

Centre for the Study of Emotion and Law

Submission to the Immigration detention enquiry, APPG Migration

Clare Cochrane, Evidence into Practice Project Manager, Centre for the Study of Emotion and Law

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1 The Centre for the Study of Emotion and Law

1.1 The Centre for the Study of Emotion and Law is an independent scientific research centre set up to conduct and disseminate the findings of empirical research into aspects of psychology pertinent to the fairness of legal and policy decision making. CSEL is pleased to submit evidence to the Inquiry on Immigration Detention, in order to bring to the Inquiry's attention information from empirical scientific research that we believe is relevant to a full consideration of the psychological implications of immigration detention. CSEL was founded in 2007. The Executive Director and co-founder is Dr. Jane Herlihy.

1.2 CSEL's research has been published widely in peer-reviewed academic journals, including the British Medical Journal, the Journal of Behaviour Therapy and Experimental Psychology, the European Journal of Psychotraumatology, the Northern Ireland Legal Quarterly, Applied Cognitive Psychology journal, the International Journal of Refugee Law, the British Journal of Psychiatry, and others. CSEL has contributed to the training manual of the CREDO project to standardise credibility assessment across the European Union co-ordinated by the Hungarian Helsinki Committee with partners UNHCR Bureau for Europe, the International Association of Refugee Law Judges and Asylum Aid.¹ All of CSEL's research papers are available to read and download from our website: http://www.csel.org.uk/csel_publications.html.

1.3 As an independent research centre, CSEL maintains a politically neutral stance on all issues and does not undertake advocacy or carry out campaigning on any issue. The Centre's concern is to ensure that decision making (and therefore, policy formation) is based on sound evidence from empirical research, so that the most vulnerable people are not subjected to abuse or harm and are treated justly.

1.4 CSEL's research seeks only to test assumptions about credibility; the Centre is not presenting evidence of how to assess deception, or the validity of 'deception cues' (explain). As the Centre is not an advocacy or campaigning organisation this submission will not comment on social or political implications of immigration detention.

2 Prevalence of Post Traumatic Stress Disorder among asylum seekers

2.1 A number of studies have shown increased prevalence rates of Post Traumatic Stress Disorder among refugees and asylum seekers, for example Fazel et al, 2005, which revealed increased prevalence rates of PTSD in refugees resettled in Western Countries.²

¹ Reference CREDO manual here and web link

² Fazel, M., Wheeler, J., Danesh, JI (2005) Prevalence of serious mental disorder in 7000 refugees resettled in western countries: a systematic review. *Lancet*, 365, 1309-1314.

3 Late disclosure of experiences of sexual violence

3.1 People seeking asylum who have experienced sexual torture, experience higher levels of post traumatic stress symptoms, particularly avoidance symptoms, and shame, but find it difficult to disclose these experiences, and thus their vulnerability as survivors of torture may go unrecognised. In their 2007 paper 'Impact of Sexual Violence on Disclosure during Home Office Interviews',³ the researchers Diana Bogner, Jane Herlihy and Chris Brewin set out the findings of a study that aimed to determine whether and how sexual violence affects asylum seekers' disclosure of personal information during Home Office Interviews. Twenty-seven refugees and asylum seekers were interviewed about their experiences of Home Office interviews.

3.2 The majority of participants reported difficulties in disclosing their experiences. Those with a history of sexual violence reported more difficulties in disclosing personal information during their Home Office interviews, were more likely to dissociate during the interview (i.e. to detach from their surroundings), and scored significantly higher on measures of both post traumatic stress symptoms, and shame. This is in line with previous research (cited by the researchers) that have found a significant relationship between sexual violence and the avoidance criteria of Post Traumatic Stress Disorder.⁴ Participants' responses give an insight into the difficulties they experienced:

"When I talked about the past, what happened to me, the memories came, flashbacks. And then I found it difficult to remember anything that happened in my country. I was crying, I was shocked. It was hard to explain what happened to me."

"I tried to talk, but my mind kept wandering off and I kept thinking about the trauma and my faily that I lost. Everything seemed unreal to me, I felt like I was dreaming. I found it hard to focus on the interview and answer questions."

