Psychiatry and abuses of human rights

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Abstract
Psychiatry has the potential to affect fundamental individual rights and liberties in a way which is different from other areas of medicine. This is so because of (i) its focus on behaviour as well as on pathology; and (ii) the powers granted to medical professionals which can lead to deprivation of liberty for certain incompetent individuals. – This short review examines some of the issues in psychiatry in which Amnesty International (AI) has documented abuses and expressed concerns. While not comprehensive, the paper does indicate the breadth of human rights issues touching on psychiatry and indicates a need for engagement by mental health professionals in questions of human rights. – AI documented the misuse of psychiatry to detain healthy political dissenters in the USSR in the 1970s and 1980s. In other states – Romania, former Yugoslavia, Hungary, Czechoslovakia – similar allegations were made though at a much lower frequency than in the USSR. There does not appear to have been the Soviet type of abuse in the former German Democratic Republic. In recent years the political internment of individuals in mental institutions has been reported in China and Turkmenistan. – Other human rights violations have a relevance to psychiatry and psychology. Torture has left many victims suffering serious psychological sequelae and there is now a considerable body of literature on the effects of and clinical response to torture. There has also been a vigorous debate since 2001 about the role of mental health expertise in assisting in the „war on terror" through the development or refinement of interrogation techniques. – In the USA, psychiatrists are involved in different aspects of capital punishment – from the arrest of the accused to the carrying out of an execution – though the situation is poorly documented in other countries. The key issues of ethical concern are assessments of competence or fitness and future dangerousness. Well-documented cases of seriously mentally ill prisoners being executed in the USA and Japan have been documented and it undoubtedly also happens in other countries. – Amnesty International has argued that psychiatrists have an important role to play in opposing human rights violations, contributing to their documentation. Moreover psychiatrists can contribute to the fulfilment of the human rights goal of protecting and promoting the right to the highest attainable standard of physical and mental health as well as addressing a wider range of human rights issues relevant to mental health.

Psychiatrie und der Missbrauch von Menschenrechten
Die Psychiatrie hat das Potential, fundamentale individuelle Rechte und Freiheiten in einer Weise zu beeinträchtigen, die sich von anderen Gebieten der Medizin unterscheidet. Dies liegt darin begründet, dass (i) ihr Fokus sowohl auf Verhalten als auch

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Pathologie gerichtet ist; und (ii) liegt es an der Machtfülle, über die medizinische Fachkräfte verfügen und die dazu führen kann, bestimmte Personen, die in Teilen ihrer Lebensführung Defizite aufweisen, in ihrer Freiheit einzuschränken. – Die in diesem Text gegebene kurze Übersicht stellt einige der Psychiatriefelder dar, in denen amnesty international (ai) Missbrauch dokumentiert und seine Besorgnis darüber zum Ausdruck gebracht hat. Wenn auch nicht umfassend, zeigt der Beitrag die Breite von Menschenrechtsthemen hinsichtlich Psychiatrie auf und weist auf die Notwendigkeit des Engagements von Heilberufler/inne/n in Menschenrechtsfragen hin. – Ai dokumentierte den Missbrauch der Psychiatrie an gesunden politischen Oppositionellen, die in der UdSSR in den 1970er und 80er Jahren festgehalten wurden. In anderen Staaten – Rumänien, Ex-Jugoslawien, Ungarn, Tschekoslowakei – wurden ähnliche Vorwürfe erhoben, wenn auch nicht so häufig wie in der UdSSR. In der DDR scheint es die sowjetische Form des Psychiatrie-Missbrauchs nicht gegeben zu haben. In den letzten Jahren wurde die politische Inhaftierung von Personen in chinesischen und turkmenischen Psychiatrien berichtet. – Auch andere Menschenrechtsverletzungen sind für Psychiatrie und Psychologie relevant. Folter hat bei vielen Opfern schwerwiegende psychologische Folgen hinterlassen, und es existiert inzwischen ein beträchtlicher Forschungsumfang über die symptomatischen Auswirkungen von Folter. Weiter gibt es seit 2001 eine intensive Debatte über die Rolle von heilberuflicher Expertise bei der Unterstützung des „Kriegs gegen den Terror", etwa durch die Entwicklung oder Verfeinerung von Befragungstechniken. – In den USA sind Psychiater in verschiedene Aspekte der Todesstrafe involviert, von der Festnahme des Beschuldigten bis zur Ausführung; für andere Länder ist die Lage wenig dokumentiert. Die Schlüsselprobleme aus ethischer Sicht sind die Begutachtung der persönlichen Kompetenz / Tauglichkeit der „Todeskandidaten", sowie deren zukünftiges Gefahrenpotential. Gutdokumentierte Fälle von psychisch schwer kranken Gefangenen werden aus den USA und Japan berichtet, aber zweifelsohne geschieht dies auch in anderen Ländern. – Amnesty international macht geltend, dass Psychiater/innen eine wichtige Rolle dabei zukommt, Menschenrechtsverletzungen entgegen zu wirken, indem sie zu ihrer Dokumentierung beitragen. Außerdem können Psychiater/innen beitragen zu der Erfüllung des Menschenrechtsziels, das Recht auf den höchst erreichbaren Standard physischer und psychischer Gesundheit zu schützen und zu fördern sowie auch auf einen darüber hinaus gehenden Bereich von heilberuflich relevanten Menschenrechtsthemen aufmerksam zu machen.

