

Torture survivors' perceptions of reparation

A survey published by the REDRESS organisation, 2001

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The rights to reparation and to rehabilitation for survivors of torture are closely and intrinsically linked to each other. Both have their legal basis in article 14 of the UN Convention against Torture. Rehabilitation, in its broadest sense, could and does include many initiatives that would also be involved in a summary of activities associated with reparation. Similarly, the concept of reparation, as defined by Professor Van Boven in the leading UN study on the subject, "Draft Basic Principles and Guidelines on the Right to Reparation for Victims of Gross Violations of Human Rights and Humanitarian Law" (1997), includes rehabilitation as one of four main types of reparation.

It is important to acknowledge from the outset that torture survivors' perceptions of reparation – what they would like to receive, in what form and to what end(s) – vary widely. This presents particular difficulties in undertaking this type of research, and to the credit of Sarah Cullinan, the author of *Torture Survivors' Perceptions of Reparation – a Preliminary Survey*, published by REDRESS, 2001, does not attempt to disguise this fact.

Over the past decade, access to reparation has begun to be a more realistic possibility

for torture survivors. At the international level, the establishment of the ad hoc criminal tribunals for Yugoslavia and Rwanda and the adoption of the Statute of the International Criminal Tribunal, which specifically provides for reparation for victims of violations, create increased interest and attention. At the national level, the concept of universal jurisdiction for crimes of particularly gravity, including the crime of torture, has begun to take root. International justice is on the human rights agenda to stay, and an integral part of the delivery of justice is addressing the loss suffered by victims of human rights violations.

While it has been recognised many times that the attainment, or even the pursuit, of reparation can be a key element in the rehabilitation process, reparation can also be problematic for many survivors. The potential benefits of obtaining reparation may be dependent on the type of support, not least psychological support, and, where appropriate, counselling and debriefing, that the claimant receives during the process. Giving testimony in legal or quasi-legal forums does not necessarily help to restore the survivor's dignity or to achieve resolution. If the survivor believes that his story has not been believed, this can be psychologically damaging. For this reason, some have said that it could be better to encourage survivors to pursue civil remedies, where the burden of proof is lower, than to

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necessarily initiate criminal proceedings against the perpetrator, which will be more intrusive, and where the risks of failure are greater.

The survey considers, as one of a number of examples, the Truth and Reconciliation Commission in South Africa. The final report of the Commission postulates as one of its outcomes “the rehabilitation and the restoration of the human and civil dignity of victims”, yet no research has been done to see whether it was in fact the case that it had “a meaningful and substantial impact on victims’ lives”. Similarly, the report raises the point that many reparation programmes for survivors are based on what officials, or even, in the case of legal proceedings, the lawyers who are representing them, believe that their clients need, rather than what the survivors themselves want or need. While the programme may have as its goal a pre-defined outcome, the client’s emotional needs may be more focussed on a process rather than on any form of financial or non-financial compensation.

Sarah Cullinan’s survey examines the work that has been done to date in assessing torture survivors’ own perceptions of reparation, identifies the gaps that currently exist in the field, and then proposes a plan of action to address them. Cullinan believes that while a considerable amount of work has now been done to identify the medical and psychological effects of torture, the majority of studies to date have ignored the essential moral dimension and the need for moral, as well as physical, rehabilitation.

A particular difficulty in constructing a research model to assess survivors’ wants and needs is in obtaining a representative sample of people, even in the case of survivors from a particular country, on which to base the study. It has been said that people who pursue reparation are likely to be those victims

who are still capable, at least to a certain extent, of identifying and pursuing a particular course for their lives. The most brutalised of victims never pursue reparation, either because they do not become aware that it is a possibility, or, tragically, because they have lost the capacity for purposive action. Interestingly, this factor has also been identified as a problem in conducting research on the effects of rehabilitation programmes, although for the opposite reason: here, it has been said that those survivors receiving formal medical or psychological assistance may be “less healthy” than the total population of survivors.

There are many issues related to reparation on which no research has yet been undertaken. What are the likely effects on a survivor if pursuit of reparation is unsuccessful? Are there differences between the expectations and perceptions of “political” and “non-political” survivors, or between those seeking reparation in the context of a state in political transition and those doing so in a state in which torture continues to take place? Do men and women perceive reparation in different ways, and what about the needs of child victims?

The preliminary survey proposes a research programme to be conducted by REDRESS until 2005, with the goal of obtaining a more fundamental understanding of the wants and needs of torture survivors, with a view to identifying the particular form(s) of reparation that will be most beneficial for them. Two initial seminars will be held to gauge the opinions of both “gatekeepers”, i.e. those people engaged in providing medical, legal or social support to survivors of torture, and, crucially, of survivors themselves. The information gathered will be used in undertaking more extensive research, to result in the development of guidelines for providing advice and services to

victims and survivors, a “Torture Survivor’s Handbook”.

This kind of survey is an excellent overview of the current state of knowledge in this field. Significantly, it also provides a detailed road map on what needs to be done from here to improve our knowledge about survivors’ perceptions, and to develop guidelines that can be used to assist both survivors in their pursuit of reparation and those committed to providing them support and encouragement throughout their journey. The issues raised in the survey are of great interest and concern for all those involved in rehabilitation work.

By better understanding what survivors themselves see as a successful outcome to their pursuit of justice and the restoration of dignity, it should be possible to improve the quality of support and advice currently available. A survey or overview taking up problems and giving advice to their solution should be warmly recommended to all those who are involved in pursuing reparation or in providing assistance to those who are.

Copies of “Torture Survivors’ Perceptions of Reparation” by Sarah Cullinan can be obtained on request from The REDRESS Trust (redresstrust@gn.apc.org). □