Hunger Striking Inmates and Detainees, and Medical Ethics

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The patient-physician relationship has changed dramatically over recent decades in Israel as well as throughout the western world. In the past, medicine was paternalistic: it was accepted that the doctor knew what was best for the patient and this fact afforded him/her the ability to care for their health with little restriction. This was how medicine was practiced for many years in Europe, particularly in Germany, and this had a major influence on medicine in Israel.

The evolution that began with aligning the practice of Israeli medicine with the accepted standards in the United States, Canada, Britain and many other nations belonging to the World Health Organization (WHO) changed the picture. Patient autonomy has become the guiding principle in the patient-physician relationship.

Autonomy means the patient has full rights to make decisions freely and without coercion regarding the method of treatment and to grant, or not, permission prior to the start of a treatment plan. This permission is given based on the complete, honest and transparent delivery of information to the patient by the attending physician in a reasonable and balanced manner. Autonomy means that the patient has the right to refuse or defer the physician's suggestions without the latter's opinions forced upon the patient. Respecting a patient's humanity involves acknowledging their independence and upholding their right to confidentiality. The doctor will respect these rights and act together with the patient accordingly [1,2].

- Do inmates and detainees have similar rights to refuse treatment?
- Does the patient-physician relationship similarly exist in this situation?

A hunger striking inmate is not sick. He is an individual who chooses to express his protest, his position, to achieve personal, political or other goals by refusing food. A hunger striker is willing to jeopardize his own health, and even bring about his own death, as the only personal tool of protest available to someone incarcerated. An inmate in this case generally will not request that a doctor provide sustenance, and certainly not forcibly.

It is the basic need of life – food and water – that the inmate has consciously chosen to abstain. An external observer would feel tremendous frustration witnessing a person acting in a manner that could be considered suicide, without intervening. Even more so, physicians would have difficulty confronting such a situation since they have been trained to save lives, to care and do no harm. Seeing a prisoner under their care embark on a hunger strike challenges the notion of the supreme value of the sanctity of life, but does it supersede respecting an individual's rights over his own body and life?

The Code of Ethics for Physicians in Israel [3] written in 2009 states:

1. The physician will explain to the prisoner, who is refusing to eat, that this action is a valid threat to his life if he continues his hunger strike.
2. The physician will not use undue pressure upon the prisoner, to dissuade him from hunger striking. The physician will check with the prisoner on a daily basis what course of treatment is permissible in the event that the prisoner loses consciousness. This must be documented in the medical records and kept confidential.
3. The physician will continue to treat the hunger striking prisoner in the best manner possible, according to his knowledge and conscience, after the patient has lost consciousness, in keeping with the hunger striking prisoner's request as expressed during the hunger strike.
4. The physician will not participate in force feeding the hunger striking prisoner.

The patient-physician relationship is based upon trust. An individual requiring medical treatment needs to know that in this relationship the patient is protected, that the doctor will act in the patient's best interests without prejudice. The World Medical Association (WMA) stipulates that doctors' responsibilities towards patients be independent of geography, beliefs or support of a warring faction. Physicians are bound by international declarations to care for each and every individual to the best of their abilities. An example of this is the Helsinki Declaration of Ethical Principles which defines the rules for conducting medical research.

Inmates embark on hunger strikes to demonstrate against the authorities or in order to demand something under constrained circumstances where there is no other outlet for protest. Since most prisons

are generally not receptive to complaints or acts of protest, fasting is considered the only dissent permissible for inmates. This is particularly true for political prisoners [2]. A hunger strike is considered a non-violent form of protest; however, in this setting, the threat of violence is directed against the protester, rather than the authorities. Historical examples include the Suffragettes who instigated a hunger strike for equal rights for women in Britain in the early 20th century, Gandhi who mounted hunger strikes in India in the first half of the 20th century which received worldwide recognition, and Irish prisoners who staged a hunger strike in 1981 that ultimately resulted in their deaths.

