Without reparation there is no justice; without justice, there is no reparation

Silvia Carone

This paper aims to summarise the ideas and practical experience of the International Centre for Health and Human Rights (ICHHR) and of its founder, Nimisha Patel, during the past 25 years, in the area of psychic rehabilitation and reparation (from the legal point of view and as regards mental health) around the world and in governmental and academic institutions such as the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the School of Psychology at the University of East London, where she is a lecturer.

The central idea that I would like to discuss here is that of the inseparable nature of justice and that which in Brazil and other parts of Latin America is commonly known as psychic reparation. I will try to show why these two concepts are, more than merely complementary, truly inseparable and how this is the central point of any discussion of what should be offered by a service that aims to provide care for victims and survivors of State violence. In other words, I hope to show how and why psychic reparation necessarily includes aspects related to justice, and how justice is only achieved if psychic reparation is seen to be a right and is fully carried out.

It is this question that will define the type and effectiveness of any service of psychic reparation. The whole structure of a service of this kind will depend on the way the relationship between this work and questions of justice is seen and put into practice. Interdisciplinarity, here, is not just a big word; it is what will determine whether the right to reparation will be a fiction or a reality.

---

1 Paper presented at "I Meeting UK- Brazil: Testimonial Clinics and State Violence" by Silvia Carone Wheatley in August 12th, 2016 in Sao Paulo, Brazil.
2 Psychologist and psychoanalyst, is the UK partner for Cerp-SC (Centre for Studies in Psychological Rehabilitation, Santa Catarina, Brazil) as a member of ICHHR (International Centre for Health and Human Rights), supervised by Prof Dr Nimisha Patel.
3 The International Centre for Health and Human Rights (ICHHR) is a UK registered charity led by Dr. Nimisha Patel, a consultant clinical psychologist in the National Health Service and professor of clinical psychology at the University of East London.
Although there is a large and growing network of services offering protection and prevention for victims of serious violations of human rights, especially of torture – there are more than 300 such services around the world – and although the terms reparation (in its legal sense) and rehabilitation are widely used in this area, when the issue is mental health the words used are often others: “clinical needs”, for example, rather than rights.

This may seem to be a detail. But it is significant, because it denotes a vision of what constitutes psychic rehabilitation. It is often seen as a kind of secondary and disconnected aspect of other forms of reparation for victims of human rights violations, and not as a question of justice, as something essential to the process. Without reparation, there is no justice; without justice, there is no reparation.

The elaboration of international laws on human rights, although important, has had a limited impact on rehabilitation services, which include psychic rehabilitation (there are other kinds of rehabilitation, for example for physical harm). Such services, in most cases and in most parts of the world, ignore what victims say about what they would consider to be reparatory. The significance of their views and experiences of reparation in judicial terms is generally not taken into account, and would in fact be fundamental as a means of informing such services, and could thereby improve the provision of reparation services. The separation of rehabilitation and justice would perhaps not exist if the victims themselves were heard.

To understand better how questions of law relate to aspects of mental health in the area of violation of human rights and in the provision of reparation and justice, I will seek to show how, historically, these two areas have operated together – noting in advance that it has not been and still is not a very peaceful cohabitation…

In international human rights law, the Basic Principles of Reparation elaborated by the United Nations have three complementary aspects:

1. restitution, which is the right to the restitution of the victim’s situation as it was before the violation of rights took place;

2. compensation, which is compensation for mental and material harm caused;
3. satisfaction, which consists of measures to establish the truth, the official recognition by the State of the harm caused to the victim or to his or her family.

The right to psychic rehabilitation was established in 1984, at the UN Convention against Torture. (An important parenthesis here: internationally, the expression most often used is “rehabilitation”, since the word “reparation” has become associated with a set of legal measures and rights of victims of human rights violations. Although in Brazil and in other countries of Latin America it is conventional to use the term “psychic reparation”, I will use the term “rehabilitation” to avoid confusing the terms “reparation” and reparação, which do not have the same meaning).

