



Mental Health Reports in Legal Processes for Refugees: References and Background Information

These standards, guidelines, articles, and other documents are of relevance to the use of mental health reports and references to mental health needs in legal processes for refugees (in particular refugee status determination and resettlement procedures). These may be of use for legal representatives to inform their representation of applicants with mental health needs, as well as for psychologists and psychiatrists to inform their preparation of mental health assessments and reports.

This document builds on resources gathered in collaboration with [St. Andrew's Refugee Services](#), Egypt. We welcome further inputs. If you would like to suggest additional resources, or would like to comment on any of the resources listed, please contact AMERA's Therapeutic Legal Assistance Model (TLAM) project on tlam@amerainternational.org. For more information on the model and associated guidelines and training, please see [Therapeutic Legal Assistance Model - AMERA International](#) and [Mental Health Reports in Legal Processes - AMERA International](#).

Name of document & link	Type of document	Key points	For use by / as
Beyond Proof: Credibility Assessment in EU Asylum Systems (2013) UNHCR	Research report and guidelines	<p><i>p 61 - 63</i> Impact of trauma on memory and behavior - including symptoms (even where no psychiatric diagnosis), PTSD and avoidance, dissociation, emotional numbing, memories & detail of traumatic experiences. Detention and memory.</p>	Legal representatives <ul style="list-style-type: none"> • Reference for submissions Psychologists and psychiatrists <ul style="list-style-type: none"> • Review for insight into how trauma impacts engagement in legal processes
Credibility Assessment in Asylum Procedures: A Multidisciplinary Training Manual (2013) Hungarian Helsinki Committee	Training manual	<p><i>p 87 - 104</i> PTSD and credibility - the problems of traumatic memory. PTSD symptoms and impact on memory and ability to recall the past. Complex PTSD or DESNOS symptoms.</p> <p>Horizontal view mental health assessments (over more than one</p>	Legal representatives <ul style="list-style-type: none"> • Reference for submissions Psychologists and psychiatrists <ul style="list-style-type: none"> • Review for insight into how trauma and PTSD

		<p>occasion) provide more valuable information for credibility assessment. Psychological expert opinions should be detailed (not only stating the presence of PTSD, but gravity, symptoms and potential reasons). Reports should state the expertise and affiliation of the author, as well as the examination methods applied. Such expert opinions should refrain from formulating legal positions.</p> <p>Consistency between applicant's statements + content of expert's opinion can contribute to credibility.</p>	<p>impacts engagement in legal processes and how should be considered in credibility assessments</p>
<p>Complex PTSD and Borderline Personality Disorder (2021) Ford, J. and Courtois, C.</p>	<p>Article (study)</p>	<p>Comorbidity of BPD / cPTSD. Distinction of cPTSD and perhaps need to include it in diagnostics. History of abuse within people diagnosed with the condition (and therefore diagnosis potential confirmation of certain aspects of history).</p>	<p>Psychologists & psychiatrists</p> <ul style="list-style-type: none"> • Diagnostic considerations • Reference for MH reports
<p>Dissociative Amnesia - A Challenge to Therapy (2018) Staniloiu, A. and Markowitsch, H. J.</p>	<p>Article</p>	<p>Dissociative amnesia has a stress or trauma-related etiology. Affected individuals are frequently more severely and enduringly affected. Most show severe retrograde amnesia for their biography, usually accompanied by changes in their personality and sometimes also by alterations in other cognitive and emotive domains.</p>	<p>Legal representatives</p> <ul style="list-style-type: none"> • Reference for submissions <p>Psychologists and psychiatrists</p> <ul style="list-style-type: none"> • Diagnostic considerations • Clinical implications • Recommendations

<p>Examining Asylum Seekers: A Health Professional's Guide to Medical and Psychological Evaluations of Torture (2001)</p>	<p>Guidelines</p>	<p><i>p 18 - 36</i> General interview considerations. Some aspects relevant specifically to documenting torture (such as taking the history), but general interview considerations as well.</p> <p><i>p 63 - 83</i> Outline of psychological responses to torture, frequent trauma related symptoms, PTSD / depressive disorders / enduring personality change. Components of the psychological evaluation and clinical impressions.</p> <p><i>p 111 - 128</i> Sample psychological reports</p>	<p>Psychologists and psychiatrists</p> <ul style="list-style-type: none"> Information and guidelines on assessing torture survivors; assessments informing credibility of torture history
<p>Guidance Note on the Psychologically Vulnerable Applicant in the Protection Visa Assessment Process (2017) UNHCR</p>	<p>UNHCR guidance</p>	<p>Psychological considerations in ability to participate in the process. Credibility should be considered in context of psychological evidence. Psychological evidence assists fair + accurate assessment of claims. Examples of factual evidence valuable from psychologists: mental state, cognitive capacities, experiences reported in country of origin, diagnosis and treatment. Purposes of psychological evidence (p10). Psychological explanations for lack of detail. Impact of trauma on recall, avoidance, memory. Disclosure of traumatic events over time. Variation on memories of traumatic events.</p> <p>Outline of template on mental state and capacity assessment.</p>	<p>Legal representatives</p> <ul style="list-style-type: none"> Reference for submissions <p>Psychologists and psychiatrists</p> <ul style="list-style-type: none"> Review for insight into relevant clinical implications (p10) Schedule - identifies factors to take into account during assessment and possible formulation of report (p21-26)

Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees (2019) UNHCR	UNHCR guidelines	<p>Where a medical report is obtained, conclusions of the report should shape the approach of UNHCR officials responsible for determining the individual's refugee claim.</p> <p>Burden of proof should be lightened for 'mentally disturbed persons'.</p>	<p>Legal representatives</p> <ul style="list-style-type: none"> Reference for submissions
International Association of Refugee Law Judges' Guidelines on the Judicial Approach to Expert Medical Evidence. (2010)	Guidelines	Outline of the role of expert medical evidence, standards, and how they should be applied.	<p>Legal representatives</p> <ul style="list-style-type: none"> Information on approaches to medical evidence in legal proceedings
Interviewing Applicants for Refugee Status (RLD 4) (1995) UNHCR	UNHCR training	<p>'Mentally disturbed applicants' require special care when being interviewed. Interviewers must not expect applicants to remember all details. Traumatized individuals may omit information or provide inaccurate information, does not mean dishonest.</p>	<p>Legal representatives</p> <ul style="list-style-type: none"> Reference for submissions
Istanbul Protocol 2004 (2004) OHCHR	Manual	<p>Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</p> <p>General considerations for interviews documenting torture and other ill treatment.</p> <p><i>p 45 - 58</i> psychological evidence of torture, considerations, consequences,</p>	<p>Legal representatives</p> <ul style="list-style-type: none"> Reference for submissions where report references torture history <p>Psychologists and psychiatrists</p> <ul style="list-style-type: none"> Information and guidelines on assessing torture

		psychological evaluations, managing the interview process with the client, questions to consider for clinical impressions. Special considerations for children and torture, including clinical implications.	survivors; assessments informing credibility of torture history
Managing and Understanding Psychological Issues among Refugee Applicants (2013) UNSW	Research report and guidelines	<p><i>p 13 - 27</i> Provides guidelines for mental health professionals on how to write expert reports used in the refugee application process</p> <p><i>p 29 - 35</i> Provides guidelines for how refugee representatives should use expert mental health reports in the refugee's application process</p> <p><i>p 37 - 42</i> Provides guidelines for the decision makers in a refugee status application, specifically on how to understand and interpret mental health issues concerning refugees</p>	<p>Psychologists and psychiatrists</p> <p>Legal representatives</p> <ul style="list-style-type: none"> • Reference for submissions
Medical Evidence in Refugee Status Determination Procedures AMERA International	Overview of guidelines and articles	Background to the use of medical evidence in RSD. Format and guidance to how medico-legal reports should be prepared and presented. Links to a range of articles on use of mental health and medico-legal assessments.	<p>Legal representatives; psychologists & psychiatrists</p> <ul style="list-style-type: none"> • Review for background information and further references
Migration and Refugee Division Guidelines on Vulnerable Persons (2015) Australia: Refugee Review	National guidelines	<i>p 16-23</i> Outlines impairments associated with psychological and psychiatric conditions, including impaired attention and concentration, disturbances in form	<p>Legal representatives</p> <ul style="list-style-type: none"> • Reference for submissions

<p>Tribunal</p>		<p>and content of thought, memory impairment, the effects of traumatic experiences and mood disturbances.</p> <p>Impaired attention and concentration - range of conditions, specifically PTSD.</p> <p>Impairment in form and content of thought and need for psychiatric evidence.</p> <p>Impaired memory - difference between traumatic impaired memory and other mental or cognitive disorders.</p> <p>Impairments associated with torture and other traumatic experiences.</p> <p>Strategies for assisting persons with relevant impairments.</p>	<p>Psychologists and psychiatrists</p> <ul style="list-style-type: none"> • Review for insight into presentation of symptoms relating to legal processes • Review for ideas on relevant recommendations
<p><u>Non-clinicians' judgments about asylum seekers' mental health: how do legal representatives of asylum seekers decide when to request medico-legal reports?</u> (2012) Wilson-Shaw, Pistrang & Herlihy</p>	<p>Article</p>	<p>Interest in psychological issues - welfare of applicants + testimony & credibility. Consistent recall of traumatic experiences over repeated interviews impaired by PTSD. Delays in disclosure of distressing experiences, including SGBV, associated with PTSD symptoms including avoidance. Showing psychological difficulties crucial to decision makers' understanding of a case.</p> <p>Recognition of mental health problems by non-specialists is generally poor. Legal</p>	<p>Legal representatives</p> <ul style="list-style-type: none"> • Factors for consideration for referring cases for mental health reports <p>Psychologists and psychiatrists</p> <ul style="list-style-type: none"> • Diagnosis and clinical implications • Coordination with legal representatives

