

## **INTERNATIONAL ETHICS APPLICABLE TO HEALTH CARE PROFESSIONALS**

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Recently the psychological community has faced significant questions—provoked by reports that American psychologists were directly involved in the mistreatment of detainees in U.S. custody captured in counter-terrorism efforts since September 11<sup>th</sup>—about the scope of health professionals’ obligation to “do no harm.”<sup>2</sup> International ethics codes provide universal standards for health professionals and shed light on psychologists’ ethical duties, particularly in times of domestic insecurity. Authoritative international health organizations including the World Medical Association, the International Union of Psychological Sciences, and the World Health Organization make clear that, regardless of motive or circumstance, ethical standards forbid health professionals from any involvement in torture and cruel, inhuman, or degrading treatment.

Modern codes addressing international health professional ethics arose in the aftermath of World War II as details emerged of the participation of German doctors in medical experiments and further abuses on prisoners. Allied forces convicted Nazi doctors at the Nuremberg trials of conducting brutal and inhumane experiments on prisoners and participating in widespread and systematic murder. In the post-war period, the international medical community adopted universal principles to prevent the recurrence of such egregious conduct. These codes have been updated in recent years in response to renewed questions regarding the appropriate conduct of psychologists in the interrogation of suspected terrorists.

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<sup>2</sup> At the domestic level, the American psychologist’s obligation to “do no harm” is stated, for example, in the American Psychological Association’s *Ethical Principles of Psychologists and Code of Conduct*, “Principle A: Beneficence and Nonmaleficence.”

## WORLD MEDICAL ASSOCIATION DECLARATIONS

In 1946, physicians from at least twenty-nine national medical societies, including the American Medical Association, met in London to form the World Medical Association (WMA). The WMA, one of the first international associations of health care professionals, adopted the **Declaration of Geneva**<sup>3</sup> in 1948. This instrument provided a modern formulation of the Hippocratic oath, urging medical professionals to pledge: “I will maintain the upmost respect for human life . . . and I will not use my medical knowledge contrary to the laws of humanity.”<sup>4</sup>

In 1974, the WMA drafted the **Declaration of Tokyo**,<sup>5</sup> which further elaborated ethical obligations regarding torture and explicitly forbids doctors from participating in or condoning torture or degrading treatment in any form. The history of the Declaration is instructive. The WMA adopted the final version of the Declaration in response to a request by the British Medical Association (BMA) to provide explicit guidance on this issue. The BMA was concerned about the consequences of the British government’s decision to enlist physicians to act as observers and interviewers during interrogations of suspected Irish Republican Army members in which police employed techniques such as hooding, sleep deprivation, and noise harassment.

The BMA argued that a doctor’s presence in such interrogations might implicate the doctor in torture and harm the prisoner by encouraging the interrogator to administer increasingly severe treatment until the doctor intervenes. Furthermore, the BMA representatives maintained that if physicians treated detainees injured during interrogation there is a danger that such medical intervention might allow torture to continue unchecked. The WMA agreed and unanimously adopted the standard that “[t]he physician shall not be present during any procedure during which torture or any other form of cruel, inhumane, or degrading treatment is used or threatened.”<sup>6</sup>

In its final form, the Declaration of Tokyo states that, “[t]he doctor shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhumane, 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 motives, and in all situations, including armed

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<sup>3</sup> World Medical Association, *Physician’s Oath* (Geneva, 1948).

<sup>4</sup> Ibid.

<sup>5</sup> World Medical Association, *Guidelines for Physicians Concerning Torture, and Other Cruel, Inhumane or Degrading Treatment or Punishment in Relation to Detention and Imprisonment* (Tokyo, 1975). Rev. May 2006.

<sup>6</sup> Ibid., sec. 4.

conflict or civil strife.”<sup>7</sup> In the Declaration of Tokyo, torture is defined 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 . . . .”<sup>8</sup> Several subsequent WMA declarations repeated and strengthened the principles of the Declaration of Tokyo. The **Declaration of Hamburg**,<sup>9</sup> adopted 1997, explicitly stated that medical professionals had a responsibility to report the use of torture.

In 2004, reports appeared that interrogators at Guantánamo had access to the medical files of detainees, which they mined for information to use to pressure detainees to cooperate. Confidentiality of medical records is another basic principle of medical ethics. The WMA reaffirmed this protection and clarified the broad scope of the physician’s duty in 2006. The WMA amended the Tokyo Declaration to add that doctors shall not use directly or “allow to be used . . . health information specific to individuals, to facilitate or otherwise aid any interrogation, legal or illegal, of those individuals.”<sup>10</sup>

Numerous domestic medical associations have followed the American Medical Association in endorsing the Declaration of Tokyo and some have sanctioned physicians for failing to honor its mandate. In their 1986 report, *The Participation of Physicians in Torture*, the Chilean Medical Association<sup>11</sup> (CMA) cited the Declaration of Tokyo in an unequivocal condemnation of the presence of physicians at torture sites. The report found that “the work of a physician and that of a torturer or an accomplice are incompatible. The Department of Ethics believes this so strongly that proof of the mere presence of a physician in a place of torture is sufficient grounds for his expulsion from the association.”<sup>12</sup> Based on this theory, the CMA suspended or expelled several physicians for complicity in human rights abuses under the Pinochet regime. The CMA also launched a campaign to promote knowledge of international ethics standards, even paying to have the Declaration of Tokyo published in a Santiago daily newspaper.<sup>13</sup>

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<sup>7</sup> Ibid., sec. 1.

<sup>8</sup> Ibid., preamble.

<sup>9</sup> World Medical Association, *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* (Hamburg, 1997).

<sup>10</sup> World Medical Association, *Declaration of Tokyo*, section 4.

