

# Hunger Strikes and the Practice of Force-Feeding

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## Background

Hunger striking is undertaken as a nonviolent form of protest when other ways of expressing demands are unavailable.<sup>1</sup> Detainees have historically used hunger strikes to protest a variety of issues, including inhuman conditions, religious abuses, and indefinite detention without charge or due process.<sup>2</sup> A hunger striker may be willing to die to reach a political goal, but the strike is rarely an attempt to commit suicide.<sup>3</sup> Detention center authorities have a number of options when dealing with hunger-striking detainees and should address these protests in a manner that complies with medical ethics and legal norms.

A significant portion of the detainees at the U.S. detention facility at Guantánamo Bay, Cuba have been engaged in on-and-off hunger strikes since 2002.<sup>4</sup> More and more detainees began hunger strikes in February 2013, with the number of hunger strikers climbing into the hundreds by late April.<sup>5</sup> The hunger strikes at Guantánamo represent one of the only remaining ways for detainees to peacefully protest against inhuman conditions and their continued indefinite detention. Many of the detainees have been in detention for over a decade, held in solitary confinement, and subjected to sensory and sleep deprivation, as well as environmental manipulation.<sup>6</sup>

Restrictions on the release of detainees, and the general lack of political will to do so, have left the detainees with a sense of hopelessness. The U.S. military has responded to the detainees' protests by subjecting them to force-feeding, a procedure that authorizes the restraint of detainees so they can be forced to take in nutrients by having a tube inserted through their nose. Domestic and global medical groups, including Physicians for Human Rights (PHR), have condemned force-feeding as unethical, and - in some cases - the practice can amount to torture. The continued hunger strikes, and resultant force-feeding, is just one example illuminating the dire situation and ongoing abuse at Guantánamo Bay.

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*Liquid food supplement that is force-fed to hunger strikers at the U.S. Naval Base in Guantánamo Bay, Cuba.*

*Photo: CHANTAL VALERY/AFP/Getty Images*



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### Medical Ethics of Force-Feeding

As international and domestic standards for physician responses to hunger strikes emphasize, the essential role of physicians in these cases is to maintain their doctor-patient relationship with the detainee, meet the patient's medical needs, and counsel the patient. Respect for the patient's decision-making, which forms the foundation of trust between doctor and patient, is essential. Force-feeding presents a number of ethical conflicts for doctors treating detainees. Medical treatment should not be forced on a competent, non-consenting adult. Force-feeding undermines appropriate medical care and ethical responsibilities because physicians act as agents of command - a fundamental violation of professionalism, as detainees' choices are not respected. Doctors have a professional obligation to respect the informed decisions of a competent patient.

The World Medical Association (WMA) Declaration of Tokyo states: "Where a prisoner refuses nourishment and is considered by the physician as capable of forming an unimpaired and rational judgment concerning the consequences of such a voluntary refusal of nourishment, he or she shall not be fed artificially. The decision as to the capacity of the prisoner to form such a judgment should be confirmed by at least one other independent physician."<sup>7</sup> The WMA declaration of Malta on Hunger Strikers includes the following in the Guidelines for the Management of Hunger Strikers<sup>8</sup>:

12. Artificial feeding can be ethically appropriate if competent hunger strikers agree to it. It can also be acceptable if incompetent individuals have left no unpressured advance instructions refusing it.
13. Forcible feeding is never ethically acceptable. Even if intended to benefit, feeding accompanied by threats, coercion, force or use of physical restraints is a form of inhuman and degrading treatment. Equally unacceptable is the forced feeding of some detainees in order to intimidate or coerce other hunger strikers to stop fasting.

Force-feeding a restrained individual through a nasogastric tube violates a mentally competent patient's right to refuse treatment and is physically violent.<sup>9</sup> The American Medical Association (AMA) has also spoken out on the ethical and medical issues around force-feeding, arguing that force-feeding "violates core ethical values of the medical profession."<sup>10</sup> The president of the American Medical Association, James Lazarus, wrote in the British Medical Journal that, "in the AMA's view, the use of restraints to force-feed detainees is an inhumane and degrading intervention that falls within the prohibition of torture." The British Medical Association (BMA) has stated that forced enteral feeding of competent adults - who are engaged in a political protest against being held without charge - is a human rights issue, and physicians participating in the force-feeding of mentally competent, hunger-striking adult detainees violates internationally recognized medical standards.

## Doctors and nurses at Guantánamo have become ensnared in a highly punitive process, interfering with their clinical independence and professional ethics.