The World Medical Association has published two statements regarding force feeding and hunger strikers. The Tokyo Declaration of 1975 proclaimed that doctors must never ignore or participate in acts of torture, stating unequivocally that hunger striking inmates will not be force fed to enable continuation of their torture. This is reflected in article 5 of the declaration [1]. The Malta Declaration of 1991 allows some leeway for attending physicians, granting them the final word in the decision of what is best for the patient, after taking into account all factors. Forced feeding is not an option: the physician may decide, at most, to administer artificial feeding when the hunger striker is unable to think lucidly due to the extended fast, in order to grant the patient a second opportunity to consider whether he wants to continue the hunger strike [1].

The ethical and medical duties of the physician attending to a hunger striking patient focus on providing reliable and professional counsel. The medical guidance often determines the duration of the hunger strike. Physicians attending to hunger strikers need to warn prisoners and detainees with diseases or medical issues that fasting might aggravate their conditions, and recommend that they do a partial fast or not fast at all, but absolutely not undertake a total hunger strike.

People with medical disorders such as diabetes, gastritis, gastric or duodenal ulcers, or metabolic diseases must refrain from total fasting. The physician needs to appraise each hunger striker and inform him in a timely manner of the inherent dangers of fasting, in order to help him reach a decision that should be based on knowledge. In certain instances, the hospitalization of a hunger striking inmate for additional diagnostics serves a humanitarian purpose and offers the inmate a way to return to eating under a doctor's auspices. The prisoners will only trust the doctor if they feel their medical confidentiality is preserved. However, doctors working in prisons are often not trusted by the inmates, even when dispensing objective advice. It is understandable that inmates view doctors as members of the prison system, which taints whatever advice they give. Doctors frequently encounter difficulties in convincing hunger striking inmates that they are acting in the inmates' best interests. Thus, there is good reason to bring in an external doctor, not only for medical consultations but also to serve as an impartial mediator with the authorities. This doctor can fulfill a vital role, but only if he or she wins the trust of the fasting inmate and preserves this trust, which would normally stem from the patient-physician relationship [2,4].

The physician attending a hunger striker needs to confirm that the patient is completely aware of the consequences of an extended fast. The onus is on the doctor to clarify with the patient what they expect the doctor to do when the fast impairs their faculties and precludes communication. The physician must discuss the important issues of artificial feeding and resuscitation *before* significant communication becomes impossible. The physician must be sure of what approach to adopt, and clarify this with the patient in order to reach a joint decision. If the physician is unable to personally accept the decision, he must step aside and allow another doctor to replace him to carry out the inmate's wishes. Even if the physician agrees not to administer treatment, under certain circumstances the doctor may still decide to resuscitate a dying patient if a change in external circumstances warrants this, for example if a political decision is reached while the patient is unconscious. Other conditions may arise, and in any case of ambiguity or doubt [5] action must be taken for the medical good of the patient. Despite this, after reviving the patient, if the hunger striker reiterates his demand for non-intervention, the physician must refrain from treatment and allow him to die with dignity and not suffer repeated forced resuscitations. Doctors must refuse to participate in coercive efforts to feed, which can become cruel, inhumane and degrading.

In most hunger strikes, the inmates do not wish to die [2]. Refusing food is not defined as desiring death by starvation, and they depend on medical care to prevent harm to themselves. Most hunger strikers seek to resolve the conflict and will often cease their hunger strike if the authorities accede to concessions. More determined hunger strikers, whether partially or completely fasting, often refuse to accept any treatment and declare their willingness to accept the ultimate consequences of their actions. The logical and ethical approach is to adhere to the international guidelines and forgo attempts to convince the inmates to act otherwise. The doctor's function in many cases of hunger strikes is often ambivalent. On one hand, inmates refusing to eat may view the doctor as a savior who will artificially feed them before damage is sustained. On the other hand, political prisoners may view the doctor as a torturer in a white coat, forcefully feeding them under the behest of a malevolent authority and betraying their charge as physicians.

Doctors from outside the system who do not belong to the Israel Medical Association must support their colleagues who are employed under circumstances of conflicting loyalties (e.g., serving in the Israel Defense Forces, Prisons Service, Police, etc.). Medical ethics are applicable equally to all practitioners of the medical profession, and there is no room in these situations for a physician's personal ethics. These physicians must have access to a higher medical authority if the instructions given to them

by their employers violate the basic principles of medical ethics. The World Medical Association and the International Red Cross are also at their disposal if required [2,5].

