Abstract

Torture and ill-treatment are reportedly widespread in Mexico. Little is known, however, about the quality of forensic investigations and documentation of evidence of these human rights violations. To determine the integrity of the documentation and the presence, quality, and frequency of both physical and psychological evaluations, analyses were conducted on 103 medical evaluations identified in 33 cases of alleged torture and/or ill-treatment that the Mexican National Commission for Human Rights (CNDH) investigated between January 2000 and July 2002. Findings suggest that forensic medical evaluations in CNDH cases have been conducted promptly after alleged occurrences of torture and/or ill-treatment, and the results of such evaluations have often been introduced as evidence in legal investigations. Inadequate documentation in most forensic medical evaluations reinforces the need for effective training, monitoring, and accountability strategies.

Selon certains rapports, la torture et les mauvais traitements sont très répandus au Mexique. Cependant, nous connaissons très peu de choses sur la qualité des expertises médico-légales et de la documentation mettant en évidence de telles violations des droits humains. Pour déterminer l'intégrité de la documentation ainsi que la présence, la qualité et la fréquence des évaluations physiques et psychologiques, des analyses ont été effectuées sur 103 expertises médicales identifiées dans 33 cas d'allégation de torture et/ou de mauvais traitements ayant fait l'objet d'enquêtes de la Commission nationale mexicaine pour les droits humains (la CNDH) entre janvier 2000 et juillet 2002. Les conclusions suggèrent que les expertises médico-légales dans les cas étudiés par la CNDH ont été réalisées peu de temps après les cas de torture et/ou de mauvais traitements allégués, et que les résultats de telles évaluations ont souvent été introduits comme preuves lors d'enquêtes judiciaires. La documentation inadéquate dans la plupart des évaluations médico-légales renforce le besoin de stratégies efficaces de formation, de contrôle et de responsabilisation.

Se informa que la tortura y el maltrato están generalizados en México. Sin embargo, se conoce poco acerca de la calidad de las investigaciones forenses y la documentación de pruebas de estas violaciones de los derechos humanos. A fin de determinar la integridad de la documentación y la presencia, calidad y frecuencia de las evaluaciones, tanto físicas como psicológicas, se llevaron a cabo unos análisis en 103 evaluaciones médicas identificadas en 33 casos de tortura y/o maltrato alegado que la Comisión Nacional de los Derechos Humanos (CNDH) de México investigó entre enero de 2000 y julio de 2002. Las conclusiones sugieren que las evaluaciones médicas forenses en los casos de la CNDH han sido realizadas inmediatamente después de los casos alegados de tortura y/o maltrato, y los resultados de tales evaluaciones han sido introducidos a menudo como pruebas en investigaciones legales. La documentación encontrada en la mayoría de las evaluaciones médicas forenses enfatiza la necesidad de estrategias eficaces de capacitación, observación y atribución de responsabilidad.

Articles

Documentation of Torture and Ill-Treatment in Mexico: A Review of Medical Forensic Investigations, 2000 to 2002

Alejandro Moreno, Michele Heisler, Allen Keller, and Vincent Iacopino

Physicians play a key role in investigating and documenting evidence of torture and ill-treatment. They are the ones who treat survivors, work to prevent these abuses from occurring, and work to prevent other physicians from participating in them when they do occur.[1-4] For these reasons, the United Nations (UN) has published international standards on effective investigation and documentation of torture and ill-treatment in the *Istanbul Protocol: The Manual on the Effective Investigation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.*[5] In 1989,

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the UN also established international standards for autopsy procedures for suspected cases of extra-judicial, arbitrary, and summary executions in the Minnesota Protocol.[6] Together, these standards provide explicit criteria for the documentation of torture and ill-treatment worldwide.

Although torture and/or ill-treatment are unequivocally prohibited under international law and Mexican law, these practices are nonetheless widespread in Mexico.[7-11] Moreover, formal guarantees of forensic examinations of detainees reportedly contribute little to the discovery and documentation of physical or psychological abuse in Mexico.[12] The new government of Vicente Fox, however, has promulgated a series of reforms intended to protect human rights and enforce the rule of law.[13,14] As part of this effort, the Mexican government in December 2001 signed an agreement with the UN High Commissioner for Human Rights (the UN Technical Assistance Program in Mexico) to strengthen judicial and police procedures to prevent torture and/or ill-treatment, as well as to improve forensic medical investigation and documentation.[15,16]

