

The California Senate Business Professions and Economic Development Committee had a Hearing on Medical Participation in Torture on January 14, 2008.

The meeting was related on Senate Joint Resolution 19 (SJR 19) which affirmed that health professionals must not participate in torture and outline professional guidelines from the AMA and APA against such practice, with testimony from groups like California Board of Psychology.

**California Senate Business Professions and Economic Development Committee
Hearing on Medical Participation in Torture
January 14, 2008**

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Thank you for the privilege of testifying before this committee today. I am testifying on behalf of the Program for Torture Victims of Los Angeles; and as Vice president of the International Rehabilitation Council of Torture Victims headquartered in Copenhagen, Denmark.

The Program for Torture Victims of Los Angeles (PTV) was founded in 1980 and was the first Rehabilitation Program for the survivors of state sponsored torture in the United States. PTV has been assisting thousands of torture victims from around the world for 27 years. I am the Representative of more than 30 centers and programs of rehabilitation of torture victims in the USA through the International Rehabilitation Council for Torture Victims (IRCT). IRCT is a network of 136 centers and programs for the rehabilitation of torture victims from around the world. The headquarters is located in Copenhagen, Denmark.

I am speaking based on nearly 35 years of personal experience, as a physician, working in the evaluation and rehabilitation of torture victims from around the world. I began to work with torture victims after the military coup in Chile, on September 11, 1973. I have examined and participated in the rehabilitation of more than 1000 survivors of torture from around the world.

My presentation will focus on the health consequences of torture and cruel, inhuman, and degrading treatment (CIDT), which was recently referred to as "enhanced interrogation techniques." I will also argue that torture is morally wrong, illegal, and ineffective. I will comment on the worldwide concern from the medical profession on the participation of American physicians and psychologists in the interrogation and torture of prisoners in the war against terrorism. Finally I will urge you to support the California Senate resolution against medical participation in torture.

Magnitude of torture

Torture is the most serious violation of a person's fundamental right to personal integrity and a pathological form of human interaction.

The United Nations (UN), in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1984, adopted a torture definition (U.N., 1995).

This definition has been universally accepted by 210 countries that have currently ratified the Convention. In summary, torture is defined as a political act inflicted by a public official, with the intent and purpose of extracting a confession or information, punishment, intimidation, coercion, or discrimination. The most important criteria in the definition of torture are the intention and purpose, not the severity of pain. In addition, torture occurs during detention when the prisoner is powerless and under the control of authorities. The use of force and the infliction of pain under these circumstances violates the principle of proportionality, forbidden by international law (Nowak, 2006). Torture has been defined by other organizations, such as the World Medical Association, and by individual countries in their national laws, but the UN definition is the most applicable and widely accepted for governments (Quiroga & Jaranson, 2005).

Amnesty International, in a worldwide survey in 2000, found that 75% of countries practice torture systematically despite the **absolute prohibition** of torture and cruel and inhuman treatment under international law, even though these countries have signed the CAT (Amnesty International, 2000).

Most countries in their domestic laws criminalize torture but not cruel, inhuman or degrading treatment or punishment (CIDT). The countries that practice torture use a more restrictive definition of torture and make the severity of pain the most important criterion of the definition. Later these countries may increase the threshold of severe pain to just short of organ failure. This allows the practice of torture to continue while officially denying its use.

Recently, during the war against global terrorism, some countries, including the United States, have developed a number of methods to circumvent the **absolute prohibition** to practicing torture or CIDT. People have been forcefully abducted and detained in secret detention centers around the world. Torture methods are practiced in these places but are called "enhanced interrogation techniques." Detainees have been sent by secret flights to other countries for interrogation using torture, a practice known as "extraordinary rendition." All of these practices are illegal under international law. International human rights laws and humanitarian laws prohibit the absolute and non-derogable practice of torture and all others forms of CIDT. No exception is permitted under any circumstance, not even in during an emergency or time of war.