It is worth mentioning a few obstacles to the implementation of psychic rehabilitation as a right: the difference in the use of terminology, which varies from one part of the world to another, as is the case with reparation/reparação, is certainly one of them. Other obstacles worth mentioning are 1) a lack of clarity concerning the scope of this right: to whom it applies, what are its objectives, its function, its relationship with other rights of reparation; 2) the small amount jurisprudence that exists in the field, as well as precarious and insufficient monitoring; and 3) the absence of a concept of interdisciplinarity, on which I will talk in more detail.

The conception and the practice of psychic rehabilitation began in the 1980s, above all after the UN Convention against Torture in 1984. It has perhaps developed more in the field of psychic rehabilitation for victims of torture than for victims of other violations of human rights, and for this reason the focus here will be on rehabilitation linked to torture. In any event, all serious violations of human rights have in common a wide-ranging impact on the individual and on their families and communities. For this reason it is important to see psychic rehabilitation as a right of the individual and an obligation of the State, rather than as “caring for mental health” or as a “clinical necessity”.
In general, when we consider the spectrum of psychic rehabilitation services in the world, we see that professionals working with survivors of torture, when they use the term rehabilitation, do so to refer to care relative to health and well-being. Very occasionally psychological/psychotherapeutic care is seen or defined as a right and a form of reparation, in the legal sense of the term. This occurs basically for two reasons.

First, the appearance of the field of rehabilitation is contemporaneous with a movement within many social and health services in which the legal and clinical areas are completely separate, with one being the exclusive domain of lawyers and the other of health service professionals.

The second reason is that the dominance of a biopsychosocial model, paradoxically, gradually increased a focus on the impact that social determinants have on mental health, at the same time as it increasingly left to one side these same determinants in its practices and interventions. In this way, it is common for a service said to be “multidisciplinary” to offer clinical care with components such as legal support that are seen as secondary or as accessories, in which social determinants, injustice and violations of human rights are not seen as a legitimate focus for care and intervention. (I find this phenomenon of great interest, and one that should provoke important discussion for the field of reparation in Brazil.)

**BUT WHAT IS A REHABILITATION SERVICE FOR THE VICTIMS OF TORTURE?**

Survivors of torture almost always present a wide range of necessities, since the impact of torture is at the same time very broad and very deep. It affects emotional, physical, interpersonal, spiritual, educational, vocational and economic aspects, among others. Many survivors of torture show themselves to have impressive inner resources – which in general are proportional to the strength of their affective ties – and a great capacity to recover hope in spite of their enormous suffering. The challenge for any rehabilitation service is precisely that of mobilising these elements of strength and the capacity to survive, and to identify the particular necessities of victims in each of these aspects.
Historically, in the field of rehabilitation for victims of torture, the services and activities developed were created in an erratic and spontaneous manner. In most cases, they were created in accordance with strictly local circumstances and possibilities: the political and social situation of that specific place, the legal system, the human and financial resources available – in other words, how much money was available and whether or not there were specialised professionals. In addition, such services were and are moulded in accordance with the ideological orientation of the group or institution that created them and kept them functioning. It is not by chance that, until today, it is not possible to talk of a globally accepted definition of what constitutes rehabilitation. Even the use in Latin America of the word reparation instead of rehabilitation can be seen as a symptom of this, in the absence of a consensus with regard to what, in the end, we are talking about.

Services directed at survivors of torture were mostly created in response to the needs of victims who called upon health services. As has been said, the nature of such services varies enormously from one country to another and even from place to place, within the same city.

In Europe alone there are more than 100 centres for victims of torture and of war, almost always for refugees from other countries – indeed, many centres care exclusively for people with refugee status.

The emphasis on rehabilitation varies from one place to another; there may be centres specialised in this type of care or services integrated within the national health system. The origin of the financing to support such services also varies a great deal, coming from governments or the financers of NGOs. Their administration may be conducted by the State or by NGOs or by a combination of the two.

Because of all these differences, the difficulty to conceptualise and debate what is rehabilitation is very great, not to say an impossibility.

