REDRESS

Seeking Reparation for Torture Survivors

MEETING THE NEEDS OF TORTURE SURVIVORS IN THE UK

Considering UK policy and practice on refugees and asylum seekers who have suffered torture

A Report on Proceedings of a Conference held in London, 26 June 2009

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REDRESS is very grateful to City Parochial Foundation for its support of REDRESS' work to assist refugees and asylum seekers who have been tortured to obtain justice and reparation, so as to improve the quality of their lives.

REDRESS would also like to thank Allen & Overy LLP for providing support to, and hosting the Conference on 26 June 2009.

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TABLE OF CONTENTS

INTRODUCTION AND KEY THEMES

Each year on 26 June, the International Day in Support of Victims of Torture, organisations all around the world draw attention to the plight of torture survivors and the scourge of torture. In 2009 REDRESS, an organisation which specialises in providing legal support to torture survivors both in the United Kingdom (UK) and abroad, chose that day to hold its Conference, "Meeting the Needs of Torture Survivors in the UK". This Report provides a summary of those proceedings.

REDRESS brought together a range of service providers, refugee organisations and lawyers, who offer various types of support to torture survivors in the UK. The aim of the Conference was to draw attention to the challenges faced by survivors in the UK and for participants to strategise jointly about ways to overcome such problems and how to best meet survivors' needs.

The Conference was co-hosted by the international law firm Allen & Overy LLP, and held at their London offices.

Colin Pearson, then Partner and Chair of the Pro Bono & Community Affairs Committee at Allen & Overy LLP, which oversees global pro bono and community programmes, welcomed the participants, stressing that the issues to be discussed were amongst the most topical human rights concerns today. He noted that it is not only a question of dealing with the prevention of torture but actually dealing with its aftermath, which is something that must concern all human rights lawyers to a very great extent. As Chair of the Pro Bono & Community Affairs Committee at Allen & Overy, he explained that the core theme of the firm's pro bono work is access to justice in the broadest sense, and of which one of the pillars is its work in the human rights field, which is becoming increasingly important in its other offices as well as in London.

REDRESS' Director ***Carla Ferstman*** introduced the themes of the Conference. She explained that 26 June was consecrated as the United Nations International Day in Support of Victims of Torture to acknowledge the important work that goes into combating torture, and also to recognise that there are many survivors of torture

throughout the world going about their daily lives, who are trying to deal with the consequences of torture. The purpose of the Conference was to discuss the range of issues relating to survivors of torture in the UK. We often think that the UK is somehow immune from torture, and that torture happens in other parts of the world to other people. While the focus of the Conference was on the plight of refugees and asylum seekers who have suffered torture elsewhere, it is quite clear she explained that the impact of torture is felt here in the UK. Furthermore and in the much wider context of how domestic attitudes to torture have been coloured by counter-terrorism as well as immigration policies in recent years, there are public and other perceptions which militate against a more positive attitude to the way in which refugees, asylum seekers and torture survivors are regarded in this country.

A range of people were present at the Conference: medical and psychological experts, human rights organisations, lawyers, community activists, and specialists in matters relating to refugees, asylum seekers and human rights. Also present were several torture survivors who explained their first-hand, often painful, experiences of abuse and the challenges they faced in navigating the asylum process.

All refugees and asylum seekers arriving in the UK face significant and multiple challenges. These include navigating the asylum process and dealing with the social and financial barriers inherent in the process of adjustment to a new life here. Refugees and asylum seekers who have been tortured are particularly vulnerable. In addition to the usual challenges faced by refugees and asylum seekers, torture survivors typically also have to contend with severe psychological *sequelae* as well as physical injury. In addition, the nature of the abuse they have suffered often prevents survivors from speaking openly about their experiences, and fear of authority figures can complicate their ability to seek the necessary assistance and to successfully progress their asylum applications.

The impact torture has on survivors seeking sanctuary in the UK operates on a number of levels:

- During the asylum-seeking process;
- When seeking justice for the harm they have suffered;

- When seeking rehabilitation and other support, including housing, education and other benefits.

These three levels, and in particular the way in which especially vulnerable categories of persons are impacted at each of these levels, were explored during the Conference. As UK practice and policy are clearly central to these issues, the Government's approach to each of these themes was considered throughout the Conference, including in a separate discussion where perspectives were offered from the Foreign and Commonwealth Office as well as by an Opposition member of the European Parliament. Participants also met in three separate working groups to discuss some of the main issues coming out of the panel presentations, and to record suggested areas of work for the future. Finally a keynote concluding address from ***Sir Nigel Rodley*** wound-up the day's proceedings.

REDRESS is grateful to all the chairs, speakers and attendees for sharing their expertise and experiences. We are also grateful to Allen & Overy LLP and the City Parochial Fund for supporting this initiative.

A. HOW THE COURTS & AUTHORITIES DEAL WITH ASYLUM CLAIMS FROM TORTURE SURVIVORS

The first panel highlighted the specific needs of asylum seekers who have been tortured, and the additional challenges they face when navigating the asylum system. It also explored the gaps in current policies and support mechanisms. ***Professor Geoff Gilbert***, Professor of Law at the University of Essex, chaired the panel.

(1) Leanne MacMillan: Asylum issues on arrival

Leanne MacMillan, Director of Policy and External Affairs at the Medical Foundation for the Care of Victims of Torture, discussed asylum issues on arrival. She noted that many of the issues facing torture survivors trying to get through the asylum process were not matters only of rights, but rather of fairness, and that we needed to engage with that and to understand the effect that this has on torture survivors. She provided a macro level analysis of the system itself and considered what improvements need to be made. She stressed the importance of looking at the survivors themselves and their conditions, and what it is about their particular circumstances which colours the kind of system we need in order to ensure their rights are protected. It should not she suggested be about how we can accommodate asylum seeker and refugee torture survivors in the current asylum system, but rather what kind of system such survivors need.

Torture is a serious human rights violation which has very particular types of consequences for its victims. The common methods of torture can be categorised as either physical or psychological, usually manifesting themselves in both ways. For torture survivors seeking asylum in the UK, torture has real consequences and survivors can face very real difficulties when dealing with the asylum system, which are closely connected to the fact that they were tortured. The consequences of torture can range from anxiety, insomnia, and depression, to nightmares and suicidal thoughts. In the context of discussions about the use of psychological methods of torture in the

"war on terror", torture reaches beyond the immediate pain, is lasting, and for many people can have life-long ramifications.

In evaluating whether the UK asylum system is appropriate for torture survivors, a holistic approach is needed. The whole experience of the survivor must be looked at. We need to look at the entire condition of the person, someone who is trying to make their way through multiple processes (such as gaining legal status, rehabilitating, reintegrating into a new society, getting ready to return home, being separated from their family etc). All these aspects will colour the ability of survivors to defend themselves in an asylum process which requires a lot from them. The process does feel more like they have to defend themselves rather than earlier perceptions of the asylum system as more of an embrace, a warm welcoming and a deep level of understanding. It used to be quite straight forward: if you had a client who was a torture survivor, it was not going to be difficult to get them recognised as a person who was in need of international protection. Today, the fact of a person's torture and the rehabilitation path they are on can be directly linked to how that person functions in the asylum system, though it does not provide an indication of how or whether they will succeed in the asylum process.

These individuals have a clear status both as a person who has been tortured and as a survivor who is seeking to rehabilitate. The purpose of torture is to destroy the person and this will have an effect on how the person is going to be able to function in any system. They have fled their own country and one of their priorities, in addition to obtaining a secure legal status, is embarking on a path of rehabilitation. This is important to bear in mind, and the Medical Foundation tries to work along both paths: the path of rehabilitation plus the path of securing a legal status. These paths intersect, and are highly correlated in terms of how a person is treated within the asylum system. For example, if a client has immigration reporting requirements this can be, in rehabilitation pathway terms, a serious and significant setback.

In assessing whether the current system is fit for torture survivors, ***Leanne MacMillan*** noted that these individuals have clear legal rights; they are seeking protection from return, both as torture survivors and as asylum seekers; some will also have an early interest in seeking some form of reparation and justice for what has happened to them.

So, the theme of seeking justice is an appropriate overlay for assessing any asylum system let alone how a survivor fits within it. Then clearly there is their status as a person seeking refugee status in the UK. The key question is whether this system is fit for survivors.

There are numerous critiques of the UK asylum system to guide us, such as the recent reports from the UN Refugee Agency (UNHCR) into the Quality Initiative, the *Detained Fast Track* book by the Immigration Law Practitioners' Association (ILPA), and the Independent Asylum Commission's report. Most recently the House of Commons Public Accounts Committee report sustains a whole critique of the UK asylum system and it is important because it shows the direction of travel: effectively what is being put in place are some very real targets for the speed within which decisions should be made and we know that we will be working in a system moving much more quickly, where the evidentiary burden will probably be higher and we will have less time to procure it.

There are common and long-standing themes in these reports, including concerns about the quality of asylum interviews and decisions, the emphasis put on speed and targets, the incorrect structuring of decisions and application of refugee law by case owners, and continuing concerns about credibility assessments. The quality of first instance decision-making is seen as quite poor, with a failure to focus on the merits of a claim; credibility assessments are not being done properly; medical judgments are being made where they should not be or indicating that medical evidence would not be helpful or dispositive to a case; and again, speed. The conclusion has to be that complex cases - and torture cases are complex - are not suited to the detained fast track.

From an access to justice perspective, is there an ability for a torture survivor to have a fair determination in the asylum system in the way it is currently structured? We have a system where we have a lot of concessions, exceptions to the standard procedures that we have sought for torture survivors, which while they may become custom and practice, are not the same as a legislative imperative to do a certain thing. For example, there are exceptions such as ensuring that torture survivors are not dispersed across the UK; ensuring survivors are not removed while medico-legal reports are being prepared; putting a hold on the asylum determination while assessments are performed; ensuring that survivors are removed from the detained fast track after an independent medical

examination is conducted; and in terms of reporting, electronic tagging and production under escort. This is not by matter of right but by way of concession, and there is a presumption that the Home Office will comply with its own policies and undertakings.

However, one recent experience concerning production under escort revealed that there had been a policy shift which meant that individuals whom the Medical Foundation was interested in assessing would not be brought to it for assessment. As a charity, the Medical Foundation cannot send doctors around the country to all the detention centres and in any case would object very strongly to doing so, as a matter of principle, fairness and as inappropriate to the conditions under which survivors are assessed. If one looks at dispersal and the day-to-day challenges that the Medical Foundation faces in ensuring people are not dispersed, these concessions need to be monitored because there are no guarantees against dispersal and, in some cases, the result will only lead to this client population not rehabilitating in an appropriate manner. There are also opportunities early on in the asylum process, especially in the detained fast track system, for someone to make a different decision, i.e. to make a decision that a person is a torture survivor and should be pulled out of the system, and we are not pressing hard enough for these opportunities to be exploited.

In terms of how we can improve the process, we need to think about whether or not it functions as a system that is respectful of international standards, including reaching clear conclusions about how refugees and torture survivors should be treated within an asylum system. Jurisprudence from the European Court of Human Rights is crucial and we should look domestically for colleagues we can work with to press for a more progressive approach, to proactively identify torture survivors and get them the protection they need, albeit with an understanding that the only way for them to secure a legal status in the UK is through the asylum process.

Discussion:

In discussion, it was noted that, through what should be a very elaborate process with lots of checks and balances along the way, the UK may decide that a person cannot sustain a claim to protection in this country, and therefore even someone who is a torture survivor may not be found to warrant international protection in the UK. However, they do not stop being a torture

survivor, and detaining them can tip them over the edge. The Medical Foundation is interested in the whole of the system and in ensuring that, regardless of the outcome of the asylum claim, one does not lose sight of the fact that the person is a torture survivor. There are ways of demonstrating that a person cannot be returned simply because they will not be able to obtain the level of care and treatment in the country of return that as a torture survivor they would need. It cannot always be understood why some people are released from detained fast track and others are not, it was noted. Due diligence is always needed on these sorts of matters.

In terms of gaps in the current system, in the Medical Foundation's children and family practice, if one looks at the long life cycle of being a torture survivor seeking asylum in UK, one does see instances of huge setbacks in the context of the family. One does have to be prepared to acknowledge and work with intimate partner violence and parents having problems with children that may lead to violence. All this, it was noted, will have a very profound effect on the person's ability to pursue their asylum claim and it adds new pressures. Often it is the parents who take most of the responsibility for bringing the asylum claim, and it is the children who are bearing a lot of the responsibility for getting the family through on a day-to-day basis. More widely, it was noted that there are very clear rules and concessions relating in particular to children not being held in detention. It is an area that will be of increasing concern to practitioners, particularly as one goes along the path of dispersal, and there is actually a poverty of expert resources to work with this particular community of people. It does not mean that there are not people out there focusing on this population. However, in terms of the Medical Foundation's practice, for example, it had to go a great distance to deal with an age dispute case of an individual in detention who had been raped. It is a very resource intensive area, especially where the issue is not dealt with until a person is in the extreme position of being a child in detention. So clearly, it is something that is very much on the Medical Foundation's radar and part of its daily practice.

In response to a question about the percentage of people seeking asylum in the UK who claim to have been tortured and, of those, what percentage actually succeed or are ultimately expelled, it was noted that the Medical Foundation has not been able to determine this as it is not tracked. In addition, under international treaties it appears that countries do not have to track this type of data. The Medical Foundation does however, try to look at its medico-legal reports for an indication of numbers, but such figures only represent a small number of those seeking asylum in the UK and it is often only later in the process that someone will get the kind of legal

representation they need in order to have that kind of report done on their behalf. As a charity sector and NGO community, and knowing that there are more people out there providing medico-legal reports, we need to work more closely together to look at numbers, as well as success and failure rates.

At what level should one try to influence people to have a wider understanding of the condition of a torture survivor? It is too late if one is waiting to put that sort of information before a court in the final stages of asylum proceedings. Instead, if one is a case owner, considering whether a person has been inconsistent and so on, it would be very helpful to have a wider view and to understand why someone who is a survivor might have difficulties in remembering. Dissemination of this type of information needs to be taken very seriously, as does how one reaches out to colleagues who are working with the same client group. An adversarial model is important in some respects, but inquisitorial approaches have been proven in other countries to be a much more productive way forward in the earlier stages of proceedings.

(2) Dr. Jane Herlihy: Trauma & the Asylum Process

Dr. Jane Herlihy, Clinical Psychologist and Director of the Centre for the Study of Emotion and Law, discussed trauma and the asylum process. She examined common mental health issues arising after torture; how these actually affect individuals going through the asylum process; and how these may be taken into account in the decision-making process.

Approaching the issue of asylum from a mental health perspective, the impact of Post Traumatic Stress Disorder (PTSD) is particularly important, as we would expect to see approximately 50% of torture survivors having a diagnosis of PTSD. However, that equally means that not everyone will suffer from PTSD; indeed, some survivors may not have difficulties, may be very resilient and may go on to lead a reasonably well-functioning life afterwards. However, for those survivors suffering from PTSD, it can have a profound impact on their experience of the legal asylum process: for example, survivors can experience very intense, distressing memories of what they went through and may do all they can to avoid anything which reminds them of those experiences, to avoid thinking about it or doing anything which makes the memories return. Survivors

may also experience sleep problems, concentration problems, be easily startled by loud noises, prone to anger and irritability, or very alert to threat. Some models say that threat is the key to understanding PTSD and that people may have a current sense of threat even though they may be objectively safe.

Dissociation is also associated with PTSD – this is an experience described formally as a disruption of the usually integrated functions of consciousness, identity, memory or perception; dissociated from external surroundings and a focus on something internal. This can happen in more extreme forms, typically in persons who have experienced extreme interpersonal torture, where survivors are very likely to have developed this as a coping mechanism to distance themselves from the current situation. This is not under an individual's control, so if you ask questions about the torture experience it may be that the person dissociates but they are not doing so deliberately, and this is something that is not well understood. Other difficulties experienced by torture survivors as a result both of the torture and what they are currently going through can include low mood, feelings of guilt and worthlessness, suicidal thoughts/attempts, sleep disturbance, low concentration and indecisiveness.