Physicians for Human Rights (PHR) designed and conducted two studies in an effort to better understand the problem of torture and ill-treatment, including the quality of current forensic and legal investigations. The first study assessed federal and state forensic physicians' attitudes about torture and ill-treatment, as well as their experiences with investigating and documenting torture and ill-treatment of detainees.[17] The second study, the results of which are presented here, comprehensively reviewed investigations of torture and ill-treatment that the Mexican National Commission for Human Rights (Comisión Nacional de los Derechos Humanos [CNDH]) opened between January 2000 and July 2002. The CNDH is an autonomous federal agency mandated to protect, monitor, and promote human rights in Mexico.[18]

A case-review method was designed to examine the following: the events surrounding cases of torture and ill-treatment; the proportion of alleged victims of torture and ill-treatment who were evaluated by forensic physicians and the frequency of such evaluations during an investigation;

and the quality of current forensic documentation used as evidence, as assessed by the degree to which components of documentation, deemed necessary by the Istanbul Protocol or the Minnesota Protocol, were absent, incomplete, or complete.[19]

Methods

Sampling and Data Collection

CNDH investigations were considered for review if torture and/or ill-treatment were among the reasons for conducting an initial investigation. Investigations were reviewed from two different sources, as illustrated in Figure 1.

Between January 2000 and July 2002, the CNDH received 9,919 complaints of human rights violations, 529 of which contained allegations of torture and/or ill-treatment. When an investigation finds evidence of serious human rights violations that affect the physical or psychological welfare of a person—as is in all cases of torture and/or ill-treatment—or when a negotiated settlement is not possible, the CNDH must produce and make public a recommendation that includes a comprehensive summary of the complaint and the alleged events, the names of the alleged victim(s) and perpetrator(s), a list and summary of the evidence reviewed (such as sworn testimonies, police reports, reconstruction of events, and medical evaluations conducted on the alleged victim(s) since the events occurred), the legal analysis of the case, and a conclusion with specific recommendations. (CNDH case files are available to the public only when a recommendation is issued.)[20] Of the 83 publicly available CNDH case recommendations, 16 included allegations of torture and/or ill-treatment among the reasons the initial investigation was opened.[21]

In addition to those 16 cases, the Office for the Protection of Human Rights (OPHR) within the Attorney General's Office granted complete access to all 21 CNDH case investigations of human rights violations involving officials who worked for the Attorney General's Office between January 2001 and July 2002 (case files are routinely transferred to other government offices, therefore cases for the year 2000 were unavailable for review). OPHR case files contained copies of the complaint, names of alleged

victim(s) and perpetrator(s), evidence material (such as sworn affidavits, police reports, reconstruction of events, and medical evaluations), and a legal analysis of the case. Of the 21 investigations conducted by the OPHR, 17 included allegations of torture and/or ill-treatment in the reasons to open the initial investigation. If the CNDH had issued a rec-