For this reason the centres will vary in ideology, service model, objectives, and integration with other aspects of rehabilitation and reparation. Services for victims of torture rarely define psychic rehabilitation as a concept, something that has a philosophy, principles, methodology, processes. Indeed, many such services do not use
the term rehabilitation and do not describe or identify themselves as centres for rehabilitation, but rather as centres for a healthcare speciality (caring for post-traumatic stress, for example). In such cases of specialised services for one symptom, the connection between legal and human rights aspects and psychic rehabilitation tends not to exist.

Services for the psychological care of survivors of torture differ in the way they conceive of psychic rehabilitation. Some services define survivors of torture as a specific clinical group, with a specified range of mental health problems (post-traumatic stress (PTS), for example). Others resist this type of categorisation and design their interventions to embrace a broader spectrum of the psychic impact of torture, as well as identifying it clearly as a violation of human rights.

Here we come to a fundamental question about rehabilitation, which helps to understand the importance of seeing it as a right and, therefore, as something indivisible from the question of justice.

A unit providing generic care for PTS, for example, is not going to take into account the violation of human rights. The implications of this are great: to disregard the question of human rights in the case of victims of torture is the same as treating them as sufferers from a disease or, at most, as victims of harm.

To regard the impact of torture as a disease contains the problem within the individual: the consequences of torture become a “problem of health”, mental or physical, or both, and as such much be cured, or fixed. The predominance of this type of approach is often the result of an apolitical and decontextualised posture of psychotherapy in general. A focus on “pathology” and on individual necessities, as if there were a vacuum between the individual and his or her social context, is always negative and impoverishing. But it is especially damaging when the issue in question is precisely the psychic rehabilitation of violence committed by the State. For obvious reasons: a focus on a “disease” takes out of the room the principal issue, which is the responsibility of the State.

To regard the psychic impact of torture as “harm”, although it retains the focus on the individual, at least opens the possibility of thinking about an abuse of human rights,
as harm is always something that is inflicted. In this approach, the centre of attention is still on the impact caused in the individual, but the social, political, cultural context, etc, serves as a form of frame for the care or clinical attention provided.

The objective of this kind of care is to act as a facilitator for the survivor to see his or her experience validated by another person (the therapist or the therapeutic group), so that they are able to receive care and to feel themselves absolved of any feeling of guilt (for example, that there is anything inherently wrong with that individual, that they in any way collaborated in their own suffering or that they are suffering for not having been strong enough to bear that which was inflicted on them – to mention just the most common symptoms of survivors of torture). Therapeutic interventions of this type are usually, however, more focused on the impact of torture and its specific significance for each individual and/or their family, but always have as their frame of reference the context of human rights and focus not only on the individual but also on their community, in the prevention of future violations of human rights and in activities that involve the legal aspects of reparation.

GOING A LITTLE INTO CLINICAL ASPECTS

Survivors of torture and of other violations rarely have the expectation of a complete recuperation, either in terms of health or of their lives as a whole: the pre-torture life will not come back. In psychic terms, it is very unlikely that psychotherapy will eradicate the pain and suffering. Nor is it appropriate to have this expectation, which itself may be the cause of more suffering and frustration, for having “failed to be cured”. When thinking about rehabilitation for victims of torture, it is more just and realistic to speak of clinical interventions and instruments that seek a “therapeutic optimism” more than an ingenuous optimism or a magic treatment that will wipe out the impact of torture.

Torture cannot be wiped out. It is this indelible characteristic of the marks of torture that demands a continuous labour of rehabilitation and not a “fix”, a cure. This view is born of an understanding that recuperation in mental health is different from recuperation in other aspects of health, because the psychic suffering of which we are
speaking here is something that is complex, lasting and debilitating, which arises from individual histories of trauma and loss that are related to questions such as poverty, racial discrimination and social injustice. It is, therefore, always a process that requires long-term attention, support and interventions that reach to the causes of suffering, beyond the individual.

The psychic impact of torture or of other grave violations of human rights has an essentially pervasive character that is at the bottom of all the rehabilitation necessary for a survivor of this kind of violence: without psychological care, necessities relative to well-being, and vocational, legal and medical questions cannot be adequately met, because in all of them will be the invisible mark of the psychic impact. When we speak of rehabilitation or reparation, whether conceptually or in practice, we are using a general, “umbrella” term for an extensive range of care, services and interventions of great variety. For if the psychic impact is in some way present in all these aspects, only an intervention that takes all such aspects into account will provide effective reparation. In other words, no other aspect of rehabilitation or reparation can fail to take account of the psychic aspect, because it is at the same time invisible and omnipresent.

