Doctors and Torture

Herbert Rakatansky, MD

The Obama administration has stated that persons who participated in torture will not be prosecuted if they believed in good faith the advice from senior officials that those activities were legal.

Reports suggest that up to 50% of victims report physicians serving in an oversight capacity. As members of a profession dedicated to upholding high ethical principles, however, physicians may not be excused from responsibility for unethical actions by a governmental statement that such activity is legal.

In the Nuremberg trials, many high-level defendants pleaded: “I was only following orders.” It was not an acceptable defense. Nor was legality a defense: the horrific experiments done by the German doctors were legal in Nazi Germany. One characteristic of a profession is that it establishes standards of behavior for its members. In the US, indeed throughout the world, it is clear that doctors act unethically if they participate in torture.

The American Medical Association (AMA) Code of ethics unequivocally prohibits doctors’ participation in torture. Notably, “participation” includes the monitoring of the victim so that the torture does not “go too far.” The Code offers no reason that justifies torture. Physicians may treat prisoners who have been tortured after the fact and only if such treatment is not used as part of the process of torture.

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Ethical values and legal principles are usually closely related, but ethical obligations typically exceed legal duties. In some cases, the law mandates unethical conduct. In general, when physicians believe a law is unjust, they should work to change the law. In exceptional circumstances of unjust laws, ethical responsibilities should supersede legal obligations. The fact that a physician charged with allegedly illegal conduct is acquitted or exonerated in civil or criminal proceedings does not necessarily mean that the physician acted ethically.

Whether doctors who participated in torture will be subject to criminal prosecution under federal law is not clear, but I suspect it is unlikely. Doctors are licensed to practice medicine by each state, not by the federal government. Ethical behavior is a criterion for licensure in each state. The AMA Code of Ethics sets the generally accepted standard for ethical behavior. The AMA, however, is a membership organization without either the means or resources to determine the actual facts in these very difficult cases. Even if a doctor clearly participated in torture, the AMAs only power over that doctor would be termination of AMA membership if he/she were a member.

Support of a safe, supportive environment for victims, where they can report their experiences without fear, is critical. The Physicians for Human Rights (PHR) has advocated for victims and accountability for participants. Its Campaign Against Torture examines and treats victims as well as documents evidence of the torture. This evidence, gathered from a variety of sources in accordance with The Istanbul Protocol, can be used by victims who wish to pursue legal redress. The records, which so far have been available for review, however, have been redacted with names of the participants deleted. Information from observers of and other participants in the torture is critical. The government has this information. But it is highly unlikely that name-specific data will be released. Persons who offer such testimony would be at significant risk and must be protected from retribution and retaliation.

A broadly supported, independent commission sponsored by PHR, AMA and other medical organizations and dedicated
Greek mythology has provided the art of psychoanalysis with a multitude of metaphorical tales and immortal characters; and certainly the myths of Oedipus, Eros and Psyche must be preeminent amongst these wondrous stories.

The ruler of Thebes, Laius, and his wife, Iocaste, were childless. And so Laius sought guidance from the Delphic Oracle, who warned him that any son born to Iocaste would ultimately slay him. Iocaste then caused Laius to be inebriated, Laius, in inebriated confusion, caused Iocaste to become pregnant. A son was born nine months hence and Laius had the infant abandoned on a mountainside but first Laius had the infant’s feet pierced with nails. A shepherd found the helpless infant; and because of his injured and swollen feet, named him Oedipus [Greek for swollen, as in the word oedema; feet, as in pedal.]

The adult Oedipus killed Laius in a roadside encounter, not knowing that the victim was his father; nor did Laius know his biological relationship to his slayer. Oedipus then married the widow of Laius, Iocaste, thus fulfilling the morbid incest prophesy of the Oracle, and, in passing, provided a core theme of modern psychiatry with a fitting mythic icon.

The other crucial terms in narrative psychiatry pale in vitality to Oedipus. The word, anxiety, is from the Latin, anxietas, meaning variously anguish or solicitude. Etymologists trace it further to the Latin, angere, meaning to press together, to throttle, and ultimately, the source of the English words, anger and angina. Depression descends from the Latin, depressare, meaning to press down, to plant deeply; and earlier, from the Latin, premere, to squeeze, to weigh heavily upon.

Psyche, a maiden in Greek mythology was loved by Eros and became the earthly personification of the human soul. A psychiatrist, hence, is a healer of the soul. The Greek root, iatros, means physician [as in pediatrician, geriatrician and iatrogenic.]

Eros—while undeniably the Greek god of love—was never considered powerful enough to be amongst the twelve Olympian Board of Directors; still he was not to be denied a legitimate role in the creation of new English words such as erotic, erogenous and erotomania, and in the male name, Erasmus, meaning a loved one. The word, erosion, however, is derived from the Latin, erodere, meaning to gnaw or consume.

– STANLEY M. ARONSON, MD