

Briefing Paper: The mental health difficulties experienced by victims of human trafficking (modern slavery) and the impact this has on their ability to provide testimony

Prof Cornelius Katona MB BChir MA MD FRCPsych, Helen Bamber Foundation
Prof Louise Howard BSc MSc MPhil PhD MRCP MRCPsych, King's College London

Introduction

Victims of human trafficking (VoTs) have often endured extreme, traumatic experiences and many will develop emotional disorders (Oram et al 2015; 2016; Ottisova et al 2016; Katona et al 2016) as a result of interpersonal violence. This includes post-traumatic stress disorder (PTSD), depression, anxiety, as well as other disorders such as substance misuse and psychosis. This briefing paper will concentrate on the difficulties in provision of testimony associated with such mental health problems.

Because many VoTs are also asylum seekers and both populations have high rates of PTSD, this briefing paper is based in large part on research in the closely related area of testimony in asylum seekers. It draws in particular on the work of the Centre for Emotion and Law¹. Victims of trafficking may also have other underlying vulnerabilities such as learning difficulties, which may not be diagnosed.

Research in the area has identified four key themes which impact on the ability of traumatised people, including, but not only, those with a diagnosis of PTSD, to provide evidence: the effect of trauma on memory; the effect of shame on disclosure, the narrative dilemmas that VoTs often face, and the often false assumptions made by decision makers regarding the credibility and reliability of testimony. These themes and their potential impact are described briefly below.

The effects of trauma on memory

Because of the differential effects of trauma on the efficiency of functioning of particular brain areas and functions, the ability to store and recall contextual components of the trauma tends to be impaired in people with PTSD resulting in impaired ability to recall events, and in particular, to provide clear and consistent chronologies (Flor and Nees 2014). The research evidence suggests that these difficulties should not be seen as evidence of reduced credibility (Cohen 2001; Herlihy and Turner 2005). In particular, the assumption that inconsistency of recall means that accounts have poor credibility is questionable. People are more likely to give inconsistent answers when asked about the peripheral details of traumatic experiences. The greater the number of symptoms of PTSD (such as nightmares, flashbacks, intrusive thoughts and avoidant behaviours) that people have, and therefore the severity of their PTSD, the more likely it is that the number of inconsistencies between their accounts increases over time (Herlihy, Scragg and Turner 2002). Many of the symptoms of PTSD such as flashbacks, intrusive thoughts, hypervigilance, shame and low self-esteem, as well as the fear of (and resultant inability to deal appropriately) with authority figures can also have direct effects on the ability to give clear and consistent testimony. Dissociation (a

¹ The Centre for Emotion and Law (CSEL) website (<http://csel.org.uk/>) provides an exemplary source of information and discussion in this emerging research area.

psychological defence mechanism manifested as a perceived detachment of the mind from the emotional state and the body which often occurs in the aftermath of severe trauma) can lead to particularly severe difficulties in the context of giving testimony.

The effects of shame and avoidance-proneness

Avoidance of reminders of trauma is a core feature of PTSD, and in our collective clinical experience may also occur in VoTs who suffer other mental health difficulties as a result of their trafficking experiences. Sexual ill-treatment (which is extremely common in VoTs – Oram et al 2016) is characterized by high levels of the avoidance symptoms such as efforts to avoid thoughts, feelings, or discussion of the trauma and efforts to avoid anything that arouses recollections of the trauma (Herlihy 2014). PTSD (particularly when associated with sexual abuse) is also associated with high levels of shame. It is therefore unsurprising that victims of sexual abuse (and by extension VoTs) have particular difficulties in achieving full disclosure of their experiences (Hook and Andrews 2005; Welch and Mason 2007).

Narrative dilemmas

Traffickers have often exerted profound psychological – and physical – control over their victims for prolonged periods, and amplify their control through threats to harm the VoT or her/his family members through violence, or even the invocation of juju/magic rituals through which a person can be led to believe they or their loved one may die if they disclose what happened (Helen Bamber Foundation 2013). Traffickers may instruct their victims to give false accounts using force or threats (ibid). VoTs also sometimes feel a pathological (Stockholm Syndrome; Jülich 2005) wish to protect their traffickers. These profound psychological factors may result in omission, embellishment, incorporation of others' stories, and deliberate alteration in the narrative accounts that VoTs give.

Key mistaken general assumptions made by decision makers

Herlihy, Gleeson and Turner (2010) have identified a number of key but questionable assumptions made by decision makers in the context of asylum decisions. These are equally relevant and problematic assumptions in the context of VoT testimony.

That memory is accurate There is overwhelming research evidence that (even after discounting the effects of trauma and PTSD) memories are neither complete nor stable. Information about exact times and sequences, discrete instances of recurrent events, names and the exact wording of conversations are particularly likely to be inaccurate or incomplete.

What constitutes a credible account Decision makers' subjective decisions as to credibility involve reliance on assumptions about how a 'truthful' account will be presented. Content analysis of decision makers' conclusions include repeated and often evidence-free assumptions that 'true' accounts will be richer in detail and will be in keeping with the decision makers' own beliefs about what they and key other agents (e.g. traffickers and the authorities in the VoT's country of origin) would have done. A further key assumption made is that (contrary to the evidence outlined above) traumatic material is always clearly remembered.

What constitutes 'credible' behaviour Experimental research (Rogers, Fox and Herlihy 2015) indicates that identical accounts are judged as more or less credible depending on the presence of apparently 'deceptive' behaviours such as higher pitch of voice, longer pauses after direct questions, less use of hands and arms to illustrate a point, increased fidget and increased overall tension.

Memon (2012) has argued that educating judges and jurors about the different ways in which a witness may respond to trauma and the complex effects on testimony may reduce reliance on witness demeanor in making decisions, and that an improved understanding of the effects of trauma on witness memory and testimony, with a

clear distinction between factors that may affect reliability and factors that may affect credibility, would not only aid the courts but ensure that evidence from survivors of sexual violence can be heard without prejudice.

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