It is precisely for these characteristics – the invisibility and the omnipresence of the psychic consequences of torture – that the work of reparation must, of necessity, be interdisciplinary. And this, it must be said at the outset, is quite different from being multidisciplinary. In a multidisciplinary service, the various specialities are working side by side, in parallel. In an interdisciplinary work, different specialists work in interaction, integrating and mutually influencing. In this case, services are offered in parallel or sometimes simultaneously, and there is always a general coordination, with joint planning and decision making, as well as monitoring that aims to meet the needs of each particular survivor, and of their families and communities.

In contrast with generic psychosocial care, such as is offered in many reparation programmes around the world, in interdisciplinary care there will be recognition both of the general and of the specific and individual aspects of suffering, which are unique and diverse for each survivor, caused by violations that are also specific, as well as that caused by unmet basic necessities (such as for food, shelter, clothing and protection).
Interdisciplinary care will recognise the two sets of necessities and understand that it is imperative to offer some kind of support in terms of basic needs, such as those mentioned, at the same time as providing specific care through interventions that are relevant to the particular violence suffered, as well as to the context in which it occurred (for example: rape, solitary confinement, electrical shock, strangulation and being forced to witness the torture and execution of others, etc).

All this said, it is the local reality that will determine how much of this is possible. Determining factors will include the available funding, the team’s professional experience, the theoretical orientation followed by the particular centre or service, whether the service is dominated by one professional speciality (for example whether there are more psychotherapists or more lawyers, or more human rights activists). These are the factors that will determine the degree to which the service offered is genuinely holistic and interdisciplinary.

Of all the factors that make up the type and quality of a reparation service for victims of human rights violations (the financial resources, the professional composition, the local political context, etc), one of the most significant is the theoretical orientation of the group of professionals involved.

This is because there is no such thing as neutrality in the field of reparation. Psychic reparation is, in itself, a taking of sides. It is for this reason that it must be distinguished from other types of care and health services for the general population. Reparation arises from an obligation of the State to meet a right to health and has a specific role in relation to questions of human rights arising from torture and other forms of violence and abuse.

**BUT WHAT ARE THESE SERVICES LIKE IN PRACTICE? WHAT SERVICES ARE THEY?**

Specialised services (whether psychotherapeutic, medical or others) that exist within the public health service, in private centres or in those managed and supported by NGOs, may from time to time care for, in part, the needs of survivors of human rights abuses. This, however, *does not automatically qualify them* as services of rehabilitation.
or reparation, if such services do not recognise that the health needs that they treat had their origin in a violation of human rights, nor recognise that multiple and various psychic, medical, social and other impacts are implicated, all deeply interconnected in such violations.

The range of services that arise and are developed in the world to meet the needs of survivors of torture have different levels of engagement with questions relative to human rights. The recognition of rehabilitation or reparation as the right of a particular individual may be present or entirely absent in this or that service. Such an absence may, indeed, be intentional, depending on the theoretical orientation behind the service.

Such variations in models of services are an indication of the extent to which a service is or sees itself as a model of rehabilitation that acts as a form of reparation (in the sense of a set of legal measures to which survivors of grave human rights violations have a right), or as a service that offers care that is specialised and distinct from the general health service, but which is not necessarily reparation.

The Medical Approach, or Trauma Focused Approach, as the name indicates, is focused on symptoms. Its activities and interventions will revolve around a “treatment of clinical problems”, the relief of symptoms, etc. In general, services with this type of orientation have their origins in the medical/psychiatric field, sometimes also in the field of psychology. Although this approach has a more restricted approach, it is precisely this one that believes the most in “cure”. Some 80 to 90 per cent of the world’s psychic reparation services are of this type.

This approach has developed to form the so-called Rehabilitation Approach and the Psychological Recovery Approach.