Going through a legal process, these difficulties might have an important impact, as we are taking individuals into very unfamiliar territory. The Home Office, case owners and immigration judges have a very difficult task, making critical decisions, with limited data and information. There is some country evidence available but credibility is a big problem. We have an applicant's story about what happened to them in the past, and interestingly this is the focus even though the decision-makers are making a judgment about a future fear. This story relies on a fundamentally psychological process – memory. If you cannot remember what happened to you, you cannot relay an account of your experience in order to establish that you were persecuted.

So, how good is memory when you have been through a very stressful experience? A study was done of United States' Royal Marines who underwent "stressful interrogation" as part of their training. Against the assumption that these marines are amongst the fittest people on the planet, when they knew they would be safe afterwards and had chance to rest, eat properly and recover from the exercise, they were shown photographs including of the person who had interrogated them 24 hours

previously. Only 66% successfully recognised their interrogator, even though the researchers had done their best to match the photo to what the interrogator would have been wearing. This shows, ***Dr. Jane Herlihy*** said, that recalling details of what has happened to you after a stressful situation is not easy.

Regarding consistency of memory, another study involved a number of Kosovars and Bosnians (programme refugees who had no motivation to lie), who were interviewed on two occasions about a traumatic event and a non-traumatic event that had happened to them in the past ("traumatic" meaning when in fear of their life or the life of someone close to them). They were asked a series of questions, the same on each occasion, and asked to rate the questions in terms of whether the detail was central to their experience or peripheral. While most people said that what they were wearing did not matter, one young man said that when he was in prison in Turkey, when someone was taken off to be beaten everyone would give the person their jumpers so they had more protection, so for him it was an important detail. So, you always need to ask the individual.

In addition, it was found that when individuals are interviewed about past experiences there is approximately a 30% rate of change in the details between the two interviews. The highest point of change was when asking about a traumatic experience and when asking about peripheral details, for example, what day of the week was it, what were you wearing etc. Thus peripheral details about traumatic accounts are less likely to be consistent. These were people with no motivation to lie about their stories. All persons in the study had a diagnosis of PTSD but some had much higher levels of symptoms than others. Most interestingly, the study found a systematic difference for those people suffering from high levels of PTSD symptoms: for these individuals, where there were long delays between interviews, the level of inconsistencies between their two interviews was dramatically higher. So, when applying this to the asylum system, we are seeing that people with high levels of PTSD undergoing a long drawn out process, are being judged as less credible; this in turn can draw out the procedure even further and potentially does not do much for their symptoms either. The study is being developed further, looking at other reasons why people might be inconsistent, for example, if low mood can lead to discrepancies in the recall of events.

Memory is not only about recall and consistency, but also about being able to actually tell someone about the experiences. Another study asked people about their Home Office interview and asked them to rate how difficult it was for them to disclose the information they had to give. The researchers were able to associate difficulty in disclosing information with the interviewees' levels of PTSD, specifically with those avoidance symptoms mentioned earlier. Not surprisingly, people do not want to talk about what happened to them. This is related to measures of shame, to measures of depression and lastly to dissociation. As an example, someone said she had "tried to talk but my mind kept wandering off and I kept thinking about the trauma and my family that I lost. Everything seemed unreal to me, I felt like I was dreaming". This is very much a description of a dissociative experience, finding it difficult to focus on the interview and to answer questions. Thus, there is a need to question the quality of the evidence being gathered in such interviews.

Turning to what is actually happening in decision-making, a study looked at a series of UK determinations. The researchers were interested in the assumptions underlying the decision-making, drew out these assumptions and then did a qualitative analysis identifying the themes in those assumptions, which were all quotations from determinations. As regards disclosure, what often came up was "If it were true she would have mentioned this earlier". Similarly, detail is expected to be in line: "Given that rape is such a serious thing to happen to any woman, I would have expected a raped person to know *when* they were raped; it is not the type of event which I would expect a person to forget about or confuse". However, such assumptions are at odds with what the earlier research shows. As regards consistency, this was a positive determination, noting that someone who is able to withstand a cross-examination lasting for over an hour without any serious discrepancies is clearly telling the truth. However, the research literature discussed earlier suggests that consistency is a very poor way of knowing if somebody is telling the truth.

What might help the asylum process, therefore, is more understanding of the empirical knowledge that we have, so that what is going on psychologically for people can be better understood and taken into account in the decision-making process. John Barnes, a retired senior immigration judge, has described the contrast between the different types of evidence available to immigration judges. Regarding country evidence, there is

a breadth of evidence, and information about a particular case can be set in a context; however, as regards medical evidence, including psychological evidence, he saw this as just being on a case-by-case basis. ***Dr. Jane Herlihy*** noted that sadly this is the norm - when psychological evidence is asked for, what is generally requested is an assessment of an individual. However, what is demonstrated by this talk is that there is a breadth of research evidence that might assist decision-makers in the asylum system: in some areas it is broad and already available, and in other areas further research is required.

Discussion*:*

In discussion, it was noted that many clinicians at the Conference recognise and see that the effects or symptoms include, for example, irritability up to anger. These are very much things that people are dealing with and the process of seeking asylum is not helping with that. It is going to spill over into their daily lives. An example was given of an individual who got into trouble many times as he could not contain himself because of what he was put through. It was noted that this can of course happen in the home as well, and while it is understood clinically it has not yet been properly explored or aired.

It was questioned why people with mental health problems more broadly and torture survivors more specifically, continue to be detained. More understanding of the consequences of such detention is being fed into the process, although one might be cynical and ask whether decision-makers really want to know as the consequences are not difficult to understand. It might be due to wider societal cynical processes at work, but at least by providing the information it means decision-makers cannot claim not to know it.

It was noted that a central concern of the Centre for the Study of Emotion and Law is how to disseminate the information it is gathering, so that it can be brought into play in individual cases before the judges concerned. For example, the Centre offers training and workshops, and produces accessible reports and leaflets. However, much of this necessarily goes to asylum seekers and their advisers - getting it to the decision-maker is more of a challenge, as is increasing the breadth of information available, rather than looking at issues on a case-by-case basis. There are moves afoot to help with training of immigration judges. Assisting the Home Office is more challenging. Looking to other countries, an inquisitorial system might better allow for motivated judges to draw upon whatever information they see fit.

(3) Mark Henderson: Failed Asylum Seekers

Mark Henderson is a barrister at Doughty Street Chambers and the Immigration Law Practitioners' Association's Access to Justice Convenor. As such, he deals with the tribunals and the Home Office on policy issues. He discussed the issue of failed asylum seekers, including expulsion and the principle of *non-refoulement*.

The usual reason why torture survivors are refused asylum or humanitarian protection is because their account is not believed. Another common reason is because it is said that even though they have been tortured in their country of origin, there is no "real risk", which is the legal test, of them being tortured again if they were to be returned. Taking this second ground for refusal, sometimes it is said that the conditions in the country of origin have improved substantially since the claimant came to the UK or since the torture took place; at other times (and this is quite a common ground for refusal) it is said that the person's activities in the country of origin were fairly minimal or at a low level, and despite the fact they were tortured in the past, there is no reason to think that they would be tortured again, and/or that the ill-treatment was of a random nature.

One of the key problems that survivors face is that there is often little relation in time between the conclusion of the asylum determination process and the decision to expel the claimant. Most asylum seekers claim asylum on or near their arrival date in the UK; they then get a first decision from the Home Office and, where that is negative, there is an appeal process which ends with a substantive determination from the immigration judge and any challenges to that on points of law. Once the appeal process is exhausted, the Home Office seldom takes prompt steps to expel the claimant. The claimant may well be evicted a few weeks after the end of the appeal process from the accommodation provided by the Home Office and will then be left destitute, reliant on charity, begging or exploitative illegal working. Claimants from many countries (though not all) have the option to sign up for voluntary return, whereby the Home Office pays the cost of the claimant's return to their home country. However, for very obvious reasons, many survivors are not prepared to do that, regardless of what view

was taken by the immigration judge of conditions in their country of origin at the time that the appeal was determined.

The only possible support thereafter is what is known by the Home Office as 'Hard Cases' support, which is deliberately intended to impose harsh conditions on those who receive it; it provides accommodation and non-financial support (effectively only accommodation and food). Recent litigation has established that such a claimant is not even entitled to clothing, no matter how inadequate may be the clothing that he has. One only qualifies even for this low level of support if one meets certain conditions, including that the Home Office accepts that there is no viable route of return which the claimant can use to get back to his country of origin. This is tested in relation to the country generally and does not take account of particular difficulties that the claimant may have in returning home, or because of his personal characteristics or because of the particular place that he needs to go in the country of origin. The person also needs to show that he has taken all reasonable steps to try to leave the country, which may well include for example approaching his national authorities to get new travel documents, identity documents etc., which for obvious reasons again, many torture survivors are reluctant to do.

Thus, the reality is that after their appeals have been refused, many torture survivors will be destitute or living for what can be many years in illegal and often exploitative circumstances. Moves to expel the person are often the result of a Home Office operation focused on a particular nationality, so it is often more to do with Home Office logistics rather than any conclusion that now is the appropriate time to be returning this person. The person then faces detention without warning, often after several years living in the community assuming that the Home Office has forgotten about his case.

Once in detention, detention centre rules require that individuals are medically examined and that the doctors consider whether the individual may be a victim of torture. Recent litigation has criticised the systemic failure on the part of the Home Office and its contractors to meet this obligation, basically because the Home Office did not provide the resources to the medical staff at detention centres to do it. Individuals who can show independent evidence that they have been tortured are not supposed to be detained except in exceptional circumstances. However, for somebody who has been

found by an immigration judge in the appeal, perhaps years before, not to be credible, then even if they present medical evidence supporting torture, perhaps which was not presented in the appeal previously because of inadequacies in the legal representation, the Home Office is very likely to argue that the medical evidence is insufficient to dislodge the finding of the immigration judge that they were not telling the truth.

Apart from establishing the current risk in the country of origin if the person is expelled, a claimant may also argue that their past torture means that they are so traumatised that it would be inhuman and so incompatible with their human rights to send them back to the country of origin. Such claims face huge difficulties in practice because firstly, the Home Office will argue that if the person's torture claim had been rejected on grounds of credibility in the appeal proceedings, then no matter how apparently compelling may be the current psychiatric evidence, then it does not dislodge the previous immigration judge's decision. Secondly, even if the past torture was accepted by the immigration judge but he found that there was no current risk whether because conditions in the country have changed, or because it was of a random nature, or because the authorities must now be assumed to have lost interest, then the Home Office is still likely to oppose such claims. It will argue that given that the claimant's fear is not well-founded and he is in detention, he will be observed in detention and will be removed if necessary with a medical escort and he will immediately find in the country of origin that his fears are not well-founded and he will then be fine and, if not, they have some sort of psychiatric service in the home country. The Court of Appeal has recently criticised the Home Office heavily for failing to get its own psychiatric evidence in such cases, yet taking the most hostile possible attitude to trying to knock down the psychiatric evidence produced by the claimant.

In terms of the long delay between appeal and removal, the different effects this may have are shown by Zimbabwe and Iraq, two of the most controversial and high profile refugee producing countries. Zimbabweans have only been removed in recent years during a window of six or seven months in 2005. The Home Office voluntarily suspended removals in 2002 to 2004; since the summer of 2005 continuing litigation up until the end of last year, which was eventually successful, has prevented removals. In 2005 the Home Office suddenly announced it was lifting its voluntary suspension and was going to conduct an operation to enforce removals. So, it started picking up failed

asylum seekers, many of whom would have had their appeals determined years before, for example, in 2000. Then (since it often takes the Asylum and Immigration Tribunal (AIT) and the Home Office a while to catch up with country conditions) claims were still being dismissed on the basis that, say, a low-level activist for the Movement for Democratic Change (MDC), who had been tortured, could go back and get the protection of the state, or else it was just local random violence and they probably would not be of interest any more. By 2005, however, conditions in Zimbabwe had deteriorated to the extent that someone with that history would qualify for asylum even on the basis of the accepted guidance; nevertheless, for the Home Office they were simply failed asylum seekers picked up for removal.

As regards Iraq, a lot of cases displayed the opposite problem. They came to the UK several years ago, they had faced torture in Iraq but, by the time appeals came to be determined, it was said that conditions had improved in Iraq or at least had improved in relation to the risks that they had faced previously, and they were no longer at risk. But, the problem was that torture survivors in particular may face different risks. Once again, and this has been happening in the last year or two where the Home Office has been organising charter flights to Iraq, they are simply picked up after living for years in the community, no real assessment is carried out of the risk they face in current conditions and they are detained for removal; they are not even allowed to take their possessions.

Once detained, individuals face a whole new set of problems in finding a new legal representative as their previous representation will probably have closed the file or closed down completely because of public funding cuts. For someone who is at risk of self harm there is a very controversial exception in the Home Office policy whereby the Home Office claims it does not have to notify the person that he is going to be removed - for his/her own good in case s/he harms him/herself - notwithstanding that the risk of self harm may give rise to a stronger human rights case. The Home Office has recently extended this, in an unpublished policy, to any risk of serious disruption. This was used in one case where a removal failed because the person's supporters who were aware he was being detained tried to create trouble by phoning the Home Office, MPs and the airlines, saying do not take this person. This was held to amount to a risk of serious disruption such that the next time they attempted to remove him, they gave him

no prior notification, confiscating his mobile phone and so on, and leading to a position which judges have understandably described as Kafka-esque.

Currently, one can rely on many High Court judges to take a strong line, if necessary to order claimants to be brought back from their countries of origin and to criticise the Home Office for its disregard for the rule of law. Many of these judicial review cases are due to be transferred into the new Upper Tribunal from some point next year. While we are currently assured that cases will be heard only by judges entitled to sit in the High Court, it remains to be seen whether the Upper Tribunal will take a similarly strong line in trying to control abusive behaviour by the Home Office in the course of seeking to maximise its removals.

Discussion:

In discussion, it was agreed that it is much easier to win a case based on trauma where somebody is undergoing treatment in the UK, particularly if they are undergoing treatment with renowned specialists. Unfortunately however, this is only the case for a very small minority of asylum seekers, failed asylum seekers and torture survivors. For most, after their appeal is dismissed, often with less than Rolls-Royce representation, they will find themselves destitute, with no legal representation and little access to community support, and they will certainly not get the sort of expert NHS treatment for a psychiatric illness that many British citizens cannot access either. The first time anyone shows an interest in such cases again is when the individuals are detained for removal from the UK, when (if they are lucky) they have contact with a lawyer following their detention. This lawyer may then arrange for a medico-legal report and this may be the first psychiatric intervention the person has received. In those cases, it is almost impossible to persuade the Home Office, and pretty difficult though not impossible to persuade the courts, that the individual should not be removed. For a torture survivor to be picked up in the dead of night and detained after several years in limbo in the community is quite likely to be re-traumatising. One then also has to deal with the inevitable Home Office argument in refusing these cases: if this person has managed to live as a failed asylum seeker in the UK for a number of years without attempting suicide and without coming to the attention of the NHS, this shows, so the argument goes, that the present claim is simply intended to frustrate removal and is not credible.

As regards civil proceedings, while there is provision for individuals to come to the UK as visitors to give evidence in a case, there are often disputes over fair trial rights under Article 6 of the European Convention on Human Rights (ECHR) as to whether someone should be allowed to come to the UK to give evidence. The Home Office argument will often be that such persons are not coming to the UK as a genuine visitor but rather to seek asylum, and that their evidence is not necessary to the case or can be given in some other way.

Exclusion from the protection of the Refugee Convention as a result of allegations of terrorism is also increasingly being argued by the Home Office and relied upon by the AIT. There is an increasing issue too about the Home Office relying upon evidence which may have been obtained by torture and, therefore, arguments arise about whether that evidence should be excluded in determining whether the claimant should be refused refugee protection.

