Preventing dentists' involvement in torture

The developmental history of a new international declaration

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ABSTRACT

Background. For more than half a century, the risk of physicians participating in torture has received thoughtful attention in the field of medicine, and a number of international organizations have issued declarations decrying such involvement. Despite publications that provide evidence of dentists' having participated in torture as well, until recently the dental profession was quiescent on the subject.

Methods. The authors describe the historical background for a new declaration against dentists' participation in torture developed by the International Dental Ethics and Law Society and the Fédération Dentaire Internationale (FDI) World Dental Federation. They review various levels of involvement by dentists in torture and related activities in reference to existing World Medical Association declarations. Finally, they outline the process of drafting the new dental declaration, which was adopted by the FDI in October 2007.

Clinical Implications. The authors provide insight and guidance to clinicians who diligently serve their patients, unaware that they may face military or other pressures to participate in torture.

Key Words. Codes of ethics; dentists; ethics; international law; human rights; military; profession of dentistry; torture.

JADA 2008;139(12):1667-1673.

"Dentist and torture." Lay people hearing the pairing of these terms may not be surprised nor confused, as they well might be by the pairings of "nurse and torture" or "optometrist and torture." After all, older populations of patients, having received dental treatment before the advent of modern anesthesia and sedation, might be inclined to label these needed interventions as "torture." Younger generations of patients may not have experienced such a level of discomfort themselves, but movies such as "Little Shop of Horrors" and "The Dentist" may well have sensitized them to the potential.

Farfetched as these films may be, they are inspired by an important reality: physiologically, dental pain is among the most severe that a human being can experience. By virtue of their training, dentists

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know what disease processes typically cause such pain. They also know that the dental interventions intended to heal such pathology can themselves elicit the same excruciating pain. Under normal therapeutic circumstances, the dentist will inform the patient of any expected pain and proceed only with his or her consent while making all attempts to minimize discomfort. But with modest effort and relatively simple instruments, a dentist is equally able to cause grave pain to another human being, quickly breaking whatever willpower the victim had mustered. Hence, a dentist would be extremely effective in extracting the kind of information from prisoners that intelligence officers or other military authorities would like to obtain, as dentist Dr. Christian Szell (played by Sir Laurence Olivier) in the 1976 movie "Marathon Man" illustrated vividly.

There is near-universal consensus that torture of human beings is a violation of their fundamental and inalienable human dignity. Hence, the means of torture never can be justified by the ends to be achieved, no matter how beneficial those ends might be. Several declarations adopted by the United Nations (UN) underscore this dogma, most notably the Universal Declaration of Human Rights. Adopted in December 1948, this declaration proclaims that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."[1] Of more recent origin, having been adopted in 1984, is the United Nations' Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[2] In Article 2.2, it declares categorically, "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."[2]

Torture is a serious crime for any human being or agency to commit. But it is particularly heinous when committed by health care professionals, who are called—and trusted—to act for the benefit of patients. The maxim "primum non nocere" (first do no harm) is a warning to doctors to guard always against the harmful side effects of therapeutic interventions. It is even more applicable to interventions that are not intended to be beneficial, as aptly expressed in Principle 2 of the UN's 1982 Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[3]:

> It is a gross contravention of medical ethics, as well as an offence under applicable international instruments, for health personnel, particularly physicians, to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment.

INTERNATIONAL DECLARATIONS REGARDING HEALTH PROFESSIONALS' INVOLVEMENT IN TORTURE

Unfortunately, history has made painfully clear that some physicians, dentists and other health professionals are simply immoral, that others can be co-opted to engage in degrading practices, and that still others will yield to pressure by powerful authorities. Therefore, the World Medical Association (WMA) has deemed it necessary to issue its own declarations against the involvement of physicians in torture and other inhuman or degrading practices.