		<p>representatives most likely to recognise cause for concern re care or claim.</p> <p>Decision to refer is itself a form of clinical assessment. The purpose of supporting case decisions is influenced by knowledge of case law regarding the use of medico-legal reports, their legal training and their knowledge of psychological research which could potentially be used to back the need for a report. Can be due to knowledge of access to mental health services, signs of distress, training on mental health issues. More likely to refer if the legal advisor feels unable to cope themselves.</p> <p>Relevant diagnosis - Depression not perceived serious enough to request a report (even though research shows it has significant impact on memory - overly general memory). Symptoms not always appreciated - nightmares + flashbacks but not avoidance and hyperarousal.</p>	
Note on Burden and Standard of Proof in Refugee Claims (1998) UNHCR	UNHCR guidelines	Impact of trauma on ability to speak freely, memory and recall, corresponding level of detail provided 'may be vague or inaccurate'.	Legal representatives <ul style="list-style-type: none"> • Reference for submissions
PSYCHOLOGICAL EVIDENCE OF TORTURE A Practical Guide to the Istanbul Protocol – for Psychologists (2004), Human Rights	Research report and guidelines	Aims to explain how psychologists should understand and apply the Istanbul Protocol in a practical sense. <i>p 11-14</i> Explains how to conduct the	Psychologists and psychiatrists <ul style="list-style-type: none"> • Information and guidelines on assessing torture

<p>Foundation of Turkey (HRFT)</p>		<p>interview section of the psychological evaluation in a manner where sufficient information can be collected without putting the examinee at risk</p> <p>Pg 30 - 34 Explains how psychologists should interpret their findings in order to make an accurate psychological evaluation with regards to torture</p>	<p>survivors; assessments informing credibility of torture history</p>
<p>Post-traumatic stress disorder and declarative memory functioning: a review (2011) Samuelson, K.</p>	<p>Report</p>	<p>Prominence of memory disturbances in PTSD, part of diagnostic criteria. The re-experiencing symptom criteria of PTSD include intrusive memories of the traumatic event. Avoidance symptom criteria include the inability to recall important aspects of the trauma. Memory dysfunction as a pre-existing risk factor for PTSD and a consequence of PTSD.</p> <p>Memory disturbances can reduce available resources to cope with life's demands and can limit ability to engage in and respond to treatment.</p>	<p>Legal representatives</p> <ul style="list-style-type: none"> • Reference for submissions <p>Psychologists and psychiatrists</p> <ul style="list-style-type: none"> • Clinical implications • Recommendations
<p>Refugee Status Determination Procedure and Mental Health of the Applicant: Dynamics and Reciprocal Effects (2021) M. Vukcevic Markovic, N. Kovacevic & J. Bjekic</p>	<p>Article</p>	<p>Highlights the effects of the refugee status determination procedure and impacts on applicants' mental health status with a particular focus on trauma related difficulties.</p> <p>Expresses the need for greater sensitivity towards applicants' mental health during</p>	<p>Legal representatives and decision-makers</p> <ul style="list-style-type: none"> • Information to guide representation

		this process.	
Refugee trauma measurement: a review of existing checklists (2016) E. Sigvardsson, A. Malm, P. Tinghög, M. Vaez & F. Saboonchi	Article	Assessment and review of the current instruments and checklists used to measure trauma of refugees.	Psychologists and psychiatrists <ul style="list-style-type: none"> • Assessments • Clinical implications
Telling Refugee Stories: Trauma, Credibility and the Adversarial Adjudication of Claims for Asylum (2016) S. Paskey	Review	<p>Explains why an adversarial hearing is an inherently flawed way to assess the credibility of asylum applicants who have experienced traumatic events</p> <p><i>p 478 - 483</i> Part II summarizes the standard for asylum and the process by which asylum claims are adjudicated in the United States.</p> <p><i>p 483 - 492</i> Part III discusses the distinction between <i>story</i> and <i>discourse</i>, between the content of a story (characters and events) and the way the story is told. Explains how this accounts for multiple versions of a single story.</p> <p><i>p 492 - 507</i> Part IV examines the effects of trauma on a survivor's ability to tell her</p>	Legal representatives and decision-makers <ul style="list-style-type: none"> • Information to guide representation

		<p>story and the role of storytelling in the recovery process.</p> <p><i>p 507 - 521</i> Part V re-examines the asylum adjudication system. Reconsiders the process by which immigration judges evaluate credibility.</p>	
<p>UNHCR RSD Procedural Standards Unit 2.9: Applicants with Mental Health Conditions or Intellectual Disabilities in UNHCR RSD Procedures (2020) UNHCR</p>	<p>UNHCR guidelines</p>	<p>Outlines general considerations that should be made by all those involved in relation to applicants with mental health conditions or intellectual disabilities.</p> <p>Notes procedural safeguards and support measures that should be taken during the refugee application process.</p> <p><i>p 7-8</i> In particular notes the measures that should be taken by support persons and legal representatives</p>	<p>Legal representatives</p> <ul style="list-style-type: none"> ● Guidance for representation ● Reference for submissions <p>Psychologists and psychiatrists</p> <ul style="list-style-type: none"> ● Recommendations