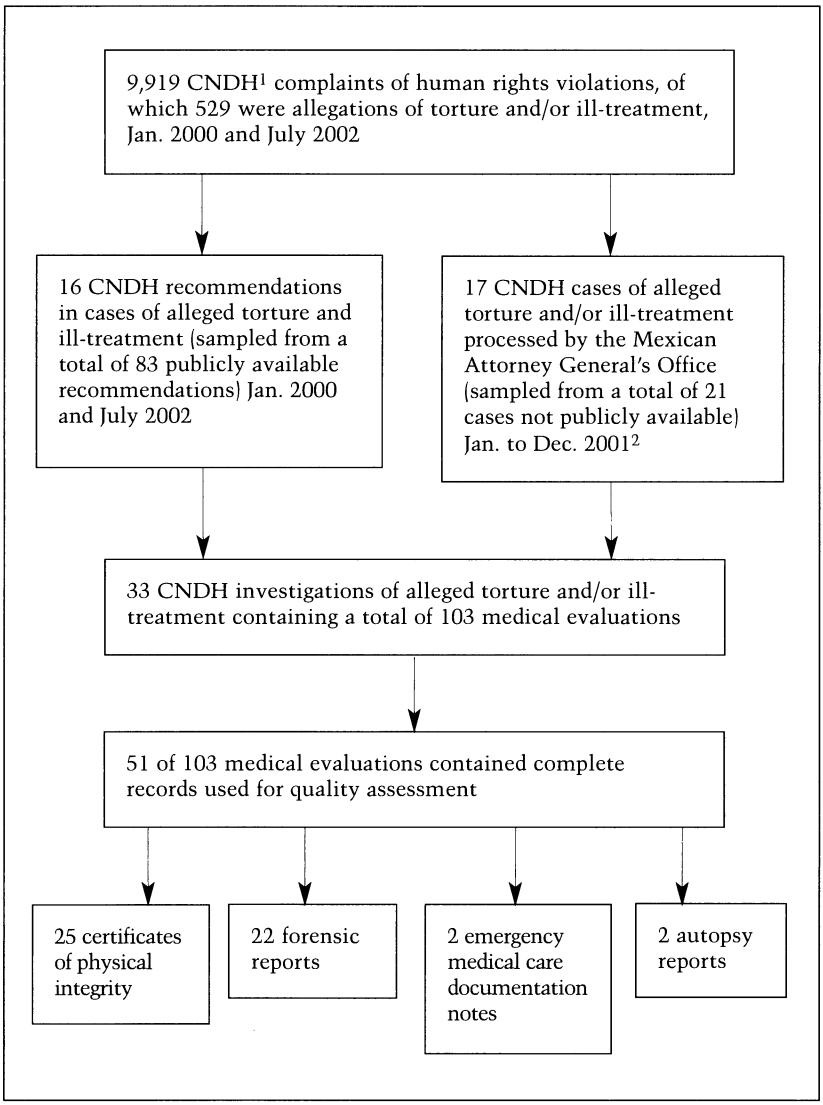

Figure 1. *Sampling of CNDH Cases of Alleged Torture and/or Ill-Treatment.*
1. Mexican National Commission for Human Rights.
2. Case files for the year 2000 were not available for review.

ommendation, the case file of the OPHR and the CNDH case recommendation were counted once to avoid duplication.

The 33 CNDH cases reviewed contained a total of 103 medical evaluations of 42 alleged victims who were party to the complaints. Of the 103 medical evaluations, 51 (50%) contained complete medical records. Therefore, quality assessments of only those 51 medical evaluations could be conducted.

Case Review Process

Data extracted from the cases included descriptive information about the alleged events and the surrounding circumstances, the status of the case, and information regarding medical evaluations conducted on the alleged victim(s) since the events occurred. In Mexico, medical evaluations are customarily classified under any of four categories: certificates of physical integrity; forensic reports; autopsy reports; and documentation of emergency medical care. Except for documentation of emergency medical care, forensic physicians conduct most medical evaluations. Under Mexican law, however, any licensed physician can be ordered to perform any of these four medical evaluations.

Any person who is taken into custody by law-enforcement agents must have a certificate of physical integrity immediately upon detention, before being presented to a judge and taken to prison. Forensic reports are produced only when an investigative authority requests them for documenting specific forensic evidence.[22,23] Autopsy reports are mandatory when fatalities occur under suspicious circumstances, such as while in custody and during acts of violence.[24] Government officials, including law-enforcement agents and public prosecutors, must make medical care available to detainees and prisoners during emergency situations.[25]

The criteria used to assess the quality of a certificate of physical integrity and forensic report were based on relevant components of the Guidelines for Medical Evaluation of Torture and Ill-Treatment contained in the Istanbul Protocol.[26] These criteria include identifying information, such as examinee's name, date, time, and place of evalua-

tion, identification document [national identification card or voter's registration card], age, occupation, reason for evaluation, and the clinician's name; examinee's past medical history, including medical, surgical, and psychological profiles; results of the physical examination (including general appearance, head and face, chest and abdomen, genitourinary, musculoskeletal, skin, and nervous system); psychological evaluation (psychological complaints, history of trauma, mental status, and substance abuse); interpretation of findings (correlation between history or allegations of abuse, symptoms, and findings); and conclusion (statement about interpretation of findings and recommendations).[27]

Similarly, criteria used to assess the quality of autopsy reports were based on relevant components of the Minnesota Protocol, such as identification (date, time, and place of autopsy, names and affiliation of participants, identification of body), external inspection of the body (clothing, appearance and overall condition, and description of lesions), inspection of large cavities (presence of foreign objects and descriptions of lesions and internal organs), pertinent laboratory and imaging studies (toxicology studies, hematological studies, and metabolic panel), interpretation of findings (correlation of findings, cause of death, and estimated time of death), and concluding remarks (statement about the interpretation of findings and recommendations).[28]

Documentation of emergency medical care was reviewed only when the alleged events required emergency care. Criteria for assessing the quality of a medical note were components customarily contained in an emergency room note: identification, chief complaint and history of present illness, relevant past medical history, physical examination, clinical impression, and assessment/plan.

Conservative criteria were used to assess the quality of a component. For example, a component was considered absent if no pertinent information was mentioned at all in the medical evaluation; a component was considered present but incomplete if at least one aspect, but not all, were mentioned in the medical evaluation; and a component was considered present and complete if all aspects were mentioned in the document. A physical finding was considered

fully described if location, type of lesion, form, size, color, borders, and surface were mentioned.

