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Doctors and Torture - factual links and ethical aspects

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1.1 Zusammenfassung:

Ärzte und Folter - faktische Zusammenhänge und ethische Aspekte

Schlüsselwörter: Folter, Ärzte, Ethik, Menschenrechtsverletzungen, Prävention

Ärzte haben bezüglich Folter eine Schlüsselrolle. Sie haben beruflichen Zugang zu den Opfern oder deren Leichnamen. Ihre Einstellung und ihr Verhalten können entscheidend sein, für die Behandlung und Unterstützung Folterüberlebender und die Durchsetzung folterbezogener Prävention, oder aber für Vertuschung, das Decken von Folterern und die Stabilisierung repressiver Regime. Definition, Funktion und Folgen von Folter, sowie typische Umstände ihres Auftretens und epidemio-logische Aspekte werden diskutiert. Symptome von Folter, deren unzureichende Erkennung durch Ärzte und ihre diagnostische Einordnung im Rahmen der posttraumatischen Belastungsstörung werden angesprochen.

Im Mittelpunkt des Manuskriptes steht die Analyse der faktischen Zusammenhänge zwischen Arzt und Folter. Deren gesamtes Spektrum wird dargestellt und anhand authentischer Beispiele illustriert. Ärzte können als Behandelnde oder Experten nach der Folter die Überlebenden stärken. Mediziner können aber auch als Behandler oder 'Experten' während der Folter in Erscheinung treten. Sie können an Bestrafungen Verurteilter teilnehmen, die der Folter gleichkommen ('legale Folter'), wie Auspeitschungen, Zwangsamputationen, oder legalen Hinrichtungen, bis hin zur Explantation von Organen zum Tode verurteilter Gefangener zu Transplantationszwecken. Gewissenhafte Ärzte, die sich trotz Einschüchterungen weigern, gegen ihre Standesethik zu verstoßen, gefährden ihre Karriere, ihre Familien und sich selbst. Viele werden verfolgt oder inhaftiert und zahlreiche Ärzte sind Opfer von 'Verschwindenlassen' oder politischen Morden geworden. Die Rolle von Ärzten wird angesichts der fehlenden Umsetzung existierender berufsethischer Deklarationen diskutiert. Während Mediziner, die sich in Illinois, USA, aktiv an Hinrichtungen beteiligen, bar bezahlt und per Gesetz vor den Disziplinarausschüssen ihrer Berufsgruppe geschützt werden, setzen sich nur wenige medizinische Berufsverbände entschlossen für verfolgte Kollegen ein, die dringend die Unterstützung benötigen, die ihnen in der Erklärung von Tokio seitens des Weltärztebundes zugesichert wurde. Um ihre Glaubwürdigkeit zu wahren, muß die Ärzteschaft entschlossener gegen Mediziner vorgehen, die sich an Übergriffen beteiligen, während ehrenhafte und mutige Kollegen, wenn stille Diplomatie scheitert, durch die Mobilisierung weltweiter Öffentlichkeit geschützt werden müssen.

1.2 Abstract

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Key words: Torture, doctors, ethics, human rights violations, prevention

Doctors play a key role concerning torture. Due to their professionel tasks they gain access to the victims or their corpses. Their attitude and behaviour can be decisive, either in achieving the treatment and empowerment of survivors of torture and the prevention of future abuses or in maintaining the status quo of 'the culture of torture' by covering up torture, protecting the perpetrators and stabilizing repressive regimes. The definition, the function and the effects of torture as well as the typical circumstances of its occurence are discussed. Certain aspects of the epidemiology of torture are outlined in spite of the scarcity of data. Symptoms of torture are discussed in connection with the diagnostic entity commonly used to classify the its effects, the posttraumatic stress disorder (PTSD), while the poor recognition of the sequelae of torture by doctors is being deplored.

The main focus of the manuscript concerns the analysis of the multiple links between the medical profession and torture. The entire spectrum is being described and illustrated by concrete examples. Doctors can be therapists or experts after torture serving survivors of abuses. They can also be suppliers of medical care or 'expertise' during torture, as passive or active participants. Physicians can be participants in punishments of a convicted person equalling torture ('legal torture') such as whippings, forced amputations or legal executions, including the explantation of organs from executed prisoners for transplantation purposes. Those doctors who adhere to their conscience and resist pressure and intimidation to break their professional ethics endanger their carreers, expose their family and friends to harassment and take great personal risks. Many are persecuted, some imprisoned and a number of doctors have become victims of 'disappearances' or politically motivated murders. The role of doctors is discussed in the face of the lack of implementation of existing codes of medical ethics. While doctors who cooperate actively in executions are paid cash and protected by law in Illinois, USA, against the disciplinary bodies of their own profession, few professional medical associations are willing to pull their weight when persecuted colleagues badly need the support promised to them in the World Medical Associations Declaration of Tokyo. In order to preserve its integrity the medical profession needs to take decisive action against physicians who participate in abuses while protecting upright and couragious colleagues by mobilizing international public opinion when silent diplomacy fails.