The major problem with using general psychological/medical evidence relating to the assessment of credibility which is not particular to a claimant is that traditionally judges from top to bottom have jealously guarded their own right to make credibility findings. Many immigration judges will question the role of a psychiatrist in making any comment on credibility, even in a particular report on a particular claimant, never mind more general evidence. While such reports are not being widely deployed in UK courts, the work being done on the assessment of credibility is hugely valuable. It is a huge battle to be had, and possibly to be won, to get this work considered in the courts, at least to the extent that judges have to consider general propositions about how victims of trauma can and cannot be expected to act, and what assumptions it is unsafe to make about them – similar to the debate that is currently taking place about the extent to which juries in rape cases should be told about how people can be expected to act after trauma, and what assumptions are unsafe to make. It is manifestly incorrect that a judge should regard deciding whether a person is telling the truth or not as a matter of common human experience which judges can decide as a matter of common sense. Training of immigration judges in particular would be incredibly valuable. Anecdotally it is said that training in the past has been slanted towards encouraging new immigration judges to be sceptical of asylum seekers' accounts, giving case studies, for example, where discrepancies are pointed out in what is supposed to be an incredible claim.

Finally, detention of families for removal is hugely controversial and some of the cases where judges have been most critical of the Home Office for acting in an abusive way by frustrating

access to legal representation following detention have involved families. Age dispute is also a big issue, particularly for children in detention who are probably there because the Home Office is not satisfied that they are children. The Home Office has recently and scandalously cut funding to the Refugee Council's Children's Panel, to whom the Home Office is obliged to refer all detainees claiming to be children and which plays an invaluable role. In a recent case, it was noted, detention of an individual was held to be unlawful as the Home Office had failed in its obligation to refer to the Children's Panel, and the Children's Panel had therefore not carried out the steps which would have caused the person to be recognised as a child and so released. As a result this 14 year old girl spent several more weeks in detention with adults.

Better representation of disputed children and improved access to services in detention is needed. There is certainly perceived to be a huge problem in getting access to experienced child psychologists and psychiatrists to write medical reports. There is also a massive problem of those who arrived as unaccompanied children, often after clearly traumatic experiences which are accepted - Kosovars are an obvious example. They are granted leave until their 18th birthday and have then been here for seven or eight years, they are in their early twenties but with no status, and then the Home Office picks them up for removal. Often these cases will raise issues of whether they should be returned to the place of their previous trauma.

B. JUSTICE FOR TORTURE SURVIVORS

This Panel examined the options torture survivors in the UK have for seeking justice and reparation, and the experiences of some survivors. ***Keith Best***, Chief Executive of the Immigration Advisory Service, chaired the panel.

(1) Kevin Laue: Seeking Justice for Torture Survivors

By way of introduction, ***Kevin Laue***, REDRESS' UK Legal Advisor, noted that there is no 'international human rights court' in which to bring a *civil* claim. Although recent important developments within the field of international *criminal* law, such as the establishment of the International Criminal Court (ICC) and the special tribunals for Rwanda and the former Yugoslavia, have shifted the focus to some extent into the

international arena, these special tribunals only deal with specific states and particularly horrific periods, and the ICC can only deal with the most serious cases, its jurisdiction is non-retrospective from July 2002, and it is facing an uphill struggle to assert itself as an effective institution. The other route for the criminal prosecution of torturers is under the principle of universal jurisdiction, prosecuting a torturer found in state X for torture committed in state Y.

Kevin Laue noted, that the primary place where justice for torture *should* be implemented is in and by the state where the torture took place. States have a dual obligation towards victims he explained, first, to make it possible for them to seek relief for the harm they have suffered and second, to provide a final result which actually addresses the harm. So, we have to look to the torturing state as the starting point. When looking to the seat of primary responsibility - the torturing state – often, those seeking redress almost immediately come up against serious barriers. It is perhaps obvious that states where torture is most prevalent are precisely those where there is no rule of law, so there may well be no independent judiciary nor a human rights culture in the states concerned. For example, REDRESS has a number of Iranian clients, but the prospects of them gaining justice within Iran for their suffering are very narrow. Moreover, in such countries, torture may be explicitly or implicitly part of state policy.

In these circumstances, is the whole idea of seeking justice for torture survivors who have made their way to the UK a chimera, a hopeless waste of time? ***Kevin Laue*** explained that REDRESS does not believe so and was founded precisely to try to grapple with what is admittedly a complex problem: finding ways in which torture survivors can effectively access justice is indeed a challenge.

An important aspect of justice, which includes recognition that torture has taken place, is monetary compensation or damages, which is one form of reparation. The starting point is asking which state is responsible. For example, there are some states where although torture is endemic, there are still avenues well worth pursuing. These include states which have ratified one of the three regional human rights treaties and thereby submitted themselves to the jurisdiction of the European Court of Human Rights, or the Inter-American Commission and Court of Human Rights, or the African Commission on Human and Peoples' Rights. Each of these institutions seeks to uphold the rights, principles and norms set out in the applicable human rights conventions which states in

those three regions have signed up to. There are also other treaty-based international institutions such as the UN Human Rights Committee (HRC) and UN Committee against Torture (CAT), established under the International Covenant on Civil and Political Rights and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, respectively. The three regional bodies mentioned allow individuals to petition them, and in some circumstances individual petition can also be made to the HRC and/or CAT.

Thus when individuals in the UK who were tortured abroad wish to seek justice, a first consideration is whether the torturing state has signed up to a regional or international mechanism, and whether individual petition is possible. Sometimes more than one institution is available. However, in all cases, domestic remedies in the defendant torturing state must first be exhausted. For example, a Cameroonian torture survivor in the UK can bring a case before the African Commission or before the HRC, but must first demonstrate that they have tried to seek justice in Cameroon and have exhausted whatever procedures are available there, or that there are in fact no effective mechanisms. So in each case, the domestic legal system of the torturing state has to be examined. There are often barriers to seeking domestic remedies, such as statutes of limitation, amnesties or immunities. However, although such barriers can cause difficulties at a domestic level, at a regional or international level they can illustrate that there are in fact no domestic remedies to exhaust.

There must also be credible evidence of the torture having taken place and here, medical and psychological evidence is often crucial. Gathering such evidence in the state where the torture took place can be difficult even if the victim was medically examined there, and so an option is getting a medico-legal report in the UK. Even where victims successfully bring a case in a regional or international institution, there is no guarantee that the defendant state will abide by such a ruling. Decisions of the European Court of Human Rights are taken seriously by member states, but numerous African states respond to decisions of the African Commission by ignoring them. Similarly, states do not always abide by decisions of the UN bodies, such as the HRC. For example, REDRESS has a long-running case where a favourable decision was obtained in the HRC against the Philippines, which in itself was an important victory for the torture survivor concerned, but to actually get the state to abide by that ruling is

ongoing work. One has to find both legal and political means to put pressure on governments to take seriously these types of decisions.

Regarding torture victims in the UK seeking to bring a civil case in the UK courts for compensation against foreign states or foreign torturers, the barrier of state immunity has not yet been overcome. State immunity is the international law principle which prevents one state's legal system being used to litigate against another state. Although it is no longer recognised as absolute, evidenced by the fact that commercial claims can be brought in UK courts against foreign states and foreign companies, the UK House of Lords has ruled that the same does not apply to egregious human rights violations such as torture. Ten years ago the European Court of Human Rights took the same view. It may modify its position if the House of Lords decision can be brought before it an application which is pending. In addition, REDRESS and other NGOs are currently campaigning for the Torture (Damages) Bill, which seeks to create an additional exception to the State Immunity Act 1978 for torture (to go alongside the existing commercial exception).

Turning to the criminal sphere, bringing a criminal prosecution in the UK for torture is a real possibility where a suspected perpetrator is in the country. The torture must have taken place after 1988 (when the UK passed the Criminal Justice Act making torture a crime in the UK no matter where it occurred), and there must be sufficient evidence to galvanise the authorities to launch an investigation and prosecution. This requires, for example, witnesses prepared to come forward to testify. However, there has been only one prosecution for torture in the UK in the past 20 years – the case of Zardad, an Afghan warlord, who in 2005 was convicted and sentenced to 20 years imprisonment for torture and other crimes that he committed in Afghanistan in the 1990s. Bringing such prosecutions in the UK can be resource-intensive: in the Zardad case, for example, the crimes took place outside the UK and the victims had no links to this country; and so most evidence was given by video-link from Afghanistan to the Old Bailey trial. Where victims who can be witnesses are in the UK it ought to be easier but, despite attempts to bring other perpetrators of torture to justice, there have been no other cases in the UK so far. REDRESS and other NGOs are committed to campaigning for further such prosecutions by bringing victims into contact with the Metropolitan Police where there is a possibility of apprehending a suspect within the UK. Under the UN

Convention against Torture the UK must investigate such cases and, where there is sufficient evidence, either prosecute the suspect or extradite them to another state which has jurisdiction for trial.

As set out in the UN *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, persons whose human rights have been grossly or seriously violated, including torture survivors, are entitled to reparation which includes:

a. *Restitution* – This seeks to restore the victim to the position they were in before the violation took place (e.g. returning property to which they are entitled).
b. *Compensation* – This is be made up of different elements, including for example, compensation for physical or mental harm, lost opportunities, legal and medical costs, and moral damages, including infringements of the victim's very being. It has been recognised that victims are entitled to 'fair compensation', which should be sufficiently broad to compensate them to the greatest extent possible for the loss suffered.
c. *Rehabilitation* – This includes medical and psychological care, as well as legal and social services.
d. *Satisfaction* – This aims at verification and acknowledgment of what happened. This 'truth telling' or acknowledgement by the torturing state or perpetrator, is crucial to torture survivors' understanding of what happened and to demonstrate to the victims that the violation is being treated seriously. It might take the form of a public apology, commemoration event, prosecutions (judicial or administrative sanctions against the persons liable). This is recognised as a critical aspect of victims' rights.
e. *Guarantees of non-repetition* – This is a central element of reparation and might involve improved control of the security services, ensuring the independence of the judiciary, training of citizens as well as security personnel in human rights norms, and protection of legal, medical and healthcare defenders in states where torture is a problem.

Discussion:

In discussion, regarding holding to account US officials for the use of water-boarding and other torture methods during the so-called 'war on terror', it was noted that it seems clear that there are a number of high-ranking US officials, possibly from the ex-president down, who are not going to be travelling to countries in Europe because they could be arrested. Whether they will ever be prosecuted in the US remains to be seen. From a legal point of view, based on the definition of torture in international law and what the US officials are alleged to have done, it was suggested that some of these officials do have a case to answer.

The need to keep fighting against torture in every way possible and to keep articulating these matters so that they never leave the public stage, was emphasised. As regards prosecutions, the example was given of where aggrieved people took out a private prosecution in respect of the Omagh bombers, and it was asked whether we should be looking at this where we know that there are perpetrators of these kinds of atrocities within the UK's jurisdiction.

(2) Patson Muzuwa: Personal Reflections from a Zimbabwean Torture Survivor

Patson Muzuwa, a torture survivor from Zimbabwe, gave his personal reflections on the situation of torture survivors in the UK. He was born in 1966 and is a father of four children. In Zimbabwe, he was a qualified agricultural and motor engineer but ended up a 'jack of all trades and a master of none' due to the political situation. He joined a number of Zimbabwean organisations such as the Zimbabwe Congress of Trade Unions and the Commercial Workers Union, as there was no strong opposition political party in Zimbabwe. He was also part of Transparency International Zimbabwe, the National Constitutional Assembly and Crisis Coalition in Zimbabwe when it was formed. He became a founding member of the Movement for Democratic Change (MDC) in Zimbabwe, but he was not recognised as such by the UK Home Office, which said he was an imposter, when he entered this country because, ***Patson*** suggested, they had expected a member of the MDC to be presentable in a "tie and a suit".

In Zimbabwe, he was arrested more than nine times, and some of those MDC members with whom he was arrested have since been killed by the authorities. He suffered from various types of torture including *falanga* (beating on the feet) and being given electric

shocks. He also has scars and marks on his stomach from the assaults. Due to the beatings, ***Patson*** cannot walk or drive long distances as, for example, his legs get numb if he has to step on the accelerator or clutch pedals. Sometimes the mental torture remains with him, and he cannot think of anything else.

After his release from detention, ***Patson*** could not get a job because his name was known to many companies as a 'trouble causer', for organising strikes and demonstrations. The BBC recorded and broadcast many of the demonstrations in which he took part. Eventually a British journalist bought him an air ticket to come to the UK. Unfortunately, he noted, so many people and activists in Zimbabwe do not have such luck. This journalist is now listed as ***Patson's*** next-of-kin for saving his life. Almost all the people ***Patson*** worked with in Zimbabwe have now been tortured and/or killed. He noted that "When elephants are fighting it is the grass that suffers; when elephants are making love, it is the grass that suffers". When Prime Minister Morgan Tsvangirai and President Robert Mugabe are shaking hands, ***Patson*** argued, they have forgotten the families of those people who were killed to date.

On arrival in the UK, ***Patson*** was arrested at the airport and put into immigration detention for no apparent reason. Luckily, he was directed to a solicitor and then his case was taken on by the Immigration Advisory Service, and he was finally released from detention. He described his feeling that the asylum system treated him like a drug baron rather than the asylum seeker he was. The Home Office opposed his case even though they had evidence that he was the same person who had been in the newspapers as a Zimbabwe activist.

In the UK, he learned that one of the police officers who had tortured him in Zimbabwe was doing peacekeeping work for the United Nations Mission in Kosovo (UNMIK). With help from REDRESS, ***Patson*** attempted to get the individual charged or extradited to the UK to face him and to face justice. He explained that he did not want money, he wanted an answer: to know why the man had done this to him. In his opinion, the UN failed him: the UN said that it did not have the resources to prosecute the individual in Kosovo, but it did at least remove him from active service. However, he expressed disbelief that the UN could not thoroughly check the background of people engaged on

peacekeeping missions. He admitted that if he met the perpetrators of violence in Zimbabwe, he would kill them.

Discussion:

It was noted that there are many organisations that will continue to fight on behalf of each individual Zimbabwean to try to make sure they are not sent back to a country which clearly is still unsafe, notwithstanding anything Prime Minister Tsvangirai might say when he visits the UK.

(3) Philomene Uwamaliya: Personal Reflections from a Rwandan Survivor

Philomene Uwamaliya, a survivor from Rwanda, described her personal reflections on seeking justice. She suggested that if we all accept that torture is a harm, then justice should include hearing about experiences like her own. She explained that she gets confused about who she is, and how she changed after what she has been through. She is now like two people within one person– one before what happened, and one created after that series of events and in what she is still going through. She asked, 'Who am I?' She is not sure yet about saying she is a genocide *survivor* or a torture *survivor* because the challenge is still ahead. Even if she closes her eyes and ears, it is still in her, and she has to live with it. Yet she finds ways to cope.

She likened her journey towards justice to a train journey: you have some control and can decide at certain points to get off at the next stop and to get back on when you are ready. She described three of the huge challenges and consequences for survivors of genocide. First, seeking justice and exposing themselves is a high risk to take on. For example, with the Gacaca courts, survivors are being tortured again through humiliation and fear. People are making jokes out of what the survivors are saying in their testimony. It is quite a challenging step to take, yet many survivors had the courage to take on the risk. Second, the psychological trauma of remembering and revisiting past events makes one asks oneself if it is worthwhile. Finally, one wants to know when it is going to end. Is it really justice, have you achieved what you wanted to achieve, is it meaningful?

Philomene described how she was physically ill at the time the genocide ended. At the end of 1994, the Rwandan Government was asking survivors to become police inspectors. She thought that being a part of this would be a way for her to address the past events and to bring the perpetrators to justice. She thought it would keep her busy and might be a good coping mechanism. It was an intensive training course and in July 1995, she started work as a police inspector. She wondered why she should be running around villages arresting people who could not read or write, while government ministers were still in power, well-educated and funded. The survivors wanted justice from the top to the bottom, first targeting those individuals who had planned the genocide, rather than the individuals who could not even read or write. At first the survivors were highly motivated but then they started getting intimidated.