Introduction

Psychiatry has the potential to impinge on fundamental individual rights and personal liberty in a way which is distinctively different from other areas of medicine. This is so because of (i) its focus on behaviour as well as on pathology; and (ii) the powers granted to medical professionals which can lead to deprivation of liberty for certain incompetent individuals.

Amnesty International has had a long-standing interest in certain aspects of the interplay of psychiatry and human rights as they relate to the organization's own work[i]. This reflects the practical and theoretical linkage between individual rights and what psychiatrists and other mental health professionals

do to restrict those rights through legal or extra-legal measures. It also results from other important issues such as the severity of mental suffering caused by human rights violations which leads many of those affected to seek professional psychiatric help, and from the increasing role of psychiatrists in the death penalty.

Since its creation in 1961, Amnesty International has worked for the defence of basic human rights. It amended its statute only slightly during its first three decades to take account of changing patterns of human rights violations but by the 1990s it focused on absolute opposition to torture and the death penalty, to extrajudicial political killings, to „disappearances", to imprisonment for non-violent expressions of political, social or religious belief or identity and promotion of the rights to fair trial. For the past decade the organization has progressively expanded its work to more effectively address human rights abuses against women and to promote the range of human rights spelled out in the Universal Declaration of Human Rights. These include economic and social rights as well as rights relevant to personal liberty and security.[ii]

This short review examines some of the issues in psychiatry in which Amnesty International has documented abuses and expressed concerns. While not comprehensive, the paper does indicate the breadth of human rights issues touching on psychiatry and indicates a need for engagement by mental health professionals in questions of human rights.2

Abuse of psychiatry for political reasons

Amnesty International opposes as a violation of human rights the compulsory admission and detention of people in mental hospitals solely because of political activities or thoughts rather than for medical reasons.

While many countries probably have inadequacies in their mental health services the deliberate and systematic use of psychiatric services for dealing with political opponents is uncommon and appears to be largely restricted to countries having systems of government based on absolute state power. The state in which psychiatric abuses were best documented is the former USSR. As Bloch and Reddaway showed in their history of Soviet psychiatric abuse, psychiatric diagnosis was seldom used to deal with political opposition until the late 1930s during the period of Stalin's rule, when the practice of interning dissenters in hospitals started to occur in a limited way. Awareness of political abuse of psychiatry outside the USSR developed in the mid-1960s and by 1970 the issue of psychiatric abuse received widespread publicity following a number of high profile cases. The motivation of psychiatrists participating in

2 Concerning psychiatry and human rights in Germany, see www.ai-aktionsnetz-heilberufe.de.

the abuses has been the subject of speculation with two broad views emerging. Bloch and Reddaway argued that psychiatrists involved in abuses were conscious of the political ends of such abuse[iii], while Reich, on the other hand, suggested that the Soviet diagnostic framework was such as to tend to direct psychiatrists into making diagnoses which were abusive in effect – in other words, they believed their diagnoses.[iv] The majority of Soviet psychiatrists were not involved in „political psychiatry".

Through international campaigning, as well as through the internal reform mechanisms brought to bear in the late 1980s, the practice now appears to have ceased, at least in Russia if not in other republics of the former USSR. The issues of reforming psychiatric training, consolidating legal reforms and developing stronger independent professional associations remain high priorities in the republics of the former USSR. There also remains much work to be done in improving professional standards in psychiatry.

In other states, examples of this kind of abuse of psychiatry were also reported. In Romania, former Yugoslavia, Hungary, and Czechoslovakia, allegations of political psychiatry were made in the 1970s and 1980s though at a much lower frequency than in the USSR. Although there were allegations that psychiatric abuse was practised in the former German Democratic Republic[v] it seems that there was not a problem with the systematic abuses of the type reported in the USSR.

Abusive psychiatry has not disappeared however. In the recent past a number of cases of political internment in psychiatric institutions have been documented by Amnesty International. In the former Soviet republic of Turkmenistan, a man who wrote to the government urging them to authorize a demonstration was forcibly confined a psychiatric hospital. In 3 January 2004, Gurbandurdy Durdykuliyev, aged 61, wrote to the president and to the provincial governor seeking authorization for a two day protest at the policies of the president. Six weeks later he was arrested and confined in a hospital, later being transferred to a second remote psychiatric hospital. He was adopted by Amnesty International as a prisoner of conscience and the organization appealed for his unconditional release. He was released in April 2006.[vi] Another man, Kakabay Tedzhenov, aged 69, was confined in a psychiatric hospital in January 2006 after he had written to the authorities protesting government policies. On 25 October 2006, Amnesty International learned that he had been released from the psychiatric hospital.