2. Introduction

The effects of torture are treatable and competent treatment is of existential significance for survivors of organized violence. Complete healing however - especially of psychological sequelae - can virtually never be achieved. Doctors are often the first or only contacts for prisoners under torture. They assume a special responsibility not only for the treatment of victims but also as 'witnesses for the prosecution'. This includes the duty to carefully document the history as well as all the symtoms and signs of their patients which could serve as evidence for any abuse by members of the security forces. In cases of political murder competent and well recorded post mortem examinations are essential. Documentation of traces of organised violence which can serve as evidence in court is a precondition to stop the impunity of the perpetrators and to break the chain of violence, i.e. to give rise to prevention. (8)

One of the most important preventive means against torture is the right to political asylum for the persecuted and the protection against deportation into the hands of a terror regime. While providing healthcare to refugees and detainees in European and other countries of exile health professionals frequently find themselves under pressure from the authorities to act in defiance of their ethical codes of conduct. The role of police doctors and public health officials is especially worrysome in this respect. Some of them seem to regard themselves hardly more than agents of the state when receiving official instructions or when their superiors expect them to avoid 'causing trouble', such as by delaying deportation of detainees who are too ill to be transported. On a number of occasions the assessment of the bone age in juveniles by means of compulsory x-ray-taking as well as the forced deportation assisted by a doctor were reported. Such an attempt of deportation led to the death of a deportee after forced injection of a drug by a doctor at Frankfurt airport.

Due to their key role concerning the denounciation or cover-up of torture, doctors in persecuting countries are being pressured by members of the secret service, the police or the military to observe secrecy or to certify the 'natural' death of people who die from the effects of torture. Governments are often succesful in turning doctors into accomplices and perpetrators. (3, 4, 6, 8, 13, 14, 16)

Ever since the foundation of Amnesty International (AI) in 1961 physicians have actively supported the activities of the human rights movement by documenting and denouncing violations against human rights and medical ethics and by standing up for appropriate treatment of the victims. They do this since the values and norms of the Universal Declaration of Human Rights also form the basis of their own

professional ethics. Cooperating with AI also offers them a chance for preventive joint action instead of powerless observation. The ai-Health Professionals Network comprises more than 10.000 doctors, nurses and psychologists worldwide. (8)
AI has documented many cases of passive and active participation of doctors and medically trained personnel in cruel, inhuman or degrading punishment, such as floggings, forced amputations, torture and executions. Examples of complicity in and perpetration of grave human rights abuses by medical personnel are as alarming as the persecution of conscientious doctors. The repression of this reality, the indifference and silence of many doctors as well as professional associations in view of the grave offences by medical professionals, but also with respect to the suffering of their persecuted colleagues are equally depressing. (3, 6, 8, 13, 15)

Existing declarations of medical ethics comprise unmistakable rules, which ban a participation of members of the health professions in cases of torture. Amnesty International has also published guidelines for giving medical opinions in cases of torture. Doctors who stand by their Hippocratic oath are frequently faced with a brinkmanship between their conscience and reprisals. This requires a lot of courage and backbone, at times even protection against personal threats. (8)

Until now with just a few exceptions the role of professional medical associations and other organisations of health personnel concerning the victims of organised violence has been largely characterised by a lack of commitment to recognise these patients, to support research into their specific problems and to achieve an adequate provision of treatment to them. At the same time support for persecuted doctors as well as action against the complicity of medical professionals in human rights abuses has been insufficient in spite of the respective declarations.

As a consequence of their activities in the field of human rights and following a suggestion by Amnesty International's Health Professionals Network the Medical Association of Berlin was the first German organisation of health professionals to appoint a human rights representative in 1995. Since the end of the 1980's the Berlin Medical Association has dealt extensively with the topic of torture in connection with its support of the foundation of the Berlin Treatment Center for Torture Victims. The decision to focus also on preventive human rights work was the logical next step. On the international level, a partnership with the Diyarbakir Medical Association, in the Kurdish part of Turkey and the arrest of their President, Dr. Seyfettin Kizilkan, in 1996 abruptly confronted the Berlin Medical Association with that country's handling of the right to freedom of speech. Dr. Kizilkan had obviously been too outspoken in his comments on the dismal conditions of health care provision in his country. The evidence brought against him was fabricated. He was sentenced to three years and

nine months imprisonment. His trial was the first in a number of trials observed by the Berlin Medical Association since.

Besides AI and the centers for the treatment of torture survivors, several other organisations are active in the field of 'Health and Human Rights', among them the American Association for the Advancement of Science (AAAS) in Washington D.C., the Physicians for Human Rights (PHR) in Boston, the International Rehabilitation and Research Council for Torture Victims (IRCT) in Copenhagen and the Johannes Wier Foundation for Health and Human Rights in the Netherlands.

3. Definition, function and circumstances of torture

The word 'torture' - as a synonym for horror - is understood by everybody. But how exactly can torture be distinguished from maltreatment? For many years concepts and definitions have been fairly vague. A binding definition was established however in 1975 when the UN declaration against torture was adopted unanimously by the UN General Assembly. This declaration defines torture as follows:

1.*"... torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons.*

2. *It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the standard minimum rules for the treatment of prisoners.*

3. *Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment."*

Essential elements of the definition are therefore:

1. The intensity of the physical and/or mental pain and suffering inflicted on the victim,
2. the intentional character of the action,
3. the fact that the action has a purpose,
4. the direct or indirect involvement of representatives of the State.

Paragraph 2 of the declaration's definition remains controversial as it could open dangerous loopholes for governments.

