

VIEWS & REVIEWS

PERSONAL VIEW

Physicians' ethical obligations to hunger strikers

As the Guantanamo Bay hunger strike worsens, leaders of the American Medical Association reiterate their stance on the involvement of doctors in force feeding

Jeremy A Lazarus *president, American Medical Association*

Hunger strikes have been a fact of life at the US Naval Base at Guantanamo Bay, Cuba almost from the moment the first detainees of the “war on terror” arrived at the facility in January 2002. In the decade and more since, detainees have used refusal of food to protest inhumane conditions, religious abuses, and indefinite detention without legal process.¹ Over time, military personnel have reportedly used a variety of tactics to try to dissuade hunger strikes,² up to and including the use of restraint and forced feeding.^{3 4}

The International Committee of the Red Cross (ICRC) defines a hunger strike as voluntary fasting pursued for a specific purpose.⁵ A hunger striker is willing to die to achieve a political goal, but does not seek death.

The ICRC observes that “Fasting prisoners who are mentally ill or otherwise incapable of unimpaired rational judgment and decision-making cannot be considered real hunger strikers, whatever their own claims.” The ICRC would also exclude “food refusers” who decline to take food for a period of time, often in frustration or anger over a specific incident, but who have no intention of fasting to death.

It may be that not every detainee at Guantanamo who refuses food fits the ICRC’s definition of a hunger striker. Some may make less than voluntary decisions, feeling pressured by circumstance or other detainees. Others may voluntarily fast but have no intention of carrying their action through to death, expecting (tacitly or otherwise) that medical personnel will intervene, even if the detainee is committed to protesting the conditions of detention.

Nonetheless whenever a detainee refuses food he poses an ethical dilemma for the physician treating him. That dilemma has been described as one between the detainee’s autonomy and the physician’s duty of beneficence.^{3 4} To put the physician’s dilemma more clearly, a detainee who refuses food challenges the physician to balance professional obligations: to respect the informed decisions of a competent patient and to serve the patient’s best (medical) interests.

Many policies of the American Medical Association (AMA) bear on this dilemma, among them Principle I of the AMA’s *Principles of Medical Ethics*, which enjoins physicians to

dedicate themselves to providing medical care “with compassion and respect for human dignity and rights.”⁶ Opinion E-8.08 of the AMA’s *Code of Medical Ethics* provides that “Informed consent is a basic policy in both ethics and law that physicians must honor, unless the patient is unconscious or otherwise incapable of consenting and harm from failure to treat is imminent.”⁷ The physician’s ethical obligation to respect the patient as decision maker is reiterated in Opinion E-10.01: “The patient has the right to make decisions regarding the health care that is recommended by his or her physician. Accordingly, patients may accept or refuse any recommended medical treatment.”⁸ The physician need not fully understand, or agree with, the patient’s decision but he or she must honor it.

Moreover, in the AMA’s view, the use of restraints to force feed detainees is an inhumane and degrading intervention that falls within the prohibition of torture under Opinion E-2.067 of the code.⁹ The AMA has clear policy on the appropriate use of restraints in medical care in Opinion E-8.17, which establishes that restraints “should be used only in accordance with appropriate clinical indications,” not for punishment (or convenience).¹⁰

An individual who has decision-making capacity and has made a voluntary decision to refuse food to achieve a political end meets none of the conditions under which it would be appropriate to provide medical care without consent. Someone who is able to object so vigorously to an unwanted intervention that it can only be administered under restraint cannot be said to be in a situation in which “harm from failure to treat is imminent.”

The AMA has expressed its concerns about possible physician participation in the forced feeding of hunger strikers on multiple occasions,¹¹ and has long endorsed the World Medical Association Declaration of Tokyo, which unequivocally 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. The decision as to the capacity of the prisoner to form such a

judgment should be confirmed by at least one other independent physician.”¹²

Physicians should not be put in situations where they may be asked or ordered to violate the ethical standards of their profession. The AMA continues to advocate for the humane treatment of detainees in keeping with the *Code of Medical Ethics* and the Geneva Conventions. As we noted in 2006, “our physician colleagues in the military, many of whom are placed in difficult, sometimes dangerous situations, deserve nothing less.”¹³

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