A small number of cases of the political use of psychiatry surfaced in China in the 1990s where forcible confinement appeared to have been used to silence critics.[vii] Allegations of psychiatric abuse escalated after the banning of the Falun Gong and came to a head in 2002 with the involvement of the World Psychiatric Association (see below).

In 2000, Amnesty International reported on several cases of detention in psychiatric institutions. On 20 January 2000, a spokesperson for the Changguang police station in Fangshan district in Beijing, told a foreign journalist that around 50 „extremist" followers of the Falun Gong movement had been locked away in a psychiatric hospital near Beijing. He reportedly said that his police force was responsible for Falun Gong practitioners, the majority of them women, held at the Zhoukoudian psychiatric hospital. He told the journalist that the practitioners „are not patients, they are there to be re-educated ... Most of them are Falun Gong extremists who have been to Beijing to protest at least 10 times". After being held there for nearly two months, they were released on 26 January 2000.

In Shandong province, several Falun Gong practitioners from Jiaozhou city were reportedly detained in September 1999 in a mental hospital together with mental patients. In Henan province, four Falun Gong practitioners were reported on 29 January 2000 to be held in a mental hospital in Xinxiang city. The four, who included a doctor and a nurse, were reportedly held because they had gone to Beijing twice to appeal against the crackdown on Falun Gong and refused to give up their beliefs. [viii]

One high profile case of political incarceration in a mental institution involved Wang Wanxing, a prisoner who was released on 16 August 2005 after 13 years of forced confinement in a mental asylum. He had been held at an Ankang (secure forensic) psychiatric hospital in Beijing since June 1992 for displaying a banner in Tiananmen Square commemorating the anniversary of the pro-democracy protests of June 1989.

While at the Ankang hospital, Wang Wanxing was forced to take chlorpromazine, an anti-psychotic drug, three times a day. In the last five years of his incarceration he was kept in a ward with 50 to 70 violent, psychotically disturbed inmates.

Wang Wanxing's medical notes state that he suffered from „dangerous" psychiatric conditions associated with his political activism, including „litigation mania" and „a conspicuously enhanced pathological will". A British journalist who interviewed Wang in Germany after his release said that, „During a four-hour interview at Wang's new home, he shows no sign of illness. He is alert, lucid and compelling."[ix] A psychiatric assessment carried out the following month by two Dutch forensic psychiatrists, Prof. BCM Raes and Dr BB van der Meer, found that there was „no reason that Mr. Wang had to be locked up in a special forensic psychiatric hospital or to be admitted to a psychiatric facility".[x]

Role of the profession in responding to abusive psychiatry

The issue of political abuse of psychiatry was first raised internationally by professional associations in 1971 by the Canadian Psychiatric Association and subsequently by the World Federation for Mental Health. However, the Mexico Congress of the World Psychiatric Association in November 1971 failed to seriously address the issue[xi]. Ad hoc groups of psychiatrists expressed their concern at developments and by 1973 increasingly forthright condemnation was heard.[xii] By the time of the World Psychiatric Congress in Honolulu in 1977, there was considerable pressure for the subject to be addressed though again there were significant efforts made to maintain the focus on principles of psychiatric ethics rather than to examine specific practices. In January 1983 the Soviet member association resigned from the World Psychiatric Association (WPA) when it was clear that they risked expulsion. The Czech, Bulgarian and Cuban associations also resigned citing the politicization of the WPA as a reason. The issue of expelling the Soviet association – the subject of a number of resolutions – was therefore not discussed[xiii].

By the early 1990s, the practice had diminished. A WPA delegation which visited the Soviet Union in 1991 reported that no new cases of abuse were brought to its attention but that there was no apparent effort to fully acknowledge previous abuses and to compensate victims. In the period immediately following the break-up of the USSR at the end of 1992, Amnesty International saw no new cases in the republics that emerged from the Soviet Union though cases were to arise later.

A small number of cases of the political use of psychiatry surfaced in China in the 1990s where forcible confinement appears to have been used by the government to silence critics.[xiv] These allegations escalated over the following decade, coming to a head with the intervention of the WPA.

