

THE CURRENT SITUATION OF INVESTIGATIVE INTERVIEWING OF CHILDREN IN THE UK AND TÜRKİYE

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Abstract

Child maltreatment is a social problem that is emphasized and researched around the World. The phenomenon of sexual abuse is different from other types of abuse, since there is no eyewitness other than the victim and perpetrator. Children exposed to sexual abuse are sometimes pressured by family members to keep secret or deny what happened because the abuser is a family member which makes it difficult to reveal sexual abuse. Forensic interview is one of the most important tools in order to obtain information about what happened from the child who is the victim of abuse. The fact that the forensic interviewer is an expert in the field increases the probability of getting a full and correct answer from the child victim of abuse. The history of forensic interview with a child in the UK is older than in Türkiye, the process that started in the late 1970s accelerated in the 1990s. The process of forensic interviewing with children in Türkiye gained momentum especially with the publication of the Child Monitoring Cneter circular in 2012. It is pleasing that the number of Child Monitoring Centers affiliated to the Ministry of Health and Forensic Interview Rooms affiliated to the Ministry of Justice has increased rapidly since 2012. In developed countries, forensic interviews are conducted within the framework of the interview protocol. There is no forensic interview protocol yet in Türkiye. It is believed that it would be appropriate to prepare a forensic interview protocol as soon as possible with the studies carried out on this subject.

Key words: *Abuse, child, interview, justice, protection*

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İNGİLTERE VE TÜRKİYE'DE ÇOCUKLARLA ADLİ GÖRÜŞMEYE İLİŞKİN MEVCUT DURUM DEĞERLENDİRMESİ

Öz

Çocuğa yönelik fena muamele günümüzde dünya genelinde üzerinde durulan ve araştırmalara konu olan bir sosyal sorundur. Cinsel istismar olgusu genelde istismar mağduru ile istismarcının dışında başka bir görgü tanığı olmaması sebebiyle diğer istismar türlerinden farklıdır. Cinsel istismara maruz kalan çocuklar bazen istismarcının aile üyesi olması sebebiyle yaşananları gizli tutması ya da inkar etmesi için aile üyeleri tarafından baskıya maruz kalmakta bu durum cinsel istismarın ortaya çıkarılmasını güçleştirmektedir. Adli görüşme istismar mağduru çocuktan yaşananlar hakkında bilgi almak adına en önemli araçlardan birisidir. Adli görüşmecinin alanında uzman olması mağdur çocuktan istismarla ilgili tam ve doğru yanıt alınması olasılığını arttırmaktadır. Birleşik Krallıkta çocukla adli görüşmenin tarihçesi Türkiye'ye nazaran daha eskidir, 1970'li yılların sonunda başlayan süreç 1990'lı yıllarda hızlanmıştır. Türkiye'de çocukla adli görüşme süreci özellikle 2012 yılında Çocuk İzlem Merkezi genelgesinin yayınlanmasıyla hız kazanmıştır. 2012 yılından beri sağlık bakanlığına bağlı Çocuk İzlem Merkezleri ile Adalet Bakanlığına bağlı Adli Görüşme Odalarının sayısının hızla artması memnuniyet vericidir. Gelişmiş ülkelerde adli görüşmeler görüşme protokolü çerçevesinde yapılmaktadır. Türkiye'de henüz çocukla adli görüşme protokolü bulunmamaktadır. Bu konuda yürütülen çalışmalarla en kısa zamanda adli görüşme protokolü hazırlanmasının isabetli olacağına inanılmaktadır.

