because of his peaceful involvement in an opposition political party.

In 2011, he was in his home when several men entered, forced him into a military vehicle and drove him to a detention center 20 min away. He was placed in a small room which held approximately 15 other people. The cell was crowded, hot and malodorous and was infested with lice. There was no toilet and the food and water were inadequate.

During the two weeks he was detained, AN was interrogated, tortured and had his life threatened. His captors attempted to coerce him to admit working for a rebel group and to implicate other people in opposition political activity.

During one interrogation, a soldier cut his right leg and left buttock with a bayonet, and he bled profusely. During another
interrogation, a soldier lit a plastic bag and held it above his foot while the hot plastic dripped onto his skin. This caused a burn which took several weeks to heal.

As part of his asylum appeal, he underwent a medical forensic examination to document his scars. His exam revealed a scar on his leg that was 8 cm, linear, slightly raised and well demarcated. (Fig. 1). Another linear scar was seen on his buttock. AN attributed these scars to the bayonet injury.

There was a scar on the dorsal aspect of his foot. The scar had an irregular border and was 3 cm in diameter. The mechanism of injury and the scar appearance were assessed to be highly consistent with injury from the burn. The scars were assessed to be highly consistent with injury from a laceration with a sharp weapon, because they could have been caused by the trauma described, and there are few other possible causes, based on the IP taxonomy.

The exam of AN also revealed a 4 cm, circular scar on his left knee. AN stated this was due to a childhood injury. This scar was as such described as “not related to” the injuries from his torture and detention.

Shortly after being released from detention, he fled to the United States where he felt that he would be free from the persecution and human rights abuses that occurred in his country. He was granted asylum based on persecution due to his political opinion.

4.2. Case 2: a woman subjected to domestic violence

MN came from a Central American country that offers no fundamental protection to victims of domestic violence. In her country, an intimate partner lacks judicial recourse and protection when abused by an intimate partner. When she sought protection from law enforcement in her community, she was told that the police would not intervene on her behalf. US case law has provided precedent for these individuals to gain asylum.

MN began a relationship with a man when she was 14 years old. After she became pregnant he began to beat her regularly and verbally abuse her. He abused her repeatedly over during their relationship by kicking, hitting, raping and threatening to kill her.

During one abusive episode, her partner threw a plate of hot food at her. The hot food burned her left foot, and caused a blister that healed after a week or two. A piece of the broken plate lacerated her right foot and healed after approximately a week.

MN was afraid to report the abuse to the police. She had acquaintances whose abusers were arrested and released without charges after which the abuse escalated. MN’s partner began to isolate MN from her family; MN felt there was no one who could protect her from his abuse.

Her medical forensic exam revealed two scars. There was an area of several irregular, slightly raised and hypopigmented smooth patches on the dorsal aspect of her left foot with an approximate diameter of 7 cm (Fig. 2). Based on the history of the injury, the location and appearance, the scar was determined to be highly consistent with a burn.

There was a linear scar on her right foot that was approximately 2.5 cm long. It was slightly raised and slightly hyperpigmented. It was assessed to be consistent with a scar that could result from a laceration from a sharp object. This scar was felt to be consistent with the trauma described, as based on IP protocol, because it was nonspecific and there are other possible causes.

MN reported numerous episodes of abuse, assault and injury. Only two of these incidents resulted in scars. Torture does not always result in scars, however, and it is important for the evaluator to make this point in the report.

She left her partner and traveled to the US to seek protection from domestic violence. MN applied for and was granted asylum due to persecution related to domestic violence.

4.3. Case 3: a man harassed, poisoned and assaulted due to his sexual orientation

LB was born in an African country in which it is dangerous to be gay. In 2014, in over 77 countries it was either illegal or
fundamentally unsafe to be gay or transgender. Gay or transgender individuals can be subjected to verbal harassment, vigilante assault, imprisonment, torture and threats of physical violence and death. There is precedent in US law for granting asylum to individuals claiming LGBT persecution, based on membership in a particular social group.

LB was persecuted over many years by family and community members who disagreed with his sexual orientation. This persecution included death threats, physical attacks, humiliation, harassment, and vandalism to his business.

As a young man, LB began a romantic relationship with another man. Despite his attempts to keep this relationship secret, community and family members suspected that he was involved in a same-sex relationship. He was summoned to speak with his brothers, uncles and community “elders” who demanded that he end the relationship. They threatened harm if he did not. A mob surrounded his house one day and threatened to burn it down, but eventually dispersed.

Later that year, he became ill while attending a family wedding. He was evaluated by a doctor who diagnosed his symptoms as related to poisoning. He suspected but could not prove that his brother and a cousin were responsible. Poisoning with pesticide has been known to occur in his country, and he suspected his brothers and uncle were responsible.

Although LB and his partner moved to a city away from his hometown, he began to receive threatening phone calls and messages. One day LB and his partner were in a bar when a man came in and talked to the owner. The owner then asked them to leave the bar.

Once outside, they were confronted by a group of local youth militia who operated independently, and without interference, from the local police. In a field near the bar, the group attacked the two men using baseball bats and knives. A man cut LB just above and below the left eye. They also beat him on his legs and upper chest with a bat. After about 20 min, the crowd dispersed but threatened to kill the men if they did not end their relationship.