Some of her family members had been murdered in the genocide. For example, her brothers had been killed after they failed to find refuge. Initially however, ***Philomene*** and her mother did not know that the two brothers had been killed, as the last person who had seen them had said that he had taken them to a Rwandan Patriotic Front (RPF) zone. She searched for her brothers but, after three months, people started saying that if her brothers were alive they would have come to find her, and that the chances were that they were no longer alive. In April 1996, someone told her that her brothers had been killed not far from where she was at the time. When she got to the place, it took hours to find where they were buried because the villagers did not want to show them the site. However, a person who said that he had not had any involvement in their deaths showed them the bodies, which ***Philomene*** and her mother then identified. ***Philomene*** described how she would like to bring the people responsible to justice and to know what happened. She explained that she suspects that her brothers may have been betrayed by the man from whom they sought refuge.

One man who had ordered killings during the genocide was married to ***Philomene's*** aunt. ***Philomene's*** aunt and her husband feared that if ***Philomene*** and her mother testified about what they knew about the aunt's husband, that he would be arrested. The aunt and her husband decided to use the premier minister's office to threaten ***Philomene*** and her mother. ***Philomene*** and her mother were told to report to the premier minister's office to be questioned by one of premier minister's intelligence officers. Her mother refused to talk and then they invited ***Philomene***. ***Philomene*** knew

what they were doing was wrong and she tried to ignore the request to report to the premier minister's office, but in the end she was advised to go and someone accompanied her. When she arrived, an intelligence officer working at the premier minister's office threatened that if she did not answer, then she would have to stay in the cell. She found it hard to be questioned and described the way he interrogated her as 'emotional torture'. She knew that what was happening would be used to protect her aunt's husband. She managed to get away and went to a survivors' organisation and showed them the questions she had been asked. A national newspaper published what had happened. ***Philomene*** wrote a letter to ask the premier minister for protection, but the premier minister's office was the one doing it. ***Philomene*** no longer felt free to walk around, and both she and her mother received threatening phone calls. They learned that if they did not leave the country they would be killed. In the end, they left. ***Philomene*** is still seeking justice, which for her means safety.

The Rwandan government has an initiative whereby all people killed in the genocide have to be buried in a designated memorial site. ***Philomene*** is the only person from her remaining family who can go back to do this; she does not want to hear that the government has buried people who do not have any relatives; she wants to do it herself, but cannot because her safety there is not assured. The authorities do not recognise that seeking justice and testifying at trial can be traumatic. Those who do testify continue to be humiliated and threatened but this is not recognised as a problem either. There is little psychological support for survivors and witnesses. People like her who are outside Rwanda cannot seek justice. However, she needs to know the truth about what happened and feels that the only way is to go to Rwanda. She asked why she and others like her who do not want to face the individuals who killed their families and tortured them, why they cannot give videotaped testimony. Why do they have to face the perpetrators? If this were allowed, she thinks it would minimise the traumatic effect on survivors and witnesses.

In the UK, survivors like her wish that the British Government had ways of extraditing suspects to Rwanda to face justice. Recently, in April 2009, when the four Rwandan genocide suspects were released in the UK, she found it insulting as a survivor that they were released during a month of commemoration and that the survivors were not informed. She asked herself if she should truly just give up. While this was

disappointing, she has not given up. There is no protection for survivors and she feels that she is always exposing herself, but she explained that she did not know this when she came here.

She explained that, for her, justice is about having more support, liaising with other agencies, getting medical attention, getting political support, and seeking to hold to account the individuals in the Rwandan Government who were responsible for the torture. The individuals who tortured herself, her mother and others, they are there. No one has asked them why they did it. More ways of putting pressure on the country to take responsibility for what happened are needed. The train analogy is more like a comfort zone and she explained that she has now allowed herself to say that she is flying on a plane and taking more risks. She asked, 'Who is the pilot?' She could be the pilot or the co-pilot. Equally, REDRESS and the audience could be the pilot or co-pilot.

C. INTEGRATION & REHABILITATION

This panel considered the specialised needs of torture survivors seeking to integrate into the UK and local communities, and discussed the rehabilitative and social support they need and the challenges they face in accessing such services. ***Neil Gerrard,*** MP for Walthamstow and Chair of the All-Party Parliamentary Group on Refugees, chaired this session.

(1) Jonathan Ellis: Social Support: Housing, Education, Benefits and Employment

Jonathan Ellis, Director of Policy and Development at the Refugee Council, discussed the issue of social support. He explained that the Refugee Council runs an initial one-stop advice service for asylum seekers in four of the nine English regions. It is the first port of call and hopefully a friendly face for asylum seekers as they enter this country seeking sanctuary, safety and protection. Many of the Refugee Council's clients have suffered from torture and will be referred on to its specialist team. It knows from experience that when torture survivors leave their own country they have to cope with the psychological and physical impacts of torture as well as the realities of seeking

asylum in the UK. They have to cope with the loss of home, language, country, family and culture. Normally they have to cope with poor living conditions and experience almost continual stress around the asylum process since arrival in the UK. The Refugee Council sees the need to provide clinical but also friendly, compassionate assistance with their asylum claim; it also sees a circular relationship with people finding that they are not recovering from what they have been through and, therefore, struggling to adapt to the new country which further then impedes recovery from torture. The asylum system seems to do nothing to help this, yet where one sees successful settlement, that does enhance the likelihood of people's recovery.

In Brixton, the Refugee Council has a therapeutic casework unit, which over the last nine years has seen over 4,000 refugees, the majority of whom have been disturbed by traumatic incidents in their country of origin and then have the subsequent stress of seeking asylum in the UK. Moreover, their traumatic symptoms can make the frustrations of the asylum system more severe for torture survivors. Equally, the frustrations of seeking asylum can have an impact on torture survivors' symptoms and hence the cycle continues. In response, the Refugee Council campaigns and lobbies to seek a better deal for asylum seekers and refugees. It assesses and assists survivors of torture, addressing their emotional and practical needs. It also refers to other specialised agencies and it particularly values its long-established relationship with the Medical Foundation, especially their collaboration in the 2000-2003 Breathing Space programme, which left a significant legacy in Refugee Council in the way it supports survivors of torture. Now, across the country, it is providing additional support for those front line staff who meet asylum seekers day in day out.

Sadly, the suffering of torture survivors is compounded by barriers within the asylum system. Even the uncertainty of receiving a letter from the Home Office can be a trigger point, as can be the uncertainty over their immigration status and how long they can remain in the UK. A change of location can also increase anxiety, for example, from initial accommodation and then being dispersed, or being put into Section 4 accommodation at the end of an asylum claim. Increasingly, the Refugee Council's view is that it should see all of its clients as having been through torture, and not seeing it as an 'add-on': all asylum policies should be seen through the lens of a survivor of torture. For example, Asylum Aid have recently produced a Women's Charter around

refugee issues, looking at the asylum system from a woman's perspective, looking, for example, at the importance of providing child care during the first substantive interview or female caseworkers and so on. Something similar is required for torture survivors, seeing the asylum system from their perspective and then seeing how policy and practice can be influenced. However, the Home Office believes the integration process starts only when one gains status, when one gets indefinite leave to remain; whereas, the Refugee Council fundamentally believes that effective integration starts at day one and that, therefore, one has to see the asylum system as part of reception and as part of that initial integration.

Jonathan Ellis noted that there is also uncertainty regarding accommodation from initial placement to dispersal. Poor communication and late communication increases that sense of anxiety for people who are already anxious. Accommodation for asylum seekers is not what some sections of the UK media would lead one to believe. Complaints from asylum seekers show that lack of safety was raised time and time again with some accommodation, for example, having no locks. These are people who have come here for security and safety. We have to argue not for better accommodation, but for decent, secure accommodation for asylum seekers.

Where asylum seekers get decent, sensitive legal support early in the process, they have fair opportunity to make their case. The need for skilled legal practitioners, patient people with an ability to help with memory recall is so important to ensure a robust case is made. There are also issues around asylum support. Again, if one reads the tabloid newspapers one might have one view of asylum support. In reality, they get 70% of income support, 70% of the nationally-agreed poverty threshold for the UK, and endeavour to live on that. For those who want to work, to make a new start, who want to use their skills, since 2002, asylum seekers have not had the right to work. It was granted by Thatcher in 1986 and taken away by Blair in 2002. So, for those who want to make a new start they are denied this opportunity and forced to live on benefits.

At the end of the asylum process, for those whose appeal rights have been exhausted, there is the reality of Section 4 support. Living on £35 a week of supermarket vouchers causes anxiety and suffering, and is an inhumane policy and needs to stop. For those who slip through the net the reality of no support, no home, no job, can mean

destitution: recent research within the Asylum Support Partnership found that 48%, almost half of the Refugee Council's clients, were destitute. This is the reality, the anxiety, the suffering. Asylum seekers should be supported for the duration of their stay in the UK and should be allowed to work.

For those clients who do gain status, the challenges very often have just begun. For example, there are wider challenges around housing. Once they gain status, refugees have only 28 days to find a property, something which would be severely challenging even for someone who has lived in the UK for their whole life. Supporting vulnerable people is a big issue and it can be questioned whether or not the authorities see refugees and survivors of torture as those meriting such support and assistance. The Refugee Council is working with the Housing Association's Charitable Trust – there is a lot of work to be done to educate and raise awareness of the reality of people who are gaining status, who are seeking accommodation and the support that they require.

Asylum seekers do gain the same entitlement to education. However, there needs to be increased awareness from educational authorities about the places from which refugees have come. Refugee Council did some work funded by KPMG Foundation about inclusive secondary schools, highlighting the need to help schools to deal with, welcome and accommodate refugee children, particularly flagging up the important role of RCOs that could act as a bridge. ***Jonathan Ellis*** suggested that we need to increase awareness in schools about where refugees have come from, why refugees are here and the support that they need. As regards language provision, this is woefully short, considering that English language is so important in terms of integration. Recently the Government reviewed priorities for ESOL (English for speakers of other languages) language support, and one of the five priority groups are refugees. However, if integration starts at day one then it is not just about language support when status is gained - language support prior to getting status is so important.

Once individuals have gained refugee status, they are entitled to work. However, there are still barriers to employment, such as needing a UK passport. The Refugee Council has just produced a leaflet with the Equality and Human Rights Commission, which sets out simple guidance to help employers understand that they *can* employ refugees. Finally, on benefits, refugees are entitled to benefits but since 27 October 2008,

incapacity benefit has been changed to employment and support allowance. The Refugee Council is currently talking with the Department of Work and Pensions about health assessments in terms of the particular needs of refugees so that they are taken seriously and sensitively in terms of that official assessment.

In conclusion, ***Jonathan Ellis*** noted that these people have suffered and they need safety, security, sanctuary and freedom from anxiety. To achieve that goal, he suggested that we need to see the asylum and refugee support system through the eyes of a torture survivor. We need their view, input and feelings, and we need to hear and see their frustrations; and then we need to campaign for the changes they want to see. They deserve no less. We, as a broad sector, need to come together, need to show our unity and need to rise to this challenge and to campaign for a better deal for both asylum seekers and refugees.

Discussion:

In discussion, it was explained that as an independent charity the Refugee Council does not disperse people - its staff are there as the advocates and the friends of asylum seekers. Rather, it is the Home Office and the UK Border Agency which decide when people move, how they move, and where they move to. The Refugee Council's front line staff are the advocates who are sending faxes, ringing up, very often making last minute protestations to argue the case that people should stay and to argue against people being removed. It is vitally important for refugees to have a chance to put down roots, and to bond with the communities and the refugee community organisations; refugees are moved too many times around the country.

The Refugee Women's Charter initiative by Asylum Aid is a voluntary sector response to the Home Office in terms of how they should treat seriously women refugees and the issue of child care, in particular, comes through really strongly. The scheme has been running as a very successful pilot in Wales and has been rolled out in Scotland. It was questioned why women, or single parents, are not being given child care for their substantive Home Office interview. There is also a new Code of Conduct in respect of how children are treated, which makes reference to child care which is hugely important. The Refugee Council has now received explicit commitments to a number of regional pilots to run child care services. It is a 'no brainer' that there should be child care so that individuals can give full disclosure without worrying about the

child being present. It shows the challenge of trying to create policy change on asylum where the Home Office is regionalising, de-centralising, and leaving it to the autonomy of Regional Directors of the UK Border Agency, such that different regions are doing different things. One needs to see, it was suggested, an across-the-board, national policy statement that there should be child care provision for that substantive interview. It would be in the child's interest, parents' interest and the Home Office's interest to get that robust interview the first time around.

(2) Dr. Brock Chisholm: Psychological Care for Torture Survivors

Dr. Brock Chisholm, a Clinical Psychologist at the Traumatic Stress Clinic, which has a specialist refugee service, discussed psychological care for torture survivors and started by acknowledging that the psychological consequences for victims of torture are clearly immense and that we could not hope to cover it all during this session. Therefore, he focussed on some of the elements of a possible ideal model, contrasted how some social policy interacts with this ideal model, and suggested some of the things we need to discuss in future about how organisations working with this group can improve the experience of torture survivors.

While mentioning some of the more common psychological diagnoses following torture, he acknowledged that these are by no means exhaustive and noted that the Traumatic Stress Clinic sees PTSD most frequently. Some of the wider effects of torture include a poorer immune system, which highlights the integration between the mind and body. Another effect is forgetfulness, which makes remembering to attend appointments difficult, regardless of victims' ability or desire to attend, which can present a barrier to people receiving the treatment they need. Similarly, victims may have an inability to look after themselves generally, as their experiences may have left them unmotivated. There is often a loop between PTSD and some psychotic symptoms (for example, hearing voices, feeling one is being followed, seeing ghosts or spirits in the room). Other impacts include: loss of trust, hopelessness, disempowerment, anger, hatred and disgust, which is directed towards the self rather than towards the perpetrator, and feelings of shame even if others have categorically told the victim that s/he is not to blame.

Dr. Brock Chisholm noted that it can be difficult to assess how many people are in fact affected with a certain diagnosis; however, around 50% of people who have been tortured suffer from PTSD. Moreover, the Kosovar Study has shown that an individual may begin to experience PTSD well after they have entered a country, when perhaps they are in a safer position (or indeed because of the asylum system, they are also still in danger). 80% of such people claim to experience chronic pain despite available medical evidence not finding any physical cause for such pain. Some of the common clusters of symptoms of PTSD can include flashbacks or intrusive memories, which feel like current threat and like it is happening again and again; people also may lose awareness of the world around them. Psychologists try to 'switch off' the 'threat system' (the threat system includes the brain and the body, and is designed to be there when we are genuinely under attack: e.g. we run away, freeze, or fight). The threat system and such responses can be triggered over and over again by some of the asylum difficulties and social difficulties, by flashbacks, or by constantly scanning one's world for danger. This can result in anger, depression and submissive symptoms such as freezing or cowering. These are things that people live with every day - individuals constantly scanning for danger are frequently suspicious of everyone and everything around them. Consequently, these barriers to getting treatment, this lack of trust and fear of being followed, the PTSD, the memories that maintain this current threat, need to be overcome.

The Traumatic Stress Clinic teaches the Three Phase Model. *Phase I* is stabilisation and involves beginning to build up trust, addressing legal and social difficulties and needs, professional report writing, management of crisis, linking with relevant organisations, addressing health problems, and reducing social isolation etc. *Phase II* involves seeking to restore some sense of control so, for example, focusing on PTSD, this might include education on what flashbacks are, normalising some of these reactions, and to manage and treat the symptoms. One cannot begin to treat people for threat with specific psychological therapies while they are feeling unsafe. Psychologists have been working very hard over the last ten years to develop effective treatments to specific conditions such as PTSD and OCD (Obsessive Compulsive Disorder). It is important to correctly identify those with a diagnosis of PTSD as in some cases, counselling, as opposed to specific trauma focussed evidence based psychological therapies, can worsen symptoms of PTSD So, there needs to be some sort of agreement to get the systems to work together; there are many difficulties survivors face that do not require specific trauma-focused or specific

psychological interventions. Different organisations have to deal with these problems, are overlapping and are missing opportunities to work together. *Phase III* is reintegration, which is helping individuals to create a future, by rebuilding their life and establishing relationships, enabling them to develop goals and aspirations.

