Implication of Physicians in Acts of Torture in Uruguay

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In 1984, prompted by public protest against the widespread use of torture against political prisoners, a National Committee on Medical Ethics comprising doctors, medical students and lawyers was set up. Its findings have led to the drawing up of a Code of Procedures for trying the numerous complaints against the doctors participating in torture. (Reprinted from the Danish Medical Bulletin, *August 1987)*

FOR us physicians who have had the sad privilege of living for over a decade under totalitarian regimes that practise terror and torture and which, in turn, are supported by multinational expansionist economic interests, there is a pressing need to develop and refine international medical initiatives against torture. For those who govern by applying the National Security Doctrine, torture is a basic was fundamental element. In the words of my Chilean colleague, Dr. Serio Pesutic, there is no better way to defining torture than as *a dehumanised use of power.* Torture is implemented by those who are dominant, especially against those who threaten to undermine submission to their rule.

Torture has a Dante-esque etiology. It is the only man-made disease whose intention is here and now. In it, the first sick factor is neither the victim nor the torture, but rather the society which provides the opportunity and incentive to use torture. In all its degrees and expressions torture is nowadays deeply selective. Those who suffer it are those who are able to organise large crowds of people and who follow their own conscience. Torture tends to damage individuals without causing them to die, rather than obtaining information from them. This has led to the need for physicians to participate in implementing and sophisticating it. Among other things, means are sought to torture without leaving marks in order to make any denouncement lose legal validity, since such complaints are exclusively based on the testimony of the victims which is met with the cynical denials of those responsible in the security services.

Today, we are able to single out these points as the cornerstone of torture in the Third World. This, then, is the time when the figure of the military doctor assumes a central role as protagonist in his functions, his practice, and his aims.

Until the beginning of the early 1970s, the great majority of medical doctors who served the health units of the Uruguayan Armed Forces did so as civilians practising their profession. The Armed Forces Function Act (No. 14,157) along with Article 50 of Decree No. 783/73 ordained that the practice of their rights and the fulfilment of their professional duties be subordinated to military regulation. Likewise, their professional tasks were subordinated to the military authorities in direct opposition to the universal values of medical ethics.

The adoption of the National Security Doctrine meant an ideological purge of the armed forces, since anyone considered a danger to that ideology was dismissed from his post. Undoubtedly, this fact along with the abovementioned decrees make it absolutely valid to say that the military doctors were the medical part of the repressive apparatus which committed innimaginable gross violations of human rights. To many people, such affirmation may seem too simplistic; but here we are not talking about the ordinary man in the street or about those who had no other job opportunity than to enter a military garrison. We are talking rather about physicians trained culturally and scientifically at a free university. This is why we cannot understand that they have collaborated with those who directly oppressed our entire people.

The University of the Republic and the Uruguayan medical profession have been the primary pillars of our social gains for more than 40 years. For these institutions, every medical doctor owes respect and, above all, the doctor's respect is owed to a professional condition that identifies him or her with the health of others. Impositions from the established hierarchies can only alienate them from carrying out their professional duty, resulting in a serious disregard of medical ethics.

Consequently, a military doctor is not released from his ethical responsibilities if he enters service in the armed forces, since this only constitutes a minor addition to his fundamental condition of being human and being a physician—conditions from which he can never be returned. The implementation of an alienating training system with the imposition of a discipline aimed at estranging him from his humanity and his moral conscience as a doctor is impermissible. It is also incompatible with real medical training and with responsibility for the training of other doctors, because for these situations the greatest measure of freedom of conscience is required.

Although this is an affront to medical life in Uruguay, it is an historical fact that certain military doctors participated actively or passively in torture or violated ethical norms they ought to have abided by when carrying out orders from their superiors. In addition, we find a collective responsibility on the part of military doctors for neglecting to issue denouncements when such acts occurred—even today, a year and a half after democracy has been restored. This happens despite the fact that they belong to an institution which unquestionably has implemented measures that violated human rights on such

a wide scale and with so ample evidence that no one could ignore it.

