

Lithuanian people's wish to have their own identity, their culture, books in their own language, to celebrate national and religious holidays, etc. Sometimes the authorities, in order to isolate people, put them in psychiatric hospitals, at other times in prison. During this peaceful period of resistance, torture was more psychological than physical.

Suggested reading

- Lieven A. *The Baltic Revolution: Estonia, Latvia, Lithuania and the Path to Independence*. New Haven: Yale University Press, 1983.
- Misiunas RJ, Taagepera R. *The Baltic States: Years of Dependence, 1940-1980*. Berkeley: University of California Press, 1993.
- Strimaityte-Meliene M. *Crosses in the Arctic: A Lithuanian Woman Survives the Gulag*. Chicago: Morkunas, 1987.

*
Assistant Professor
Department of Law
Carleton University
Ottawa
Canada K1S 5B6

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The Association of Israeli-Palestinian Physicians for Human Rights (PHR)* sees the following proposal (for an addendum to the Israeli Medical Association (IMA) code of ethics) as an important means for realizing the special role which PHR ascribes to physicians in preventing breaches of human rights in jails and preventing the torture of persons in custody or under interrogation.

Prevention of torture

Safeguards for doctors. Proposal by Israeli-Palestinian PHR

Introduction

The physician's first duty is to his or her patient. When a conflict arises between the interest of safeguarding the physical and mental health of a person in custody and the interests of the custodian authorities, it is the duty of the physician to act for the good of the patient without applying other considerations of any kind.

Part 1

Preventing Medical Negligence or Defective Medical Treatment for Persons in Custody

1. A physician called upon to treat a prisoner or detainee (referred to below as: Prisoner), whether inside or outside a prison facility, will obtain the express consent of the Prisoner before administering any tests or treatment. When the Prisoner's express consent cannot be obtained (when he/she is unconscious, for example), the physician will act upon considerations identical to those which would guide him/her for a patient outside a prison facility.
2. A physician called upon to treat a Prisoner (whether inside or outside a prison facility) will provide the Prisoner with medical treatment

identical to the treatment customarily given to any free patient in similar medical condition. The physician will not restrict the treatment or order its postponement until after the Prisoner's release.

3. Where the medical staff of a prison facility are unable to provide the Prisoner with full treatment or expert consultation, the physician in charge will refer the Prisoner outside the facility and provide the outside expert with all the medical information necessary for the Prisoner's diagnosis and treatment.
4. Where a Prisoner is examined and/or treated at his/her own request or that of his/her family, by a physician who is not employed by the Security Forces or the Prison Services, the prison facility physician in charge will cooperate fully with the examining/treating physician and present him/her with all the medical documents concerning the Prisoner.
5. Where a Prisoner needs constant medical supervision, surgical procedure or professional assistance in fulfilling basic needs, the physician in charge will transfer him/her without delay to the prison clinic or to a medical center outside the prison, as required by the severity of the Prisoner's condition.
6. The physician in charge of the Prisoner's health will respond in detail and within a reasonable time to

requests for medical information referred to him by the Prisoner's immediate family or its legal representative, subject to the written consent or refusal of the patient.

7. A physician with reason to believe that a certain Prisoner is not being provided with medical treatment as aforesaid, will report the matter to the IMA at the earliest opportunity and within no more than 15 days. Furthermore, a physician coming across evidence of breaches of the above or present paragraphs on the part of a colleague, will report the matter to the IMA at the earliest opportunity and within no more than 15 days.

Part 2

Prohibiting Participation in Torture and Imposing a Duty to Report Torture

1. Torture contradicts the basic principles of medical ethics. As stipulated in the Tokyo Declaration of the World Medical Association 1975, adopted in its entirety by the IMA, physicians are forbidden to "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 procedures is suspected, accused or guilty, and whatever the victim's beliefs or mo-

tives, and in all situations, including armed conflict and civil strife."