Analysis

A trained, experienced physician (AM) extracted and evaluated the information from all cases. To assure reliability, another physician (MH) also analyzed the information from a sub-sample (20%) of cases. The inter-rater reliability for the quality assessment of the medical evaluations was 100%. Data was analyzed using descriptive statistics—means, proportions, and ranges.[29]

Results

Of the 33 investigations reviewed, 3 (9%) cases alleged both torture and ill-treatment, 12 (36%) cases alleged torture, and 18 (55%) cases alleged ill-treatment as a reason to open the investigation. Although a total of 62 individuals were identified as possible victims of torture and/or ill-treatment, only 42 were a party to the complaints that triggered the CNDH investigations. On average, each CNDH investigation involved 1.8 alleged victims (range: 1–5). All but 3 were males (95%), and all but 1 were adults (98%). Table 1 lists other characteristics of the CNDH investigations.

All cases fully identified the names of the alleged victims and their perpetrators. The number of alleged perpetrators was stated in 19 (58%) cases. For these cases, the average number of alleged perpetrators was 7.8 (with a range of 2–20 perpetrators). In 8 (24%) cases, the number of perpetrators was described as "several," and in 6 (18%) cases, the number of perpetrators was not indicated. Detentions occurred in 31 (94%) cases. Table 2 includes characteristics of the detentions in which the alleged victims were detained by law-enforcement agents.

Events described in 26 (79%) cases reportedly occurred in 14 different states; events in the other 7 (21%) cases reportedly occurred in the Federal District of Mexico City. The alleged perpetrator(s) reportedly belonged to the Federal Judicial Police in 24 (73%) cases, to state and municipal departments of public safety in 12 (21%) cases, and to the armed forces in 2 (6%) cases.[30] No specific law-enforcement

branch office was named in more than one case.

Physicians conducted at least one type of medical evaluation in all but 1 (32/33 [97%]) case. Of these 32 cases, a total of 103 evaluations were conducted, and in 26 (81%)

	n (%)
Initial complaint made by	
Relatives	15 (45)
Alleged victim(s)	10 (30)
NGOs[1] and media	3 (9)
State human rights commissions	4 (12)
Attorneys	1 (3)
Case jurisdiction	
Federal	24 (73)
State and Federal District	8 (24)
Military	1 (3)
Surrounding events	
Presence of witnesses	20 (61)
Victim(s) arrested in-flagrante[2]	12 (36)
Arrest warrants presented	11 (33)
Destruction of property	6 (18)
Time between when complaint filed and investigation opened	
Same day	20 (61)
2 days up to 30 days	5 (15)
31 days up to 365 days[3]	5 (15)
More than 366 days[3]	2 (6)
Time unknown	1 (3)
Charges against alleged perpetrator(s)	
No administrative or criminal charges filed against perpetrator(s)	10 (30)
Unknown if administrative or criminal charges filed	10 (30)
No administrative or criminal charges filed yet, investigation still open	8 (24)
Administrative or criminal charges filed	5 (14)
Area where events occurred	
Urban area	26 (79)
Rural area	6 (18)
Not stated	1 (3)
Cases involving ethnic minorities	
No ethnic minorities involved	23 (70)
Not stated	7 (21)
Ethnic minority victims involved	3 (9)

Table 1. *Other Characteristics of Cases Involving Allegations of Torture and/or Ill-Treatment. (n=33)*

1. Nongovernmental organizations. **2.** In the act of committing a crime.
3. Includes investigations in which the CNDH had taken over the investigation from a local human rights commission.

cases the evaluations were used as evidence in legal investigations. Each person alleging torture and/or ill-treatment received, on average, 2.3±1.0 medical evaluations (with a range of 1–4 evaluations). On average, alleged victims received their first evaluation within 4.2±13.3 days (with a range of 0–57 days) of the event, their second evaluation within 42.2±94.8 days (with a range of 0–357 days) of the event, and their third evaluation within 54.5±87.6 days (with a range of 0–244 days) of the event.

In 32 (97%) of the cases, some form of physical abuse was reported. The most common were blunt trauma, including being punched, kicked, and beaten with blunt objects (28 [87%] cases); asphyxiation by smothering or submersion in a fluid (7 [22%] cases); *pirinola,* receiving forceful pressure over the ears with the knuckles, and *teléfono,* receiving forceful blows to the ears (7 [22%] cases); violent

	n (%)
Place of detention	
Public Ministry office	18 (58)
Police station	5 (16)
Safe house	3 (10)
Army base	3 (10)
Prison	2 (6)
Length of detention	
Immediately taken before a court	2 (6)
Up to 23 hours	5 (16)
1 day up to 2 days	12 (39)
3 days up to 7 days	4 (13)
1 week up to 8 weeks	1 (3)
Not stated	7 (23)
People to whom alleged victims reported having access	
Relative	
Yes	3 (10)
No	10 (32)
Not stated	18 (58)
Person of confidence	
Yes	2 (6)
No	11 (35)
Not stated	18 (58)
Attorney	
Yes	18 (58)
No	4 (13)
Not Stated	9 (29)

Table 2. *Characteristics of the Detentions Documented in Cases of Alleged Torture and/or Ill-Treatment. (n=31)*

take down, using extreme force to put a person on the floor (5 [16%] cases); electric shocks (3 [9%] cases); gunshot wounds, deprivation of food and water, insertion of foreign objects in body cavities, and extreme conditions (2 [6%] cases for each abuse); and traumatic removal of appendages and stab wounds (1 [3%] case for each abuse).