In July 1984, the 7th National Medical Convention took place. On this occasion, public denouncements were reiterated of the systematic torture used against political prisoners as well as the violation of basic human rights on the part of the dictatorial government in Uruguay. Faced with these facts, a National Committee on Medical Ethics was set up. Its task was to study the denouncements and make decisions on them. Moreover, it was to prepare the elaborate a preliminary bill of compulsory medical association membership with its corresponding ethical code. These are long-standing aspirations of the Uruguayan medical profession that even today have not yet been achieved.

As a precedent, there is the decision made by the Uruguayan medical profession on October 27, 1984 to expel Dr. Eduardo Saiz Pedrini. Before that, an extraordinary tribunal set up by the Medical Federation of the Provinces found him guilty of violating the principles of medical ethics of the United Nations by giving perjured evidence in the certification of death and by covering up the torture suffered by Dr. Vladimir Roslik, who died on April 16, 1984, at Fray Bentos Military Garrison.

On March 4, 1985, the National Committee on Medical Ethics commenced functioning. It was made up of physicians representing the Uruguayan Medical Union and the Medical Federation of the Provinces along with the Association of Medical Students; in addition, it included members representing the Uruguayan Bar Association and its Human Rights Committee.

From the outset, and as the denouncements from released political prisoners began to pile up, those who had the honor to be designated members were faced with an incredible range of horrors. The constant factor in them all was that physicians played an active or passive part. There were the doctors who took down data on the prisoner's entrance record. This enabled those who were directly in charge of the torture procedures to know the person's physical or mental weakness or disability, enabling them to act with a maximum of ferocity on those points. There were the doctors who were unconcerned about giving direct care to sick prisoners, who delayed consultations, refused medication and specified diets, etc; the doctor who stepped in when the torture victim's life was at stake, thus succeeding in returning him to consciousness, only to send him back into the torture machine; the doctor who falsified the death cause of prisoners, performing incomplete autopsies or issuing death certificates many times without directly examining the bodies concerned; and the doctors who directly participated in torturing those interrogated or conducted a constant mental harassment of the prisoners, seeking ways to break down their personalities.

In this notes on *Reflexiones Para un Judicio Etico-Medico* (Reflections for an Ethical/Medical Judgment), Dr. Rodolfo Schurmann P., expert in criminal law and member of the National Committee on Medical Ethics, writes: "Many of these practices can be comprised within criminal offenses such as *injuries, abuse against detainees, private violence, covering up,* and *failure to offer medical care.* This does not mean that they are not reproachable from an ethical/professional viewpoint; on the contrary. Taking into account the seriousness of the malpractice, this goes beyond the strictly ethical field and falls into that of criminal law. Thus, two negative judgments can be passed which may coincide in the sentences, but where each is independent. It is true that, as a rule, all criminal acts involve an ethical depreciation, but not all ethical deprecation involves crime. The principle of legality underlying criminal law eliminates in this regard the elasticity or fluctuation of ethical norms *(nullum crimen sine lege)*."

In our country, there has been neither a regular organ specifically for 'trying' unethical conduct nor an applicable code. Thus, the new committee faced the need to study the existing principles for it to act upon:

A *Internationally Approved Principles*

Global:

—The Universal Declartion of Human Rights, 1948.
—The Declaration of Geneva, 1949.
—International Agreement on Civil and Political Rights, 1966.
—Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1975.

Regional:

—The Pan-American Convention on Human Rights, 1969.

B *National Regulations*

—Act No. 1088 of 1870 (concerning the Army: abolition of flogging and other punishments involving torture).
—Present constitutional precepts in force: Articles 26-72 and 332 of the Magna Charta of 1967.
—Act No. 15737 on Nonreciprocal Amnesty, issued on March 22, 1985.

C *Special Regulations and Codes of Ethics*

—The Declaration on Tokyo, adopted by the 29th World Medical Assembly, 1975.
—Principles of Medical Ethics, United Nations, 1982.

According to Dr. Schurmann, the fundamental guidelines—one could almost say the cornerstone—in the worldwide system of ethical responsibility in this field are those adopted by the United Nations General Assembly on December 18, 1982.