Some studies have suggested that political use of psychiatry started decades ago[xv] though concern about the use of psychiatry against political dissidents accelerated after the crackdown on the Falun Gong movement in 1999. In May 2000 the American Psychiatric Association, through its Committee on Abuse of Psychiatry and Psychiatrists, urged the WPA to investigate allegations that Chinese psychiatrists were taking part in abuses against Falun Gong members. In the following year the British Royal College of Psychiatrists urged the WPA to send fact-finding team to investigate allegations of psychiatric abuse against Falun Gong members. At their 2002 Assembly in Yohohama the WPA voted to establish a team to go to China to investigate these allegations. The decision was criticized by one human rights group as being „too cautious“.[xvi]

In the event the planned visit by the WPA did not go ahead as planned due to the refusal of the Chinese authorities to allow an unrestricted visit, though correspondence between the WPA, the CSP and the government had

been initiated the previous year and continued until 2004. In May of 2004, leaders of the WPA and CSP issued a joint statement in which the WPA acknowledged that the CSP has cooperated in a three-year investigation of alleged psychiatric abuses of Falun Gong members who were sent to Chinese psychiatric hospitals and clinics. According to the joint statement, the CSP's investigation identified „instances in which some Chinese psychiatrists failed to distinguish between spiritual-cultural beliefs and delusions, as a result of which persons were misdiagnosed and mistreated"[xvii] though these were attributed more to lack of professional education than to systematic abuse.

In February 2005 the WPA visit took place though it now had a focus on professional development and encouragement of ethical behaviour of psychiatrists.

Abuses not linked to suppression of political views

Amnesty international documented numerous cases of poor mental health care practice in Bulgaria and Romania in recent years.[xviii] Concerns were based on: the failure of the authorities to distinguish between mental illness and learning disability in the provision of care; the conditions in institutions which amounted in some cases to cruel, inhuman or degrading treatment; the lack of educational programs for inmates; the lack of appropriate physical and mental health care and lack of protection of the rights of patients, including from violence from other patients. In both Bulgaria and Romania, Amnesty International worked with partner organizations to document human rights violations and to initiate training of staff.

Other human rights organizations have also exposed violations of the rights of patients in institutions for people with mental illnesses, learning disabilities or both. Mental Disability Rights International (MDRI) in Boston and the Mental Disability Advocacy Centre (MDAC) in Budapest have published reports illustrating human rights problems in countries as diverse as Uruguay, Mexico, Turkey, Kosovo, Russia and the Czech Republic.[xix]

In many if not most countries there will be cases of poor practice and failure of legal protection of the rights of people with mental illnesses and there is a constant need for vigilance and for review of the adequacy of the law to protect patients' rights.

Torture and the role of psychiatrists

Torture can have a devastating impact on the mind and body of its victims. Apart from the physical injury caused by trauma such as beatings, electric shock, sexual assault and near drowning, the psychological and emotional suf-

fering provoked by torture can be severe. Long-term solitary confinement and exposure to inhumane conditions of detention can also cause deep suffering. Numerous studies have documented the effects of torture[xx]. Following torture, affected individuals can (but do not necessarily) manifest symptoms such as disturbed sleep, flashbacks, withdrawal, aggressivity, and sexual dysfunction. There is now a copious and growing literature on torture and its sequelae, management of torture-related trauma[xxi] and also on the more general subject of post-traumatic stress disorder[xxii].

Because of the profound effects of torture on the mental well being of the victim, psychiatrists and other mental health specialists have an important role in both documentation and treatment of torture sequelae. This is recognized in examination protocols such as the Istanbul Protocol (see below).

It should also be noted that mental health specialists have been involved in the development or tolerance of abusive treatments. In the „war on terror", launched after the attack on New York and Washington DC on 11 September 2001, a severe regimen was imposed on „enemy combatants" held by US forces outside the rule of law in Afghanistan, Guantanamo in Cuba, or in secret locations elsewhere.

There has been a lively debate in the medical literature about the role of doctors in the torture and other ill-treatment inflicted by US forces. Evidence has been produced by official inquiries and by independent investigations that doctors have participated in unethical activities.[xxiii] The US authorities have clearly presumed that doctors would participate in torture or other cruel, inhuman or degrading treatment, if one can judge from official documents. In its report on „war on terror" interrogations, a Pentagon working group suggests the potentially institutionalized involvement of medical personnel in interrogation techniques that violate international standards: „The use of exceptional interrogation techniques should be limited to…when the detainee is medically and operationally evaluated as suitable."[xxiv] Drawing on this, a 12 October 2003 US interrogation policy in Iraq noted that stress positions, dietary manipulation and sleep management could be used as interrogation techniques if „monitored by medics". One of the techniques requested in a military memorandum requesting approval for various interrogation techniques at Guantánamo Bay in late 2002 was „exposure to cold weather or water (*with appropriate medical monitoring*)" – (emphasis added).[xxv] The head of intelligence at Abu Ghraib prison in Iraq told a military investigator in 2004 that a doctor and a psychiatrist „monitor what we are doing" and that „[t]he doctor and psychiatrist also look at the files to see what the interrogation plan recommends; they have the final say as to what is implemented."[xxvi]

Physicians for Human Rights noted in a 2005 report that:

> „At Abu Ghraib and Guantánamo, 'behavioral science consultation teams' (BSCT), composed of psychologists and psychiatrists, were formed with the purpose of facilitating interrogation. A source knowledgeable with BSCT's

> functioning at Guantánamo told PHR that interrogators and heads of medical staff met with BSCT in order to discuss detainees' medical conditions that may cause problems during interrogations."[xxvii]

On 22 May 2006, in the wake of growing concern about medical participation in torture, the American Psychiatric Association adopted a policy statement that unambiguously stated that under no circumstances should psychiatrists take part in interrogations, at Guantánamo or elsewhere, stating „No psychiatrist should participate directly in the interrogation of persons held in custody by military or civilian investigative or law enforcement authorities, whether in the United States or elsewhere."[xxviii]

Sometimes arising as a reaction to torture (though also having other causes) is the use by prisoners of hunger strikes to advance their argument for humane treatment and respect for their rights. The principal ethical guidance on this subject, the World Medical Association's Declaration of Malta[xxix], lays stress on the mental competence of the hunger striker to decide to refuse food and this implies that a judgment has to be made that a hunger striker is refusing food for reasons other than mental illness. It is therefore possible that advice from mental health specialists will be sought in this context.

In Guantanamo, hunger strikers were force fed in a manner which represented cruel, inhuman or degrading treatment and the role. Whether or not there was any ethical professional evaluation of the prisoners on hunger strike is not known.

The death penalty

Evidence of psychiatric involvement in capital punishment is poorly documented apart from in the USA. In that country, psychiatrists can be involved at various points during the legal process which starts with the arrest of the accused and ends with the carrying out of an execution, the successful appeal or the commutation of the sentence. In the early phase of a case, psychiatric expertise may be sought to evaluate the state of mind of the accused, at the time of the alleged crime and at the time of arrest. Information gained through interviews at this time may be used in evidence and therefore the psychiatrist concerned should make clear to the detainee that such information is not bound by the normal rules of confidentiality (unless a guarantee of confidentiality can be given) and that the interview is not primarily therapeutic in nature. At trial, psychiatric evidence can be introduced concerning the likely state of mind of the defendant at the time of the crime and subsequently. Such evidence can contribute to an assessment of the competence of the defendant to stand trial. While competence[xxx] is a legal and not a medical judgement, courts may press psychiatric witnesses to give their own assessment of the competence of the prisoner. There is widespread agreement that this is not the

role of the psychiatrist though, in practice, lawyers on either side of the case can lead a witness to overtly or implicitly declare such a view.

In the USA, those states having the death penalty separate the sentencing phase from the trial of the case itself. During the sentencing hearing, mitigating evidence is presented by the defence, as well as evidence (such as aggravating factors) by the prosecution who, if they are seeking the death penalty, may try to establish that the convicted prisoner would constitute a continuing threat to society. This is one of the conditions in Texas on which the jury must be satisfied if they are to impose the death penalty. Psychiatrists regularly testify there on the probable „future dangerousness" of the convicted prisoner, a practice which was opposed in capital cases by the American Psychiatric Association which argued that psychiatrists were more frequently wrong than right in such predictions[xxxi].

A report by Amnesty International in 2006 analysed the execution of mentally ill prisoners in the USA and cited numerous cases of the failure of constitutional protection against the execution of those with serious mental illness.[xxxii]

Many psychiatrists have opposed the introduction of psychiatric evidence where it can reasonably be supposed to contribute directly to a prisoner's execution. Their argument is that it is unethical for a psychiatrist to assist the state in bringing a prisoner to the execution chamber. The main areas of professional practice where this opposition has been focused are: testimony of future dangerousness; assessing a prisoner's competence; restoring competence to be executed by giving psychiatric treatment.

Similar problems exist in Japan. The lawyer of death row prisoner Kawanaka Tetsuo was preparing a request for retrial – a process that had to be suspended due to Kawanaka Tetsuo's mental state – when he was executed in 1993. Kawanaka Tetsuo's sentence had been finalized by the Supreme Court at the time of his execution despite suffering from delusions and hallucinations.

Another prisoner reported to have mental illness, Mukai Shinji, was executed in September 2003 at a time that his lawyer was preparing an appeal for retrial.

The Japanese authorities appear willing to continue to execute individuals suffering from mental health problems including a prisoner to death by the Supreme Court on 26 September 2005, despite reports that he suffers from a serious mental illness.

Amnesty International has urged the Japanese government to ensure that no death sentences are passed or carried out against people suffering from serious mental health disabilities – whether the mental illness was present at the time the offence was committed or if it developed subsequently. Furthermore,

in accordance with Japanese law, the trial of a person suffering from a serious mental illness should be suspended.[xxxiii]

Views of the profession on participation in the death penalty

Although the debate over the involvement of medical professionals in capital punishment has been raised by individual voices in the past[xxxiv], it was the discussion prompted by the introduction of lethal injection legislation in the USA which sharpened the debate. This debate involved all areas of the medical and mental health professions. The American Medical, Public Health, Psychiatric and Nurses Associations all introduced some form of declaration opposing medical involvement in carrying out executions.