3.3 The higher scores on measures of shame for those who had experienced sexual violence highlight the need for time to build trust and confidence in order to be able to disclose such experiences. Participants' responses give an insight into this:

"It was the first time in my life that I had to talk about what happened to me. I only told the interviewer about 10%. I could not talk, it was too difficult. I felt so traumatised and ashamed."

"I wanted to keep things from my past private. I was scared that they would look at me badly and make me feel ashamed. I could not tell everything at the interview, but later on I was able to tell the court. They were nice at the curt and made me feel more relaxed."

3.4 Participants in the study also reported experiencing psychological symptoms during the Home Office interview, which had an impact on their ability to disclose. This is in line with the findings of

³ Bogner, D., Herlihy, J. & Brewin, C. (2007). Impact of sexual violence on disclosure in Home Office Interviews. *The British Journal of Psychiatry*, 191, 75-81. For a fuller discussion of the study and its findings, see Bogner, D., Brewin, C. & Herlihy, J. (2010). Refugees' experiences of Home Office interviews: A qualitative study on the disclosure of sensitive personal information. *Journal of Ethnic and Migration Studies*, 36(3), 519-535.

⁴ C van Velson, C Gorst-Unsworth and S Turner, 'Survivros of Torture and Organised Violence: Demography and Diagnosis' (1996) 9 *Journal of Traumatic Stress* 181.

other studies that a stressful situation can provoke dissociative and other reactions. This has implications for the ability of people suffering PTSD who are examined in anxiety-provoking circumstances, for example in immigration detention.

3.5 The findings of this study have serious implications for the detention of vulnerable people, particularly those who have experienced sexual violence, including victims of trafficking. There is a high risk that vulnerable people may be detained if they have not been able to disclose experiences of torture or sexual violence that would have identified them as unsuitable for detention. Once in detention, there continues to be a risk that such people will not be able to disclose their experiences, and will not be identified as suitable for release.

4 Difficulties of non-psychologists in identifying post traumatic stress symptoms

4.1 The prevalence of avoidance symptoms in asylum seekers who have experience sexual torture is particularly of concern in light of research that suggests that non-psychologists and non-psychiatrists are not good at identifying all possible symptoms of Post Traumatic Stress Disorder. In the study 'Non-clinicians' judgements about asylum seekers' mental health: how do legal representatives of asylum seekers decide when to request medico-legal reports?',⁵ researchers set out to examine the decision making of immigration lawyers – i.e. people who are not psychologists or psychiatrists but are called on to make judgements about the mental health of people seeking asylum – in deciding when and whether to refer someone for psychiatric assessment.

4.2 The researchers found that one of the reasons given by the lawyers for deciding to refer someone for a psychiatric assessment was through identifying signs of distress in the way that the client presented. Participants cited professional and personal experience, training and instinct, as helping them to make these quasi-diagnoses. However, while some participants showed an understanding of and ability to correctly identify 're-experiencing' symptoms of PTSD (including flashbacks, nightmares), there was less familiarity with avoidance and hyperarousal symptoms.

4.3 As the researchers note, "If signs of distress are not understood by lay assessors and clients are not vocal about their needs, they may be less likely to ... be assessed as psychologically vulnerable." These findings raise particular concerns about the Detained Fast Track, but also apply to people who are detained via other routes, for example unidentified victims of trafficking who have not disclosed their experience fully, and whose emotional distress may not have been recognised and who have been placed inappropriately in detention, or who may continue to be inappropriately detained.

5 Difficulty identifying emotional distress arising from the impact of behavioural sequelae of PTSD on credibility

5.1 The difficulty identifying emotional distress / PTSD symptoms has been found to be further complicated by the perception of behaviours commonly associated with a lack of credibility. In the study 'The importance of looking credible: the impact of the behavioural sequelae of Post Traumatic

⁵ Wilson-Shaw, L., Pistrang, N. & Herlihy, J. (2012). Non-clinicians' judgement about asylum seekers' mental health: How do legal representatives of asylum seekers decide when to request medico-legal reports? *European Journal of Psychotraumatology*, 3, 18406.

Stress Disorder n the credibility of asylum seekers'⁶ researchers aimed to investigate whether observable symptoms of PTSD can be confused with perceived cues to deception.