2. A physician encountering evidence of acts of physical or mental cruelty or degradation towards a person in custody will take practical steps to prevent or end them. This duty applies to every physician encountering such evidence, for example during treatment of a Prisoner in a hospital or clinic outside the prison, or during military reserve service in a military detention center. In addition, the physician will report to IMA on the evidence which he/she has encountered, at the earliest opportunity or within 5 days at most. Physicians' reports will be submitted to a special department (hotline) of the IMA Ethics Bureau, whose function will be their receipt, consulting the reporting physicians on their consequent ethical conduct, and taking urgent action on the incoming reports (as detailed in Part 4).
3. A physician with reason to believe that the conduct of a colleague is in breach of one or more of the above paragraphs will report the matter to the IMA at the earliest opportunity or within 5 days at most.

Part 3

Retaining Medical Independence and Preventing Participation in Torture

In order to retain his/her medical independence and refrain from involvement in actions contradicting medical ethics, every physician will take care to observe the following rules:

1. The physician will demand direct and confidential contact with any Prisoner he/she treats. The physician will insist that no medical examination or treatment be performed in the presence of a third party who might restrict free contact or affect normal doctor-patient relations, except in special cases when the physician requests the presence of a third party for his/her protection or for similar purposes, and makes that request in writing. A physician forced to provide urgent medical treatment despite non-fulfilment of this demand will report the matter to the IMA at the earliest opportunity or within 5 days at most.
2. A physician (male) asked to examine or treat a female Prisoner will demand the presence of an ad-

ditional woman during the examination and/or treatment. A physician forced to administer urgent treatment despite non-fulfilment of this demand will report the matter to the IMA at the earliest opportunity or within 5 days at most.

3. Prior to examination or treatment of a Prisoner, the physician will ascertain that these will be provided in conditions allowing for the free and independent arrival at, and implementation of, his/her clinical decisions concerning the patient, guided only by considerations of the patient's best interests. A physician forced to perform an examination or treatment despite his/her uncertainty of the existence of such conditions, will report the matter to the IMA at the earliest opportunity or within 5 days at most.
4. The physician will make detailed and precise records of the findings of each medical examination and a detailed and precise report on any medical treatment he/she administers to a Prisoner, in proper and orderly form including his/her own full identification as administering physician, in clear and legible handwriting. The physician will ensure that each medical document is kept in the Prisoner's medical file. A physician prevented from accurately documenting and keeping his/her findings will report the matter to the IMA at the earliest opportunity or within 5 days at most.
5. Prior to any examination or treatment of a Prisoner, the administering physician will identify him/herself to the Prisoner, giving his/her full name and position. The physician may not in any circumstances refuse to provide the Prisoner with his/her identifying details. A physician requested by any authority not to identify him/herself to a Prisoner, or a physician forced to administer urgent medical treatment despite having been forbidden to identify him/herself, will report the matter to the IMA at the earliest opportunity or within 5 days at most.
6. The physician will demand his/her administration of examinations, treatment or medical services, with the patient-Prisoner not blindfolded or otherwise prevented from seeing him/her (unless eye covering is required for medical reasons). A physician asked to do so or forced to administer urgent treatment to a Prisoner prevented from seeing

him/her, will report the matter to the IMA at the earliest opportunity or within 5 days at most.

7. A physician shall not perform procedures of any kind which are not required for a Prisoner's medical needs, and in particular shall not fill out forms or provide information facilitating interrogation or assessing the Prisoner's physical or mental ability to withstand torture. A physician forced, for fear of his/her own well-being, to perform such procedures or provide such information, will report the matter to the IMA at the earliest opportunity or within 5 days at most.

The aforesaid shall not prevent a physician from determining a certain Prisoner unfit for interrogation.

8. A physician deferring the provision of medical services so as to refrain from complicity in a breach of the patient's rights, will report the deferral and the reasons for it to the IMA within 5 days at most from the date of his/her refusal. At the time of the deferral, the physician will explain the reason for his/her decision to the Prisoner. In no case will the physician defer urgent and vital medical treatment.
9. The physician will not be partner to a refusal to answer a need for medical treatment or nursing, or assistance in other vital needs of a Prisoner, where that need is expressed explicitly or concluded in another way.