This definition was further developed with respect to two points in the UN 'Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment' (1984):

1. the list of purposes was enlarged: *"... or for any reason based on discrimination of any kind..."*
2. description of the involvement of a state representative was amended as follows: *"... by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."*
(8, 13, 16)

Besides governments, armed opposition groups are responsible for grave violations of human rights. Offences against the neutrality of medical personnel in cases of armed conflicts, as regulated in the supplementary protocol, added to the Geneva Convention in 1977, have also occurred regularly.

Amnesty International usually refers to cases of police-brutality - such as the widely reported case of the Haitian immigrant Abner Louima in New York, or the evidence of abuses by German policemen against foreigners - as *use of excessive force* or as *maltreatment*. Only when such cases occur regularly and without prosecution of the perpetrators, the human rights organisation considers this to constitute a systematic pattern of state involvement to be referred to as *torture*. (8)

The question of the purpose and function of torture has already been addressed as part of the definition. Contrary to a popular belief the main purpose of torture rarely is to obtain information. Often the superficial motive is to coerce a confession with minor emphasis on its correctness. An example:
In Brazil nine men confessed their participation in an assault leading to two murders in a prosperous district of Sao Paolo during October 1996 which had been covered in great detail by the media. Subsequently the nine men were released after the real delinquents had been captured. Due to itense public pressure to produce culprits the police had extorted false admissions by means of torture as the nine men revealed after their release (8)
Frequently obtaining confessions while both the victim and the torturer know that they are false is even part of the strategy to humiliate a victim by displaying the torturers total power. (*"We can make you confess anything we like"*).

The main function of torture today is to secure the power of repressive regimes. By destroying charismatic personalities who dare to challenge the totalitarian abuse of power, their example is used as a warning goal to intimidate the opposition and ultimately the whole population. The artist, journalist, trade union leader or doctor who is being released from detention a depressive and broken man, almost unrecog-nisable even to his friends and family and whose appearance and condition paraly-ses his family permanently, has a deterrent effect far greater than a murdered martyr.

With this in mind Inge Genefke, doctor and head of the Rehabilitation and Treatment Center for Torture Victims RTC/IRCT in Copenhagen appropriately formulates: *"Torture is the greatest enemy of democracy, and democracy is the greatest enemy of torture".*

In view of the official international ban against torture no government can afford to have evidence of torture produced against them. As a consequence the training and sophistication of torturers are continually being "improved" in order for them to be more professional and efficient in their "work", avoiding to leave detectable marks. According to AI most cases of torturing take place during initial 'incommunicado-detention' when neither relatives nor lawyers have access to the detainee and while his whereabouts are still unknown. (8)

It is part of the intimidating paradox of the "culture of torture" that citizens are aware of its use, while its existence is at the same time succesfully denied by representatives of the state. *Truth is what the government proclaims even if the opposite is evident. Who would be bold enough to challenge that?*

Amnesty International stresses that besides members of the opposition increasingly also members of marginal social groups, such as the poor, the homeless, street children and petty criminals run the risk of being tortured. (8)

"Those who succumb to torture can no longer feel at home in this world" said Jean Améry, a survivor of torture himself. Torture sequelae are treatable but especially the psychological damage is hardly ever entirely curable. (2)
In the act of torture, the whole spectrum of human ingenuity surfaces in its most perverse form: there is most likely no imaginable way to make people suffer that has not been utilized by torturers. The humiliation inflicted, the pain, the powerless feeling of being at someone's mercy, and the mortal fear all leave traces which cannot be erased. The deep insults, the uprooting, the broken basic trust, and the inability to express the suffering experienced all lead to feelings of alienation. Alienation is felt toward people once trusted, toward relatives and friends, toward everyday life, toward one's own body - which becomes mostly a source of pain and suffering for its occupant - and toward one's own feelings of shame, fear, and failure.

4. What can be said about the epidemiology of torture?

Regular reports by Amnesty International, Human Rights Watch and other organisations substantiate that torture is endemic in many countries, reaching even epidemic proportions in certain countries or under certain circumstances. However, we are still facing a hidden epidemic. Doctors of all disciplines are treating its symptoms in countries where torture is widespread or in exiled refugees, including fractured bones, burns, paresis, depression, nightmares and states of anxiety. Every medical student is taught to recognise and diagnose syndromes when symptoms and signs are connected, except in the case of torture, the sequelae of which bear some resemblance to those of child abuse. (To pursue the analogy, both are inflicted intentionally, in both cases the perpetrators have powerful means to cover-up the truth and in both cases upright citizens usually prefer to remain uninformed.) A recent survey shows that definition and symptoms belonging to the most frequent diagnostic entity after torture, the 'post traumatic stress disorder' (internationally classified as PTSD, according to DSM IV TM 309,81 of the American Psychiatric Association or ICD 10 F 43,9) is still unsufficiently known, even among psychiatrists in Germany.

Systematic data on the prevalence of torture and other epidemiological parameters are still very scarce. Since the action of the perpetrators is surrounded by secrecy, this will change only when doctors start to distinguish entries into diagnostic categories on the basis of their etiology. It is highly relevant whether a patient's "trauma" or "depression" is due to a car accident, a psychiatric disease or electro-shock-torture and mock-executions. Existing data delineate a gloomy picture and give only a faint notion of the true scope of torture and other severe human rights violations.