Anahtar kelimeler: *İstismar, çocuk, görüşme, adalet, koruma*

INTRODUCTION

Investigative interviewing of child abuse complainants is a complex process centered on the elicitation of accurate, detailed, and coherent accounts of offenses (Benson & Powell, 2015: 309). Malloy, La Rooy, Lamb and Katz (2011:2) suggest that each year, increasing numbers of children come into contact with legal systems, social services, and child welfare systems around the world. There is reason to believe that large numbers of children are victims of abuse. For example, a report by the NSPCC & Tower Hamlets ACPC (1996) suggests that a total of 1 million children in the UK, are abused each year (Aldridge and Wood, 1998:9). In Türkiye, according to statistics of the Ministry of Justice 650 children are sent to courthouses due to child sexual abuse cases each month (Child Sexual Abuse Report, 2016). Children can take part in the judicial system as defendants, witnesses or victims. In this system, acquiring reliable and valid information from children can help punish the criminals and avoid unfair punishment of innocent people (Çağlar ve Türk, 2019:393). In most cases of child sexual abuse (CSA), victims tend not to disclose the abuse, they can be motivated to keep the abuse secret. Here, the general aim is to protect the perpetrator who is the family member (Orbach and Shiloach, 2007). Because child sexual abuse is a concealed crime, witnesses are unlikely (Faller and Corwin, 1995:76). The nature of the social stigma and the legal ramifications for engaging in this behaviour may induce a perpetrator to maintain secrecy and to avoid confessions (Fanetti and Boles, 2004:247). Therefore, children must tell someone about it or someone who suspects abuse must question the child about it (Bussey, 2009:212). The information provided by the child witnesses may be used to narrow the search for the suspect and eventually to select foils for the line up identification task (Luus and Wells 1991 as cited in Pozzulo, 2007:283). In a number of countries legislation has been brought in to allow criminal courts to receive children's evidence. For instance, in England and Wales in 1988, legislation was introduced permitting children to testify in criminal trials via "live video link" in another room in the court building (Milne and Bull 1999:130).

Child sexual abuse has serious social, psychological, and physical health consequences (Widom and Massey 2015), oftentimes with a life-long devastating impact (Borg et al. 2014; Daray et al., 2016 as cited in Sumampouw,

Otgaar, La Rooy and Ruiter, 2020:170). It is difficult to determine why some children are more susceptible to abuse than others. Several factors put children at risk particularly for sexual victimization. Social isolation is a primary reason. “Children who are left alone, are unsupervised, and who do not have the physical presence of numerous friends and neighbours are more likely to be abused” (Sgroi, 1982; Finkelhor, 1984 as cited in Tower, 1999:127).

This article initially focus on investigative interviewing of children and then discuss the important components that may impact the children’s testimony. Interview aids, cognitive interview, multiple interviews with children and the role of interviewer will be outlined. In addition to that, investigative interviewing of children in the UK and Türkiye will be discussed.

Investigative interviewing is a method of communicating with anyone within the investigation process in order to obtain the maximum quality of information (Milne & Powell, 2010:208). There are two key aims underpinning any investigation and these are to find out what happened, and if anything did happen, and to discover who did it (Milne and Bull 2006 as cited in Milne & Powell, 2010:208).

Investigative interview has been carried out under some principles in the UK. There are seven principles that were determined by the Home Office (Milne et al, 2007:67).

i) The role of investigative interviewing is to obtain accurate and reliable information from suspects, witnesses or victims in order to discover the truth about matters under police investigation

ii) Investigative interviewing should be approached with an open mind.

iii) When questioning anyone, a police officer must act fairly in the circumstances of each individual case,

iv) The police interviewer is not bound to accept the first answer given,

v) Even when the right of silence is exercised by a suspect, the police still have a right to put questions,

vi) When conducting an interview, police officers are free to ask questions in order to establish the truth,

vii) Vulnerable people, whether victims, witnesses, or suspects must be treated with particular consideration at all times (Milne et al, 2007:67).