As early as 1956, during its 10th assembly in Cuba, the WMA issued Regulations in Times of Armed Conflict. These have been amended several times since, most recently in May 2006 in Divonne-les-Bains, France.[4] During its 1975 meeting in Tokyo, the WMA issued Guidelines for Physicians Concerning Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment. This document likewise was updated in subsequent years, most recently in Divonne-les-Bains, France, in 2006.[5] Two declarations addressing more specific issues complement the Tokyo declaration. During its 1997 General Assembly Meeting in Hamburg, Germany, the WMA adopted the Declaration Concerning Support for Medical Doctors Refusing to Participate in, or to Condone, the Use of Torture or Other Forms of Cruel, Inhuman or Degrading Treatment.[6] And in 2003 while meeting in Helsinki, Finland, the WMA passed a Resolution on the Responsibility of Physicians in the Documentation and Denunciation of Acts of Torture or Cruel or Inhuman or Degrading Treatment, which was amended in 2007 in Copenhagen, Denmark.[7]

ABBREVIATION KEY. AMA: American Medical Association. **FDI:** Fédération Dentaire Internationale. **IDEALS:** International Dental Ethics and Law Society. **UN:** United Nations. **WMA:** World Medical Association.

The Cuba declaration emphasized that "medical ethics in times of armed conflict is identical to medical ethics in times of peace … . If, in performing their professional duty, physicians have conflicting loyalties, their primary obligation is to their patients… ."[4] The Tokyo declaration likewise states that

> it is the privilege of the physician to practise medicine in the service of humanity, to preserve and restore bodily and mental health without distinction as to persons, to comfort and to ease the suffering of his or her patients. The utmost respect for human life is to be maintained even under threat, and no use made of any medical knowledge contrary to the laws of humanity.[5]

In the Cuba declaration, the WMA deems it unethical for a physician, even under conditions of war, to

> (a) Give advice or perform prophylactic, diagnostic or therapeutic procedures that are not justifiable for the patient's health care.
> (b) Weaken the physical or mental strength of a human being without therapeutic justification.
> (c) Employ scientific knowledge to imperil health or destroy life.
> (d) Employ personal health information to facilitate interrogation.
> (e) Condone, facilitate or participate in the practice of torture or any form of cruel, inhuman or degrading treatment.[4]

The Tokyo declaration defines torture as "the deliberate, systematic or wanton infliction of physical or mental suffering by one or more persons acting alone or on the orders of any authority, to force another person to yield information, to make a confession, or for any other reason."[5] But there are other ways in which health care providers can become involved in torture besides themselves inflicting the harm on the victim. The Tokyo, Hamburg and Helsinki declarations delineate many different methods and various degrees of involvement and reject every one of them:

- participating in torture;
- providing medical means to commit torture;
- providing medical means to diminish the victim's resistance;
- providing information about the patient's condition to interrogators;
- aiding in any other way in interrogations, legal or illegal;
- condoning torture;
- being present during torture;
- failing to support victims of torture;
- failing to adequately protect torture victims from subsequent retribution;
- failing to report cases of torture;
- failing to denounce torture;
- failing to become educated about torture;
- failing to support fellow physicians who speak out against torture.

CURRENT U.S. POSITIONS

The American Medical Association[8] (AMA), in its Code of Medical Ethics, is equally stern in its rejection of all forms of participation by physicians in torture (in article E-2.067, added in 1999). In 2006, the AMA added to its Code article E-2.068, which addresses the more subtle issue of physician participation in interrogation, defined as "questioning related to law enforcement or to military and national security intelligence gathering, designed to prevent harm or danger to individuals, the public, or national security."[9(p201)] The AMA insists that interrogations must not be threatening or cause harm through physical injury or mental suffering. Even then, physicians involved in interrogations always face the potential conflict between serving the public interest and serving the health care needs of the detainee. Given this ever-looming conflict—which once more was confirmed in a 2008 article in The New England Journal of Medicine, confirming the U.S. military's ongoing attempts to solicit psychiatrists and their medical expertise in the design of interrogation techniques[10]—the AMA does not allow physicians to conduct, directly participate in or even monitor an interrogation, according to the AMA code, "because a role as physician-interrogator undermines the physician's role as healer and thereby erodes trust in the individual physician-interrogator and in the medical profession."[9(p202)]