Principle 1

Health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty

to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained.

Principle 2

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

This is a clear affirmation of the concepts dealt with stating that *without exception of any kind* the supreme duty of all medical doctors is to prevent and cure disease for the patients who are entrusted to their care and to help them avoid suffering. The specific duty of military or police doctors is to offer the imprisoned persons the same health protection and the same treatment as they would give to nondetainess. Correlatively speaking, their highest duty is not to inflict on the people who are deprived of their liberty any sort of cruel, inhuman, or degrading treatment. By virtue of the profession they exercise, physicians hold unimpeachable duties vis-a-vis mankind which extend beyond considerations of interest in the personal, economic, admnistrative, political, or 'national security' spheres.

Furthermore, it became necessary for the committee to draw up a Code of Procedures for dealing with and trying the numerous denouncements it received. In this manner, the accused physicians will enjoy the widest possible guarantees for their defense and discretion about the alleged offeness.

In each case, at the committee's plenary session, an inquiry team is set up consisting of a physician and professional aspects while the lawyer ensures that the correct procedure is abided by. After studying the case in depth, including a justification from the alleged offender, who has a right to legal advice and may call witnesses, the team writes its final report. Subsequently, this is submitted to the full committee for approval, amendment or rejection. If it is approved, the accused doctor is informed. He is then offered a chance to present an apology; if this is accepted by the full committee, a new trial is stipulated. Should the concerned doctor not wish to respond, the ruling is put on record.

After the ruling is official, the next step is up to the medical doctor's professional associations (*Sindicato Medico del Uruguay* and *Federacion Medica del Interior*). They decide on professional disciplinary sanctions according to the details of each case and bring relevant legal action when necessary.

The National Committee on Medical Ethics has now been functioning for a year and a half, and we can show the world only three verdicts on the participation of physicians in torture, despite the fact that we are looking into more than a hundred specific denouncements.

Today, a year and a half after the democratic government was installed—and despite the official mission of the Uruguayan government, which led the United Nations to lift its sanctions against the country for violations of human rights during the years of dictatorial government—we can show the world only a small total of publicly established violations of human rights despite the fact that the whole nation is convinced that such violations took place; a completely intact army with its intelligence and security systems still in force and constantly pressuring the government's political decisions; a state which has not yet determined whether a civilian or a military court is to be in charge of prosecuting those responsible for the misdeeds of the past; and only one bill of Regulations for the protection of Human Rights, namely No. 433 of December 1985, proposed by Senators *Alberto Zumaran and Hugo Batalla* on behalf of the political opposition parties and which has not yet been dealt with in any depth.

Facing the reality of *obstacles* imposed by the government, we as physicians feel proud of the few, but unbending penalties and denouncements made against those who violated the universal ethical principles while carrying out their functions as military doctors. *Now, once again we turn to the worldwide medical community for solidarity and to propose some joint course of action:*

—A set of rules adopted by medical organisations everywhere which shall be binding for physicians when exercising their profession, for their relationship with the society they live in and with the government they are attached to.

In her study on 'Deontology and Repression' Dr. Susana Eirin, a lawyer and member of the National Committee on Medical Ethics, says that in times of moral decay, when a society enters a crisis, all its members are affected by such "memoral shakeup." Before learning to become a physician, one has to learn to become a human being. It may not be possible to lay down exact guidelines for the behaviour of individuals in an environment that is becoming difficult; but it certainly is important for those who start practising a profession to be given norms of conduct in the face of the social crises which our societies in transition have to endure.

—It is necessary to define and implement universal teaching norms on human ethical and professional standards. In particular, the concept of due obedience, or obedience to superiors, should be defined as restrictively as necessary in order to avoid its use as a justification for any conduct violating human rights.

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October 27 1988, p 1) there is evidence of new cases of internment during the past two years.