Ideally, individuals would progress smoothly through the three phases, but often individuals go back and forth between the phases, they are not linear. ***Dr. Brock Chisholm*** quoted a 22 year old male torture survivor and refugee client as saying, 'This country does everything it can to make you feel worse. And then, when you are completely f**ked up, it does everything it can to make you better'. However, ***Dr. Chisholm*** did note that many people who he has worked with have had a very good experience of arriving in the UK.

There are multiple problems facing torture survivors arriving in the UK. For example, the effects of the asylum system can raise difficulties, and there are issues relating to the trauma suffered in the country of origin. Examples include, reduced social activities, inability to work, family members may have either died or not be allowed to come into the UK, and survivors may fear being snatched in the middle of the night or perceive danger all the time. Crucially, there is a link between these and poverty, limited social support and increased stress such that some of these aspects may be more predictive of a PTSD response than the trauma itself.

Survivors arriving in the UK may be allocated a place at a hostel where there may or may not be NHS staff available. Equally, if there are medical staff, they may not be qualified to screen for mental health. If new arrivals are screened and mental health issues are identified, what happens next? What happens to that information? How do they get treatment? Where can staff refer a person to for treatment? When is the best time to refer? At what stage do we begin to have a clear pathway of social and psychological care? Alternatively, perhaps individuals may be placed in a detention centre and again there may or may not be medical staff there who can screen for mental health.

As part of the Refugee Council's one-day induction, new arrivals can register with a GP, though not all GPs can screen for mental health issues. The Refugee Council, the Helen

Bamber Foundation and the Medical Foundation are well-placed to identify PTSD, but organisations such as the Traumatic Stress Clinic do not accept referrals from these front-line organisations. Equally, the NHS refers people to the Traumatic Stress Clinic with many complex social and legal problems, which the clinic cannot treat, though there are other organisations that could help them. We need to find a way to work together and consider how to solve the difficulties of sharing information.

Dr. Brock Chisholm asked how the current system can be improved. He suggested that we need a system that assesses the psychological needs of torture survivors, perhaps with a brief screening tool for PTSD. Once there is a clinical diagnosis, then the person can access specialist services at a later date –a 'watch and wait' approach, asking when is *Phase II* appropriate. In addition, we need an asylum system to make changes and to encourage empowerment of asylum seekers rather than indebtedness. We also need better systematic links so that those best able to handle certain phases handle them, and so that links between charities and the NHS services are developed. Currently there are sporadic specialist treatment services, with many services in central London, and fewer outside the capital. The Government initiative, IAPT (Improving Access to Psychological Therapies) was set up to treat anxiety disorders but its remit does not quite cover this complex form of PTSD suffered by torture survivors; these sorts of initiatives could be developed and would save money for the NHS, but would also save people and help them to have a better life and introduction to our country.

Discussion:

In discussion, steps being taken to develop a screening tool for PTSD and how we can use it for refugees more widely, was considered. It was noted that the Traumatic Stress Clinic is working on a project aimed at developing a shorter way of assessing PTSD. Clinicians can assess PTSD but it is a fairly complicated process. Also, the real problem is that once someone is assessed as having PTSD, ensuring that these individuals go on to receive the specialist treatment that they need should follow. However, during the asylum process is not always the right time to receive treatment. To receive treatment for PTSD, this involves talking about the trauma in detail once trust has been built up, which cannot happen easily when people are at risk or in a bad place. In the Netherlands, for example, civil servants working on immigration are being trained in how to detect PTSD. They have been working together with Amnesty and others with trauma expertise

and are coordinating in a really good way. It was suggested that one might fruitfully look at their experiences and replicate the project here, possibly once there is a European-wide asylum system, which is also being pursued. It was noted that peoples' post-traumatic experiences need to be placed very much in a socio-political framework, and it is important not to take a reductive medical approach towards individuals.

Individuals who have suffered trauma, but not obtained a PTSD diagnosis, can be looked on less favourably by the courts in the asylum determination process and in asylum support processes. PTSD is taken to be evidence that the torture happened but this is not true in reality. Most assessments come from self report which is flawed all the way through. It was suggested that when writing expert witness reports, for example, it is important to emphasise that simply because the person in question has not been assessed as having PTSD, this does not mean that the event did not happen, that they do not have other psychological consequences (for example, difficulty in trusting people). PTSD is a very specific memory difficulty, and there is room here for increased education/training of Home Office personnel.

(3) Dr. Angela Burnett: Medical Support: Health & Rehabilitative Support

Dr. Angela Burnett, Lead Doctor at the Medical Foundation for the Care of Victims of Torture, and GP at Sanctuary Practice in Hackney, discussed medical support for survivors, both health and rehabilitative support. She considered the links between health and human rights, focusing in particular on persecutory sexual violence, although the issues may also have an effect on all survivors of torture. She discussed protection, physical and psychological support, practical support, access to services and recommendations.

Firstly, she noted that there are fundamental links between health and human rights, and the violation of rights, for example by rape, torture or sex trafficking, may have health consequences. Secondly, the design and implementation of health and immigration policies can themselves affect human rights. For example, asylum seekers who are forbidden to work, restrictions placed on access to healthcare for those who have been refused asylum, immigration detention including of children, and enforced

destitution. Thirdly, if human rights are taken seriously, this can actually reduce the likelihood of illness.

Rape and sexual assault have always been used in conflicts and war to exercise power, to humiliate victims, intimidate others and obtain information. It is important to place rape in a political context as a method of torture. During 2007, an audit of the Medical Foundation's clients found that 52% of women, 7.5% of men and 16% of minors were survivors of rape. This experience was often disclosed for the first time at the Medical Foundation. Rape and sexual violence are commonly understood to happen to women, yet ***Dr. Burnett*** considers that there is under-disclosure of rape by men. The international law of armed conflict describes rape as a war crime and crime against humanity, yet UK law's treatment of rape, in particular of women, is inconsistent with this and it is often viewed as private act for sexual gratification.

Torture has also been described as an act of killing a person without their dying; as an attempt to destroy a person's physical and psychological integrity. In 2001, a survey of the literature estimated that between 5 and 30% of asylum seekers were survivors of torture, a wide range seeming to depend on the definition of torture used and the country of origin. In ***Dr. Burnett's*** view, this was an underestimate and now outdated, so needs to be revisited. The Medical Foundation takes a holistic approach; it believes that in order to treat an individual, it has to treat the whole person; that one has to look at their whole world as the experience of being tortured leaves wide-ranging issues which are complex to unpack. Also, it looks at protection, physical, psychological and practical issues. If one thinks about holistic care, one needs in particular to think of people as individuals, and consider all these aspects.

As regards protection, the importance of access to legal support and documenting evidence of torture was noted. The Medical Foundation writes over 600 reports for people per year, and is constantly looking to enhance both the quality and quantity of its service. While the act of giving testimony can be traumatic, it is also very important for people as it may be the first time the person feels acknowledged, that the injustices suffered are being believed and fully documented.

Another issue is poor access to interpreting services; it is important to offer the preference of gender of the interpreter and the clinician to the victim. Women often feel more comfortable with female advisers, but also many male survivors of rape may also feel more comfortable with women and ideally there needs to be a choice offered. Sexual torture may be disclosed late or not at all, perhaps because of the wrong gender of the interviewer or interpreter (which happens again and again in Home Office interviews), because a family member is present, or particularly because of the survivors' deep shame, or because they want to forget what has happened. Some of the difficulties in documenting rape include: the lack of physical evidence; victims who have been traumatised may not be able to give sufficient detail; memory problems leading to a questioning of their credibility; and survivors may experience flashbacks and disassociation or very deep shame. For example, a Vietnamese woman put it this way: 'Someone ate out of my bowl and left it dirty'.

Physical evidence of rape is best gathered early on, yet the vast majority of people are seen a long time after the event. A study done showed that 77% of women had no genital injury. Therefore, it is important that the Home Office and adjudicators understand that a lack of injury does not imply consent. Regarding physical aftercare, several issues may need addressing: offering sexually transmitted infection screening including for HIV; the possibility of pregnancy; physical injury resulting in incontinence; cigarette burns; psychosomatic pain; and/or chronic pain. Where rape does result in pregnancy this often gives rise to ambivalence of feelings over whether to continue with the pregnancy, and/or ambivalence towards any child who is born as a result of rape.

In respect of psychological assistance, the Medical Foundation offers both individual as well as group work. Many of these ways of working are tried in order to enhance the cultural aspects of a person's life, to confirm their identity as an individual not just as a torture survivor. For many, the greatest support is through religion and spirituality, and there is a need to enhance peoples' access to this, which is not always easy when people are dispersed throughout the UK. Also, work done in Belgium and Holland shows that many people experience violence, including sexual violence, within host countries so this is a matter of people not being safe.

One of the key current issues relating to rehabilitation is access to services, which is often restricted. A recent court case reverted to the restrictions on access to services for people who have been refused asylum. The long-term effects for individual survivors and their families can include: domestic violence; difficulties in relating to others; failing to respond to the needs of children; stigma and shame; and the importance and difficulties of developing trust when people are continuously moved around. A holistic, client-centred approach is required, which would allow people themselves to set the pace and the style, rather than trying to fit them to our services. Our services should be receptive and individualised, focusing on what the survivor can control now as well as how to reduce their future vulnerability, and to respect people as individuals.

Recommendations included the need to improve gender and cultural awareness in immigration services and, in order to achieve this, putting in place appropriate measures of accountability. We have to raise awareness of the difficulties of disclosure; reduce poverty and destitution; remove the restrictions on access to health services; ensure that survivors of torture are not detained; raise awareness of the needs of older survivors and children; and enhance the capacity of RCOs (Refugee Community Organisations). We should also recognise the resilience of survivors as illustrated by two quotes from Medical Foundation clients: "You can break my body but you will never break my will" and "Help me to stand up and I will go on fighting".

Discussion:

In discussion, the issue of racism and hostility towards refugees and asylum seekers in the UK arose. Concern was expressed about this issue, against the background of the election of councillors and MEPs from the British National Party. There are many reasons for this hostility, it was suggested, including the Government's lack of leadership in taking a positive view towards people seeking sanctuary in the UK. There is the recent example of Roma people in Belfast, many of whom have fled after racist attacks there. The media too have a responsibility to take leadership it was suggested: the experience of Kosovars arriving in the UK is an illustration of good practice. In that case, there was a concerted effort to demonstrate why people from Kosovo were here, including media coverage of the atrocities people had come from, rather than suggesting the difficulties the new arrivals would 'cause' here. There is clearly a need to better

inform members of the public, so that they understand that refugees and asylum seekers do not 'cause' problems, but are rather here because they need support.

(4) Luka Phiri: Local Community Support

Luka Phiri is a Zimbabwean torture survivor and a human rights activist, representing the Islington Refugee Forum, a group of RCOs. He discussed local community support and the broader issues affecting asylum seekers in the UK.

He noted that asylum issues are being confused with the immigration situation in the UK, which is being compounded by the media. Reporting on asylum issues can create tension, whereas we need a very balanced and informed debate about these issues. Being an immigrant is very different from being an asylum seeker who comes to the UK on humanitarian grounds rather than for economic reasons.

According to the UK Government Operation Enforcement Manual, if asylum seekers have been badly treated in their country of origin, they should not be placed in immigration detention. As a torture victim himself, who has personally experienced PTSD (including insomnia, flashbacks and hearing voices) which was a very bad experience, ***Luka*** was threatened with detention but luckily not detained. When one is detained in the UK a lot goes through one's mind, he suggested. For example, many victims feel degraded and run a high risk of negative psychological effects. When children are detained, there are similarly a wide range of issues involved, including being deprived of schooling and their futures potentially being jeopardised.

Regarding removals, ***Luka*** suggested that the Home Office is using destitution as a tool to remove most asylum seekers. People become destitute for a number of reasons: they might lack legal aid and legal help, there may at times be errors made by the Home Office, they may not have been informed about their rights as an asylum seeker to support and health care and so on.

When he arrived in the UK, ***Luka*** was dispersed to Grimsby and given a pack of documents which had a huge number of papers. It took him about two weeks to go through the paperwork. No one told him where to go or what to do, or how to access

services. Luckily he could read English, but he has sympathy for those who cannot read or write in English. He thinks that asylum seekers and, in particular, those who have experienced torture, should be given more guidance.

Asylum seekers also need education and skills. There is a duty to ensure that education is available for all children of compulsory school age and this applies irrespective of a child's immigration status or rights of residence. However, ***Luka*** noted that some Zimbabweans have been here for six or seven years waiting for a decision and have not been allowed to have proper access to education or to seek employment. Now, they are told they will be sent back to their country of origin. This is not a viable option for those who are de-skilled and whose children have not been doing anything. Where would you start from, he asked. No one back home will employ you, you are a stranger in your own country with no friends or family. So, even where a decision has not been reached regarding asylum claims, ***Luka*** suggested that individuals should be given proper access to education, as well as the right to work. Many children reach the age of 16 but, because they are from an asylum seeking family, they are being deprived of going on to university-level education. Similarly, asylum seeker children wonder why they are not going on school trips with their friends. In addition, some refugees and asylum seekers are professionals but, after being granted leave to remain in the UK, their qualifications are not recognised as equivalent to UK qualifications and they are required to go back to university to re-qualify. We need a system, he suggested, whereby countries and employers can recognise foreign qualifications, rather than depriving individuals of their profession.

The main issues affecting refugees after being granted the right to remain include access to housing and healthcare, and discrimination in their local communities. Integration is a very powerful need from the first day one arrives in a country. However, ***Luka*** described how he suffered racial discrimination in Grimsby; and suggested that we need to educate local communities so that they can accept asylum seekers and refugees as part and parcel of the community. To improve social cohesion, he suggested employment should be the priority. Second, English language teaching should be given free of charge (currently, he noted, people are paying to do the basic English language course as they need this ESOL training in order to understand the rules of the country). Third, we need to form supportive social networks in order to help establish

community identities. Finally, asylum seekers and refugees should be free to express their own ethnic background and people should accept the way each individual is, but at the same time, they should be given the chance to work with their hosting community.

Discussion:

Finally, it was noted that networking is crucial. It is important, it was noted, that organisations like the Medical Foundation can target smaller organisations that have contact with networks within refugee communities. When someone comes into the UK, they look for their own local community, which is where one can make an impact it was suggested. The Zimbabwe Association receives lots of calls from torture survivors who have not been attended to by expert organisations.

D. GOVERNMENTAL STRATEGIES ON TORTURE SURVIVORS

Carla Ferstman, REDRESS' Director chaired the session. She explained that efforts had been made to have a representative from the Home Office attend. However, while there was quite a lot of interest from the Home Office, unfortunately they were not able to field a speaker. She acknowledged that this was a gap but hoped that it would be possible to continue to discuss with the Home Office the issues that come from the Conference.

(1) James Evans: Perspective from the UK Foreign & Commonwealth Office

James Evans, Desk Officer for the Justice and Counter-Terrorism team, part of the Human Rights, Democracy and Governance Group at the Foreign & Commonwealth Office, explained that the UK does have a long-standing opposition to torture, particularly since the launch of the UK's Anti-Torture Initiative in 1998, instigated by the then Foreign Secretary, the late Robin Cook. There are two main strands of Foreign and Commonwealth Office (FCO) strategy on preventing torture and tackling torture overseas. The first concerns international lobbying for further ratifications of the UN Convention against Torture and its Optional Protocol (OPCAT), which the FCO does bilaterally through the EU and also through the UN, in particular via the Human Rights

Council. The second strand is through projects which the FCO has around the world, some coordinated by London and others by the British embassies and posts overseas.