Medical and Psychological Consequences of Torture

The mental health consequences of torture to the individual are usually more persistent and protracted than the physical aftereffects. The problems most often reported are psychological symptoms (anxiety, depression, irritability/aggressiveness, emotional lability, self isolation,

withdrawal); cognitive symptoms (confusion/disorientation; memory and concentration impairments); and neurovegetative symptoms (lack of energy, insomnia, nightmares, sexual dysfunction). The most frequent psychiatric diagnoses are posttraumatic stress disorder (PTSD) and major depression, which have a high level of co-morbidity. Other anxiety disorders besides PTSD, such as panic disorder and generalized anxiety disorder, are frequently diagnosed. In some samples, substance abuse is a problem and longer-term effects include changes in personality or worldview. The impact can be devastating. The socio-political context of torture and the culture of those tortured affect the way in which survivors respond to the experience. Complex PTSD and related concepts have been proposed to identify some of these responses (Quiroga & Jaranson, 2005).

A recent study shows that the division of torture methods into physical and non-physical (psychological) methods is artificial because, both produce similar levels of psychological symptoms. The division between torture and CIDT is also artificial because both methods produce similar psychological consequences (Basoglu et al., 2007).

The most important physical consequence of torture is chronic, long-lasting pain experienced in multiple sites. A recent study shows that ten years after experience torture pain is still highly prevalent. Survivors also experience diverse psychophysiologic symptoms. Most of the victims of physical abuse show some acute injuries, sometimes temporary, such as bruises, hematomas, lacerations, cuts, burns, and fractures of teeth or bones, if examined close to the trauma episode. Permanent lesions, such as visible scars on the skin on different parts of the body, have been found in 40% to 70% of the victims. Complex lesions with temporary or permanent disability have rarely been documented (Quiroga & Jaranson, 2005).

Medical ethics and torture

The medical ethics related to torture have been clearly defined by the World Medical Association (WMA) in the Declaration of Tokyo, adopted in October 1975.

The principal aspects of the declaration are:

The physician 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 victims of such procedures is suspected, accused or guilty....

The physician shall not provide any premises, instruments, substances or knowledge to facilitate the practice of torture...

The physician shall not be present during any procedure during which torture or any other forms of cruel inhuman or degrading treatment is used or threatened. A physician should have complete clinical independence in deciding upon the care of a person for whom he is medically responsible.

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 voluntary refusal of nourishment, he or she shall not be feed artificially.

American government practices torture

The Bush administration has been practicing torture and inhuman and degrading treatment. The Secretary of Defense on December 2, 2002 approved several coercive tactics to be applied in interrogations of detainees at the Guantanamo prisoner camp. The tactics were divided into four categories: Degradation; Physical Debilitation; Isolation and Monopolization of perception; and Demonstration of Omnipotence. All these tactics fall under the category of inhuman and degrading treatment.

On numerous occasions, the Bush administration has declared that prisoners are treated humanely and that the US does not practice torture.

Water boarding and death threats were rejected on the initial list of approved coercive tactics. The administration has recently, however, admitted to water-boarding prisoners such as Abu Zubaydah, Khalid Sheikh Mohammed, Abd al-Rahim al Nashiri and It may have used water boarding with others. Water boarding is a controlled drowning that has been considered torture for years.

Water boarding is well known method of torture that has been applied since the Middle Ages. The Inquisition used water boarding to punish heresy. During the Second World War Japanese officials used the method against American prisoners of war. Latin American dictators used water boarding systematically on political dissidents. Allied forces used the methods against the North Vietnamese.

The Survival, Evasion, Resistance, and Escape school (SERE) is a training program for the U.S. Army and Navy personnel that simulates the experience of being held prisoner by enemy forces that do not observe the Geneva Convention. During the three-week training SERE staff were, without exception, required undergo water boarding.

The psychologists from the SERE program have promoted the SERE techniques in the interrogation of suspected terrorists. These methods have been called “Enhanced Interrogation Techniques”.