> The American Psychiatric Association (APA) declared that:
>
> The physician's serving the state as an executioner, either directly or indirectly, is a perversion of medical ethics and of his or her role as a healer and comforter. The APA strongly opposes any participation by psychiatrists in capital punishment...in activities leading directly or indirectly to the death of a condemned prisoner...xxxv.

The World Psychiatric Association, at its assembly in Athens in 1989, adopted a statement which concluded that „the participation of psychiatrists in any ... action [contributing to an execution] is a violation of professional ethics". The WPA's Declaration of Madrid of 1996 stated that „Under no circumstances should psychiatrists participate in legally authorized executions nor participate in assessments of competency to be executed".[xxxvi]

In 1992, the American Medical Association adopted a strong statement against the participation of doctors in executions. In the text of the resolution they touched on the role of the psychiatrist but invited the APA to contribute a section to the text on the role of the psychiatrist in the death penalty. The APA undertook an internal discussion which has not as yet been finalised. It is clear that the tension within the APA is between a restrictive position emphasising the Hippocratic traditions of medicine and proponents of a „truth-seeking" role for forensic psychiatrists which is less sensitive to the outcome flowing from forensic findings.

An authoritative review of the ethics of medical and psychiatric involvement in executions argued against psychiatric participation in activities such as certification of competence and giving treatment to restore competence solely to allow execution[xxxvii]. At the time of writing, the APA had not declared a position on the particularly contentious issues of certifying a prisoner fit for execution or medicating a non-competent prisoner in order to restore competence to allow execution.

Amnesty International's views on the death penalty and on psychiatric participation in the death penalty are set out in a number of publications[xxxviii].

Amnesty International regards the ethics of psychiatric participation in capital punishment as problematic in the extreme and believes that:

> psychiatrists have an important role not only in ensuring that individual psychiatrists don't contribute to executions through professional activities but also through pressing for a commitment to address the underlying problems in society rather than adopting fraudulent signs of action such as killing off a few convicted prisoners. They should contribute to the effort to instil in society a deep and unshakeable belief in the value of the human person. The psychiatrist's voice should be heard, speaking in defence of human rights and against the death penalty.xxxix

Role of psychiatrists in defending other human rights

As the WPA's Declaration of Hawaii makes clear, the role of the psychiatrist should be guided by a fundamental sense of acting in the best interests of the patient and respecting their autonomy.[xl]

> The psychiatrist must never use his professional possibilities to violate the dignity of human rights of any individual or group and should never let inappropriate personal desires, feelings, prejudices or beliefs interfere with the treatment. The psychiatrist must on no account utilize the tool of his profession, once the absence of psychiatric illness has been established. If a patient or some third party demands actions contrary to scientific knowledge or ethical principles the psychiatrist must refuse to cooperate. (Article 7)

The other international statement on human rights made by the WPA is the Declaration on psychiatrists and the death penalty though this, as indicated above, has not resolved issues relating to involvement of psychiatrists in specific aspects of capital punishment.

One issue which is not dealt with adequately in the current standards is the need for psychiatrists to speak out against abuses they witness or which are brought to their attention. A change in this direction through incorporation of an appropriate article in psychiatric ethical codes would bring such codes into line with other medical ethics standards which require doctors to refuse to tolerate torture or other cruel inhuman or degrading acts[xli]. However, the effective exposure and disciplining of mental health professionals abusing their positions and skills requires more than criticism from the specialist professional association. The wider medical profession and, above all, the medical licensing and regulatory bodies, must act in such cases.

Equally, there is a need for a commitment on the part of the profession to act in cases where colleagues are at risk or have been persecuted for actions compatible with medical ethics. Up to the present time, there has been a lack of a systematic approach to the defence of colleagues under threat. Such an approach has long been needed and should have a higher priority.

Psychiatry in the protection of human rights

While a small number of psychiatrists (including forensic psychiatrists) have been implicated in abusive psychiatry, psychiatrists can play an active role in protecting rights.