Amnesty International's annual report informs us as follows: During 1996, maltreatment, rape and torture were documented in 124 nations. In 46 countries where torture is considered to be widespread and systematic, hundreds of persons died following torture. Thousands were victims of politically motivated and state-sponsored murders; the fate of more than 100.000 people remained unresolved after so-called 'disappearances'. In 76 states 7107 death sentences were passed. During the same period, there were at least 4272 executions; 3500 of them in China alone. Hundreds of thousands, if not millions of people were detained without charge or trial. (8)

Amnesty International has its own research department in London where experts always first carefully evaluate reports received before documenting and further distributing them. When necessary, investigative missions are sent to the country in question. AI's credibility and influence are largely derived from the high quality and

reliability of its reports. The figures quoted are conservative estimates and most probably represent only the tip of the iceberg, considering the limited research-capacity of AI, the anxiety of most victims and witnesses to reveal what happened to them and the systematic efforts of the perpetrators - often supported by the judiciary - to cover up the scope of abuses.

While only part of those who survive torture and live in exile ever have the courage to seek treatment, in Germany alone several hundreds of torture survivors are being treated each year. The capacity of treatment facilities in most, if not all, countries are by far insufficient and most treatment centers have long waiting lists.
Around 50% of patients of the Center for the Treatment of Torture Victims in Berlin are Kurds (110 patients in 1996) mostly from Turkey, a country in which torture is systematic and widespread. Seeking treatment in the country of persecution is obviously possible only in rare cases. At the treatment centers of the Turkish Human Rights Foundation 576 survivors of torture were treated during 1996. A survey by Physisians for Human Rights, published in the Journal of the American Medical Association in 1996, found that 96% of the Turkish doctors interviewed considered torture to constitute a problem in their country while more than half of them did not regard beatings, threats and intimidation as a form of torture. 60% of those interviewed believed that in Turkey almost every detainee is being tortured. A recent report by AI concludes that even children and juveniles have become victims of torture and 'disappearances' in Turkey. (8, 9, 15)

While available data are insufficient to conclude whether there is a definite tendency for torture to increase or diminish, torture is clearly more difficult to conceal and more frequently exposed than before, leading to increased reporting.

The pattern of human rights violations has changed in the recent past. Proof of torture, abuse or murder of prisoners has serious consequences in terms of the international reputation of a government. The number of difficult-to-prove cases of "disappearances" is increasing. The term "disappearances" is being used for the kidnapping of people by members of state security forces or paramilitary groups. Victims are usually brought to a secret place of detention while their arrest is denied and attempts to ascertain the whereabouts of the "disappeared" person is systematically hindered by the judiciary. The "disappeared" are often tortured and killed. At the same time short term detentions as a means of intimidation are increasing. Those targeted live in continuous uncertainty about pending rearrests and are constantly strained by a series of pending court proceedings. (8)

5. Doctors and Torture - what are the links?

"Officers of the Secret Police once asked me furiously :'Why do you run such a risk to treat these people?' Frequently I was instructed by them to discontinue my medical records about torture victims. They said: 'You hamper our work conside-rably. We can no longer just seize any of them if we have to fear that you take notes on everything.' " (8)
This statement by a Kenian doctor exemplifies the situation of members of the healing professions in many countries of the world. Often they have the opportunity, and frequently they feel the responsibility, to diagnose, document and treat offences against human rights like torture and maltreatment. Their access to victims and their professional competence facilitate the exposure of abuses which otherwise would remain concealed. The documentation of clinical findings, the observation of patients, the compilation of statements and photographic material, forensic examina-tions in cases of death, and the dialogue with victims and witnesses are means which doctors can use within the scope of their professional work to disclose human rights offences. In this way, they can play a leading role in the protection of human rights. (8)

At the same time, members of the healing professions run a considerable personal risk when they stick to the principles of their professional ethics, as governments, the military, and armed opposition groups, which torture and kill, often exert strong pressure to coerce them to cover-up abuses they committed. Doctors are urged to observe silence about the maltreatment of prisoners they treat or to certify the natural death of persons who have died under torture. In order to withstand this pressure, they need protection and worldwide support.

A number of documented cases where doctors were present during torture give rise to careful scrutiny of their motivations and the question which side they were actually on. While some of them might have had the single aim to save the tortured prisoner through their presence and expertise, without perceiving that they were in effect becoming involuntary instructors of the torturers, others were clearly active, at times voluntary or even eager participants in the procedure of torture. (8, 13, 17)

In order to create an understanding of the chain of events which lead to doctors, either being faced with the consequences of torture or even becoming involved in torture themselves, we will now give an account of certain events which have been documented and which can serve as examples to illustrate typical settings involving doctors.

5.1 Doctors as experts and therapists after torture

In Brasil, victims of torture who want to take legal action against the perpetrators still need a medical oppinion which has been authorised by the police. As a consequence, intimidated victims who are in fear of retaliation often abstain from bringing charges against their torturers since this would imply having to ask for the authorisation of the expert opinion at the very police station they were tortured. In order to conceal torture and protect those who commit it, forensic experts are still put under pressure just as during the days of military dictatorship. (8)

At Tekirdag, in the northwestern part of Turkey, Mehmet Siddik Dogru was tortured in police custody on February 13th, 1996. A medical opinion requested by the police found 'no marks of beatings' on his body. After his release, Mr. Dogru instantly underwent another examination, this time by a doctor who was authorised by the institute of forensic medicine, who documented unmistakable traces of maltreatment. During the same night, Mehmet Siddik Dogru was rearrested and taken to the public hospital where compliant doctors attested again that he bore no traces of violence. According to a press report the local head of police accused the couragious forensic expert of 'abuse of his professional status to undermine the security forces'. The doctor was subsequently charged by the public prosecutor with defamation of the state by means of false medical expertise.
Another doctor at the public hospital in the Kurdish city of Diyarbakir who examined a prisoner bearing traces of torture is reported to have called out in despair: "If I write this down, it will be hell for me!" (8)