On December 10, 2001, John Kiriaku, a retired CIA officer involved with high-value al Qaeda targets was interviewed for ABC News. He reported that water boarding was torture and that it was applied to Abu Zubaydah because it was necessary to get information (Esposito 2007).

Malcolm Nance is an advisor on terrorism to the US. Department of Homeland Security and a former instructor and Chief of Training at the US Navy SERE program. Nance, in an article published in Small Wars Journal, declared that water boarding was without doubt torture. He added that water boarding “has no justification outside of its limited role as a trainer demonstrator” referring to the use of water boarding to train military personnel. In the same article he volunteers the information that **water boarding is done “under the watch of a doctor”** (Nance 2007).

Professor Evan Wallach did an excellent historical analysis demonstrating that U.S. courts have consistently held that water boarding is torture, and thus violates U.S. statutory prohibitions and international law (Wallach 2007).

An American military commission sentenced one civilian and three Japanese military officers from 15 to 25 years of hard labor for practicing the equivalent to “enhanced interrogation techniques” and water boarding on American prisoners of war.

In 1983, a sheriff and three deputies were convicted by a Jury for practicing water boarding on a detainee in San Jacinto County, Texas. They were sentenced to four years in prison for violations of the civil rights of a detainee (Wallach, 2007).

Congress banned water boarding by the US military in 2005 but the CIA has continued using the method. However, currently US health professionals who participate in water boarding face no sanctions.

Practicing water boarding is a **crime** in domestic law, the Torture Statute, and the War Crimes Act. It is also a **crime against humanity** under international human rights laws and a **war crime** in humanitarian laws.

In 2005, the CIA destroyed in 2005 several hundred hours of videotapes of hard interrogations that may have included water boarding. The Department of Justice has just nominated an independent prosecutor because they found that there is basis for initiating a criminal investigation of this matter.

In a recently published book, Jameel Jaffer and Amrit Singh documented multiple cases of prisoner abuse and torture, observed by U. S. soldiers. The witnesses of these events, in several sworn statements, described stripping, slapping, punching, beating, kicking, burning, electric shocking, dragging about a room, walking blindfolded prisoners into walls, and abuse of a child in front his father in order to break him (Jaffer, Singh. 2007).

In addition there are eleven cases of prisoner deaths by torture documented by Professor Steven Miles in another book titled “Oath Betrayed Torture, medical complicity and the war on terror” (Miles, 2006).

Torture does not give good information

The coercive techniques and torture used by The Inquisition in the Middle Ages, the Nazi Gestapo, and the Japanese military are historical examples that show that these techniques do not work.

Professional interrogators have always stated that torture is wrong because it is illegal and does not give truthful or valid information. In December 2006 the best-known interrogation experts, in a report called “Educing Information,” concluded that there is no evidence that enhanced interrogation techniques work (NDIC,2006).

The government and CIA defend its policy of torture with the argument that the “enhanced interrogation techniques have disrupted terrorist plots and saved American lives.” They have not as of now provided sufficient examples to back up their argument that can be investigated by an independent organization.

There has been only one example of torture eliciting “good” information made public. Al Libi was a lieutenant of Al Qaeda who declared under interrogation that Saddam Hussein had given Al Qaeda

weapons of mass destruction. The confession of Sheik al-Libi, obtained under torture, was accepted as truthful by the government. The Al Libi confession was the information that the government needed as part of the rationale for going to war.

The confession of Al Libi was described by the president as coming from a good source. To day the world knows that this was false information. This is an example that illustrates how under torture a prisoner will confess to anything that the interrogators wants to hear because this is the only way to stop torture. With torture you get the answer you want and an innocent person will confess to any crime.

Clearly Al Libbi's confession has not saved American lives. American military casualties during the past six years of the Iraq War have escalated to 3,910 killed and 38,876 soldiers wounded (<http://icasualties.org/oif/>). Iraqi civilian casualties are even worse. A study done by investigators from John Hopkins University, using cross cluster sample surveys of households in Iraq, has estimated that there have been 654,965 Iraqi deaths as a consequence of the war (Bunham, et al, 2006). The economic impact of the Iraq War has also been catastrophic; a study done by researches of Harvard University has estimated that the total cost of the war will be one trillion dollars (Bilmes and Stiglitz 2006).