The European Committee for the Prevention of Torture (CPT) has benefited from the participation of psychiatrists in its research work over many years and as a result the Committee has contributed to standard-setting on mental health issues.[xlii] In some countries psychiatrists have been active in human rights protection, including in report-writing, advocacy and testimony in torture cases. In Turkey there has been a long-standing problem with torture, noted by human rights organizations such as Amnesty International and monitors such as the CPT. Tolerance of torture has reflected a lack of political will and effective documentation of torture has been hampered by a number of difficulties, including work load of the State Forensic Institute, non-acceptance of psychiatric reports, non-acceptance medical reports from human rights organizations and the lack of training of doctors in preparing judicial medical reports. Turkish doctors contributed to the development of the Istanbul Protocol, a medico-legal guide to the documentation of torture.[xliii]

Psychiatrists and the right to health

A number of human instruments state that everyone has the right to the highest attainable standard of physical and mental health.[xliv] Psychiatrists and other mental health professionals have a key role in delivering the health care to which gives meaning to this right and to lobby government for adequate investment in, and provision of mental health services.[xlv] This enormous subject deserves fuller consideration at another time.

Conclusion

Mental health and wellbeing are inextricably linked with human rights. This short review has illustrated some practical connections and substantive issues which deserve attention by mental health professionals.

i See Psychiatry – a human rights perspective (1995). AI Index: ACT 75/003/1995, July.
ii The essential details of Amnesty International's statute on which its work is based are set out in the Amnesty International Report, which is published annually in the middle of the year.
iii Bloch, S; Reddaway, P. (1977). Russia's Political Hospitals: The Abuse of Psychiatry in the Soviet Union. London: Gollancz.
iv Reich, W. (1985). The world of Soviet psychiatry. In: E. Stover, E.O. Nightingale (Eds.), The Breaking of Bodies and Minds, New York: Norton, p. 206-22.
v Tufts, A. (1990). Investigation of psychiatric abuse. Lancet 336, p. 1434-5.
vi See Amnesty International. *The Wire*, December 2006. Available at:
http://web.amnesty.org/wire/December2006/Updates
vii Amnesty International (1993). Medical concern: [Three prisoners] People's Republic of China. AI Index: ASA 17/44/93, 22 December.
viii Amnesty International (2000). People's Republic of China. The crackdown on Falun Gong and other so-called „heretical organizations". AI Index: ASA 17/011/2000.
ix Harding, L. (2005). In the grip of the Ankang. In: Guardian 20 December.
x Kahn, J. Sane (2006). Chinese Put in Asylum, Doctors Find. In: New York Times 17 March.
xi See: Bloch, S.; Reddaway, P. (1977). Russia's Psychiatric Prisons. London: Gollancz, chapter 4.
xii Both the American Psychiatric Association and the British Royal College of Psychiatrists spoke out more forthrightly, the latter adopting a resolution „deplor[ing] the current use of psychiatry in the Soviet Union for the purpose of political repression". See Bloch and Reddaway, *ibid.* p.320 and chapter 10 *passim*.
xiii Bloch, S.; Reddaway, P. (1983). The Shadow over World Psychiatry. London: Gollancz. The All-Union Society returned to the WPA at the Athens Congress in 1989 on condition that it admitted the existence of abuses and that it would support a visit by a WPA delegation some time after the Congress.
xiv Amnesty International (1993): Medical concern: [Three prisoners] People's Republic of China. AI Index: ASA 17/44/93, 22 December 1993.
xv Munro, R. (2000). Judicial psychiatry in China and its political abuses. In: Columbia Journal of Asian Law 14, p. 1-128.
xvi Human Rights Watch (2002). China: WPA action on psychiatric abuse falls short. 27 August.
xvii Hausman, K. (2004). WPA, Chinese psychiatrists agree on psychiatry abuse charges. In: Psychiatric News, 6 August.
xviii These are not the only countries with such problems. However Amnesty International carried out specific research on mental health and rights issues in these particular countries.
xix Documents can be downloaded from: http://www.mdri.org/ and http://www.mdac.info/
xx See the following reviews: Allodi, F. The diagnosis and treatment of torture: a critical review; Goldfeld, A.; Mollica, R.; Pesavento, B.; Faraone, S. (1986). The physical and psychological sequelae of torture. In: Journal of the American Medical Association 259, p. 2725-9; Rasmussen, O.V. (1991). Medical aspects of torture. In: Danish Medical Bulletin 18 (supplement), p. 1-88.
xxi Basoglu, M. (Ed) (1992). Torture and Its Consequences. Cambridge: Cambridge University Press.
xxii Figley, C.R. (Ed.) (1985). Trauma and Its Wake: Traumatic Stress Theory, Research and Intervention. NY: Brunner/Mazel; Ochberg, F.M. (Ed) (1988). Post-traumatic Therapy and Victims of Violence. New York: Brunner/Mazel.
xxiii See, for example: Miles, S.H. (2004). Abu Ghraib, its legacy for military medicine. In: Lancet 364, p. 725-29 (21 August).; Investigation of Intelligence Activities at Abu

Ghraib. Conducted by Major General George R. Fay and Lieutenant General Anthony R. Jones, released on 25 August 2004 (known as the Fay report). Available at: http://www4.army.mil/ocpa/reports/ar15-6/AR15-6.pdf.