The American College of Physicians, in a position paper approved by its board in 1993 and published in 1995, not only opposes the involvement of physicians in torture but also enumerates various ways in which physicians can and should respond to such degrading practices.[11] The College describes a variety of specific steps that physicians can take, ranging from care for victims to organized opposition and even political involvement (Box 1). Whereas the first two categories of activities are minimally controversial, the third may seem to surpass the typical professional role of the health care provider. However, in a recent article, Mathew Wynia,[12] director of the Institute for Ethics at the AMA, argued that members of the medical profession cannot afford to sit and

BOX 1

The role of the physician and the medical profession in the prevention of international torture.*

CARE FOR VICTIMS

- Research the prevalence of torture
- Document the health effects of torture
- Identify patients with signs and symptoms related to torture
- Diagnose torture and its health consequences
- Provide—or refer to an expert who can provide—appropriate care

ORGANIZED OPPOSITION

- Join professional organizations in their concerted opposition to torture
- Expand codes of medical ethics to address torture
- Educate medical students and fellow professionals about torture and its health consequences

POLITICAL INVOLVEMENT

- Provide expert testimony on behalf of victims seeking asylum
- Develop and maintain letter-writing networks
- Participate in medical fact-finding missions

* Source: American College of Physicians.[11]

wait for the international community to investigate the possibility of physician involvement in torture: "Instead, the best, fastest, and perhaps only way to restore the credibility and moral leadership of U.S. medicine is for the profession to undertake its own, independent investigation."

HISTORICAL EVIDENCE OF DENTISTS' INVOLVEMENT IN TORTURE

As mentioned earlier, the initial impetus for the development of these declarations against physician involvement in torture was the historical reality that physicians, in fact, had been partaking in or facilitating such egregious deeds. The evil perpetrated by physicians under the Nazi regime was an all-too-painful reminder of that gruesome reality. However, physicians were not alone. German dentists were co-opted as well. Dr. Willi Frank, physician and dentist, was condemned to seven years' imprisonment by the court during the Second Auschwitz trial held from 1963 through 1965 in Frankfurt, Germany, for dropping the canisters of Zyklon B poison gas to asphyxiate prisoners in Auschwitz and removing the gold fillings of the executed prisoners. Hermann Pook, Schutzstaffel Sturmbannführer (Storm Unit Leader) and dentist, was head of dental services for all concentration camps and was condemned at the war crimes tribunal in Nuremberg, Germany, to 10 years in prison for crimes against humanity.[13] Wilhelm Henkel, who attained the military rank of captain and worked as a dentist in the Austrian concentration camp Mauthausen, was hanged by the Allies for his crimes in 1947.[14]

Yet in spite of ample evidence of crimes against humanity committed by dentists during the Nazi era, the dental profession never issued a declaration denouncing the involvement of dentists in torture or other dehumanizing practices. Except for a rare article, the dental literature has remained silent on the issue of torture.[15] The basis for this silence is unclear. Was the Nazi period exceptional and unlikely to ever be repeated again? The WMA evidently does not believe so; it has continued to address the issue of physicians' involvement in torture. Are dentists far less likely than physicians to be involved in torture (notwithstanding their competence to inflict pain), thus rendering such a declaration superfluous?

There is, fortunately, little evidence in the literature of post–World War II involvement of dentists in torture or other forms of inhuman and degrading treatment—which absence, of course, is not decisive proof that no such torture occurs. Milan Babić, the former Serb warlord who pleaded guilty to crimes against humanity and later committed suicide in his prison cell in The Hague, Netherlands, had been a dentist. He declared himself president of the self-proclaimed Republic of Serb Krajina in 1991 and unleashed a campaign of ethnic cleansing, murder, torture and eviction.[16] But there is no evidence he perpetrated those crimes precisely as a dentist, using dental skills and knowledge.