The need for critical national security information

The U.S. government needs to obtain information from sources under its control who possibly posses information critical to national security. The problem is how to obtain this critical information from uncooperative sources. Randy Borum of the "Educing Interrogation" study group has concluded that virtually none of the interrogation techniques used by U.S. personnel in the past century have been subjected to scientific or systematic inquire or evaluation, and that the accuracy of educed information can be compromised by the way it is obtained (Borum 2006). This analysis includes the techniques recommended in the Army Field Manual 34-52 and the SERE techniques applied by the CIA in the "enhanced interrogation techniques."

The field experience of professional interrogators supports the idea that an intelligent interrogator "must be skilled to understand and apply a broad range of strategies, approaches and techniques of persuasion and influence to gather information from people determined not to give it" (Borum, 2006).

A careful interrogation by an interrogator that is fluent in the language and culture of the detainee who is able to create rapport with him or her is one of the best methods to obtain reliable information.

Ethics violations of some the American physicians working at the DOD

Some American physicians working at the Department of Defense, including John Edmondson, a California Licensed physician, have been using their medical knowledge and skills in assisting in the interrogation of detainees. It has been documented in numerous medical publications and International Red Cross documents that physicians:

- Certify the fitness of detainees for enhanced interrogations techniques
- Fail to report evidence of abuses and torture of detainees
- Falsify, delay and write misleading medical reports, including death certificates
- Fail to sign their clinical notes
- Share health information and medical records with interrogators
- Deny or delay necessary medical treatments
- Force feed detainees on hunger strikes

Reaction of international medical organizations

More than 260 prominent physicians from 16 countries from around the world have launched an unprecedented attack on the American medical establishment for its failure to condemn the unethical practice by U. S. medical practitioners. The physicians wrote a letter in opposition to the force-feeding and restraining of detainees at the Guantanamo Bay prison camp in Cuba. The letter was published in *The Lancet*, a peer reviewed medical journal in the United Kingdom, on March 2006 (Nichols et al, 2006).

The UK government has respected the rights of its prisoners and allowed Irish hunger strikers in detention to fast until death. While one does not need to agree with the detainees they must respect their informed decision.

The British Medical Association (BMA), concerned by the violations of medical ethics by American doctors and by the inaction of the American Medical Association, introduced modifications to the Declaration of Tokyo. The amendments were endorsed without opposition by the delegates from the World Medical Association and introduced article number three. The article three states:

“When providing medical assistance to detainees or prisoners who are, or who could later be, under interrogation, a physician should be particularly careful to ensure the confidentiality of all personal medical information. A breach of the Geneva Conventions shall in any case be reported by the physicians to the relevant authorities.”

“The physicians shall not use nor allow to be used, as far as he or she can, medical knowledge or skills, or health information specific to individuals, to facilitate or otherwise aid any interrogation, legal or illegal, of those individuals.”

The World Medical Association, in its General Assembly in Denmark on October 2007, approved a long declaration that recommends to National Medical Associations:

“Attempt to insure that detainees or victims of torture or cruelty or mistreatment have access to immediate and independent health care. Attempt to insure that physicians include assessment and documentation of symptoms of torture or ill treatment in the medical records using the necessary procedural safeguards to prevent endangering detainees.”

The WMA resolution also recommends promoting awareness, dissemination and training on the Istanbul Protocol. The Istanbul Protocol is a manual on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment. It includes modules for medical, psychological, and legal professionals. The Protocol was approved as

an international instrument by the General Assembly of the United Nations resolution 55/89 on December 4, 2000 (OHCHR, 2001).

Participation in interrogation, coercive interrogation and torture of prisoners is unethical and illegal. Health professionals who participate in these activities should be responsible for their actions. We strongly support the California Senate resolution against medical participation in torture.

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