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ETHICS CASE

Force-Feeding Prisoners Is Wrong

Commentary by J. Wesley Boyd, MD, PhD

Dr. Johnson had worked within the California Department of Corrections and Rehabilitation (CDCR) since completing his residency. A passionate advocate for inmates' health, he saw the CDCR as a place for him to care for a vulnerable population. No day was ever the same.

Dr. Johnson knew that several prisoners at one of the state institutions had been on hunger strikes for three weeks, and he was being kept informed of the situation. One morning he received the report that they were extremely fatigued and lethargic, dizzy, bradycardic, and experiencing chills. As their conditions deteriorated, Dr. Johnson was told by his superiors that they needed to be given artificial nutrition.

The protestors were bringing attention to the experience of solitary confinement, a practice used in CDCR maximum-security prisons. Dr. Johnson had treated prisoners after they had been in solitary confinement and had seen the devastating psychological and physical sequelae of being locked in an isolation cell for 22 to 24 hours a day. In speaking with the prisoners, Dr. Johnson learned that they intended to refuse any form of nutrition until their demands—including an end to long-term solitary confinement, the provision of regular and meaningful social contact, adequate health care, access to sunlight, and adequate food—were met [1].

The prison administrator to whom Dr. Johnson reported asked that he oversee providing nutrition artificially to the inmates so they would not die. The prison warden said, "It's not like this is Guantanamo or anything, we won't be using NG tubes; we'll just give them TPN through an IV. They're wavering in and out of consciousness as it is. They won't even notice."

Commentary

In being asked to help provide nutrition for hunger-striking prisoners through an IV, prison physician Dr. Johnson is presented with a dilemma that can be viewed from several perspectives. Assuming he wants to keep his job, he presumably feels pressure to acquiesce to the warden's request. Additionally, although Dr. Johnson might respect the prisoners and their motivations for refusing nourishment, it could be very painful for him to stand by and watch the prisoners' physical suffering, knowing that relief was as close as an IV line. At the same time, and despite how difficult it might be for him to

witness, if he respects these prisoners, he probably supports their cause and thinks they have a right to refuse nutrition to press their case for reform within the prison.

Prior to addressing the other issues in this case, I want to comment on solitary confinement, which can consist of being locked in a cell, alone, for 22 to 24 hours a day. The Center for Constitutional Rights (CCR) writes that the “devastating psychological and physical effects of prolonged solitary confinement” place prisoners at even greater risk of “more devastating future psychological harm” [1]. After highlighting multiple negative psychological aspects of solitary confinement, CCR concludes that “solitary confinement is torture,” pointing out that it has been condemned as such by the international community, and constitutes cruel and unusual punishment in violation of the US Constitution [1]. Given the consensus opinion on the cruelty of solitary confinement, anyone looking from without would conclude that these prisoners’ demands are reasonable and that their fasting, while extreme, is rational and may be the only peaceful means available to them for calling attention to the cruel and punishing practice of solitary confinement.

Political Objections to Prisoners’ Fasting as a Form of Protest

Unless the prison warden accedes to the protestors’ demands or they call off their hunger strike at some point, the ultimate result of these hunger strikes will be death. And death is, *prima facie*, something to be avoided. Perhaps it is even more to be avoided from the perspective of a prison warden who fears that, if the hunger strikers do in fact die, their deaths could be cause for significant political repercussions and also stain the prison’s reputation.

The Israeli government recently authorized force-feeding of hunger-striking Palestinian prisoners who were deemed in danger of dying for just these kinds of reasons [2]. The legislators wanted “to prevent security detainees from trying to ‘blackmail the government’ or foment unrest among Palestinians in the event that a detainee dies in prison after a hunger strike” [2]. The Israeli Public Security minister is quoted as saying that “security prisoners are interested in turning a hunger strike into a new type of suicide terrorist attack through which they will threaten the State of Israel. We will not allow anyone to threaten us and we will not allow prisoners to die in our prisons” [2].

By recasting the hunger strike as a “suicide terrorist attack,” Israel is attempting to portray force-feeding of detainees as political self-protection. The Israeli Medical Association wasn’t buying this rationale; it promised that, if the policy were enacted, it would encourage doctors to refuse to participate [2].

Examination of the Ethical Dilemmas

Ethical dilemmas arise because basic ethical principles are competing with one another, and, with a hunger strike, the competing principles are in stark relief. On the one hand,

respecting prisoner human rights suggests that, all other things being equal, prisoners ought to be allowed to choose how to act, within the limits of those rights. Other basic bioethical principles are also at play, including beneficence, nonmaleficence, and justice. With respect to hunger-striking prisoners, beneficence could easily be interpreted to suggest that maintaining prisoner health and well-being should be prioritized and that the doctor is actually being asked to promote beneficence.

Although the warden might, in fact, be asking Dr. Johnson to adhere to principles of nonmaleficence and beneficence, he might also be acting out of professional self-interest. He might simply hope to protect himself and his prison from the negative publicity that can result from hunger-striking prisoner deaths or, should he acquiesce to their demands, from having the prison's solitary confinement policies and procedures exposed to the public.

In this instance, how to best promote the principle of justice could be argued in various ways. Working for greater justice could mean that any way of diminishing the use of solitary confinement should be promoted, but it also might—more superficially—mean that we ought to prioritize the health and welfare of individual prisoners and not permit them to starve themselves.

So, despite the doctor's dilemma, if the prisoners are making rational, informed, and uncoerced choices to continue their hunger strike, then every international code of ethics, including that of the World Medical Association (WMA), [supports](#) the prisoners' actions. The WMA Declaration of Tokyo states: "Where a prisoner refuses nourishment and is considered by the physician as capable of forming an unimpaired and rational judgment concerning the consequences of such a voluntary refusal of nourishment, he or she shall not be fed artificially" [3]. To ensure that the physician is making the correct determination, the WMA goes on to add, "the decision as to the capacity of the prisoner to form such a judgment should be confirmed by at least one other independent physician. The consequences of the refusal of nourishment shall be explained by the physician to the prisoner" [3].

Given that the WMA rejects any artificial nourishment under these circumstances, it does not matter that in this scenario the warden tells Dr. Johnson that nasogastric tubes would not be used and that the artificial nourishment "would only" be given through an IV. Even though the cruelty associated with forced NG tube placement would be avoided, the prisoners' rights would nonetheless be trampled, and international ethical norms and mores ignored.

The short way of putting this is that, if the capacity of the striking prisoners to make rational choices has been medically confirmed, they should be allowed to refuse nourishment, even if that refusal means that they might die, and even though some

governments—including the US at Guantanamo and presumably at other “black sites” around the globe—have force-fed prisoners.

Human beings have an overwhelmingly strong urge to continue living, even in the most deplorable and hideous conditions. As an example, almost everyone held captive in Nazi concentration camps chose not to end his or her own life, even though the circumstances were incomprehensibly horrible. Because of this primal urge to live, those who are deemed to have decision-making competency and are willing to sacrifice their lives—and only their own—for a cause must believe that their reasons are compelling, and therefore respecting their autonomous choice is paramount.

All things considered, the warden’s best course of action would be not to force-feed the prisoners but instead to accede to their demands, engaging in dialogue with them about solitary confinement policies and procedures, and enacting change. Although it likely would be uncomfortable for prison administrators to appear being “pushed around” or “manipulated” by prisoners, there are times when acceding to demands such as these is the proper course of action. Given the emerging consensus about the cruelty of solitary confinement and the long-standing consensus that force-feeding hunger-striking prisoners violates their basic human rights, this is one of those times.

References

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