In 28 (85%) cases, some form of mental abuse was reported. All of those 28 cases reported threats of serious harm. The most common forms included 9 (32%) cases of forced confessions and signing of other documents and 5 (18%) cases of suffering incommunicado detention and being put in isolation. Other types of abuse included false accusations and fabrication of witnesses (2 [7%] cases) and being denied access to a court proceeding (1 [4%] case). Of the two cases that reported sexual abuse, one reported being threatened with castration and rape and the other reported receiving blunt trauma to the genitals.

Each of the four autopsy reports that were reviewed documented a different cause of death: hemorrhagic shock (failure of the circulatory system to maintain adequate perfusion of vital organs secondary to blood loss) secondary to gunshot wound, cranio-encephalic trauma (head injury), aspiration pneumonia (inappropriate passage of mouth or stomach contents into the lungs causing infection and/or inflammation), and asphyxiation. Findings reported in the autopsy reports were as follows: two cases of ecchymosis (soft-tissues bruises), two cases of abrasions (injury involving only the upper layers of the skin) and lacerations (injury that represents the splinting of the skin produced by the shearing force of a blunt trauma), one case of a gunshot wound, one case of a macroscopic pulmonary consolidation (pathologic finding of pneumonia), and one case of an abdominal aorta injury. None of the autopsy reports considered torture and/or ill-treatment as a possibility in the interpretation of findings or conclusions.

Table 3 provides the characteristics of all the medical evaluations in cases where torture and/or ill-treatment were alleged. Of the 103 medical evaluations, 58 (56%) were certificates of physical integrity, 36 (35%) were forensic reports, 5 (5%) were medical documentation of emergency care, and 4 (4%) were autopsy reports. A different physician

conducted each medical evaluation. Only 22 (21%) medical evaluations considered torture and/or ill-treatment as a possibility in their conclusions.

Of the 103 medical evaluations available for review, complete records (25 certificates of physical integrity, 22 forensic reports, 2 autopsy reports, and 2 emergency medical notes) were available for 51 (50%). Of those 51 evaluations, physicians affiliated with the Forensic Service of Mexico's Attorney General's Office conducted 57% of the evaluations, physicians from nongovernmental organizations carried out 14%, prison doctors performed 6%, and physicians from other institutions, such as armed forces, CNDH, and medical examiner's offices, conducted the remaining 23%.

Documentation was generally insufficient in all med-

	Total n (%)
Type of medical evaluation	
Certificates of physical integrity	58 (56)
Forensic reports	36 (35)
Emergency medical care documentation	5 (5)
Autopsy reports	4 (4)
Affiliation of physician conducting medical evaluation	
Federal Attorney General's Office	50 (49)
Federal District or State Attorney General's Office	10 (10)
Hospital	7 (7)
CNDH or local human rights commission	9 (9)
Armed forces	3 (3)
Medical Examiner's Office	4 (4)
Prison	11 (11)
Independent/NGOs	9 (9)
Physical findings*	
Ecchymosis/hematomas	40 (39)
Pain on palpation	39 (38)
Soft tissue edema	22 (21)
Excoriations/abrasions	21 (20)
Erythema	11 (11)
Torture considered in forensic evaluation as a possibility	
Not considered	50 (49)
Considered	22 (21)
Violence considered, but no torture	12 (12)
Not stated	19 (18)

Table 3. *Characteristics of All Medical Evaluations in Cases Where Torture or Ill-Treatment Was Alleged. (n=103)*

*Other findings each documented in 1% to 6% of the cases included lacerations, subcutaneous emphysema, burns, gunshot wounds, bone crepitation, hemopneumothorax, and puncture wounds.

ical evaluations. The alleged victim's identification information was the only information complete in all evaluations. As shown in Table 4, of 25 certificates of physical integrity, instances of complete documentation were as follows: physical exam 1 (4%), description of external lesions 5 (20%), conclusions 13 (52%), and mental status 14 (56%). None of the 25 certificates had an interpretation of findings. In 12 (48%) certificates, external physical findings were described as having "no physical lesions." Table 4 provides an assesment of the quality.