His exam showed a 3.5 cm linear, well defined scar over his left eye. This scar was highly consistent with injury resulting from a laceration with a sharp instrument. There was a 3-cm linear, well defined scar just inferior to his left eye which was assessed to be highly consistent with a scar resulting from injury with a sharp instrument. These scars were felt to be highly consistent based on the IP taxonomy, as they could have been caused by the trauma described, and there are few other possible causes.

LB came to the US and was granted asylum based on persecution due to his sexual orientation.

4.4. Case 4: a woman forced to undergo female genital mutilation/cutting (FGM/C) when she was a child

ND was born in a West African country and subjected against her will to FGM/C. She was born in a community with a tradition of performing FGM/C on prepubescent girls.

FGM/C is a cultural tradition practiced primarily in Africa, the Middle East and Asia. More than 130 million girls and women have experienced FGM/C in 29 countries. The WHO describes four types of FGM/C, which are outlined in Table 3.

As a 12-year-old, she was seized from her home one day by a group of women in the community and taken to another house in the village, where she was forced to lie down on a dirt floor. Several women held her down as her genitals were cut with a sharp instrument. She was confused, frightened and in excruciating pain.

After being cut, she stayed in the house for approximately 2 weeks while her injuries healed. She was given no formal medical care, but the women of the village applied herbs and leaves to the injuries. Initially she experienced bleeding, pain with urination and was not able to walk. Ultimately her injuries healed to the point that she was able to return home.

Since becoming sexually active, ND states that intercourse is painful. It was not until she came to the US that she became aware that the procedure she had undergone as a girl may have affected her sexual function, and that normally sex could be pleasurable.

Genital exam revealed the absence of the prepuce, clitoris and bilateral labia minora. These findings were diagnostic of type 2 FGM/C. They were characterized as diagnostic because they could not have been caused in any other way than that described, based on the IP taxonomy.

It has been shown that FGM/C increases the risk of sexual dysfunction, and can cause other long term complications, including recurrent urinary tract infections and childbirth complications.

ND fled to the US and was granted asylum based on persecution due to FGM/C.

4.5. Case 5: a woman who was a victim of forced marriage

RD was born in the West African country of Ivory Coast. While she was a university student, her father died and the family began to struggle financially. Her mother and her paternal uncle arranged for her to be sold into marriage. She was transported to Burkina Faso, and bought by a 60-year-old man. He paid for her with both cash and livestock. She became his fourth wife.

From the first night of their wedding, and for the next several months until her escape, RD was victimized by her husband - emotionally abused, physically beaten, and raped several times each week. Her husband’s three other wives forced Ms. D. to perform the majority of the housework. She began to lose weight and had significant insomnia.

After several months, RD was able to flee the compound and go into hiding. A former university professor bought her a ticket to New York. Once settled in New York, she sought legal support and applied for asylum. Her lawyers requested a psychological evaluation for RD, as she presented as detached and unemotional when telling her story. She also had trouble remembering details of the sexual abuse she suffered at the hands of her husband, and complained of frequent nightmares. She was evaluated by a psychologist, who utilized standardized assessments of trauma, depression, and anxiety within the context of a semi-structured clinical

Table 3

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<thead>
<tr>
<th>Type</th>
<th>Description</th>
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<tbody>
<tr>
<td>Type 1</td>
<td>Often referred to as clitoridectomy, this is the partial or total removal of the clitoris (a small, sensitive and erectile part of the female genitals), and in very rare cases, only the prepuce (the fold of skin surrounding the clitoris).</td>
</tr>
<tr>
<td>Type 2</td>
<td>Often referred to as excision, this is the partial or total removal of the clitoris and the labia minora (the inner folds of the vulva), with or without excision of the labia majora (the outer folds of skin of the vulva).</td>
</tr>
<tr>
<td>Type 3</td>
<td>Often referred to as infibulation, this is the narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and repositioning the labia minora, or labia majora, sometimes through stitching, with or without removal of the clitoris (clitoridectomy).</td>
</tr>
<tr>
<td>Type 4</td>
<td>This includes all other harmful procedures to the female genitalia for non-medical purposes, e.g. pricking, piercing, incising, scraping and cauterizing the genital area.</td>
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interview. RD met criteria for post-traumatic stress disorder, dissociative subtype. Her fear of deportation was shown to exacerbate her symptoms. The psychologist was also able to document RD’s history of suicidal ideation – which she connected with the time in Burkina Faso when she feared never being able to escape her forced marriage.

Ms. D was granted asylum based on persecution due to forced marriage.

5. Conclusion

Each of these cases describe the harmful and dangerous circumstances in which some people live in countries where human rights are disregarded. The individuals outlined sought refuge in the United States due to the harm they experienced in the country from which they fled and the fear that they had if they were to return. When physical scars exist, a thorough, expert and objective physical examination by a trained physician can provide key evidence. Physicians have the privilege of assisting those who are most vulnerable, and practicing this at a local level for individuals suffering from global events can be deeply rewarding. Evaluating asylum seekers can be both difficult and deeply rewarding.25 Clinicians report experiencing vicarious trauma when hearing stories of persecution. A mentoring environment can help to prevent burnout.26 As the need for medical forensic evaluations increase, physicians can contribute in a unique manner using skills they already possess, and contribute in a meaningful way to this vulnerable population.

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