If few dentists are themselves guilty of torture, they certainly are likely to encounter victims of torture. Amnesty International[17] in its 2003 publication Combating Torture: A Manual for Action reminds readers that any accused detainees awaiting trial have the right "to be visited and treated by their own … dentist at their own expense." Some of these detainees needing oral health care may have been tortured. An example of such an encounter may have occurred when a military dentist treated José Padilla, who at the time had been designated an illegal enemy combatant because of his alleged support of the al-Qaida terrorist organization and was being held by American authorities at the prison at Guantanamo Bay, Cuba.[18] Mr. Padilla's need for dental

care probably was not related to the torture he claimed to have suffered while in prison. But if he was indeed tortured, the dentist treating him might have been told about that ordeal when taking the patient's history or might have seen actual physical signs thereof. Even more troublesome, if true, is the report by one Iraqi held at the U.S. military prison Abu Ghraib that after many hours of beatings, prisoners received treatment for their injuries from physicians and dentists—only to be maltreated all over again the next night.[19]

Prisoners who truly need dental care also may end up in torturous situations if that care is withheld. Such prisoners may resort to desperate means. Amnesty International, discussing poor conditions in some Portuguese prisons, reported that one prisoner, unable to wait any longer to see a dentist, had been forced to extract his own teeth.[20] Dentists also should be mindful of the fact that torture survivors may be hesitant even to visit a dentist, not because the torture was committed by a dentist, but because dental instruments remind them of those used to maltreat them.[21]

THE DEVELOPMENT OF A NEW INTERNATIONAL DECLARATION

Rather than waiting for the proverbial horse to have bolted before closing the stable door, the International Dental Ethics and Law Society (IDEALS) took action in the summer of 2006. IDEALS president Dr. Richard Speers (one of this article's authors), on consultation with the IDEALS board, addressed a letter to the Fédération Dentaire Internationale (FDI) World Dental Federation, encouraging the federation to follow in the WMA's footsteps and begin drafting an international declaration on the involvement of dentists in torture and other inhuman or degrading interventions.[22] He reminded the FDI that "given the training and expertise of members of the dental profession, it is not at all inconceivable that dentists may have, or will become, participants in the interrogation or even torture of detainees." And yet, "to date, the dental profession has been largely silent on this issue." In his letter, Dr. Speers delineated three important reasons for issuing a new declaration.

> It is important to individual dentists that ethical guidelines describing professional duties are clearly articulated when there is a potential that dentists might be conscripted to participate in activities that contradict fundamental principles of dental ethics. The dental professional must be aware of the potential for misuse of medical training and clinical skills. The dental professional must be clearly advised of his or her moral duties to the patient in terms of rendering no harm. … We must consider the significance of such a declaration to our principal client population. Members of the public must be confident clinical skills and knowledge will not be used to harm or degrade individuals. … We should be aware that a declaration of this nature will also be directed towards political, military or police agencies that may seek to involve members of our profession in administering or hiding evidence of torture.

In response to Dr. Speers' letter, then-FDI Executive Director Dr. J.T. Barnard acknowledged

> that ethical guidelines describing professional duties are [to be] clearly articulated when there is a potential that dentists might be conscripted to participate in activities that contradict fundamental principles of dental ethics. The dental professional must be aware of the potential for misuse of medical training and clinical skills [and] … be clearly advised of his or her moral duties to the patient in terms of rendering no harm (J.T. Barnard, written communication to Richard Speers, Sept. 4, 2006).

The FDI Ethics and Dental Legislation Working Group, chaired by Dr. Peter Swiss (another of this article's authors), subsequently began the drafting process. The members of the working group agreed that the FDI statement should be, and be seen to be, supportive of the WMA declaration and, therefore, that they should use a similar general format and wording where appropriate. The working group submitted a first draft to the FDI Dental Practice Committee for consideration at its meeting in March 2007. The committee forwarded the approved draft to the FDI Council.