Of the 22 forensic reports incicated in Table 5, complete documentation was available as follows: past medical history 2 (9%), trauma history 7 (32%), history of substance abuse 12 (55%), description of external lesions 10 (45%), mental status 18 (95%), interpretation of findings 7 (32%), and conclusions

Certificates of Physical Integrity	Total n (%)
Identification	
Present-complete	25 (100)
Present-incomplete	0 (0)
Absent	0 (0)
Physical exam	
Present-complete	1 (4)
Present-incomplete	23 (92)
Absent	1 (4)
Description of external lesions	
Present-complete	5 (20)
Present-incomplete	7 (28)
Absent	1 (4)
"No physical lesions"[1]	12 (48)
Mental status	
Present-complete	14 (56)
Present-incomplete	3 (12)
Absent	8 (32)
Interpretation of findings	
Present-complete	0 (0)
Present-incomplete	0 (0)
Absent	25 (100)
Conclusions	
Present-complete	13 (52)
Present-incomplete	6 (24)
Absent	6 (24)

Table 4. *Assessment of the Quality of Certificates of Physical Integrity for Which Complete Records Were Available. (n=25)*

1. External physical lesions reported as "no physical findings" without any further description of positive or negative findings.

Forensic Reports	Total n (%)
Identification	
Present-complete	22 (100)
Present-incomplete	0 (0)
Absent	0 (0)
Trauma history	
Present-complete	7 (32)
Present-incomplete	5 (23)
Absent	10 (45)
Past medical history	
Present-complete	2 (9)
Present-incomplete	6 (27)
Absent	14 (64)
Psychiatric history	
Present-complete	0 (0)
Present-incomplete	0 (0)
Absent[1]	21 (100)
Substance abuse	
Present-complete	12 (55)
Present-incomplete	0 (0)
Absent	10 (45)
Physical exam	
Present-complete	21 (95)
Present-incomplete	1 (5)
Absent	0 (0)
Mental status	
Present-complete	18 (95)
Present-incomplete	0 (0)
Absent	1 (5)
Psychological exam	
Present-complete	0 (0)
Present-incomplete	0 (0)
Absent	19 (100)
Description of external lesions	
Present-complete	10 (45)
Present-incomplete	7 (32)
Absent	0 (0)
"No physical lesions"[2]	5 (23)
Diagrams and photographs	
Present-complete	3 (14)
Present-incomplete	5 (23)
Absent	16 (73)
Interpretation of findings	
Present-complete	7 (32)
Present-incomplete	10 (45)
Absent	5 (23)
Conclusions	
Present-complete	13 (59)
Present-incomplete	9 (41)
Absent	0 (00)

Table 5. *Assessment of the Quality of Forensic Reports for Which Complete Records Were Available. (n=22)*
1. In one case, a psychological evaluation was not possible. **2.** External physical lesions reported as "no physical findings" without any further description of positive or negative findings.

13 (59%). None of the forensic reports contained psychiatric histories or psychological assessments. The words "no physical findings" were used in 5 (25%) of the forensic reports as the only documentation of external physical findings.

The two autopsy reports thoroughly described external lesions found on the bodies; however, neither report contained diagrams or complete documentation of the conditions of the large body cavities and internal organs. Both conclusions had incomplete documentation. Documentation for the two cases of emergency medical care contained incomplete descriptions of external findings and clinical impressions. In one of those cases, information on the chief complaint, history of present illness, and past medical history were all incomplete. Both cases did, however, contain documentation notes on complete physical examinations.

The following examples illustrate some of the deficiencies in documentation. In a forensic report on an alleged victim, a physician documented the presence of edema, pain on palpation, and an excoriation over the left arm. The physician, however, failed to indicate whether those findings were consistent with blunt trauma, mechanical friction, or a combination of the two. The physician also failed to correlate the patient's history with the findings and did not address the findings in the report's conclusion, except to remark briefly on the seriousness of the external findings.

Moreover, in all but two cases that received more than one medical evaluation, physicians neglected to correlate current findings with those discovered during previous medical evaluations. For example, in one case the initial certificates of physical integrity of all the alleged victims—which were conducted after the alleged torture and/or ill-treatment had occurred—used the words "no physical findings" and "no symptoms were reported." A second round of medical evaluations conducted approximately 48 hours later found that one victim had at least three soft-tissue bruises around the neck, one superficial abrasion of the lip associated with inflammation, and bilateral linear abrasions around the wrists. This physician also documented that the patient experienced pain during palpation of the lips and wrists. The physician who conducted the second medical evaluation did not, however, compare these recent findings

with those of the previous evaluation. In addition, no correlation was made between the physical findings and a possible mechanism of trauma or with the alleged events.