Interview Aids

Interviewers may use supplementary techniques (e.g., introducing props, toys, photographs, dolls, context reinstatement or drawing exercises, truth induction strategies) to assist children in providing more detailed accounts of their experiences. These communication aids may serve a variety of purposes (e.g., facilitate rapport between the interviewer and child, reduce the social and emotional demands of the interview, provide retrieval cues to assist in recalling further information, overcome linguistic deficits, or provide a non-verbal response option (Brown, 2011:217). The use of focused questions and props in forensic settings may be partly due to the finding that children, particularly young children, sometimes do not provide critical information in free recall (Gitlin & Pezdek, 2009:59). In interviewing children with cognitive or communication difficulties, props such as anatomical dolls or drawings can be extremely valuable adjuncts, so long as the child is capable of abstract representation (Bourg, Broderick, Flagor, Kelly, Erwin & Butler, 1999:199). Godman (1997) found that 3 and 4 year olds reported more information about genital touching during free recall using the dolls than without the dolls, with more errors included in the doll reports (Lamb et al, 2008:44). Sattar (2000:34) asserts that, in terms of actual use, Aldridge and Wood (1997) found that 78 per cent of Welsh police officers surveyed considered props to be a useful aid to the investigative interviewing of child witnesses. Human body diagrams may have an advantage over dolls because they invite less exploration that may be misinterpreted as attempts to communicate experienced events (Brown, Pipe, Lewis, Lamb & Orbach, 2012:174).

Asking children to draw while talking during the interview could conceivably facilitate children's reporting in several different ways. Drawing may help children generate retrieval cues for further recall (Lamb et al., 2008:45). Drawing has not only been shown to enhance a child's event recall but also does so in the context of interactive questioning with an interviewer (Barlow, Jolley, & Hallam, 2011). Research further supports the facilitative effect of drawing on reports of children of all ages (Patterson & Hayne, 2011 as cited in Anderson, 2013:5). Photographs may reduce some of the challenges associated with other props. Unlike toys and dolls, photographs are defined by being

representations of other things and thus may facilitate recall of information by reminding children of details they may not otherwise spontaneously report (Brown, 2011:230). Liebenberg (2018) similarly explains that photos are used as prompts in interviews (Bergelson, Dayan, Wahle, & Strier, 2019:2).

Cognitive Interview

The Cognitive Interview is a systematic way of eliciting the maximum amount of relevant information from an eyewitness/interviewee (Towl et al, 2008:31). The CI is a multidisciplinary forensic technique concerned exclusively with the retrieval of information from memory. The CI was initially developed in the United States of America by psychologists Ed Geiselman and Ron Fisher in 1984 as a response to the many requests they received from police officers and legal professionals for a method of improving witness interviews (Clifford and Memon, 1999:146, Saywitz and Camparo, 2009:109; Kohnken, Milne, Memon and Bull, 1999:24). The Cognitive Interview attempts to enhance the witness's cognitive processing. A significant body of laboratory research has shown that the CI and enhanced cognitive interview (ECI) which were developed to improve police interviews with witnesses, are superior to the standard police interview in obtaining reliable information from victims and witnesses (Griffiths & Milne, 2010:71).

Cognitive Interview Technique focuses on two major components of eye witness; memory and communication (Fisher and Geiselman, 1992:13). Cognitive Interview uses psychological theories on memory to gather a high quality, comprehensive account from the cooperative interviewee (Shawyer et al., 2009:27). Fisher, Milne and Bull (2011:16) assert that, witnesses and interviewers have difficult cognitive tasks: Witnesses must remember complex events and describe them in detail to an interviewer who is trying to listen to and notate the witness's description while formulating his or her next question and developing a theory of the crime.

Multiple Interviews with Children

In many countries, children are typically interviewed several times by different professionals and family members before a case comes to court (Holliday, Brainerd and Reyna, 2008:87). Traditionally, repeated interviewers of children

have been considered to be distressing because they generate painful memories, and also increase the likelihood of inaccurate information being suggestively obtained (Lamb, Hershkowitz, Orbach, and Esplin, 2008; La Rooy, Katz, Malloy, and Lamb, 2010 as cited in Myklebust and Oxburgh, 2011:173). Moreover suggestive interviews may have deleterious effects on reporting not only because of their quantity but also because with each additional suggestive interview the delay between the original event and the child's report of it increases (Ceci and Bruck, 1995:110).