5.2 Doctors as suppliers of medical care or "experts" during torture or as active participants of torture

In 1986, former military doctor and torturer Dr. Amilcar Lobo reported in the Brazilian press how he had become a part of the system of state-sanctioned torture and that he had actively participated in it. (8)

During the military dictatorship in Argentina between, 1976 and 1983, a number of doctors were actively involved in torture. Since many of the victims were murdered, and many more had their eyes blindfolded during the doctors' presence to prevent later identification, neither the total number nor the identity of most doctors has been ascertained to this day. In contrast, police physician Dr. Jorge Antonio Berges was sentenced to six years imprisonment in December 1986 for his active participation in torture. In July 1987, however, Dr. Berges was freed pursuant to the "law of due obedience". He was also allowed to continue to practise medicine.(8)

Towards the end of the military regime in Uruguay, Dr. Gregorio Martirena, together with his colleague Dr. Hugo Sacchi, who had been tortured himself, began to compile a detailed documentation of the role of military physicians during the dictatorship.() In Uruguay, as in many other countries, those responsible for human rights violations passed amnesty laws preventing their legal prosecution before the military government toppled. However, the commitment of Uruguayan doctors led to the military physicians Dr. Eduardo Saiz Pedrini, Dr. Nelson Fornos Vera, Dr. Vladimir Bracco, Dr. Hugo Díaz Agrelo, and Dr. Nelson Marabotto being ordered to appear before the National Uruguayan Commission for Medical Ethics, following an investigation into their actions. They were found guilty of serious violations of medical ethics and expelled from the professional medical associations. Among other things, Dr. Saiz was accused of having covered up the death under torture of his colleague, Dr. Vladimir Roslik, in 1984 through a falsified report of the physical examination and the autopsy he performed. (14)

5.3 Doctors as participants in the punishment of a convicted person equalling torture (act of 'legal torture')

5.3.1 Whippings

In countries such as Pakistan and Singapore, the presence of a doctor at public whippings is legally mandated. (8)

5.3.2 Forced amputations / branding / blinding

In 1994, the Revolutionary Council of Iraq passed a decree introducing measures of punishment which included the amputation of hands and feet, the cutting off of ears, and branding of the forehead. Theft and desertion were among the crimes for which these draconian sanctions were imposed. Conscientious objectors to military service and people who harbor them were also threatened with this type of punishment. Forced amputations and brandings are reported to have been carried out in hospitals. On 9 September 1994, Iraqi television showed pictures of an amputee with a fresh branding mark on his forehead, and his severed hand, which was being kept on surgical swabs. Amnesty International was informed about arrests and at least one execution of doctors who refused to amputate the limbs of healthy people. AI's campaign, issued after publication of the amputation decrees was succesful: After a preceding announcement by the Iraqi minister of Justice that punishments by means of amputations would be discontinued, the respective decrees were declared null and void in August 1996. (8)

Similar amputations were also reported from Sudan and other countries; blindings are used as legal sanctions in Iran.

5.3.3 Medically supported executions after conviction to capital punishment

Doctors' activities concerning the death penalty can have many facets: This includes the examination of defendants evaluating psychological disorders or mental handicaps influencing their capacity for penal responsibility as well as the treatment of death row inmates until the time of execution and the assessment of their "fitness for execution". From a historical perspective, physicians have also played a key role in the development and sophistication of execution methods, the most recent one being lethal injection. The technology of lethal injection was developed by the USA, one of the few democracies in which the legally sanctioned killing of convicted citizens is still being imposed and implemented, with the participation of doctors, nurses and paramedical staff. Recently other countries, such as China, Taiwan and Guatemala have followed suit. While the first execution by lethal injection has taken place in Guatemala at the beginning of 1998, the first legal killing by the same method in the Philippines seems imminent. (1, 5, 7, 8, 12)

It could be assumed that due to its legitimate legal status, information about the death penalty should be more easily accessible compared to data about other human rights abuses. The fact that this is not the case suggests that governments and other supporters of capital punishment fear the criticism of their opponents or that they are themselves engaged in the process of repressing the extent of brutality that their position implies. There are - although not yet established as an internatio-nal standard - valid arguments for the position that the death penalty is ultimately to be regarded as a legalised form of cruel and inhuman punishment coming close to torture, which ends with the intentional killing of a convict by order of the very state which pretends to protect and defend life. Above all those who are in charge of the medical and emotional care of death row inmates and their relatives conclude that the imposition and implementation of a death sentence leads to unacceptable emotional and physical suffering not only for the convict; others involved in this process can also develop signs of severe traumatisation. Especially in the case of public executions, but also through mass media reports, ultimately a whole community faces the traumatising consequences and bears the scars of its own jurisdiction.
In 1994, three well known US human rights organisations and the American College of Physicians jointly issued a remarkable publication called 'Breach of Trust' in which all aspects of the death penalty, which concern doctors, are critically discussed (1).