In 5 (16%) cases, the CNDH recommended charges of negligence against forensic physicians who did not document physical findings. In one case, for instance, a physician who conducted an initial examination of an alleged victim wrote "no external lesions" on a certificate of physical integrity, even though the lesions were readily evident to the public prosecutor—a person with no medical training—who noted and documented their presence in lay terms. Moreover, second and third medical evaluations conducted by two different forensic physicians within 48 hours of the first evaluation documented the presence of lesions consistent with blunt trauma, directly contradicting the first forensic physician's findings. In another case, the CNDH found evidence that a forensic physician falsified a certificate of physical integrity by documenting results of "no physical lesions" on a patient the physician never examined. In yet another case, the CNDH discovered that a physician failed to document the findings of an autopsy of an alleged victim and to correlate the physical findings with a history of trauma.

Comments

The study's findings suggest that forensic medical evaluations of torture and/or ill-treatment of victims in Mexico are inadequate. Most of the medical evaluations contained poor documentation of the physical findings, and all forensic reports lacked psychological evaluations and examinations. Furthermore, current investigations included only evidence that related directly to individuals who made the complaint. By doing so, important corroborating evidence from possible victims who opted not to pursue a claim may have been ignored, thus making it more difficult to determine whether or not torture and ill-treatment occurred. Finally, forensic physicians' inadequate correlation of examination findings with allegations of abuse may prevent adjudicators from determining whether occurrences of torture and ill-treatment did indeed take place.

Efforts to improve the quality and documentation of

forensic investigations are especially crucial in light of the opportunity to document physical and psychological evidence that appears to exist in most investigations. In the cases studied, all but one had at least one medical evaluation. In addition, forensic physicians were able to evaluate individuals promptly after the alleged torture and/or ill-treatment took place, providing a unique opportunity to document physical findings that may disappear over time. Finally, investigators seemed to recognize the importance of the medical reports since those reports were introduced as evidence in 80% of the cases.

The higher number of cases in the Federal District of Mexico City (21%) correlates with the size of its population. In addition, the higher number of alleged torture and ill-treatment cases at the hands of federal law-enforcement agents may reflect the fact that the data was obtained from the CNDH rather than from local human rights commissions that have the jurisdiction to investigate abuses of state and municipal law-enforcement agents.

The poor quality of current forensic investigation and documentation of alleged torture and ill-treatment are consistent with findings from PHR's survey of forensic physicians' attitudes and practices toward torture and ill-treatment in Mexico. In that survey, 38% of the respondents reported that current forensic documentation of torture remains inadequate.[31]

Many of the problems that Mexican forensic physicians identified, such as inadequate training resources and coercion by law-enforcement officials, have been documented in other countries.[32] Law-enforcement agents exert extraordinary influence on physicians to misinterpret or to omit information during forensic evaluations.[33] For instance, 72% of the Mexican forensic physicians who participated in PHR's survey had to conduct at least one examination of a detainee in the presence of law-enforcement agents within 12 months of being interviewed for the study, and 23% reported being influenced by the presence of these agents.[34] Similarly, a study in Turkey found that 47% of the forensic physicians interviewed reported attempts by law-enforcement agents to be present during examinations, and 36% reported being influenced by their presence.[35]

Although Mexico and Turkey have several other similarities—mandatory examinations of detainees, forensic services overseen by the prosecutor's office, geographical areas affected by smuggling and internal conflict, corruption of government officials, use of confessions as key evidence in judicial proceedings, and statutory prohibition of torture—their processes to implement appropriate standards of forensic documentation have been different.[36] Efforts of the Turkish Medical Association (TMA) and the Human Rights Foundation of Turkey (HRFT) to develop, implement, and monitor documentation standards have received no support from the Turkish government. In fact, physicians working to document torture and/or provide treatment to survivors have been prosecuted and legally sanctioned.[37] The Mexican government, on the other hand, has pledged and taken steps to fully respect human rights.[38] Effective forensic documentation of torture and ill-treatment is essential in seeking justice for these crimes. But forensic documentation is only one of many steps needed to prevent torture and to assure accountability. A wide range of interrelated problems, including an absence of systems to monitor police practices, lax police investigations, inadequate legal defense (public defenders), insufficient sanctions for perpetrators and accomplices, an interdependence of investigators and prosecutors, corruption of government officials, and, though illegal, the use of confessions obtained under torture, must be addressed simultaneously if any strategy is to succeed.[39] The UN Technical Assistance Program in Mexico is beginning to address these issues in parallel with better forensic documentation.