Some authorities estimate that the average child witness may be questioned 12 times during the course of an investigation (Whitcombe, 1992), this figure may actually be an underestimate if one considers the number of times that parents, friends, or mental health professionals may also question these children (Ceci, Bruck and Battin, 2000:178). According to a research that was carried out by the Ministry of Justice in Turkey, children approximately have to tell what happen 17 times to authorities in forensic process (Bağ ve Alşen, 2016). Interviewing children more than once by several people may cause psychological problems (Polat, 2015). Laboratory research suggests that repeated requests for information within an interview may signal to a child that their earlier answer was incorrect (Holliday, Humprises, Brainerd & Reyna, 2012:121). Research carried out in experimental settings shows that children frequently change their answers when questions are repeated suggestively (Ceci and Bruck, 1995; Lyon, 2002 as cited in Andrews and Lamb, 2014:171). According to Ceci and Bruck (1995), repeated interviewing may *contaminate children's reports* (Santtila, Korkman and Sandnabba, 2004:22). Poole and White concluded that repeating open-ended questions within an interview is rather harmless, but that repeating closed or specific questions is risky because it tends to elicit inconsistency and speculation. There is no consensus on whether investigative interviewers should be restricted to only a single interview or allowed to gather evidence in a small number of non-suggestive interviews (Poole and Lamb, 1998:56).

The Role of Interviewer

Obtaining valuable information from children requires careful investigative procedures, as well as realistic awareness of their capacities and tendencies

(Lamb et al, 2008:2). Children may be reluctant to talk with an unfamiliar interviewer about sensitive or embarrassing issues such as socially proscribed forms of intimate touching (Ceci, Leichtman, & Nightingale, 1993) or to acknowledge “coercive, repeated abuse that can instill high levels of fear, shame, and mistrust” (Saywitz, Goodman, Nicholas, & Moan, 1991:691 as cited in Orbach, Shiloach & Lamb, 2007:116). Establishing rapport with children is an essential step in investigative interviews and should precede and discussion of suspected child abuse (Hershkowitz, 2011:109). Moreover, interviewers need to take into account children’s developing abilities to remember their experiences (Rooy, Malloy & Lamb, 2011:49). Interviewing is acknowledged as a complex skill. It is process of conversational exchange (Shepherd, 1991) in which both the witness and the interviewer play an integral role (Dando & Milne, 2009:149). Effective interviewing demands that interviewers reduce the social distance between themselves and the child in order to minimize suggestive responding (Towl et al, 2008:29). People remember in different ways and not in a strict chronological sequence. Interviewers, therefore should allow the interviewee to recall the event in their own order without the distraction of interruptions or any questions (Milne et al, 2007:70).

Child witness researchers have identified a number of interview factors that may affect children’s eyewitness accuracy and resistance to misinformation. For example; the types of information about which children are interviewed, the types of question asked, frequency of the questions that are asked and the interview context play important role during the interview (Eisen, Gail, Goodman, Davis & Qin, 1999:33). Moreover, interviewers should structure conversations around open-ended questions and remain neutral (Poole & Lamb, 1998:72). In order to make questions comprehensible to the child, the interviewer must listen to the child (Bourg et al, 1999:137). When the interviewer gets all available information from a child, the interviewer should give the child the opportunity to ask questions and should make an effort to end the interview on a positive note (Bourg et al, 1999:137). Interviewers must learn to reflect critically on the skills and techniques required to conduct effective interviews through a variety of methods which include seminar presentation, practice interviews with experienced police officers and actors, as well as detailed individual and group feedback sessions (Stewart, Katz and La Rooy, 2011:199).

Investigative Interviewing of Children In The UK

The principle of children's participation in various legal proceedings is enshrined in the United Nations Convention on the Rights of the Child, but the translation of that principle into practice has been far from smooth. This has led to a shift in psychological research attention beyond the narrow focus of the first disclosure by the child (Westcott, Davies & Bull, 2001). In England and Wales in the late 1980s the government set up a committee (chaired by Judge Thomas Pigot QC) to make recommendations regarding children giving evidence (Bull, 2010:7). This committee recommended a new scheme, making use of video technology, under which the evidence of children would be taken in two stages (Spencer, 2011:292). Since the introduction of the Police and Criminal Evidence Act 1984, and as a result of miscarriages of justice that have come to light since, police forces in England and Wales have developed a new ethos. Interrogation is now defined as a search for the truth with the emphasis on the open mindedness of police officers whilst conducting interrogations (Bussey, 2009:212).