Some psychologically healthy dissenters and human rights (HR) activists in the USSR are labelled mentally ill and subject to compulsory hospitalisation and 'treatment'. It is argued that the Soviet approach to psychiatric diagnosis, particularly the concept of schizophrenia, is a critical factor in labelling dissent as mental illness. Such activity is not simply conformance to the prevailing political system by one sympathetic part of the health bureaucracy. It would appear that psychiatric theory and practise have been systematically bent in the USSR for this purpose—a large-scale, cross-cultural WHO study showed that Soviet psychiatrists have a broader concept of schizophrenia and a unique system of categorisation that differs from that of other psychiatrists worldwide. The Sovieztinevsley school which dominates Soviet psychiatry is "... characterised by extremely broad diagnostic criteria, extreme schematism in classification and overwhelming pessimism in prognosis". It postulates that schizophrenia is genetic in origin, irreversible and deep-seated.

The forensic (legal) implications of the Soviet view are also far-reaching. It states that "schizophrenia is a disease in which patients are, with rare exceptions, deemed not responsible (for their behaviour)". Further, with the extremely broad conception of the disease, it is possible that the defendant, who is normal on examination, is still harbouring severe illness.

State-sanctioned torture can become a malignancy of the body-politic. The political system, professional group, public opinion and individual values—these establish norms of conduct, and normally these norms do not conflict. The fact that professionals face dilemmas when conflict occurs underscores the importance of developing ethical standards. An epidemiolocal approach, such as exists in the form of a national network in the US to study the social 'causation' and medico-social implications of murder, is suggested.

Since the people who stand to benefit from TPA are usually those in political positions to sustain it; preventive strategies must be aimed at those in power. Protection of human right is based on three methods: pressure by the international community; actions by national judicial system; and enforcement by international or regional bodies (such as the UNHCR).

Governments bear the 'shame of exposure'. Systematic collection of information by national groups is important. The International Committee of the Red Cross (ICRC) has probably the most detailed information worldwide; visiting prisoners worldwide to check on detention conditions as specified in the Geneva Convention. The International Medical Commission for Health in Human Rights (Geneva) could probably coordinate a data network on epidemiology, suggest the editors in their concluding chapter.

Research on how and why reasonably normal people get co-opted into perverse practises is also important. R.J. Lifton has suggested that one of the key concepts underlying Nazi medical killings was belief in the legitimacy of destroying 'life unworthy of life'. Lifton suggests that the Auschwitz doctors sometimes experienced ethical conflicts but were able to resolve them through a process of 'doubling'—creating an 'Auschwitz self' as well as a humance-husband father self—even as they killed, they held on to the idea that they were healers.

Medicine has become part of society's explicit political response to the general predicament of humans. Medicine is now an institutionalised social instrument employed for the general political purposes of the community—regulating birth and mortality rates, controlling epidemics, etc. In the circumstances, HPs have a positive duty to protect its ethical tenets. As the book states—we are now technically capable of treating bodies and minds effectively on a large scale. To put Orwell's fears of 1984 behind us, we must put medical ethics and internationally defined human right in front of us.

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Concerning the erroneous demand of 'loyalty', in *Rafael Bielsa's* book *La funcion publica*, (Ed, Depalma, Buenos Aires, 1960, p. 34.) (Public duties) we read as follows: "The meaning of collaborating in public administration is not that of a partnership where everything must be accepted and legitimised. On the country, it implies checking, revision, objections, observations, and even well-founded opposition to any illegal or inappropriate act contrary to public interest." All professions should have a certain autonomy enabling them to resist pressures from the political systems in which they operate.

Finally, let us be united in our intentions and as physicians recall this statement from the Declaration of Geneva: "I will maintain the utmost respect for human life from its beginning even under threat and I will not use my medical knowledge contrary to the laws of humanity."

Let this be poignantly rooted in our consitences so that society and all its institutions and organs can not accept the practice of torture in their midst ever to happen again. Likewise, let it no longer be allowed that physicians alienated from their medical standards act as unconscious robots for the military in prower. ***Let us under no circumstances whatsoever permit the existence of statutes, enclaves, or hierarchies that engender posibilities for such barbarity.***