As regards the first strand, OPCAT is important to the UK's strategy as the UK was involved in the very early stages of its conception and was the first EU country (and third country worldwide) to sign and ratify it. OPCAT works on a dual system of monitoring places of detention: first, it obliges State parties to allow the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) to inspect places of detention, and to report on its findings; and second, it obliges State parties to set up independent national bodies or preventive mechanisms to regularly inspect places of detention.

Under the second strand, in the period 2008-2011 the FCO committed £5.5 million to criminal justice projects around the world. These include projects dealing with torture prevention and prison reform. These projects range from giving practical assistance to help countries with setting up their own national preventive mechanisms (again tying in with the FCO's strategy to encourage more countries to sign and ratify OPCAT), to projects which produce and disseminate handbooks and information (for example, on prison management and medical reporting of torture). The FCO also has more practical projects which aim to tackle impunity, including a torture documentation and redress scheme in Nigeria. Project work brings the FCO very close to NGOs and civil society, and the FCO has a strong dialogue with these groups not just in a project context but also on wider policy discussions.

The third way that the FCO regularly comes into contact with the issue of torture and potential torture victims is through consular work with UK nationals in prisons overseas, and sometimes non-British nationals. At the end of September 2008, for example, the FCO was aware of over 2,500 British nationals in overseas prisons. While the FCO is unable to obtain the release of these nationals from prison, the FCO does try to ensure that the prisoners are treated in line with international standards, by raising issues of health, welfare and human rights in the foreign country where they are being held. The FCO also helps prisoners to get in touch with other organisations that provide assistance, including Prisoners Abroad, a charity providing practical and emotional support as well as resettlement assistance, and Fair Trials International.

Ensuring the welfare of detained British nationals is a priority of the FCO's consular work, and any allegation of abuse is treated very seriously. Consular staff are instructed to ask prisoners whether they have suffered abuse or mistreatment, and to look out for signs of mistreatment even when the individuals do not raise it themselves. Consular staff are required to follow-up reports of mistreatment regardless of where the allegations originate – whether from the individuals themselves, their friends, family or representatives, or indeed from other sources.

Where consular staff have permission from the individual concerned, the FCO can raise concerns with relevant authorities with a view to ending the mistreatment, or having the incident investigated and the perpetrator(s) brought to justice. In exceptional circumstances, the FCO may raise concerns in general terms where the individual has not consented. In many countries, the FCO also raises general concerns about the treatment of detainees as part of its human rights dialogue.

Discussion:

In response to questions concerning recent allegations of UK complicity in torture abroad, the speaker could not comment in detail on individual allegations which are either part of ongoing police investigations or ongoing court cases. However, it was suggested that it is important to recognise that the UK ***does*** *have systems in place to ensure that allegations can be investigated independently by the police, and where necessary examined by the courts.*

Regarding the Committee against Torture, it was noted that the UK would shortly be reporting again to the Committee. Although the UK Government is not legally obliged to follow the Committee's recommendations, it does take the process very seriously and does look very carefully at the recommendations, and responds to specific issues raised by the Committee about the UK. As regards the International Convention for the Protection of All Persons from Enforced Disappearance, it was noted that, in principle, the UK Government supports the Convention and it was understood that the UK was quite active and supportive when it was being drawn up. The UK has not yet signed or ratified the Convention, but this is currently being considered by the Ministry of Justice. It was also noted that, in order for the UK to fully implement and ratify the Convention, this would require some substantial changes to UK legislation, which it is expected, would take a significant amount of parliamentary time.

Concerning torturers who are in the UK, it was noted that the Criminal Justice Act 1988 makes torture a crime under UK law (implementing the UN Convention against Torture). So, if perpetrators of torture are in the UK, the UK has jurisdiction and is able to prosecute if evidence or complaints are made to the police, Attorney General or other authorities, and action will be taken.

On Zimbabwe, it was said that the Foreign and Commonwealth Office has ongoing concerns about human rights abuses in Zimbabwe and the speaker was not aware of a significant shift in the FCO's assessment of the human rights situation. In the context of asylum and refugee policy it was noted that this was Home Office lead and the speaker was not familiar with their policy and processes in this regard.

(2) Baroness Sarah Ludford: Perspective from the European Parliament

Baroness Sarah Ludford, Liberal-Democratic Member of the European Parliament, explained that as an opposition MEP, she was not speaking for the Home Office or any other part of the Government and is somewhat critical of Government. Her main focus as an MEP for the last ten years has been as a Member of the Committee on Civil Liberties, Justice and Home Affairs, which deals with internal EU matters such as fighting crime, judicial cooperation, and asylum and immigration. Also, for the last five years she has been the vice-chair of the Human Rights Sub-Committee of the Foreign Affairs Committee and, therefore, she has also been looking outside the EU. She is also a (currently non-active) member of the House of Lords.

She recalled that the *absolute* nature of the prohibition of torture is central to the whole question of accountability for the behaviour of the UK and other European governments. She noted that in 2005 the Law Lords reaffirmed that the Special Immigration Appeals Commission (SIAC) could not use evidence obtained by torture, overturning the Court of Appeal, which was she thinks a very important judgment.

Baroness Ludford noted that the issue of international criminal responsibility may arise if officers or agents of the UK Government knew or should have known of the torture of individuals with whom they were somehow involved. The classic situation is where

MI5 officers have interrogated individuals detained in various parts of the world; and she noted that there have now been allegations from several individuals who may have been in that position, the best known of whom is Binyam Mohamed. The UK Government keeps saying that it does not encourage or condone torture, but the point is that all State parties to the 1984 Convention against Torture have an obligation to investigate and if appropriate to prosecute any person who participates in or is complicit in torture.

Turning to a counter-terrorism context, ***Baroness Ludford*** suggested that the term 'complicity' would surely cover collusion in rendition, the illegal seizure and transport of people for detention and interrogation, often incommunicado. Guantanamo Bay is only the tip of the iceberg as there are even worse scenarios such as Bagram Airbase in Afghanistan. She argued that there is a strong legal argument for liability where there has been a deliberate turning of a blind eye to what has happened to people. For example, in the case of Binyam Mohamed and others it is alleged that MI5 officers have interrogated individuals before and after torture by the Americans or other proxies such as in Pakistan or Morocco. It seems fairly clear she suggested that Executive Orders passed in the US after 11 September 2001 opened the way for the use of cruel and inhuman treatment and torture, and that there was also a policy in the UK allowing MI5 to carry out what some of us would contend was indeed complicity in torture. Some leading lawyers such as Philippe Sands have been extremely critical of the Government's recent record, she noted, particularly under Tony Blair, and of its attitude to the rule of law generally.

There are also serious issues around the deportation of individuals under memoranda of understanding or diplomatic assurances. The European Court of Human Rights has tried to prevent member states, including the UK, from undermining Article 3 and the principle of *non-refoulement*, which bans the return of an individual to a state where there is a risk of torture. This is another example, ***Baroness Ludford*** suggested, of the contrast between the stated position of the present Government of not encouraging or condoning or wishing to participate in torture, and all the time trying to eat away at the legal protections against torture. On renditions, the EU Parliament set up a temporary committee to look at the issue but it has had quite a lot of difficulty getting EU and other European governments to cooperate with its enquiries. Nevertheless, the findings

indicated that about a dozen governments, most of them EU, had indeed colluded with illegal rendition and torture.

The UK Government's international efforts to dissuade countries from practising torture ties in with the collective EU effort, of which the UK Government is of course also part. The EU has torture guidelines dating from 2001, which were reviewed last year. It also has a lot of activity on a diplomatic and political level to persuade countries to sign up to the UN Convention against Torture and then to respect it. For countries which are EU candidates, such as Turkey, there is a great deal of pressure to end torture and impunity for torture. So, it is all the more important that there is no inconsistency by doing one thing internationally and yet failing to be credible by what we do at home. We do not yet have a full and fearless accounting for and placing of responsibility for what has happened. Without that, as a country we are vulnerable to the charge of either cynicism or hypocrisy, in not properly giving refuge to refugees who have been persecuted, and in telling other governments not to torture individuals.

Discussion:

In discussion, it was noted that the UK does not presently allow the right of individual complaint to the UN Committee against Torture, and it was hoped this would be covered in the next UK report to the Committee Against Torture. It was also reiterated that it is crucial that the UK ratifies the International Convention for the Protection of All Persons Against Enforced Disappearance. It seems beyond the wit of the EU, it was noted, to have a joint policy that all 27 countries will ratify this Convention urgently. It was noted that the record of EU governments is patchy and that there is a clear lack of joined up policy at EU level as well as at national level. On the issue of universal criminal jurisdiction, and the policy and law of the UK that those accused of torture should be subject to criminal responsibility, it was noted that the media keeps reporting that individuals against whom there are serious allegations continue to live in peace and tranquillity in the UK i.e. without investigation, unlike their alleged victims.

Turning to the treatment of asylum seekers in the UK, it was noted that the Liberal Democrats have been very critical of this, the harsh rhetoric as well as the harsh treatment of asylum seekers in the UK. In terms of EU developments, this has led the UK Government to refuse to sign up to a revised version of the EU Council Directive laying down minimum standards for the reception

of asylum seekers. There was a first round of asylum laws at European level, consisting of half a dozen instruments. In the second round, there is an attempt to guarantee higher standards of reception conditions that will be in line with international law and to harmonise national reception policies. In particular, it appears that the UK Government objects to the proposals in the new Directive to limit immigration detention and to an obligation on member states to allow asylum seekers to work after 6 months (at the moment it is only after 12 months). In contrast, the Liberal Democrats would recommend a right to work after 2 months, or after the initial formalities are completed. It does not make sense to prevent people from working, both to support themselves and for reasons of personal dignity and mental health. There has been a failure of leadership by the Government to explain a sound and fair reason for its position.

The UK has a "semi-detached" position on EU asylum and immigration laws, it was commented. For example, the UK is not in the Schengen zone of free movement and so maintains its own border control. So, UK Governments have successively negotiated so-called 'opt outs' and do not sign up to any EU measures on legal immigration. However, the UK Government does tend to take part in the negotiations of such measures, in order to water down the content, then not opt-in but have other governments adopt a measure which is sufficiently diluted that should the UK ever wish in the future to opt-in, the threshold is not too high. By way of example, the issue of biometric visas, which also impacted on EU passports, was described. The UK does not take part in the process for biometric visas or passports, as it is not in the Schengen zone. However, the UK took full part in the negotiation process, though it was not party to these pieces of law, arguing for the fingerprinting of children at 6 years old; it was successfully managed to raise this to 12 years old and, because it was successful on visas, this means that for passports too there is no mandatory fingerprinting below 12 years old. The UK Government is very unhappy with this because it means that the European 'fig leaf' for fingerprinting at 6 years old (or 5 years old it was thought for asylum seekers) has been taken away; it can no longer say it is Brussels making them do it as the UK is not a party to these matters.

In conclusion, ***Carla Ferstman*** noted that this Panel had explained in some detail about the UK Government's foreign policy in respect of its actions around the world to prevent torture as well as the work it is doing to assist people who are deprived of their liberty through consular and other types of assistance. At the same time however, she

noted that many questions have been asked about the extent to which some of these policies, which are guided outside the UK, are actually applied when looking inward.

E. BREAKOUT SESSIONS: ADDRESSING THE CHALLENGES

Participants divided into three breakout groups to discuss ways in which the challenges identified in the panel discussions might be addressed. These sessions were not aimed at agreeing a final position on any of the points raised, rather the purpose was to gather ideas to feed back to the plenary group to inform future work. The aim was to record some possible next steps rather than to compile a list of 'answers'.

(1) Issues raised in Panel I: How the courts and authorities deal with asylum claims from torture survivors

The report back indicated that many of the clinical practitioners in the group had expressed a degree of frustration at the difficulties they face in injecting their insights into the policy debates in this area. Also discussed was the condition of being a torture survivor and how that does or does not gel with the various frameworks used for dealing with torture survivors in the UK (both in an administrative and a judicial context). Linked to this was the question of how the huge amount of clinically-derived knowledge we have about being a torture survivor can be inputted into the decision-making processes that take place on the executive side of Government, i.e. within the Home Office.

We should be alert to the danger of over-medicalising torture. On the legal side, those who are dealing with casework find there are a large number of clients who are actually remarkably resilient and who are not displaying high levels of trauma. These caseworkers highlighted the difficulties they face in getting such individuals recognised as torture survivors or even as asylum seekers within the system.

At a macro level, how appropriate is the asylum system actually for dealing with the claims of torture survivors? The system was not developed with torture survivors at

the forefront of the mind, and we have many difficulties in helping torture survivors to navigate the system. Two such central problems are the non-identification of torture survivors within the asylum system and the rampant culture of disbelief which they come up against.

A number of action points were suggested. First, the resounding call, especially from clinicians, to engage with the Home Office, and a number of practical solutions were proposed in this regard, including the production of an alternative handbook for caseworkers to use when dealing with asylum claims or protection claims from torture survivors; and a call to get more closely involved with those responsible for quality controlling Home Office decisions, such as auditors and the UN Refugee Agency which, through its Quality Initiative Project, has that kind of access.

Participants also called for better coordination of different charities and services generally who are working with torture survivors. A specific suggestion in this respect was for the formation of a new network of organisations working with torture survivors, including torture survivors who may not be highly traumatised. Specific tasks for such a network might include clarifying the referral processes for various agencies providing services to survivors, and to function as a place to give voice to the actual experiences of torture survivors themselves so that they have a better opportunity to help shape the improvements those working in this field would like to drive forward.

The discussion also highlighted the need for a much clearer policy voice when it comes to the needs of torture survivors. Many organisations involved in this sector appear to devote a lot of their energies towards service provision and this may need rebalancing. Specifically, stronger policy focus or better policy coordination in this area might drive a strong public campaign that deals with the overriding problem of the very negative public perceptions that torture survivors confront.

(2) Issues raised in Panel II: Justice for torture survivors

Regarding civil cases for compensation, there is need for improved networking with immigration law practitioners working within the asylum process, so that they have an increased awareness of the possibilities for their clients, once they have obtained the right to remain in the UK, to try to proceed to the next stage, which might involve, for example, bringing a case at the international level.

On criminal cases, the question arose of how to increase the number of torture perpetrators brought to trial in the UK, including attempts to work with the Metropolitan Police over recent times. The ongoing "No Safe Havens" campaigns by a range of NGOs, aim to highlight those countries (including the UK), which have problems in preventing themselves being used as safe havens for human rights violators. There is also need for a model, which the police and the Crown Prosecution Service in the UK could develop, to increase the chances of bringing torture perpetrators to justice. There are no real resources allocated to investigate international human rights crimes, rather these crimes form a sub-set within the police counter-terrorism unit. However, it was suggested that there are other international crimes, which the UK is very dedicated to fighting (e.g. cyber crimes, drugs, terrorism), which may provide models which the UK could and should be using. There is also the *European Network of Contact Points in respect of Persons Responsible for Genocide, Crimes against Humanity and War Crimes* (the Network), which was established by EU Council Framework Decision of 13 June 2002. The Network was created to facilitate and increase cooperation among member states in the investigation and prosecution of grave international crimes at the national levels. There is broad agreement amongst UK NGOs on the need to work more closely with the police, to find out what they need and how we as NGOs can help them.

While medical and psychological documentation is very important for asylum purposes, it is not necessarily what the Metropolitan Police will want to use in a prosecution case. At same time, the problems which victims encounter during the asylum process are often mirrored in the problems they would likely face if they were brought into the prosecution procedure, for example, the way in which the police

conduct interviews, sensitivity of cultural differences, protection of witnesses and making people feel safe and so on. There are numerous issues which cross over from the problems encountered when dealing with victims and survivors in the asylum process, to the prosecution process. This is one of the reasons why it is difficult to bring prosecutions. For example, in the *Karuna* case many people were afraid to be involved in a potential criminal prosecution.

