Strange Bedfellows

Torture and Medical Professionals

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Definitions

- Tortura: a twisting

UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

WMA: Guidelines for Medical Doctors Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment
Reasons to Torture
Reasons (Because) to Torture

1. Suppress dissent, maintain control
2. To advance a political or social agenda
3. To punish
4. To get information
“Not every being with a human face is human”

Carl Schmitt, 1933
Reasons Not to Torture
Reasons (Because) Not to Torture

1. Unreliable information/results
2. Evidence often not admissible in court
3. May backfire
4. Torture hurts the torturer and society
5. Torture violates professional ethics and religious traditions
History of “Healers & Torturers”

- Medieval church
- Renaissance
- Enlightenment
Strappado – Reverse Hanging
Inquisition
Physicians had legal roles in “interrogational torture”
Changing status of torture to illegal and immoral

- 1764 Of Crimes and Punishment – Cesare Beccaria

- Widespread moral revulsion
Humane Execution

- 1789 – Dr. Joseph Guillotine
- Dr. Antoine Louis
What non-therapeutic uses of medical knowledge are known?
Recent

- Participation in capital punishment – U.S.
- Nazi physicians
  - Research
  - Torture
International Responses to Torture

- 18th Century, enlightenment – “barbaric” – illegal – illicit
- 20th Century
  - 1947 Doctors Trial at Nuremberg
  - 1948 UN Universal Declaration of Human Rights Acts
  - 1949 Geneva Convention, Art. 3
  - 1966 International Covenant on Civil and Political Rights
  - 1975 Helsinki Accords
Professional Bodies Respond

- 1948 & 1956  WMA
- 1975  WMA Declaration of Tokyo – most forceful
- Soon statements by UN, Nursing, Psychiatry, Psychology, ACP, AMA and others
Current Issues in Iraq, Afghanistan and Cuba. Medical Personnel:

a) Aided harsh interrogations directly & indirectly
b) Failed to intervene when witnessing abusive interrogations
c) Failed to do physical exams on victims and/or failed to record findings
d) Prepared incomplete or falsified death certificates
e) Tolerated systemic neglect of prisoners’ living situations
Interrogations

- Abuses
- BSCT (Behavioral Science Consultation Teams)
- Other medical personnel involvement
Deaths

- Beatings
- Asphyxiations
- Suspensions
Neglect of Standards for Prisoners

Health:

- insufficient doctors, equipment, meds
- few preventive measures (Tb)
- mental illness – essentially no tx
  - 2003  350 “self-harms” – Guantanamo
  - 2008  Our veterans
  - 2012 – the rate of suicide increased 15% over 2011 – 22/day
Neglect

Food

- insufficient quantities
- bugs, dirt, foreign bodies
- hunger strikes – ethical conflict for physicians
  - Tokyo declarations
  - Forced feedings in “padded cell on wheels”
Neglect

- Sanitation, water

- Abu Ghraib – special problems
  - Transferred back to Iraqi government
    9/2/06
Did military medical personnel fail their prisoner patients?

Or was it primarily a case of dual loyalties?
(Not an unusual case for military medical personnel)
Section 892 Art. 92. “Any person who violates or fails to obey any **lawful** general order or regulation shall be punished as a court martial may direct.”

The UCMJ explicitly outlaws torture or neglect.

Is there a duty to disobey an un–lawful order?
How did we arrive at this place?

Follow the laws and What’s in a name?

- 1996  War Crimes Act 1996
- 2002  Executive Order, President Bush
- 2006  Military Commissions Act
Geneva Conventions: Part III Article 10. – General protection of medical duties

1. No punishment for carrying out medical activities compatible with medical ethics.

2. “Persons engaged in medical activities shall neither be compelled to perform acts or to carry out work contrary to, nor be compelled to refrain from acts required by, the rules of medical ethics or other rules designed for the benefit of the wounded and sick, or this Protocol.”
Water boarding – Special Case

- History
- Senator McCain
- Attorney General Mukasey
Additional Information

- 12/10: Mefloquine: “pharmacologic waterboarding”
- 3/11: Air Force Pat. Michael Kearns and Dr. John Jessen
- 9/4/11: AP reports on CIA collaboration with Libya, Gadhafi
- 11/11: President Obama’s record of response:
  - First month: Signed executive order to prohibit torture or enhanced interrogation, but:
  - Did not prosecute
  - Opposed creation of “Truth Commission”
  - Intervened to stop civil litigation against torturers
Additional information

- December 2014: US Senate Intelligence Committee’s report on torture was released – CIA “Black Sites” used MDs and JDs
- July 2015: NYT James Risen report on the American Psychological Association (APA) ethics independent review – institutional complicity
- July 10: NYT editorial inaccurately identified psychiatrists rather than psychologists – corrected
Candidate Trump – “Torture Works,” promised to re-open black sites and resume waterboarding

President Trump – drafted such a memo right after inauguration; later version had no reference to black sites or torture, but final version has not been seen.

Jeff Sessions in favor of enhanced interrogation

January 30, 2018 – President Trump signed Executive Order to leave Guantanamo Bay open
Guantanamo Bay update

- Peak number in 6/2003: 684 men
- Jan. 22, 2009: EO to close Guantanamo Bay in one year (about 240 detainees remained)
- June 2013: 166 detainees, 104 were on hunger strikes, 41 were being force fed
- January 30, 2018: 41 detainees remain, 26 “forever prisoners,” no charges, no trial, 2002
- At least 9 men died in Guantanamo; many more died in Abu Ghraib and in “black sites;” rate of suicides of veterans remains high
- Some GOP legislators want to expand Guantanamo again
Reflections

- What is the ethical dilemma?
- Whose problem is it?
- What ethical responses are possible?
- Or obligatory?: (the may and the must)
- What is the price of moral courage?
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