The Police and Criminal Evidence Act (PACE) and its Codes of Conduct were introduced in 1984 (revised April 1995) to regulate practice in respect of the detention, treatment and questioning of persons by police officers (Code C), including compulsory audio taping of all police interviews to eliminate allegations of fabrication of evidence. They prohibit the use of oppression to obtain a statement or confession, defining it as torture, inhuman or degrading treatment, and the use of threat or violence (Canter & Alison, 1999:68). The 1991 Act gives the judge discretion to exclude part (or all) of the video recording of an interview which she or he considers to have been conducted inappropriately. It is also removed the requirement in England and Wales that children needed to be at least 6 years old to be deemed competent to testify in criminal trials (Milne & Bull, 1999:130).

In 1992, the Association of Chief Police Officers for England and Wales published the first national training programme for interviewing. This was designed to train police officers to interview both witnesses and suspects (Central Planning and Training Unit, 1992). It was known as the PEACE interview model. A decade later an updated five-tier interview strategy is in the process

of being implemented as the latest step in the evolution of police interviewing within the UK (Griffiths & Milne, 2006:167). In 2002, a new official interview guidance was formed. Achieving Best Evidence (ABE), is the official guidance in England and Wales for all parties (e.g. legal personnel; police officers; social workers) and covering all vulnerable witnesses, from the initial interview through to court appearance (Holliday et al, 2012:127). This official guidance also aimed to assist interviewers to be skilled. This extensive document has a large section on the interviewing of vulnerable adults written by Prof. Ray Bull (Bull, 2010:8). The 2002 government update of the “Memorandum of Good Practice” retains the phased approach and it was largely written by psychologists (Bull & Milne, 2004:187). Selected officers now attend “specialist” Achieving Best Evidence (ABE) training to prepare them to interview vulnerable and intimidated witness (Shepherd & Milne, 2006:133).

Investigative Interviewing Of Children In Türkiye

Taking the testimony of children to secure the justice, is different from taking the testimony of adults. Provision of the suitable conditions and the use of appropriate interview techniques are important for judicial interviews with children (Çağlar & Türk, 2019:393). The efforts to establish an appropriate place to interview children in Türkiye back to 1980s, in 1981 High Education Committee Law (article/7) has allowed to universities to form Child Protection Center in university hospitals (Humanistik Büro, 2014). Due to some bureaucratic reasons Türkiye had to wait up to 1998 to see the first Child Protection Center established in İzmir province in Dr. Behçet Uz Child Hospital. Child Protection Center are still in service and their mission is to check if there is any child exploitation case such as physical, sexual exploitation or neglect (Hümanistik Büro, 2014). Child Protection Centers consist of by some members, such as Child Psychiatrist, Forensic Medicine Psychiatrist, Child Surgery, Child Health Specialist and Social Worker or Psychologist (Dağlı & İnanıcı, 2011).

The second model that was developed to interview sexually abused children in Türkiye developed in 2012 under the name of Child Monitoring Centers (ÇİM). Staff were trained as interviewers by Ministry of Health and some academics (Prof. Dr. Betül Ulukol, Prof. Dr. Resmîye Oral) from Ankara

University and Iowa University in 2010 (Bayün & Dinçer, 2013:92). Interview rooms were placed in big state hospitals especially in order to interview sexually abused children. These centers facilitate the referral of children to necessary health clinics such as child psychiatry clinic, forensic examination unit etc in the same hospital. Child Monitoring Centers consist of by responsible medical doctors, nurse, child interviewer, family interviewer and a Professional staff from the Ministry of Family and Social Policies. These centers serve 7/24 and interviewers work by turn. All the interviewers are followed by the lawyer of child and a public prosecutor in a separate room. The questions are asked to children via interviewer (Bağ & Alşen, 2016). The entire interview process is recorded by a camera and submitted to the judge who will make the final decision. This interviewing system protects children from being traumatized by repetitive interviewing and facing suspects in a law court (Bayün & Dinçer, 2013). It is a significant reform for Türkiye to allocate these centers for children away from police stations and noisy corridors of law courts. In the past children were interviewed in police stations which were trumatizing due to the unsuitable interview environments and the possibility of encountering suspects of crime (Report of Bar of Trabzon, 2015).