Other ideas raised during discussion included the use in UK proceedings of evidence collected abroad and the involvement of British embassies across the world, which already monitor detention conditions and treatment of detainees, in monitoring the types of torture taking place and the perpetrators, thereby creating linkages between what is happening abroad and how this can be used when perpetrators are found in the UK. Coordination is key to identifying perpetrators, with NGOs outside the UK communicating with those inside this country. The same applies to survivors: how survivors in the UK who know that someone who was involved in his/her torture is living in UK can get in touch with NGOs or the police. The Home Office has lists of people who are suspected of human rights crimes. In addition, there are legal reforms in progress which should make it easier to prosecute for genocide, crimes against humanity and war crimes; however, these initiatives are not joined up, and there does not appear to be either much political will or an acceptance that resources need to be allocated by the State if this is to be taken seriously.

The attempts to bring former president of Chile, General Augusto Pinochet to justice in the UK were recalled and the role of many organisations involved. A lot of lessons were learnt during that case, which had involved several countries other than the UK and hundreds of witnesses, and which had illustrated how much work has to be done in these cases. There is a lot of experience. However, apart from the Pinochet case, there has been only one prosecution in the UK in 20 years, which suggests that something is not working.

How we collect and store data is something that should also be followed-up. It was noted that at the Medical Foundation, data compiled for clinical purposes can be a rich resource of information from a human rights perspective. A word of caution was

sounded however, about gathering data, both from a security point of view as well as regarding data protection legislation.

(3) Issues raised in Panel III: Integration and Rehabilitation

Difficulties torture survivors face when they are dispersed across the UK, potentially into communities which reject them, sometimes to the point of being violent and/or racist, were discussed. It was asked how we can educate these communities in order to improve the relationship between them and refugees. Suggestions included campaigning with local MPs and community leaders, and getting them involved. A regional public campaign, perhaps based around existing community refugee groups, might also be a possibility. Another suggestion was to identify best practice by looking at such community groups, for example faith groups, and building on the work they are already doing but in a more coordinated fashion. A nationwide campaign might be more effective, however; lobbying Government for more funds for these types of groups should also be done.

A booklet for displaced groups, collating the details of local services and organisations, both for publication and distribution via the internet, was proposed. Concern at the lack of preparation before dispersal was raised – first, refugees and asylum seekers are dispersed relatively quickly and second, it is a two-way process, the local communities in which they are arriving, are not prepared either. Refugee and asylum seeker children who understand little or no English are placed in schools in regions where there are no interpreters who speak their language. This demonstrates a wider need to give torture victims a greater voice so that they can talk to and educate the local communities, and hopefully be less likely to be rejected or to have the acrimonious relationships that sometimes result.

Identifying ways in which we could work together more effectively was a key concern; the range of different services offered by the organisations in this sector was noted, and while we do work together in some ways, it was suggested that this could be improved by having an affiliation organisation with a central coordinator. An additional problem was the lack of an agreed strategy for the treatment of survivors of torture or a model

that all organisations are signed up to and working towards. This might enable organisations to work together more openly and inclusively.

F. KEYNOTE CLOSING ADDRESS: Sir Nigel Rodley KBE

Sir Nigel Rodley KBE, Professor of Law at the University of Essex and chair of the Human Rights Centre there, member of the UN Human Rights Committee and former UN Special Rapporteur on Torture (1993-2001), gave the keynote closing address**.** He is also a trustee of the Medical Foundation for the Care of Victims of Torture, and noted that he would speak from that perspective to some extent.

Sir Nigel noted how moved participants were after hearing from Patson Muzuwa, Philomene Uwamaliya and Luka Phiri, reminding all of the kinds of experience that led to the founding of REDRESS by Keith Carmichael, and that it is important to return to the roots. Problems are often examined internationally and this particular Conference was a good reminder, he noted, of the work that also has to be done at the national level. This work is not necessarily entirely in relation to torture inflicted in this country, at least not directly, but rather about the role of the UK in not sufficiently recognising the problems of those who arrive on its soil having been tortured elsewhere.

A starting point for discussion is the treatment of victims of torture when they get out of their countries or, as regards certain countries, within their own countries, as there are some very good torture rehabilitation centres around the world in states which generate the torture more systematically perhaps than others. There was an unpleasant dialectic going on between two ideologies and it was interesting to hear the rejection of that at this Conference. One was the ideology that torture was a disease, the over-medicalisation of torture as it was referred to, and we were suitably warned of the dangers of that. Of course there are medical *sequelae* from torture for many survivors, but it is not automatic, it is not axiomatic and that has to be remembered. At the other end of the spectrum, there are those who say there is nothing medical at all about the consequences of torture, and that all you have is a problem which can be resolved through a good social support network, a good solidarity environment, and by getting

involved in political work against those who have been responsible for the victimisation in the first place. However, that paradigm clearly cannot be universally true either, and the reality has to be somewhere in the middle with people, as individuals, being more consistent with one end or the other. The appropriate approach should be what ***Sir Nigel*** termed pragmatic eclecticism.

What had been interesting about the Conference he noted, was the interface between the treatment dimension and real human rights work, another dimension of the Medical Foundation's approach that appeals to him. The establishment of the UN Voluntary Fund for Victims of Torture (UNVFVT) had involved the recognition of our failure; the failure of human rights work to prevent the victimisation that those working in the field of rehabilitation were then called upon to try to remedy. Basically, one started out thinking about rehabilitation work as just that; humanitarian work for individuals rather than human rights work. We have slowly realised that the medical side of things can be a very important contribution to human rights work. Initially, the UNVFVT started out just financing the medical side, even though they were mandated to do more. Then they slowly started contributing, after several years, to legal work and doing it in a sustained way. ***Sir Nigel*** was thus glad that the UNVFVT now gives financial support to REDRESS and other legal organisations for legal projects at the international and national level.

Sir Nigel asked where is the interface between medical and human rights work? The obvious place he noted is in documenting the practice in particular countries. Different organisations may perhaps attract different communities. The Medical Foundation has attracted communities from certain countries and it has then produced good reports, albeit they are inevitably anonymised, on the incidence of torture in those countries. These reports are very important for a whole range of human rights work, not least the kind of work that has been the focus of this Conference, which is identifying in which countries there is a real practice of torture. This is such a helpful component of any attempt to prevent someone from being sent back to a country where they fear the possibility of torture. It is also important for proving or at least putting forward strong evidence that torture may be occurring in a particular place or to a particular person, and of course for having occurred to a particular individual, thus protecting that person from being sent back to a country, even though it is not conclusive. Such evidence can

also be a basis for a person seeking some kind of remedy at an international or national level, as evidence of the claim of torture.

However, we have to be careful as we have already been warned about assuming torture is something that can be proved or, if the typical proofs are not there, that it has not happened. This is a great danger which has to be avoided as lay people are always going to look for scientific evidence. ***Sir Nigel*** noted that he has seen it around the world when visiting countries on missions, that judges are explicitly looking for medical evidence and, where it is absent, they are not really listening. It is important not only to indicate the possibilities of medical and scientific evidence, but also to indicate their limits, and how those limits are not any reason to disbelieve anyone who has claimed to have been tortured. Anyone who has done work with alleged victims of torture will know this is an obvious point, but it is apparently not an obvious point to decision-makers.

The importance of justice and redress as therapy in itself is another crucial issue. It is not something we often hear about and one should not be ideological about it either, believing that for every victim it is the justice dimension that will deliver what the victim wants. Indeed, they may feel that the costs of securing justice are too high, especially the limited kinds of justice on offer. Equally, it may be that people decide they do not want to seek justice, that it is more trouble than it is worth or even that it is more dangerous than it is worth. However, for many it can be extremely therapeutic to get the vindication, the recognition, the acknowledgement that they have been the victim of an official assault on their human dignity and integrity, and this is not necessarily at odds with therapy. It goes back to the medical paradigm which has tended to be rather suspicious of anything other than a medical approach, medical confidentiality and discretion, and leaving it all on the doctors' records.

A related element is the problem of impunity. It is not only a question of redress being therapy: the absence of redress can actually be harmful to a person's sense of what they have suffered and what they are worth. Indeed, the impunity they see around them is in a way a constant re-traumatisation. Anything which can be done to break through the impunity and anything the medical profession can provide by way of tools to help break through impunity is going to be extremely valuable - even if we come down to

the rather lame options of the UN treaty bodies (the Human Rights Committee or the Committee against Torture) which can only make a finding of a violation and recommend that there be an effective remedy, including 'compensation'. This too can sometimes be a useful acknowledgement, an externalisation, a shaming of those who have committed the offence and may be something worth thinking about. ***Sir Nigel*** explained that he is encouraging the Medical Foundation to not necessarily take it on itself but to work with others, including REDRESS, to try to make the options of something else out there, more available to the clients.

Regarding the UK's national schizophrenia, ***Sir Nigel*** noted that we have good promotion of work against torture and the prohibition of torture at the international level, both at a multilateral level and a bilateral level directly and through the UN and EU, yet at the same time we do so many things to undermine it and to make that commitment less credible.

Sir Nigel noted that many of the ideas that have come up at the Conference had already been summarised in the final session however, he wished to highlight some aspects. First, the obvious need to overcome what is often the reluctant, half-hearted reception of people who are claiming to be victims of torture or other forms of persecution. It would be nice he suggested to replace that with a welcome even if there are some investigations to be made. We need to have a spirit of welcome rather than of doubt or an immediate posture of scepticism; that would be a pretty good step forward.

Second, officials both from the Home Office and the judiciary, especially the immigration judiciary, clearly need to have some training and that needs to include pure, objective research simply showing that their common sense is not much sense at all most of the time; they need to know that. Of course, a lot of that is not new; it is never appropriate to take what people first say as final, or if there are inconsistencies to assume that they are always the result of mendacity. We need to train the judiciary and officials to distinguish between confusion and mendacity; confusion under circumstances of incredible pressure both at the time of the original victimisation and at the time of the current inquiry and its potential re-traumatisation consequences, these are real problems of which people need to be made aware, otherwise it is quite understandable that they might not realise.

Third, he noted, it would be good to move forward on the programme of trying to persuade the UK Government at the political level that enforced penury is not a legitimate deterrent to abusive immigration practices. That is what is going on, the idea is to deter such individuals through the infliction of hardship, and the re-traumatisation effect of this is really highly disreputable.

In conclusion, ***Sir Nigel*** suggested that he had seen at the Conference the beginnings of a grand alliance. There are many refugee, human rights and medical organisations dealing with victims of trauma including torture who are out there doing serious work. These organisations need to further cooperate with each other, both in terms of doing work professionally and in terms of raising awareness to the wider world; this would increase the effectiveness of that work. Even if we never get joined up government, it would be good he suggested if we at least had a bit of joined up non-government. He expressed hope that the Conference would be the beginning of such a grand alliance. ***Sir Nigel*** thanked the speakers and chairs; the participants; Allen & Overy LLP for providing the premises; and mostly to REDRESS for pulling it all together on the international day on which we commemorate victims of torture.

CONCLUSIONS

Carla Ferstman, director of REDRESS, concluded the Conference by highlighting some of the issues that came out of the day's proceedings:

1. *How torture survivors are dealt with in the asylum process* – Due to both the physical and psychological impact of torture, these persons are at risk not only of being unable to put their case for asylum fairly but also of re-traumatisation because of the process itself; there is a serious gap between on the one hand what is known by medical and psychiatric experts about the effect and impact of torture, and on the other hand, the knowledge of these issues held by decision makers (including by Home Office caseworkers and immigration judges); failed asylum seekers who have been tortured and those held in detention are often in the most vulnerable position of all.

2. *The difficulties in accessing justice* – The priority for refugee and asylum seeker torture survivors is often to succeed in their asylum claim, but for those who wish to pursue reparation proceedings there are numerous barriers which have to be faced; the major legal obstacle to suing from the UK remains state immunity; cases can and have been brought in international and regional fora; the criminal prosecution of perpetrators is also of key importance and there is a need for the UK to intensify its efforts in this regard.

3. *Integration and rehabilitation* – The dispersal of asylum seekers can negatively impact on the ability of those who have been tortured to access the support needed, as can the lengthy asylum process itself; there are matters of resources to consider and a host of practical concerns ranging from benefits to housing; local communities are not always positive in their attitudes towards such individuals and there is a lack of public awareness of the long-term impact of torture on survivors and their families.

There is much work to be done on all of these issues and on other matters which have been highlighted during the course of the Conference. There was a clear consensus that it is crucial for all organisations to find ways and means of working together, sharing information and best practices, and uniting in challenging those aspects of Government policy and practice which are part of the problem.

ANNEXES

A. CONFERENCE AGENDA: 26 JUNE 2009

9:30-10:00 **REGISTRATION AND TEA/COFFEE**

10:00-10:15 **WELCOME FROM THE ORGANISERS**
Rights & Needs of Refugee & Asylum Seeker Torture Survivors
(Overview presentation of key trends and issues)

- Colin Pearson, Chair of the Pro Bono & Community Affairs Committee at Allen & Overy LLP
- Carla Ferstman, Director of REDRESS

10:15-11:30 **PANEL I: HOW THE COURTS AND AUTHORITIES DEAL WITH ASYLUM CLAIMS FROM TORTURE SURVIVORS**
(A large network of support and legal services exists to assist those seeking asylum. In this panel, we will highlight the specific needs of asylum seekers who have been tortured, and the additional challenges they face when navigating the asylum system. We will also explore the gaps in current policies and support mechanisms.)

Chair: Prof. Geoff Gilbert, Professor of Law, University of Essex
1) Leanne MacMillan, Director of Policy and External Affairs, Medical Foundation for the Care of Victims of Torture
Asylum issues on arrival: interviews, detention and inadequacy of care and support for torture survivors
2) Dr. Jane Herlihy, Research and Clinical Psychologist at the Centre for the Study of Emotion and Law
How adjudicators factor trauma into the asylum process
3) Mark Henderson, Barrister, Doughty Street Chambers
Failed asylum seekers – the issues of deportation and non-refoulement

Discussion and Q&A

11:30-11:45 **TEA/COFFEE BREAK**

11:45-1:00 **PANEL II: JUSTICE FOR TORTURE SURVIVORS**
(In this panel we will ask what options torture survivors have for seeking justice and redress. We will discuss victims' rights, mechanisms for bringing a claim, legal remedies, and reparation.)

Chair: Keith Best, Chief Executive, Immigration Advisory Service

1) Kevin Laue, Legal Advisor, REDRESS
Victims' rights, mechanisms for bringing a claim, legal remedies and reparation
2) Patson Muzuwa, Torture Survivor (Zimbabwe)
Personal reflections on the situation of torture survivors in the UK
3) Philomene Uwamaliya, Survivor (Rwanda)
Personal reflections on seeking justice

Discussion and Q&A

1:00-2:00 Lunch

2:00-3:15 **PANEL III: INTEGRATION AND REHABILITATION**
(Here, we will consider the specialised needs of torture survivors seeking to integrate into the UK and local communities. We will discuss the rehabilitative and social support they need and the challenges they face in accessing these services.)

Chair: Neil Gerrard MP, Chair of the All-Party Parliamentary Group on Refugees
1) Jonathan Ellis, Director of Policy and Development, Refugee Council
Social support: housing, education, benefits, employment etc
2) Dr. Brock Chisholm, Clinical Psychologist, Traumatic Stress Clinic
Psychological care for torture survivors
3) Dr. Angela Burnett, Lead Doctor, Medical Foundation for the Care of Victims of Torture
Medical support: health and rehabilitative support
4) Luka Phiri, Islington Refugee Forum
Local community support

Discussion and Q&A

3:15-4:00 **PANEL IV: GOVERNMENTAL STRATEGIES ON TORTURE SURVIVORS**
1) James Evans, Justice and Counter Terrorism Desk Officer, Foreign and Commonwealth Office (Human Rights, Democracy and Governance Group)
2) Baroness Sarah Ludford, Member of European Parliament

Discussion and Q&A

4:00-4:15 **TEA/COFFEE BREAK**

4:15-5:00 **BREAKOUT SESSIONS: ADDRESSING THE CHALLENGES**
(Participants will be divided into breakout groups; each will include participants from a range of backgrounds and disciplines. In breakout rooms, the groups will each discuss ways in which the challenges identified in one of the panel discussions can be

addressed.)