To illustrate the absurdity of the extraordinary situation in which doctors find themselves at executions as well as their active involvement, two out of many similarly gruesome accounts are given:

On December 7th, 1982, Charles Brooks was the first death-row inmate to be executed by lethal injection. Physicians played a prominent role in the execution. According to news reports Dr. Ralph Gray, Medical Director of the Texas Department of Corrections, examined Mr. Brooks "to make certain his veins would accept lethal doses of drugs".
While the lethal injection was being administered, Dr. Gray and Dr. Bentley listened to his cardiac sounds and monitored the reaction of his pupils. After five minutes Dr. Gray commented: "A couple more minutes", and then "I pronounce this man dead." (1)

On December 12th 1984, Alpha Otis Stephens was executed in Georgia on the electric chair. When a first charge of electrical current did not kill him, he was examined by two physicians after the required eight minutes to cool the body. Witnesses watched Stephens struggle to breathe. As the physicians reported that he was still alive, a second charge was administered. When they finally re-examined Stephens, the two physicians pronounced him dead. (1)

The 'Lancet' comments in one of its editorials that while it is to be welcomed that professional medical associations have finally made up their mind to demand that doctors must not take part in executions, they risk the suspicion of only wanting to avoid to besmirch their own hands, as long as they do not unmistakably take a position against the death penalty itself (7).

5.3.4 Explantation of organs from executed prisoners for transplantation purposes

Doctors and medical personal participate not only in the process of execution but also in the subsequent explantation of organs from the executed prisoner for the purpose of transplantation.

In October 1990, the Ministry of Justice in Taiwan decided that prisoners condemned to death be executed by shooting in the head, instead of the heart, so that their organs could be used for transplants as well as research purposes. In April of 1991, a condemned man was shot in the head and later brought to hospital for his organs to be explanted. When he was found still to be alive 34 hours after being shot, he was taken from the hospital back to the execution site, to be shot again. According to the Ministry of Justice, the organs of 22 executed prisoners had been removed for transplant by the end of June 1991. The prisoners had even been artificially ventilated following their execution in order to guarantee a sufficient oxygen supply to their organs.(8)

In the Peoples Republic of China, many aspects of the death penalty, such as the explantation of organs for the purpose of transplantation, are classified as a state secret. Reports by Amnesty International indicate that the organs of executed prisoners may be the main source of organs for transplantation in China. The percentage of transplanted kidneys originating from executions is estimated at around 90%. In neighbouring countries it is regarded as an open secret that in China a transplantation can be arranged rather quickly when a sufficient amount of money is being offered. While this is officially being denied, the removal of organs after execution often takes place without previous consent of the prisoner and even if a prisoners' "consent" is obtained, it can hardly be regarded as valid considering the circumstances of his decision. The lucrative trade with organs as well as the circumstances described give reason to fear that the timing of an execution and possibly even the number of death sentences pronounced could be influenced partly by the need to cover the demand for organs for transplantation. (8)

The Transplantation Society, an international association of medical specialsts, has already banned the use of organs from executed prisoners for purposes of transplantation. In spite of attempts to isolate doctors violating this ban, the reality still shows a strikingly different picture. (8, 10, 12)

5.4. Doctors as victims of persecution

Doctors who document traces of torture in their patients and go public with their findings or who treat wounded members of the opposition or rebels, risk their lives and that of their relatives. Also, when members of the healing professions make use of their right to the freedom of speech and stand up for the respect of their civil rights, this frequently is their doom. It can even be dangerous just to identify defects which form risk factors for their patients' health. (3, 8, 11, 13, 16)

The Indian head physician for orthopedic surgery, Dr. Farooq Ahmad Ashai, died on February 18th 1993 at a roadblock under mysterious circumstances. Dr. Ashai was shot by the Indian security forces after he had documented many cases of torture.(8, 15)

The "disappearance" of the nurse Mirghani Kafi and the dentist Dr. Mohammed Nowar Aso following their arrests by state security forces in Kadugi, Sudan, in 1991, remains unsolved to this day. Dr. Nowar Aso had previously protested against the transformation of Kadugli's civilian hospital into a military hospital.(8)

Dr. Beko Ransome Kuti, a former Secretary General of the Nigerian Medical Association and Chairman of the Campaign for Democracy, was arrested in July 1995 and sentenced by a military tribunal to life imprisonment for nothing more than the peaceful exercise of his civil rights. After worldwide protests against the secret trial as well as the verdict, his sentence was shortened to 15 years. (8, 15)

Dr. Tufan Köse who treated survivors of torture at the Adana-Center of the Human Rights Foundation of Turkey was charged for his refusal to hand over the files of his patients to the Turkish police as requested. In his defence he stated that handing over the files would constitute a betrayal of his patients' trust as well as a violation of the internationally recognized principle of medical confidentiality, a basic principle of medical ethics. Dr. Köse was convicted in May 1997, in spite of international protests against the charges and the verdict. The Human Rights Foundation of Turkey had been able to prove that systematic torture occured in Turkey and their reports had met considerable international interest.

6. The role of doctors in the face of human rights violations - codes of medical ethics and their lack of implementation

The treatment of victims of torture - a task which should by definition form the core of what the healing professions stand for - has been inadequately supported by medical professional organisations in the past. While the personnel of treatment centers for survivors of torture in countres where torture is systematic regularly have to fear for their own safety, most centers in countries of exile see their work continually endangered by lack of funding.