Part 4

The Duties of the IMA in Preventing Medical Complicity in Torture

1. The IMA will found and staff a special department (hotline) of the Ethics Bureau, whose function will be to receive reports from physicians on the breach of one or more of the above paragraphs, to consult the reporting physicians on their consequent ethical conduct, and take urgent action on the incoming reports.

Where a physician's report under one of the above paragraphs raises a reasonable suspicion that a criminal offence has been committed by an official authority, the department, on behalf of the IMA, will apply to the relevant state authorities in demand for an inquiry into the complaint and receipt of an adequate

reply within a reasonable time. Where the report raises a suspicion of immediate and/or grave risk to the life or health of a Prisoner, this application will be made with maximal urgency or within three days at most of receipt of the report. The IMA will brief the reporting physician on its handling of the issue.

2. Where a physician employed at a prison facility is required to breach his/her medical independence or the principles of medical ethics, the IMA will refer directly to the warden of the facility demanding an investigation and an end to the breach.
3. Where the job of a physician employed in a prison facility is terminated or impaired in such circumstances, or where a threat to this effect arises, the IMA will provide that physician with legal assistance as necessary.
4. In exceptional cases, the IMA will consider authorizing that the identity of a physician reporting under one of the above paragraphs be kept confidential.
5. The IMA will take the disciplinary measures available to it against a physician found to have breached one of the above paragraphs.

PHR Requests of the IMA for Action to End Torture

1. The IMA will adopt an ethical code for physicians treating prisoners and detainees.
2. The IMA will see to the distribution of the ethical code and the principles upon which it rests, among its membership, the medical community in general and the general public. In particular, the IMA will see to the distribution of the code of ethics and its principles among those physicians serving in prison facilities.
3. The IMA will act to teach in medical schools all the details of the medical ethics that guide the treatment of prisoners and detainees, and will conduct periodic courses on this subject for physicians serving in prison facilities.
4. The IMA will found and staff a hotline for receiving reports of evidence of the torture or medical neglect of prisoners, as detailed in part 4 of the addendum: The Duties of the IMA in Preventing Medical Involvement in Torture.
5. The IMA will set up and operate a working group for investigating the involvement of physicians in inter-

rogations in Israel. The group will publish its findings within a stipulated time.

6. The IMA will propose and promote a regulation instructing the direct subordination of physicians working in prison facilities, to the Ministry of Health or the Ministry of Welfare, rather than the prison authorities.
7. The IMA will act to promote legislation imposing on physicians a duty to report to state authorities any evidence of torture that may come to their knowledge, analogous to their duty to report evidence of child abuse.
8. The IMA will act to establish and apply the right of every prisoner to receive a medical opinion from an external physician, independent of the prison authorities.

*
The Association of Israeli-Palestinian
Physicians For Human Rights
P.O. Box 10235
Tel-Aviv 61101
Israel

Doctor involvement in torture. A historical perspective

Doctor participation in torture and punishment from the Middle Ages
until the present day: an old phenomenon, a new ethical issue

By
*Peter Vesti, MD**
Finn E. Sommer, MD†*

Abstract

In spite of the Hippocratic Oath medical doctors have throughout the history of medicine participated in torture. However, it was not until the time of the Middle Ages that the skills of doctors had developed to a point where their application could be of direct use to torturers. During the Middle Ages the doctor was considered to be a representative of the authorities. At present the involvement of physicians is part of an illegal clandestine activity. Recent

studies indicate large-scale employment of medical doctors in the torture chambers, but information has been relatively scarce and to a large extent unnoticed. An understanding of the doctor's role in torture and punishment has given insight into the functions of medical ethics under extreme circumstances and has provided theoretical constructs.

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Introduction

"We have doctors here who can wake up the dead."

These words were not meant to pay homage to modern medicine, but were

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RCT IRCT

Borgergade 13
DK-1300 Copenhagen K
Denmark
Phone: +45 33 76 06 00
Telefax: +45 33 76 05 00