5:00-5:30 **PLENARY SESSION: FEEDBACK ON BREAKOUT SESSIONS**

5:30-6:00 **KEYNOTE CLOSING ADDRESS**

- Sir Nigel Rodley KBE, Professor of Law at the University of Essex, member UN Human Rights Committee and former UN Special Rapporteur on Torture (1993-2001)

B. BIOGRAPHIES OF THE SPEAKERS AND CHAIRS

Keith Best, Chief Executive, Immigration Advisory Service

Keith Best TD, MA Chief Executive of IAS the largest not-for-profit organisation giving legal advice and representation to immigrants and asylum seekers with 20 offices and 400 staff in the UK and overseas; barrister, ex-MP, named in Society Guardian in 2003 as one of the 100 most influential people in public services in the UK. Formerly a major in TA airborne and commando forces, Chairman of the Electronic Immigration Network, Electoral Reform Society and Chairman of the Association of Regulated Immigration Advisers, now Chair of Electoral Reform International Services and of the Executive Committee of the World Federalist Movement (international NGO), Board member of the European Council on Refugees and Exiles, he is the author of several books and articles and has delivered keynote speeches both in the UK and abroad; speaks French and Welsh; married with two daughters, ran the London marathon in 1982, abseiled from Guy's Hospital Tower (the highest in the world) in 2009.

Dr. Angela Burnett, Lead Doctor, Medical Foundation for the Care of Victims of Torture

Dr. Angela Burnett has worked at the Medical Foundation for the Care of Victims of Torture since 1994, documenting evidence of torture for medico-legal reports and ensuring that survivors of torture are able to access the health care that they need. She is also a GP at the Sanctuary Practice in Hackney, East London, which was originally established to provide a dedicated service for asylum seekers and refugees and which now caters for a wider practice population. She provides training on the health care of refugees and torture survivors and has assisted in the development of health services throughout the UK.

Previously she has worked in Zambia, providing health care for people affected by HIV/AIDS and their families, and researching collaboration between traditional healers and formal health workers. She has also worked in Macedonia evaluating a professional development programme for doctors and with Oxfam in Ethiopia, with people affected by drought and famine. With RETAS (Refugee Education and Training Advisory Service) she provided mentoring support for refugee doctors, in order to assist them to work in the UK.

She writes on the health of refugees and survivors of torture, including a series in the British Medical Journal, several book chapters, guidelines and a resource pack for health workers.

Dr. Brock Chisholm, Clinical Psychologist, NHS Traumatic Stress Clinic

Dr. Brock Chisholm is a Clinical Psychologist who specialises in the psychological *sequelae* of trauma; particularly those traumas that have arisen from war and human rights violations such

as torture. He has been working in psychology since 1995 and specifically with refugees and asylum seekers since 2002. He currently works at the Traumatic Stress Clinic in London: a specialised NHS clinic that provides psychological intervention for people suffering from Post-traumatic Stress Disorder. As well as providing psychological interventions he has a research interest in trauma and psychosis, prepares expert witness reports for human rights cases and trains other professionals in working with traumatised people escaping persecution. He also works with other organisations who work with traumatised individuals. For example, he is working with a prison for foreign nationals to develop a protocol of special considerations needed to treat victims of torture more humanely.

Jonathan Ellis, Director of Policy and Development, the Refugee Council

Jonathan Ellis is Director of Policy and Development at the Refugee Council where he leads the team working on research, policy and campaigning, as well as support for refugee community organisations (RCOs). He is the co-chair of the Refugee Teachers' task force, and chair of the Access to Higher Education working group and of the Basis project board, which supports the development of RCOs. He is also author of 'Campaigning For Success - How to Cope When You Achieve Your Campaign Goal' (NCVO 2007), is an external adviser on the Certificate in Campaigning and leads training for INTRAC on global advocacy. He is a member of NCVO's Campaigning Effectiveness advisory group and is a campaign coach for the Sheila McKechnie Foundation. He was for five years the Director of the Empty Homes Agency, an independent national charity. He led the successful campaign for new legislation on empty homes, which resulted in major changes to the Housing Act 2004. Previously he had been a campaign manager for OXFAM, where he worked on a campaign with the Refugee Council and the Transport and General Workers' Union, which led to the abolition of the asylum vouchers scheme. He is a trustee of Dacorum Rent Aid (helping people to find a home) and the Bishop Simeon Trust (supporting education and HIV/AIDS projects in South Africa). Born in South Africa, Jonathan was educated at Durham (BA Hons History), Loughborough (MBA) and Leicester (PGCE) universities.

James Evans, Desk Officer, Justice and Counter-Terrorism team, Foreign & Commonwealth Office (Human Rights, Democracy and Governance Group)

James Evans works in the Human Rights Democracy and Governance Group in the Foreign and Commonwealth Office where his responsibilities include the UK's international strategy for combating torture and impunity.

Carla Ferstman, Director, REDRESS

Carla Ferstman is the Director of REDRESS. She joined REDRESS in May 2001 as the Legal Director and became the organisation's Director in September 2005. She was called to the Bar in

British Columbia, Canada in 1994, and worked as a criminal defence lawyer in Vancouver, Canada. She left Canada at the end of 1995 and since then has worked in a variety of countries and international law contexts, for the United Nations, judicial institutions, civil society organisations and in academia. She has written and lectured extensively on international criminal law and human rights. She has an LL.B. from the University of British Columbia and an LL.M. from New York University.

Neil Gerrard, MP for Walthamstow

Neil Gerrard has been Labour MP for Walthamstow since 1992. He chairs the All Party Parliamentary Group on Refugees, and is now Vice-Chair of the Group on AIDS, having previously been Chair for 11 years. He was a member of the Executive Committee of the Labour Middle East Council. From 1973 to 1990 he was a local Councillor, and was Leader of the Council from 1986-90 in the London Borough of Waltham Forest. For several years he was a member of the Board of the Theatre Royal, Stratford East. His main political interests are immigration and asylum, HIV/AIDS, the criminal justice system, and foreign affairs, particularly in relation to the Middle East and the Indian sub-continent.

Geoff Gilbert, Professor of Law, University of Essex

Geoff Gilbert is a Professor of Law in the School of Law and a member of the Human Rights Centre at the University of Essex. He is Editor-in-Chief of the International Journal of Refugee Law. He has worked with UNHCR on a series of projects. He was Academic Director from 2004-06 of the OSCE programme in Belgrade to train Serbian judges on combating torture. His interests are the protection of refugees and other displaced persons, the protection of minorities and international criminal law.

Mark Henderson MA (Oxon), Barrister, Doughty Street Chambers

Mark Henderson is a public lawyer specialising in human rights, asylum, immigration, social welfare, and EU law. His work covers a wide range of judicial review and appeals up to the House of Lords and Strasbourg.

His recent casework has included the long-running Zimbabwean litigation which has prevented all removals since 2005; a challenge to the compatibility with Article 3 of removing asylum seekers to third countries under the EU Dublin Regulation which has now reached Strasbourg; an intervention for Liberty in a terrorism appeal in the House of Lords; judicial review claims raising access to the courts to challenge expulsion by charter flights to Iraq; and the successful judicial review proceedings leading to the right of settlement for Gurkha veterans.

He has led on access to justice issues for the Immigration Law Practitioners' Association (ILPA) for several years. He has represented ILPA on stakeholder groups of the Administrative Court and Asylum and Immigration Tribunal, a working group of the Civil Procedure Rules Committee, and in negotiations with the Home Office on policy on access to justice for asylum seekers and migrants.

Dr. Jane Herlihy, Executive Director and Principal Researcher, Centre for the Study of Emotion and Law

Dr. Jane Herlihy is the executive director and principal researcher of the Centre for the Study of Emotion and Law, writing and conducting research into the decision-making process in refugee status claims. She has written papers, book chapters and editorials in this field. She regularly presents training seminars to lawyers, judges and clinicians, both on the psychological aspects of refugee status decision making and on the clinical treatment of asylum seekers and refugees following traumatic experiences. Her particular interest is in the contribution that psychological knowledge and empirical research can make to the establishment of fair and humane processes for people who have been persecuted. She is an associate member of the International Association for Refugee Law Judges (IARLJ) and sits on their working parties on Expert Evidence and Vulnerable Persons. She has been involved in writing international guidelines for each of these working parties and recently attended the IARLJ world conference in Cape Town where the guidelines were presented for approval. In the UK, she was one of two expert advisors invited to help draft the first report of the Independent Asylum Commission, a UK-wide review of state and judicial practice.

Dr. Jane Herlihy is a Chartered Consultant Clinical Psychologist. She worked between 2000 and 2001 at the Medical Foundation for the Care of Victims of Torture, and then from 2001 to 2005 at the Refugee Service of the Traumatic Stress Clinic, a centre for asylum seekers and refugees experiencing difficulties following traumatic experiences. She currently works in a clinical role at the Trauma Clinic in London. She is also an Honorary Lecturer at University College, London.

Kevin Laue, UK Legal Advisor, REDRESS

Kevin Laue is a Zimbabwean human rights lawyer who has worked for REDRESS since 2002, initially on torture in Zimbabwe and subsequently on matters pertaining to the UK, including casework. He also works on anti-terrorism and torture issues, such as the role of British troops in Iraq, and has given evidence to the Joint Committee on Human Rights (JCHR) in this regard. He has also given evidence to the JCHR on the Torture (Damages) Bill.

Baroness Sarah Ludford MEP

Baroness Sarah Ludford MEP is London's Liberal Democrat Euro-MP and a life peer in the House of Lords. She is spokeswoman for the British Liberal Democrats in the European Parliament on the Civil Liberties, Justice & Home Affairs committee and Vice-Chairwoman of the European Parliament's Human Rights sub-committee. She was previously Vice-Chairwoman of the European Parliament's temporary committee on extraordinary rendition. She is also a member of the Economic & Monetary Affairs committee and the European Parliament delegation for relations with the United States. She takes a strong interest in the Balkans, Turkey, including the Kurdish people, and Cyprus.

Sarah Ludford was an Islington councillor for 8 years from 1991-1999. An LSE graduate in international history, she also has a master's degree in European studies and is qualified as a barrister. Her career, which started in Whitehall, included 7 years in Brussels working for the European Commission, 5 years in the City (European adviser at Lloyd's of London and vice-president, Corporate External Affairs at American Express Europe) and 7 years as a European consultant before appointment to the House of Lords in 1997 and election to the European Parliament in 1999.

Leanne MacMillan, Director of Policy and External Affairs, Medical Foundation for the Care of Victims of Torture

Leanne MacMillan is Director of Policy and External Affairs at the Medical Foundation for the Care of Victims of Torture, a registered charity established in 1985 which is the only organisation in the UK dedicated solely to the treatment of torture survivors. Since its inception, almost 50,000 people have been referred for help. In 2008, the Medical Foundation received 2,025 new requests for help. Clients came from 79 countries, with significant numbers from Sri Lanka, the Democratic Republic of Congo, Sudan and Iran.

Patson Muzuwa, Activist

Patson Muzuwa is a torture survivor from Zimbabwe. In Zimbabwe, he was a qualified agricultural and motor engineer. He joined a number of Zimbabwean organisations such as the Zimbabwe Congress of Trade Unions and the Commercial Workers Union. He was also part of Transparency International Zimbabwe, the National Constitutional Assembly and Crisis Coalition in Zimbabwe. He became a founding member of the MDC. Since arriving in the UK, Patson Muzuwa has continued to campaign for the rights of Zimbabweans.

Colin Pearson, then Partner, Allen & Overy LLP

During his time as a Partner at Allen & Overy, Colin specialised in Intellectual Property and Information Technology law. Colin was the Chair of the Pro Bono and Community Affairs

Committee from 2006 and was the partner responsible for the Pro Bono programme. He was responsible for the Pro Bono team and helped to develop the programme in London. Colin also supervised and advised on many pro bono matters, giving intellectual property advice to a wide range of charities and community organisations. Colin retired from the Allen & Overy partnership in July 2009.

Luka Phiri, Islington Refugee Forum

Luka Phiri was born in Bulawayo, Zimbabwe and is a toolmaker by profession. He was an active member of the MDC in Zimbabwe from the day it was formed. His duties included working as an aide to Zimbabwe's now Deputy Prime Minister Ms. Thokozane Khupe. Luka's political activities led to him being tortured and eventually he escaped Zimbabwe, coming to the UK in 2003. On arrival in the UK, Luka was initially dispersed to Grimsby and later in 2004, when the Home Office stopped his full support, he moved to London where he is being supported by friends. Luka has been detained twice by the UK Border Agency, which has tried to remove him to a third country. He was last detained in January 2009.

Luka is currently one of the coordinators at the Zimbabwe vigil; a member of the advisory committee of the Zimbabwe Association; an Organising Secretary of MDC Central London Branch; and on the management committee of Islington Refugee Forum. He also does voluntary work with the Zimbabwe Association and the Zimbabwe Women's Network UK. In particular, Luka is currently on the "Let them work committee" of the Trades Union Congress, where he has been doing campaigns for the Refugee Council.

Sir Nigel Rodley KBE, Professor of Law and Chair of the Human Rights Centre at the University of Essex and Member of the United Nations Human Rights Committee

Nigel Rodley obtained an LLB from the University of Leeds (1963), an LLM from Columbia University, New York (1965), an LLM from New York University (1970) and a PhD from the University of Essex (1993). His first academic post was as Assistant Professor of Law at Dalhousie University, Halifax, Nova Scotia, Canada (1965-68). In 1968-69 he served as an Associate Economic Affairs Officer at United Nations headquarters in New York, working on legal and institutional aspects of international economic co-operation. In 1969-70 he was Visiting Lecturer in Political Science at the Graduate Faculty of the New School of Social Research (New York) and in 1970-72 was also a Research Fellow at the New York University Centre for International Studies. Returning to the UK in 1973, he became the first Legal Adviser of the International Secretariat of Amnesty International, a position he held until 1990; during the same period he taught Public International Law at the London School of Economics and Political Science (part time). In 1990 he was appointed Reader in Law at the University of Essex,

becoming Professor of Law in 1994. He was Dean of the School of Law 1992-95 and has been Chair of the Human Rights Centre since 2004.

In March 1993 he was designated Special Rapporteur on Torture by the UN Commission on Human Rights, serving in this capacity until 2001. Since 2001 he has been a member of the UN Human Rights Committee (Vice-Chair 2003-4), a position to which he has twice been elected by the States Parties to the International Covenant on Civil and Political Rights (as the UK's nominated candidate). He was elected a Commissioner of the International Commission of Jurists in 2003. He is a Trustee of the Medical Foundation for the Care of Victims of Torture. Nigel Rodley was awarded a KBE in the 1998/99 New Year's Honours List, 'for services to human rights and international law'. He received an honorary LLD from Dalhousie University in 2000 and in 2005 received (jointly with Professor Theodoor Van Boven and Judge Pieter Kooijmans) the American Society of International Law's Goler T. Butcher medal for 'outstanding contributions to … international human rights law'.

Publications include: International Law in the Western Hemisphere (co-editor with C.N. Ronning, Nijhoff 1974); Enhancing Global Human Rights (co-author with J.I. Dominguez, B. Wood and R.A. Ralk; McGraw Hill 1979); The Treatment of Prisoners under International Law (Clarendon Press/UNESCO 1987, second edition 1999); To Loose the Bands of Wickedness – International Intervention in Defence of Human Rights (editor, Brassey's 1992) and International Responses to Traumatic Stress (co-editor with Y. Danieli and L. Weisaeth; Baywood/UN 1995).

Philomene Uwamaliya

Philomene Uwamaliya is a survivor of the Rwandan genocide, which decimated members of her family and resulted in the deaths of around 1,000,000 people in just 100 days in 1994. She found the courage to speak out against the atrocities, first helping in the Ministry of Justice's efforts to identify those responsible and bring them to trial, and then working more closely with human rights organisations. Her efforts to bring the perpetrators to justice resulted in her being physically attacked, intimidated and tortured, and ultimately she was forced to flee.