Furthermore, torture and ill-treatment in Mexico can be eradicated only if other human rights violations that often occur simultaneously or as a consequence of torture and ill-treatment are addressed as well. For instance, discrimination of minority groups and lack of political opportunities for these under-represented groups have played an important role in forced disappearances and armed repression of activists, both of which often occur alongside torture. Other related violations include lack of due process, arbitrary detentions, and inappropriate searches and seizures.[40]

Limitations

Depending on the jurisdiction, cases of torture and/or ill-treatment in Mexico may be investigated by one of the state human rights commissions. These investigations were not included in the sampling of cases. In addition, assessments of the quality of medical evaluations could be conducted on only half (51 of 103) of the sample, since only those medical evaluations with complete, unabridged records could be properly assessed.

Despite these limitations, this study provides considerable insight into medico-legal circumstances and forensic physicians' role in documenting medical evidence of torture and ill-treatment in Mexico. The sampling method, although it may not permit generalization of the study's findings, represents all CNDH investigations available to the public and all CNDH investigations available through the Office for the Protection of Human Rights of the Mexican Attorney General's Office between January 2000 and July 2002. Finally, it is important to note that conservative criteria were used to evaluate the quality of the forensic documentation in the cases that were assessed. Rather than seeking to evaluate the adequacy of the descriptions, the absence or presence of those elements of forensic examination deemed essential according to international standards were evaluated.[41] This method may have biased the results toward assessing the forensic documentation as being of a higher quality than would be true if the content of the evaluations and their conclusions were analyzed in more depth.

Conclusion

This study's findings suggest that forensic medical evaluations are conducted promptly after alleged occurrences of torture and/or ill-treatment, and the findings of such evaluations are often introduced as evidence in official investigations opened by the Mexican National Commission for Human Rights. The vast majority of forensic medical evaluations inadequately documented medical evidence of torture and/or ill-treatment, which also indicates a need for effective training, monitoring, and accountability measures. The promotion and protection of human rights are essential

for the health and well-being of humanity.[42,43] Mexico appears to be at a crossroads in its history, one that holds considerable promise for the promotion and protection of human rights, despite formidable legal, judicial, and political barriers.

Clearly, the collaborative efforts of PHR and the Mexican Attorney General's Office, under the umbrella of the UN Technical Assistance Program in Mexico, are particularly significant because they come at a unique time in Mexican history and carry great promise for the realization of human rights. To capitalize on the lessons learned in Mexico, PHR has partnered with the International Rehabilitation Council for Torture Victims, the World Medical Association, and the Human Rights Foundation of Turkey to develop a framework for implementing the Istanbul Protocol worldwide. With the support of the European Commission for Human Rights, the organizations have chosen Georgia, Morocco, Uganda, and Sri Lanka, in addition to Mexico, to start implementing these international standards at the national level. The project in Mexico is the first national level initiative to plan comprehensive implementation of the Istanbul Protocol and its principles, and it is intended to serve as a model throughout the world.

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15. See note 14.
16. To further these aims, the Mexican Attorney General's Office consulted with PHR to help develop a standardized medical evaluation form to specifically document torture and/or ill-treatment in Mexico; a resource manual on effective methods of investigation and documentation of torture and/or ill-treatment; a model training program for forensic physicians who work for the Attorney General's Office; and specific recommendations on prevention and accountability measures.
17. See note 12.
18. CNDH México, available at www.cndh.org.mx.
19. See notes 5 and 6.

20. See note 18.
21. See note 18.
22. Mexican Federal Penal Procedures Code, arts. 220–239 (last amended 6 Feb. 2003), available at www.diputados.gob.mx/leyinfo.
23. Regulatory Law of the Attorney General's Office, art. 25 (last amended 18 Mar. 1999), available at www.diputados.gob.mx/leyinfo.
24. Federal Law of Health, art. 350, bis 2 (Enacted by Congress in 1984), available from La Cámara de Diputados at www.diputados.gob.mx/leyinfo.
25. Regulatory Law of the Attorney General's Office, art. 51 (last amended 18 Mar. 1999), available at www.diputados.gob.mx/leyinfo.
26. See note 5.
27. See note 5.
28. See note 6.
29. Since this study did not involve interactions with any human subjects, and no identifying information was recorded in any of the cases that were reviewed, this study was considered exempt from Physicians for Human Rights (PHR) human subjects review process. Studies that are not exempt are reviewed and approved by an independent PHR ethics review board (ERB) composed of individuals with expertise in clinical medicine, public health, bioethics, and international health and human rights research. In reviewing the research, the ERB follows relevant provisions of Title 45 of the US Code of Federal Regulations and complies with the Declaration of Helsinki, as revised in 2000.
30. Numbers do not total 100% because in some cases agents from various law-enforcement offices participated in the alleged events.
31. See note 12.
32. See note 2.
33. See note 12.
34. See note 12.
35. See note 2.
36. See notes 1 and 10.
37. See note 1.
38. See notes 12, 13, and 14.
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