In order to promote the public awareness and solidarity for the victims of organised violence and to create a lobby for refugees and survivors of torture, therapists in Germany have founded a national association of treatment centers for torture victims, the *Bundesarbeitsgemeinschaft der Psychosozialen- und Behandlungs-zentren für Flüchtlinge und Folteropfer, BAFF,* in 1997. The meetings of the Health Professionals Network of the German Section of Amnesty International have become a national forum for discussions on health and human rights issues, especially torture. After intense lobbying by Amnesty International they are now regularly attended by the representatives for human rights of the regional medical associations and the Bundesärztekammer as well as the German Federation of Psychologists, by therapists working in the various regional treatment centers for torture survivors and by numerous interested health professionals and human rights activists.

The Hippocratic Oath as quintessence of an ancient tradition of medicine, stands for a professional and ethical attitude of doctors who - in adherence to their conscience - give priority to the life and wellbeing of their patients compared to all other interests, including those of the state. This very maxim is the precondition for any therapeutic relationship which needs to be based on trust.

As a consequence of the medical crimes committed during the era of national socialism in Germany the so-called bioethical revolution began. Out of the immense shock a consensus developed that the responsibility of doctors in ethically problematic situations needs a clearcut definition. In 1949, the Nuremberg Code which formulates ethical principles for carrying out scientific research was published.
Research results from studies based on unethical human experiments are still often cited, contributing to the authors' prestige, without reference to the circumstances under which the findings were attained. 50 years after Nuremberg the time has come for science to better serve the cause of human rights.

The Declaration of Tokyo, which was adopted by the World Medical Association in 1975 states explicitly that a doctor "shall not countenance, condone or participate in the practice of torture", under any circumstances, not even under threat. It also states that the World Medical Association will raise support for the doctor and his or her family if they are intimidated or endangered as a consequence of the doctors refusal to condone abuses.

In an attempt of further development and specification the United Nations' Principles of Medical Ethics, agreed in 1982, state that:
"It is a contravention of medical ethics for health personnel, particularly physicians, to be involved in any professional relationship with prisoners or detainees the purpose of which is not to solely evaluate, protect or improve their physical and mental health.

If governments however use torture as a means of securing their absolute control, this implies a brinkmanship for doctors between conscience and professional ethics on the one side and personal hazard on the other. He who has become a confidant by treating tortured prisoners and has kept silent has already turned into an accomplice of the perpetrators. The next fateful step can follow when the torturers use intimidation, threats or blackmail in order to obtain a falsified medical certificate about the 'natural' death of a person who has died under torture. Once a doctor has treated prisoners during the breaks between torture-"sessions" and observed secrecy, it is only a small next step to be present during torture. Even if a doctor defines his role in a torture situation purely in the sense of preventing the death of the victim, he becomes an instructor of the torturers who can now experiment under medical

supervision to find out just how far they can go in their excruciating torments without killing their victim. Step by step the doctor who does not dare to disobey becomes an accomplice.

Steve Biko, leader of the South African "Black Consciousness Movement," was arrested on 6 September 1977. On the following morning, the secret police called prison doctor Ivor Lang to examine Biko because he was behaving strangely. Despite Biko's visible injuries, and although his movements were uncoordinated and he was unable to speak, Dr. Lang succumbed to pressure by the local police chief and reported that he had found "no evidence of anomaly or pathology." Even after blood was found in Biko's brain fluid, neither Dr. Lang nor his superior, Dr. Benjamin Tucker, objected to his continued imprisonment. When Steve Biko was found unconscious on 11 September, Dr. Tucker authorized an unaccompanied automobile transport of 750 miles; without medical assistance. Steve Biko died en route.
Dr. Wendy Orr, a physician working under the direction of Dr. Lang in Port Elizabeth, broke the silence in 1985 after her superiors had refused to take any action despite her repeated reports of severe police abuse of prisoners. Before the Supreme Court, she testified that a large number of her patients had reported, credibly and consistently with their physical condition, that they had been tortured. Dr. Orr's testimony was acclaimed worldwide, and led to the granting of an injunction, with the goal of preventing the abuse of prisoners by the police. However, Dr. Orr was transferred to a geriatric department and anonymously threatened until she decided to leave Port Elizabeth. Recently Dr. Orr has been involved in exposing severe breaches of medical ethics by South African doctors, as well as the lack of ethical guidance by their medical association during the years of apartheid.(8)

The involvement of doctors in violations against medical ethics, which at the same time constitute serious human rights abuses, have been documented in numerous cases. This situation is fostered by a policy in a number of countries, according to which conscientious doctors are systematically threatened, while submissive physicians are rewarded. Especially police, military or prison doctors who hold a rank as members of the security forces and are thus subject to orders, come under strong pressure from their superiors and violate basic principles of their professional ethics. As the fate of Dr. Orr shows, doctors who break the '*esprit de corps* of secrecy' must - at the very least - deal with reprisals, especially from their colleagues. (3, 4, 6, 8, 13, 14, 16)

At a 1990 symposium in Tromsø, Norway, titled "Torture and the Medical Profession", Dr. Ugur Cilasun, director of the Turkish Medical Association (Türkiye Tabipleri Birligi) described the efforts undertaken and problems encountered by his organi-

zation in uncovering, punishing, and preventing the participation in torture by Turkish physicians. Following the coup d'état in 1980, the military founded its own medical college, where the students were "first and foremost soldiers, with only a secondary function as doctors," as the leader of the *Junta* put it. As such, obeying one's superiors had clear priority over questions of conscience and the fundamentals of medical ethics. Because of the Turkish Medical Association's critical position on this question, military doctors were shortly thereafter forbidden to become members of that organization. The Turkish army, police and government untill today exert pressure on the medical professions to disguise the extent of state repression and systematic torture. (4)

In Denmark, Rasmussen published the results of his own study of 200 survivors of torture from 18 countries. One-fifth of those interviewed indicated that medical personnel had been involved in torturing them. In 10 cases, physicians were present while the torture was going on. (17)

In consequence we must demand from physicians who have become confidants that they breach their accompliceship as soon as possible by going public with their knowledge. Along these lines the Standing Committee of Doctors of the European Communities agreed as part of the 1989 'Declaration of Madrid' to publish information about the existence of torture and to press for the establishment of an international system of registration for breaches of medical ethics on the part of doctors.