5.2 The researchers found that an actor performing a fictional 'asylum interview' presented mixed deception and trauma behaviours, was assigned lower ratings for credibility by students trained in PTSD diagnosis than when performing a different version of the same interview, with the same content, presenting only PTSD symptoms. Previous research has shown that people in all cultures expect those who lie to exhibit fear, shame or cognitive difficulties; the most commonly assumed cue to deception is gaze aversion; and those who lie are expected to fidget more, move their hands, feet and bodies more often, make more speech errors and hesitate more. The researchers noted that "the similarities between such assumptions and the behaviours identified ... as ones associated with PTSD are marked."

5.3 The overall finding that mixed presentation of deception and trauma was associated with significantly lower credibility than pure trauma presentation is of particular concern with regard to victims of trafficking, who may be concealing a part of their narrative, and those who have experienced sexual violence (see disclosure study for more about shame and reasons for non-disclosure), raising the risk that victims of trafficking may be inappropriately detained, and may not be released as appropriate.

6 What a new review of the literature on child psychology can tell us

6.1 Dr. Zoe Given-Wilson has recently conducted a new review of the scientific evidence for what is known about child psychology, relevant to children seeking protection.⁷ Her review of the evidence raises particular concerns about age assessment, the age of psychological maturity, and separation of families, in the context of immigration detention.

6.2 Although minors are not held in detention, inaccurate age assessments may mean that minors are classified as adults and inappropriately detained and held in detention.

6.3 Furthermore, although legally 18 years is defined as the age of adulthood, psychological and neurological evidence indicates that full maturity is not reached until as late as mid-20s.⁸ The period of development, called a 'critical period', requires a stimulating environment in terms of social relationships, education, and experiences to enable optimal development to be achieved. The deprivations associated with detention may have deleterious effects on their development.

6.4 The separation of families may also occur if adults are placed in detention. Separation of parents from their children has been shown to have a negative impact on minors. For example, one study found minors without parents or carers were five times more likely to have emotional difficulties than those who are accompanied by a caregiver.⁹

⁶ Rogers, H., Fox, S. & Herlihy, J. (in press). The importance of looking credible: the impact of the behavioural sequelae of post-traumatic stress disorder on the credibility of asylum-seekers. *Psychology, Crime & Law*

⁷ Reference for Zoe's lit review

⁸ Blakemore, S.-J., & Robbins, T. W. (2012). Decision-making in the adolescent brain. [10.1038/nn.3177]. *Nat Neurosci*, 15(9), 1184-1191.

⁹ Derluyn, I., Broekaert, E., & Schuyten, G. (2008). Emotional and behavioural problems in migrant adolescents in Belgium. *European Journal of Child and Adolescent Psychiatry*, 17, 54-62.

Summary of submission's key points:

- Centre for the Study of Emotion and Law offers these findings from empirical scientific psychological research in order to provide the Immigration Detention Inquiry with relevant evidence on which to base policy discussion and debate.
- There is a high prevalence of Post Traumatic Stress Disorder among asylum seekers and refugees.
- Late disclosure of experiences of sexual violence is not uncommon among asylum seekers and refugees, and is related to high scores for measures of Post Traumatic Stress Disorder – particularly avoidance symptoms – and shame.
- People who have experienced sexual violence may have difficulties recalling or recounting their experiences due to the presence of traumatic symptoms – particularly avoidance – and shame.
- People who have experienced sexual violence and sexual torture and who have not disclosed their experiences risk being inappropriately detained or not released from detention.
- Lay people (non-psychologists) are not always able to correctly identify the symptoms of Post Traumatic Stress Disorder, particularly symptoms of avoidance or hyperarousal.
- Victims of trafficking and others who have experienced sexual violence or sexual torture, but have not disclosed their experiences, face a risk of being wrongly assessed as not experiencing trauma and therefore being inappropriately detained or not released from detention.
- Lay people (non-psychologists) are not less able to correctly identify symptoms of Post Traumatic Stress Disorder when also presented with commonly perceived cues to deception.
- Victims of trafficking and others who may be concealing part of their account may appear less credible overall and have their traumatic symptoms misidentified and therefore risk being inappropriately detained or not released from detention.
- Children who have been wrongly age assessed as older than 18 may be inappropriately detained or not released from detention.
- Studies have shown that developmental maturity is often not complete until after age 18, raising a risk that people who are developmentally immature are inappropriately detained or not released from detention.
- Separating children from detained parents carries a high risk of interference with health psychological development of the child.