xxiv Working Group Report on Detainee Interrogations in the Global War on Terrorism: Assessment of Legal, Historical, Policy, and Operational Considerations, 4 April 2003 http://www.defenselink.mil/news/Jun2004/d20040622doc8.pdf.

xxv Memorandum for Commander, Joint Task Force 170. Subject: Request for approval of Counter-Resistance strategies. 11 October 2002, http://www.defenselink.mil/news/Jun2004/d20040622doc3.pdf .

xxvi Cited in Physicians for Human Rights (2005). Break them down. Systematic use of psychological torture by US Forces. Boston: PHR, p. 46-47.

xxvii Ibid, p.47.

xxviii APA. Psychiatric Participation in Interrogation of Detainees. Position Statement. Approved by the Board of Trustees, May 2006, Approved by the Assembly of District Branches, May 2006. Available at: http://www.psych.org/edu/other_res/lib_archives/archives/200601.pdf. The American Psychological Association limited its response to stating the psychologists should behave ethically. A Task Force established by the Association subsequently concluded that it was consistent with the APA Ethics Code for psychologists to serve in consultative roles to interrogation and information-gathering processes in a military setting. (Report of the American Psychological Association Presidential Task Force on Psychological Ethics and National Security 2005. Available at: http://www.apa.org/releases/PENSTaskForceReportFinal.pdf).

xxix World Medical Association. Declaration on Hunger Strikers (Declaration of Malta). Adopted by the 43rd World Medical Assembly Malta, November 1991, editorially revised at the 44th World Medical Assembly Marbella, Spain, September 1992 and revised by the WMA General Assembly, Pilanesberg, South Africa, October 2006. Available at: http://www.wma.net/e/policy/h31.htm.

xxx „Competence“ in a death penalty context is a legal concept usually meaning capacity to understand right and wrong and to comprehend the reasons for arrest, trial and punishment. Those who are significantly intellectually disabled or whose capacity for understanding is affected by mental illness may be adjudged „incompetent“.

xxxi Amnesty International (1987). United States of America: The Death Penalty. London: AI Publications, p. 145. The APA submitted an *amicus curiae* brief on this subject before the Supreme Court in *Estelle v. Barefoot* but the court ruled that such predictions were admissible in court.

xxxii United States of America (2006). Execution of the mentally ill. AI Index: AMR 51/003/2006, http://web.amnesty.org/library/Index/ENGAMR510032006.

xxxiii Amnesty International (2006). „Will this day be my last?“ The death penalty in Japan. AI Index: ASA 22/006/2006. Available at: http://web.amnesty.org/library/Index/ENGASA220062006. On 25 December 2006, four men were hanged in Tokyo including two aged in their 70s – the first executions in 15 months. The executions took place one week after parliament went into recess.

xxxiv See, for example, West, L.J. (1975). Psychiatric reflections on the death penalty. In: Journal of Orthopsychiatry 45, p. 689-700.

xxxv American Psychiatric Association (1980). American Journal of Psychiatry 137, p. 1487.

xxxvi World Psychiatric Association. Declaration of Madrid. Available at: http://www.wpanet.org/generalinfo/ethic1.html (accessed 5 January 2007).

xxxvii See: Council of Delegates of the American Medical Association (1993). Journal of the American Medical Association 270, p. 365-8; Breach of Trust (March 1994). Physician Participation in Capital Punishment in the USA. Report by Physicians for Human Rights, Human Rights Watch, National Coalition Against the Death Penalty, and the American College of Physicians.
xxxviii See, for example: Amnesty International Publications (1989). When the State Kills... London; United States of America: the Execution of Mentally Ill Offenders (2006). London. Available at:
http://web.amnesty.org/library/index/ENGAMR510032006.
xxxix Psychiatrists and the death penalty (1991). AI Index: ACT 75/003/1991, August.
xl World Psychiatric Association. Declaration of Hawaii, adopted 1977 and revised 1983.
xli The World Medical Association's Declaration of Tokyo, for example, requires that the doctor not „countenance, condone or participate in" torture or other forms of cruel, inhuman or degrading procedures. While in practice this is apparently still not widely interpreted as a requirement to actively expose torture, it is certainly stronger than the injunctions of the Declaration of Hawaii.
xlii See for example, the 16th General Report on the CPT's Activities , containing a section on means of restraint in psychiatric establishments. Available at:
http://www.cpt.coe.int/en/annual/rep-16.htm.
xliii Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, (Istanbul Protocol) (2001). New York: UN.
xliv See, for example, the International Covenant on Economic, Social and Cultural Rights, Article 12; the Convention on the Elimination of All Forms of Discrimination against Women, Article 12; and the Convention on the Rights of the Child, Articles 23 and 24.
xlv World Health Organization Resource Book on Mental Health, Human Rights And Legislation. Geneva, WHO, 2005. Available at:
http://whqlibdoc.who.int/publications/2005/924156282X.pdf.