The third model that was developed in Türkiye is Child Friendly Interview Room. The main target of Child Friendly Room is defined as enabling child protection through principles of interviewing children in friendly environment by experienced and trained staff. More than 500 judges, public prosecutors and professional staff (social worker/psychologist etc.) were trained by the mutual efforts of Ministry of Justice and UNICEF (Mağdur Hakları Daire Başkanlığı, 2018). Child Friendly Interview Rooms are a part of Justice for Children Project that was developed between Unicef and Ministry of Justice. It consists of three parts such as i) waiting room, ii) interviewing room and iii) monitoring room. Interviews are carried out not only with sexually abused children but also with eye witnesses, children driven into crime, victim of domestic violence and the other vulnerable groups. These rooms are formed in courthouses. It aims to allow children to give their testimony without seeing the perpetrators and protect them from other threats that may face in law courts. There are 109 child friendly interview rooms in 81 different provinces according to statistics of the Ministry of Justice (Mağdur Hakları Daire Başkanlığı, 2023). According

to standards, the interview is carried out by a judge in the presence of social worker/psychologist whom has basic information about the child. Other persons (prosecutor, advocate, accused, private complainant) are present in a separate room and can join the interview via a communication system, two-side mirror and/or live broadcast of the interview (Ümit, Çavdar and Yağcıoğlu, 2014:27). There are two cameras in the interview room, the first one shows all parts of the room, the second one focuses only on face of child. There is also a microfon which allows to communicate between interviewer and judge also to hear the answer of the child. All communication is being followed by National Judicial System (UYAP) and Voice and Scene Information System (SEGBIS). Interviewers use interview aids such as anatomic toys, paper and pensils to facilitate the interview with child (Türk, 2017:24).

Summary and Conclusion

Children are exposed to maltreatment around the World and the news about is often reflected in the visual and writtten media. The cases of sexual abuse that children are exposed to differ from others for a number of reasons. In cases of sexual abuse, the absence of another person other than the child and the perpetrator of the abuse causes the child victim of abuse to be the only source of information. For this reason, the forensic interview with the child victim of abuse is extremely important in terms of obtaining accurate and sufficient information about the incident and catching the perpetrators of the crime. Studies on forensic interviewing with children in the United Kingdom started much earlier than in Türkiye. Some news in the United Kingdom in 1970s started the government's intervention process on the issue.

Although the idea of opening a unit related to this issue was suggested in Türkiye in the early 1980s, the first forensic interview unit for children in the modern sense was opened in 1998 at Behçet Uz Children's Hospital in 1998. The system of forensic interview with the child, which was systematized in the United Kingdom in 1990s, gained momentum in Türkiye as of 2012 and put into service of child victims with models developed in a short time. The Achieving Best Evidence Protocol developed for the victims in the United Kingdom on forensic interviewing with the child, and the protocol prepared for suspects that is called PEACE, allowed forensic interviews to be implemented within

a certain standard. There is not yet an official forensic interview protocol in Türkiye, however it is known that the Ministry of Justice has some studies on the subject.

In the UK; forensic interviews with children are carried out by the police together with a social worker, called an appropriate adult. In Türkiye, there is no clear professional who conducts forensic interviews with children. It is thought that it would be appropriate to make a more specific definition on this subject. It is believed that eliminating the deficiencies regarding the forensic interview process with the child in Türkiye as quickly as possible would be highly accurate in terms of protecting the best interests of the children and supporting them in the judicial system.

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