

Op-Ed

Torture and Human Rights

Participation in acts of torture, despite the approval of a government agency, places physicians in a morally compromised position.

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In March 2004, the United States captured Khalid Sheikh Mohammed, said to be the al Qaeda operations chief, second-in-command to Osama bin Laden, and the alleged mastermind of the September 2001 terrorist attacks against the United States. The United States holds Sheikh Mohammed in an undisclosed location for interrogation [1]. The United States also holds other detainees (including lesser known al Qaeda leaders and members of the Taliban) while their intelligence value and legal fate is assessed. A key question is whether these detainees have knowledge that could save lives at imminent risk. The interrogation techniques used to obtain information from these parties remain murky and are perhaps willfully ignored by a public uncomfortable with all the details but willing to cut corners when American lives are at stake. A team of administration lawyers advised Defense Secretary Donald Rumsfeld that, in his capacity as commander-in-chief, President Bush could use torture in interrogations [2], even though the Bush administration did also counsel humane treatment of prisoners [3]. In any case, in May 2004, photographic images of US interrogations of Iraqi prisoners at the Abu Ghraib prison forced closer attention to US interrogation techniques. These iconic images show naked and hooded prisoners cowering in palpable fear. The administration called these interrogation techniques "abuses," but the world press did not hesitate to call them torture or possible war crimes. Whether the photographic evidence captures only the aberrant acts of a few or reflects directives issued from on high remains to be seen as investigations and military trials sort through these issues.

It also remains unknown what exact role physicians played at Abu Ghraib, though it is clear that some knew of intentionally inflicted harm [4]. Involvement in torture—before, during, and even afterward—puts physicians in morally compromised positions, no matter whether civil, military, or judicial systems have approved it. If physicians are not present or near at hand during torture, then victims of torture can be put at risk in many ways, including the risk of death. If physicians are present during torture, however, in order to protect against injurious outcomes, they run afoul of ethical advisories from their professional organizations. A physician who resuscitated and treated men and women after torture would face questions about moral complicity if victims were exposed to more torture later.

The exact scope of physician involvement in torture across history is not well studied. Some physicians have been involved with torture in the sense that they have treated its victims, sometimes going to heroic lengths to do so. Physicians who treat torture victims have sometimes suffered retaliation themselves [5]. Other physicians have been maliciously involved [6]. Some physicians have witnessed or committed injurious acts intended to achieve some ulterior goal, to silence political critics, to secure testimony against political enemies, to gain information, to elicit compliance and collaboration, to protect themselves from reprisal, and so on. Some have offered counsel about fitness of victims to undergo torture, monitored victims during torture, and carried out resuscitations after torture in order to make the victims available for further interrogation and abuse. Others have also falsified documents, directly committed acts of violence, or trained others to do so.

Prominent examples of physician involvement in torture are to be found during times of war and political upheaval in, for example, Nazi Germany [7], Japanese-occupied Manchuria [8], the Soviet Union [9], Chile [10], Israel [11], Turkey [12], and Iraq. The participation of medical professionals in torture raises ethical concerns as to whether or not the state or culture in question accepts torture and wants physicians to play a role in it.

International political organizations that have condemned torture have usually done so in categorical ways [13]. Most codes dealing with the matter do not specifically object to torture by physicians because torture itself is usually condemned outright for all [14]. But there are specific prohibitions against physician involvement in torture. In 1975, the World Medical Association adopted the Declaration of Tokyo, which forbids physician participation in torture:

The doctor shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offence of which the victim of such procedure is suspected, accused or guilty, and whatever the victim's belief or motives, and in all situations, including armed conflict and civil strife. The doctor shall not provide any premises, instruments, substances or knowledge to facilitate the practice of torture or other forms of cruel, inhuman or degrading treatment or to diminish the ability of the victim to resist such treatment. The doctor shall not be present during any procedure during which torture or other forms of cruel, inhuman or degrading treatment are used or threatened [15].

In 1997, the World Medical Association again specifically denounced torture by physicians, saying: "Physicians are bound by medical ethics to work for the good of their patients. Involvement by a physician in torture, war crimes or crimes against humanity is contrary to medical ethics, human rights, and international law. A physician who perpetrates such crimes is unfit to practice medicine" [16].

In 1999, the American Medical Association adopted a formal position on physician involvement in torture. After defining torture, it went on to say that "Physicians must oppose and must not participate in torture for any reason. Participation in torture includes, but is not limited to, providing or withholding any service, substances, or knowledge to facilitate the practice of torture. Physicians must not be present when torture is used or threatened" [17]. This advisory was not intended to deprive all victims of torture of medical care—quite the contrary. The *AMA Code of Medical Ethics* goes on to say that "Physicians may treat prisoners or detainees if doing so is in their best interest, but physicians should not treat individuals to verify their health so that torture can begin or continue" [17].

Medical Ethics Counsels Resistance, not Acceptance

While many professional medical associations condemn torture outright, they do not have any specific means by which to monitor or enforce their advisories except to expel a member from the group. By itself that expulsion may mean relatively little to a physician since membership is usually voluntary. The World Medical Association recommends that national medical associations work to ensure that physicians entering their countries answer any allegations of torture before they are licensed to practice medicine. It also recommends that these associations report any evidence of involvement in torture to the appropriate authorities. However, it is unclear whether many physicians have answered charges of torture. Physicians might be brought before an international court for involvement in torture, but it is not clear that this has ever happened in the post-World War II era. One US legal expert, attorney George Annas, has recommended the creation of an international tribunal for bioethics—with enforcement powers—to hear cases of physician misconduct, including torture, but this proposal has no political movement behind it [18]. Even without strong legal mechanisms to deal with physician involvement in torture, the AMA counsels physicians to, "whenever possible, strive to change situations in which torture is practiced or the potential for torture is great" [17]. In other words, it is not acceptance of torture but resistance to torture that is the hallmark of medical ethics.

Some physicians do actively work to identify and counteract torture [19,20]. Physicians of the International Red Cross can conduct examinations of certain prisoners and detainees. In this capacity, they do not usually treat, but they do make recommendations about necessary medical treatment and document any evidence of torture. The International Rehabilitation Council for Torture Victims carries out educational programs to train physicians in the medical management of torture victims [21]. In 2002, the United Nations endorsed the Istanbul Protocol, a manual for the effective investigation and documentation of torture.

The ability to identify and deter torture is only as strong as the commitment to do so, and the mistreatment of prisoners at the Iraqi prison, Abu Ghraib, has called the moral commitments of US military medicine into question. Physician and bioethicist Steven H. Miles has called for a specific investigation of the failures of medical personnel to protect human rights, including the falsification of records about prisoners' deaths [22]. Such an investigation should go

forward, and to the extent it is successful it will raise obstacles to future breaches of law and ethics. It is important that the military work with medicine to define procedural safeguards that will keep physicians from complicity in the evils of torture. But it is also to be hoped that physicians in the military, especially those called on to care for prisoners, heed the counsel of their professional organizations and avoid all complicity with torture, even when torture seems desirable—even urgent—in a particular situation. Being a party to the infliction of pain, harm, and death is simply incompatible with the ethics of medicine.

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