The Rehabilitation Approach rejects in part a narrowly medical view of rehabilitation and puts at its centre psychic process as the driving force of recuperation (no longer the simple elimination or relief of symptoms). The Rehabilitation Approach is recommended by the World Health Organization as a model of psychic rehabilitation. The Psychological Recovery Approach aims to intervene in such a way as to potentialise the “functionality” of the individual in their daily life, in their social and
educational reintegration, etc. The emphasis, however, remains on the individual, and the social causes and implications of the violence suffered are not explicitly dealt with.

What became known in the 1980s as the Empowerment Approach makes an explicit connection between the well-being of the individual and the social and political environment. It includes a concern with autonomy and individual functionality, but also with activities that accentuate the feeling of belonging to a community, as well as an identification of social and political factors that have an impact on individual well-being.

The Empowerment Approach tends to have a reduced emphasis on the authority of the medical or psychotherapeutic professional, whose activities are seen as oppressive and in the service of the status quo and, indeed, as practices that take from the individual their autonomy, power of decision-making, etc. Health workers, here, are seen as collaborators, rather than as “experts” or authorities. This approach had its origin in the users of health services.

The approaches that had their origin in the field of justice, the so-called Justice Oriented Approaches, which include the so-called Human Rights Approach, regard rehabilitation as a set of interconnected specialities and prescribe medical, psychotherapeutic, social and legal interventions directed at the survivor of human rights violations, but also put emphasis on activities that take care of the family and community needs of that individual. The Justice Orientated or Human Rights Approach explicitly seeks social justice, legal reparation and prevention of new violations.

The objectives of psychic rehabilitation go beyond the recuperation of the individual and never exclude the search for justice. This type of approach constructs its activities as an exercise in social responsibility with regard to the individual, their families and communities, with a focus on “care” and “assistance” and solidarity with the victims and their struggle for recognition of the violence that was inflicted on them, and for survival and for the recovery of their humanity and dignity. The Human Rights Approach must create a socially just environment that acts as a conductor or facilitator of well-being – which is at one and the same time restorative and preventive of new episodes of abuse and violence.
These various internal division and ambiguities in the field of psychic rehabilitation may signify – I would say they certainly signify – a political weakness and even a weakening of their effectiveness in clinical terms.

The key to acting in a more effective and cohesive manner lies, in our opinion, in listening to the voice of the victim. For an essential reason: for the victim, the division of his or her needs into psychic, medical, social, political and legal issues simply does not exist. All these aspects – physical, psychic, legal, social, familial, economic, educational – coexist, are together and mixed, and one cannot be resolved without the other. There is psychic pain in physical pain, for example. There is psychic suffering in the impunity of the perpetrators of violence. There is injustice in not fulfilling the right to psychotherapeutic treatment. There are financial consequences to psychic shock, when it makes the individual unable to work or study. If there are physical effects, there will also be financial effects that must be dealt with. And so on.

All this may seem obvious: it is a matter of good sense to perceive that all these aspects are interconnected and for this reason cannot be considered in isolation from each other. It also seems to me to be a matter of common sense to perceive that it is the psychic aspect that interconnects all these factors. Our battle, therefore, is a different one: to take interdisciplinarity out of the area of theory and put it into practice.

This is the blind spot of all the approaches described here: the frequent failure to consider the various perspectives of the victims in relation to what constitutes justice in the face of torture or other violations of human rights.

That which lawyers call justice, or that which health service professionals call “sense of justice”, are terms that have become established without an examination of the meaning and the value that such words have for the victims of violence. Among many other reasons, because there is no group that can be identified as “the victims of abuses of human rights”: they are individuals with cultural, religious, economic, gender,
contextual differences, with various degrees of political engagement and of the stage they are at in the process of rehabilitation and reparation.

For many victims, faith in the world, in the idea that life can be “just”, in the very notions of trust and morality, that human beings are moral agents, has been destroyed. The need to restore these basic notions of humanity and dignity permeate and are permeated by all the other aspects of reparation. *If we apply ourselves to this, perhaps it will be easier to understand why all the aspects of reparation are indivisible: they all have to do with the restoration of the humanity that ceased to exist with the act of torture.*