### U.S. Government's Response to Hunger Strikers

In his speech on national security in June 2013, President Barack Obama recognized the brutality of current U.S. practices at Guantánamo. President Obama stated, "Is this who we are? Is that something our founders foresaw? Is that the America we want to leave our children?" The president's statement was a departure from the approach of the Department of Defense (DoD), which has adopted progressively harsher policies in responding to hunger strikes over the past decade. As reflected in the new March 2013 medical protocol for force-feeding, doctors and nurses have become further ensnared in a highly punitive process, at enormous cost to their clinical independence, medical judgment, and compliance with requirements of their professional ethics. The March 2013 medical protocol states: "When evaluating and treating a detainee on hunger strike, the JMG [Joint Medical Group] will make reasonable efforts to obtain voluntary consent for medical treatment. When consent cannot be obtained, medical procedures that are indicated to preserve health and life shall be implemented without consent from the detainee." Moreover, when a medical assessment determines that continued fasting by a detainee "will result in a threat to life or seriously jeopardize health," it is not a doctor but the Joint Task Force Guantanamo (JTF GTMO) commander who "makes the decision to authorize involuntary feeding of a detainee."<sup>11</sup>

Physicians at Guantánamo are beholden to military commanders and are therefore unable to establish a relationship of trust with detainees. Command interferes with the ability of doctors to use their independent medical judgment and – as a result – detainees' trust in medical staff has completely eroded. Hunger striking therefore presents a difficult situation for doctors who should respect the patients' choices, but must also follow instructions from military order.

*U.S. Military Police guard Taliban and al Qaeda detainees in orange jumpsuits in a holding area at Camp X-Ray at Naval Base Guantánamo Bay, Cuba.*

*Photo: Petty Officer 1st class Shane T. McCoy/U.S. Navy/Getty Images*



# The U.S. government must recognize hunger strikes as a form of political protest.

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## PHR Recommendations

PHR calls on the U.S. government to reaffirm our values, respect the human rights of detainees, and restore the ability of doctors and nurses to adhere to their clinical and ethical responsibilities. The U.S. government must recognize hunger strikes as a form of political protest and reject the mistaken view that these are acts of deliberate self-harm. The administration must address the legitimate demands of detainees, including improving prison conditions, transferring those who have been cleared for release, and charging and trying others in U.S. federal courts.

The U.S. government must permit physicians and nurses to adhere to global and national clinical and ethical standards against force-feeding those detainees engaging in hunger strikes as a means of political protest. The U.S. government should encourage trusting doctor-patient relationships, where detainees' wishes are respected and doctors are able to respond to the patient's medical needs based on independent clinical assessment. Medical ethics committees should consult on cases where complex issues arise. The detainees must be guaranteed continued and regular access to independent doctors, particularly given the breakdown in trust between detainees and their military doctors at Guantánamo.<sup>12</sup>

Physicians and nurses must be enabled to:

- Perform assessments to determine whether the individual has the capacity to make decisions and to determine whether he is being coerced by other detainees. No such assessments are currently being carried out at Guantánamo.
- Preserve the ability of doctors and nurses to exercise independent medical judgment. At Guantánamo, the decision to force-feed is a command decision, and interventions are driven by protocols, not judgment.
- Refrain from the use of force. At Guantánamo, a protocol authorizes doctors to issue orders to restrain a detainee in a chair for feeding.
- Counsel the detainee about his options, including alternatives to either refusing nutrients entirely or eating regular meals. At Guantánamo, the only communication between physicians and detainees is the protocol, which calls for urging detainees to take their meals.
- Advise the detainee about options and ascertain his wishes in the event he loses capacity. At Guantánamo, such discussions do not take place.
- Act as an intermediary that enables detainee and command to seek to resolve the situation, each without losing face. At Guantánamo, physicians act exclusively as an arm of command to carry out its policies.
- Respond to detainee needs. At Guantánamo, nurses are provided with stock answers to detainee requests and are not permitted to engage in professional assessments or make judgments in accordance with those assessments.
- Adhere to duties to advance the detainee's well-being. At Guantánamo, increasingly draconian policies rescind past practices that allowed doctors and nurses to administer feeding in a manner that reduces physical and psychological discomfort.

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## PHR Recommendations

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The U.S. government should take the necessary steps to ultimately close Guantánamo. PHR has researched the health effects of indefinite detention and found that the indeterminacy of indefinite detention, distinct from the conditions of detention, can cause severe harm in otherwise healthy individuals. Those detained without any indication of when they will be released may experience effects including post-traumatic stress disorder, depression, pathological levels of stress, severe anxiety, and enduring personality changes. Persistent indefinite detention creates a sense of hopelessness that has driven detainees to desperate measures, including hunger strikes.

As the U.S. government works toward this goal, the Trump Administration should take intermediate steps to ensure that inhuman and illegal practices do not persist in Guantánamo or other detention facilities. For example, the administration should ensure that Standard Operating Procedures (SOPs) relating to the management of hunger strikes in Guantánamo and other detention facilities are aligned with international legal obligations as well as professional medical ethics. SOPs should not allow for inhuman practices and must immediately undergo revision so that guards and medical professionals have proper guidance in the ethical management of detainees who are engaging in a hunger strike.

*Retired Army Brig. Gen. Stephen Xenakis, PHR anti-torture expert, testifies during a hearing of the Senate Judiciary Committee on July 24, 2013 in Washington, DC. The committee heard testimony from the panelists on 'Closing Guantánamo: The National Security, Fiscal, and Human Rights Implications.'*  
*Photo: Win McNamee/ Getty Images*



# The U.S. government must ensure that inhuman and illegal practices do not persist in Guantánamo or other detention facilities.

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