

CASE #13: MEDICAL PROFESSIONALS' ROLE IN TORTURE

In October 2006, the United States enacted the Military Commissions Act of 2006. This act authorized the use of military tribunals for enemy combatants, along with the right to hold them indefinitely without judicial review under the terms of habeas corpus. Part of the Act was an amendment which retroactively rewrote the War Crimes Act, effectively immunizing those applying policies of water-boarding, stress positioning, sleep deprivation, and other controversial military tactics from prosecution under U.S. law.¹

Beyond the moral issues related to the use of torture there is a debate regarding the role of medical professionals in overseeing and providing medical attention associated with such practices. For example, investigators for the Red Cross published a report in 2006 which concluded that medical professionals working for the C.I.A. monitored prisoners undergoing waterboarding, apparently to make sure they did not drown. Medical workers were also present when guards confined prisoners in small boxes, shackled their arms to the ceiling, kept them in frigid cells and slammed them repeatedly into walls, the report said.²

According to other accounts when medical professionals were not present during harsh interrogations they have assisted afterwards by stitching wounds caused by the blows of guards, replacing dislocated shoulders resulting from hanging by the arms, etc.³ At times, the reports of such medical professionals have assisted in the identification of prisoner abuse. On other occasions medical staff has been complicit in hiding abuse and even death by altering or camouflaging the injuries they reported.⁴

There is nothing about medical personnel that makes them intrinsically more or less moral than the rest of the population, but doctors at least take the Hippocratic Oath, "to do no harm." In addition, many doctors submit to the Nuremberg Code, enacted in reaction to the human rights abuses of Nazi doctors who engaged in experimentation on human subjects; this code provides ten tenets of ethical medical research.⁵ Some are seriously concerned that when medical personnel participate in harsh interrogations, they are violating their most basic oath, and other ethical requirements of the medical field. Others worry about the ways that medical personnel can be complicit, including sharing prisoner's medical records with interrogators in an effort to reveal vulnerabilities.

Others argue that without the presence of medical personnel harsh interrogations would be less effective and more dangerous. Medical supervision offers the possibility of a more controlled environment including greater emphasis on prisoner welfare. It may also make interrogations more effective and thus contribute to homeland security.

¹ No longer punishable under US law.

² Shane, Scott, "Report Outlines Medical Workers' Role in Torture," <http://www.nytimes.com/2009/04/07/world/07detain.html>, *New York Times* (Apr. 6, 2009).

³ Zernike, Kate, "Only a few spoke up on abuse as many soldiers stayed silent," <http://www.nytimes.com/2004/05/22/international/middleeast/22WITN.html>, *New York Times*, A1 (May 22, 2004).

⁴ Lifton, Robert Jay, "Doctors and Torture," <http://content.nejm.org/cgi/content/full/351/5/415>, *The New England Journal of Medicine*, v. 351, n. 5, pp. 415-416 (July 29, 2004).

⁵ United States Holocaust Memorial Museum, "The Nuremberg Code," http://www.ushmm.org/research/doctors/code_expl.htm.