<sup>11</sup> Chilean Medical Association, “The Participation of Physicians in Torture: A Report of the Chilean Medical Association, 1986,” Appendix A in Stover, *The Open Secret*, 77.

<sup>12</sup> Ibid., 67.

<sup>13</sup> *El Mercurio*, 27 November 1983, cited in BMA, *Medicine Betrayed*, 170.

## INTERNATIONAL UNION OF PSYCHOLOGICAL SCIENCE STATEMENTS

Although psychologists were not prominently implicated in the Nazi atrocities, concerns about psychologists' links to other repressive regimes prompted the International Union of Psychological Science (IUPsyS), the main international body of psychology since 1951, to issue statements explicitly prohibiting its members from any involvement in human rights abuses. In the early 1970s, the American Psychological Association, a charter member of the IUPsyS, and other members asked the organization to address concerns that psychologists affiliated with military governments in countries such as Brazil, Argentina, and Chile were participating in the torture and abuse of political prisoners. In 1974, the IUPsyS's Executive Committee responded by issuing a statement denouncing all practices inconsistent with the high moral standards required for psychologists and calling on member states to take action against psychologists implicated in human rights abuses.

In 2008, IUPsyS reiterated these principles in the **Universal Declaration of Ethical Principles for Psychologists**.<sup>14</sup> According to this declaration, psychologists may not practice their profession in any way that undermines the "inherent dignity of all human beings."<sup>15</sup> Furthermore, psychologists are prohibited from collaborating or providing knowledge that may do harm, and must actively protest when informed of ill-treatment. The Universal Declaration of Ethical Principles for Psychologists is an aspirational document, which depends on national organizations for enforcement.

## UNITED NATIONS PRINCIPLES OF MEDICAL ETHICS

Following the 1974 statement of the IUPsyS and the 1975 Declaration of Tokyo, at the request of the United Nations General Assembly, the World Health Organization (WHO) drafted a set of guidelines for health personnel confronted with cases of torture or ill treatment. On December 18, 1982, after three years of debate and revision, the General Assembly adopted the **Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the**

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<sup>14</sup> International Union of Psychological Sciences, *Universal Declaration of Ethical Principles for Psychologists* (Berlin, 2008).

<sup>15</sup> *Ibid.*, principle 1.

## **Protection of Prisoners and Detainees against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment.**<sup>16</sup>

The instrument consists of six principles designed to prevent complicity of health professionals in torture. According to the principles “[i]t is a gross contravention of medical ethics . . . for health personnel . . . 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.”<sup>17</sup> Under the Principles, it is a violation of medical ethics for health personnel “to be involved in any professional relationship with prisoners or detainees the purpose of which is not solely to evaluate, protect or improve their physical and mental health,”<sup>18</sup> and health professionals may not use their “knowledge and skills in order to assist in the interrogation of prisoners and detainees in a manner that may adversely affect the physical or mental health condition of such prisoners or detainees.”<sup>19</sup> The final UN Principle explicitly states that “[t]here may be no derogation from the foregoing principles on any ground whatsoever, including public emergency.”<sup>20</sup>

The UN Principles unequivocally require health care personnel to maintain a professional relationship with prisoners or detainees that is unaffected by the political motivations or justifications for their incarceration. According to the instrument, neither in extreme circumstances, nor under duress, may health professionals advise on the handling of prisoners undergoing harsh treatment. The original draft of the Principles contained a provision stating that, in certain circumstances, health personnel “may be compelled under duress” to administer medical care to victims during torture, and in such cases “their actions should be determined by the will to protect the prisoner or the detainee.”<sup>21</sup> However, the WMA and several states objected to this provision because, in the words of a Dutch representative, there was “a serious risk that physicians, when placed under duress to lend their assistance to [torture,] might too easily find an excuse for yielding to such pressure in the thought that by doing so they would be in a

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<sup>16</sup> United Nations, *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* (General Assembly, 1982).

<sup>17</sup> *Ibid.*, principle 2.

<sup>18</sup> *Ibid.*, principle 3.

<sup>19</sup> *Ibid.*, principle 4.

<sup>20</sup> *Ibid.*, principle 6.

<sup>21</sup> Quoted in Stover and Nelson, “Medical Action Against Torture,” 107.

position to minimize noxious effects.”<sup>22</sup> The UN member-states voted to strike the contentious duress clause, and now the Principles clearly prohibit medical participation in abusive acts under any circumstance.

Doctors in Uruguay invoked the Principles and other international codes to sanction physicians who participated in torture of political prisoners. In 1984, under Uruguay’s repressive military regime, 1500 doctors in Uruguay’s Interunion Medical Coordinating Committee created a National Commission of Medical Ethics to investigate the participation of doctors in torture. Although Uruguay did not have a national code of medical ethics at the time of the alleged ethics violations, the Commission applied the UN Principles, as well as the WMA’s Declaration of Tokyo as binding on all Uruguayan physicians to reach individual determinations of professional misconduct.

## CONCLUSION

Whether addressing the horrors of World War II, the abuses of South America’s dictatorial regimes, or the controversies of today’s “War on Terror,” authoritative organizations such as WMA, the IUPsyS and the UN have consistently maintained that universal ethical standards forbid health professionals from any involvement in torture and cruel, inhuman or degrading treatment. The codes make clear that members of the healing professions have a special duty to refrain from complicity or participation in harm and have a duty to report violations, in some circumstances.

However, these international ethical codes depend on domestic organizations for their enforcement. Whether and how psychological organizations and licensing boards in the United States will seek to enforce these international ethical standards against members alleged to have participated in interrogations of detainees remains an open question.

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<sup>22</sup> Ibid.

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