Both the significance and the current relevance of demanding independent investigations and the punishment of violations of medical ethics are underscored by the recent revelations of state-run radiation experiments on people in the USA. Between 1945 and 1975, American government officials conducted dozens of secret experiments with radioactivity on test subjects with neither their knowledge nor consent. Doctors, who were familiar with the Nuremberg Code, participated in these studies, organized for military purposes, on prisoners, cancer patients, and hundreds of pregnant women.

Governments are increasingly attempting to legitimize torture and the death penalty by supposedly humanizing them and integrating doctors into the process. Curran & Cassel refer to this as "corrupting and exploiting the societal role of the health professions" (3, 5, 8, 17)

Serious discussion on the role of doctors related to executions in the USA has only started in 1977, after execution by lethal injection had been introduced by 2 federal states. In 1980, the American Medical Association, on the occasion of the first exe-

cution by lethal injection, passed a resolution stating that - irrespective of his personal conviction - the only legitimate task of a doctor in connection with an execution is to certify death. The World Medical Association reaffirmed this position in 1981 commenting that acting as an executioner is not the practice of medicine. The World Psychiatric Association, the American College of Physicians, the American Nurses Association and other professional bodies also stated their opposition to the participation of the health professionals in executions.

In order to 'protect' doctors who still continue to cooperate in carrying out executions from the ethics commissions and disciplinary bodies of their profession however, the state of Illinois guarantees their anonymity and pays them cash for their "services". In April 1995 legislation was passed - in spite of vehement protests by professional medical bodies in the USA and abroad - defining that doctors in Illinois, for the duration of their participation in an execution, are not acting as physicians and are therefore dispensed from their professional ethics as well as the Medical Practice Act. (8)

While adressing the right issues, the Nuremberg Code, the declarations of Tokyo and Madrid as well as the United Nations' Principles of Medical Ethics have so far had an insufficient impact on the behaviour of doctors in critical situations.

7. Demands for the implementation of medical ethics

Where ethical principles are being twisted for opportunistic political reasons including legal measures, medical associations must move into unmistakable positions and actively defend the core of their professions' identity: "primum non nocere - first of all do no harm".

This also applies to the inner conflict of doctors in the face of intimidation. Totalitarian governments which realize that it becomes more and more difficult to conceal and deny the existence of systematic torture and to keep up the image of respectability, take resolute action against all those who challenge their power.
Those who endanger both themselves and their families by acting according to their conscience must be reassured that medical professional associations will join the human rights movement to protect them whenever necessary. The commitment of the British and the Danish Medical Association in this field can serve as an example for others.

The British Medical Association has collaborated with human rights organisations for a number of years. Their report "Medicine Betrayed" which was published in 1992 focuses on tangible recommendations. Their implementation by doctors and professional organisations is meant to prevent any future involvement of doctors in breaches of their professional ethics and abuses of human rights. At the same time their aim is to offer protection to doctors and nurses under threat. The BMA's recommendations include the following assessment (3):

"We believe that the risks faced by doctors in areas with poor human rights records need to be more widely recognized. It was clear to us that demanding that doctors respect medical ethics is meaningless if they are not given leadership and support in facing the risks they incur as a result of taking a firm stand. We recommend that national and international medical bodies such as the major international professional assocations should develop and give publicity to practical measures which can be taken to support individual doctors and medical associations which face repres-sion for their professional or human rights activities.""

On the other hand physicians should also know that they are faced with severe sanctions from their professional associations including a global revocation of their license to practice medicine, if they participate in human rights violations.

Unfortunately, the determined action of the Uruguayan medical profession in the face of serious violations by some of its members still represents an exception to what could be called a medical 'esprit de corps'. In only a few cases have doctors, guilty of participating in human rights abuses, been stripped of their licenses or convicted in a court of law. In most cases, the perpetrators go unpunished, and many of them are still practicing decades later, without their patients knowing in whom they are placing their trust.

If there is one area in which medicine must be serious about prevention, it is the protection against torture, the plague of mankind. Time is overdue, for the medicall profession as a whole to speak out loud and press for the effective ostracism of all forms of torture, including legal executions, as well as adequate support and treatment for torture survivors.

The medical profession finally needs to recognize that it undermines their credibility to pass declarations and codes of medical ethics as long as those of their colleagues who adhere to these declarations are left without vigorous support when they suffer personal persecution as a consequencence of their couragious stand. The same applies to any lack of decisive action against physicians who participate in abuses.

Whenever silent diplomacy does not yield satisfactory results, the worldwide medical community should mobilise international public opinion to protect and support persecuted colleagues in line with the World Medical Association's 'Tokyo Declaration' and to punish those who violate medical ethics by supplying torturers with medical expertise.

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