While the FDI committees were at work, IDEALS convened its own ad hoc committee to develop language for a new declaration. The committee members represented four countries (Canada, Italy, Netherlands and the United States) and a variety of disciplinary expertise. On May 10, 2007, IDEALS received a draft text from the FDI, inviting further input. During the Seventh International Congress on Dental Law and Ethics, which took place in Toronto later that month, the IDEALS ad hoc committee members met in person to review the FDI draft. Whereas the FDI had chosen to follow the text of the WMA declaration of Tokyo[5] closely, the IDEALS committee chose to expand the text by also incorporating insights from the other three applicable

BOX 2

FDI World Dental Federation Policy Statement: Guidelines for Dentists Against Torture.*†

The FDI World Dental Federation supports and endorses the World Medical Association guidelines, from which this statement has been adapted.

1. It is the privilege of the dentist to practice dentistry in the service of humanity, to preserve and restore oral health without distinction as to persons, and to ease the dental suffering of his or her patients. The utmost respect for human life is to be maintained even under threat. Without discrimination, all sick and injured shall be treated on the basis of their clinical needs and dental resources available. No use is to be made of any medical or dental knowledge contrary to the laws of humanity.

2. Whilst respecting generally acknowledged patients' rights, dentists must have complete clinical independence in deciding upon the care of persons for whom they are dentally responsible. The dentists' primary role is to alleviate the dental distress of their fellow human beings and no motive, whether personal, collective or political, shall prevail against this higher purpose.

3. The dentist shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offense of which the victim of such procedures is suspected, accused or guilty, and whatever the victim's beliefs or motives, and in all situations, including armed conflict and civil strife.

4. Dentists shall not use nor allow to be used, as far as they can, medical or dental knowledge or skills, or health information specific to individuals, to facilitate or otherwise aid any interrogation, legal or illegal, of those individuals.

5. The dentist 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.

6. Dentists shall not be present during any procedure during which torture or any other forms of cruel, inhuman or degrading treatment is used or threatened and shall denounce any such request to attend.

7. When providing dental assistance to detainees or prisoners who are, or could later be, under interrogation, dentists must ensure the confidentiality of all personal medical and dental information of these individuals.

8. A dentist shall keep proper dental records and shall not alter these records or otherwise suppress information relevant to the patient's dental condition and treatment, if such alteration is to facilitate the practice of torture or other forms of cruel, inhuman or degrading procedures or to conceal such acts from public scrutiny and retribution.

9. Where authorities are participating in torture or other forms of cruel, inhuman or degrading treatment, a dentist must denounce and is to resist these authorities to the fullest extent that prudence will permit. A breach of the Geneva Conventions shall in any suspected case be reported by the dentist to the relevant authorities; the report should safeguard the confidentiality of the victim to help protect the victim from further such harm.

10. The FDI World Dental Federation will support, and should encourage the international community, the national dental associations and fellow dentists to support, dentists and their families in the face of threats or reprisals resulting from a refusal to condone the use of torture or other forms of cruel, inhuman or degrading treatment.

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† Adopted by the FDI World Dental Federation, General Assembly, Oct. 26, 2007, Dubai, United Arab Emirates.

WMA declarations.[4-6] After much paring down and legal fine-tuning, the IDEALS committee presented an expanded draft for a vote in the IDEALS General Assembly business meeting, which was held in Toronto in conjunction with the aforementioned congress.

After additional debate and several amendments, the IDEALS General Assembly unanimously adopted the expanded FDI draft and subsequently returned it to the FDI for further consideration. The FDI Ethics and Dental Legislation Working Group considered this text and agreed on a final draft that incorporated the majority of the amendments adopted by IDEALS. As it does with all of its statements, the FDI sent the final draft to member dental associations worldwide for comment. Those member associations suggested a few minor additions and alterations; these were incorporated into the final draft, which the General Assembly of the FDI adopted formally as an FDI statement at the 2007 World Dental Congress in Dubai, October 2007[23] (Box 2).

CONCLUSION

The FDI statement makes patently clear that the principal and overriding moral obligation of all dentists is to serve the well-being of the patients who entrust themselves to them. As citizens of their respective countries, they also carry civic obligations, ranging from public safety to law enforcement and even national security. However, if these different duties conflict, their professional duties always trump their civic obligations. ▪

Disclosure. None of the authors reported any disclosures.

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