Physicians caring for inmates who are resolute and intractable in their desire to terminate their life may find themselves impossibly conflicted: *Respecting Autonomy versus the Sanctity of Life*. Some inmates may vehemently refuse all medical treatment – and any dialogue – in their aspiration to achieve their goals. The right of the inmate to decide if he wants medical intervention must be respected and the sole medical consideration is the well being of the patient. This means that the physician must allow the hunger striker to die, or resuscitate the patient only if he truly believes that the inmate desires to live [6].

The Ethics Bureau of the IMA authored a position paper in 2005 that received the support of the IMA and was based on the Malta Declaration. This paper successfully underwent two ancillary deliberations by the IMA Ethics Bureau, the last in 2013 [3]. The wording of the position paper is as follows:

1. A hunger striker is a competent individual who expresses the desire to refuse food and/or liquids for an indeterminate period, and understands that it is life threatening.
2. The attending physician must receive complete medical records for the hunger striker and be allowed to thoroughly examine the striker prior to the commencement of a hunger strike.
3. The physician must explain to the hunger striker the dangers and risks involved with engaging in a hunger strike, particularly the fear that it might end up costing him his life.
4. The physician must inform the hunger striker of his acquiescence to the striker's request to refuse all food and/or liquid including artificially feeding if the striker loses consciousness.
5. The physician is forbidden to assert any pressure to coerce the striker to desist from continuing the hunger strike.
6. The physician will not participate in force feeding of a hunger striker.
7. The hunger striker is entitled to a "second medical opinion" and may request that the second physician assume care. If the hunger striker is incarcerated, this will be coordinated with the prison physician.
8. The physician may recommend to the hunger striker to continue with any treatments involving medications, if these were prescribed prior to the strike and if he agrees to receive fluids during the hunger strike.
9. The physician may demand, in the case of external influences, that the patient be isolated from friends – other hunger strikers.
10. The physician must make sure on a daily basis that the hunger striker is willing and able to continue the hunger strike, and that his decision is undertaken from his own free will and without any external coercion.
11. The physician must consult with the hunger striker on a daily basis, what is allowable to be performed should the patient lose consciousness. The physician will document this in his records and these will remain confidential.
12. If the hunger striker loses consciousness and is unable to express his desires, the physician is free to decide according to his conscience and best judgment how to proceed treatment of the hunger striker while optimally observing the position and wishes of the patient as expressed during the strike.
13. The physician shall inform the family of the hunger striker of the hunger strike unless specifically forbidden to do so by the hunger striker himself.

Israel's experience treating hunger-striking detainees was acquired during May and June 2014 in Israel. In April 2014 prisoners started a hunger strike in prison to which 290 prisoners joined. Like others before, it was a partial hunger strike. Seventy strikers were transferred to public hospitals after 24–28 days; no one died. The longest hunger strike lasted 137 days. Most of the hunger strikes among detainees lasted 63 days.

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References

1. World Medical Association, Declaration on Hunger Strikers (1991; 1992). Adopted by the 43rd World Medical Assembly Malta, November 1991 and editorially revised at the 44th World Medical Assembly Marbella, Spain, September 1992.
1. Reyes H. Medical and ethical aspects of hunger strikes in custody and the issue of torture. www.icrc.org 1998
1. Code of Ethics for Physicians in Israel (IMA), written in 2009. Tel Aviv: Israel Medical Association, 2014.
2. Oguz NY, Miles SH. The physician and prison hunger strikes: reflecting on the experience in Turkey. *J Med Ethics* 2005; 31: 169-72.
3. Fessler DMT. The implications of starvation induced psychological changes for the ethical treatment of hunger strikers. *J Med Ethics* 2003; 29: 243-7.
4. Rubenstein LS, Annas GJ. Medical ethics at Guantanamo Bay detention centre and in the US military: a time for reform. *Lancet* 2009; 374: 353-5.

"I don't make jokes. I just watch the government and report the facts"

Will Rogers (1879-1935), American cowboy, vaudeville performer, humorist, social commentator and movie star. He was one of the world's best-known celebrities in the 1920s and 1930s

"There are years that ask questions and years that answer"

Zora Neale Hurston (1891-1960), American folklorist, anthropologist and author. She is best known for her 1937 novel *Their Eyes Were Watching God*