

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

AHMED BELBACHA,	)	
SHAKER AAMER,	)	
ABU WA'EL (JIHAD) DHIAB,	)	
NABIL HADJARAB,	)	
	)	
Petitioners,	)	Civ. Nos. 04-2215 (RMC), 05-
	)	1457 (GK), 05-1504 (RMC), &
v.	)	05-2349 (RMC)
	)	
BARACK OBAMA, <i>et al.</i> ,	)	
	)	
Respondents.	)	

**DECLARATION OF STEVEN H. MILES, MD**

**I, STEVEN MILES, DECLARE:**

- 1. I am Professor of Medicine at the University of Minnesota. I am board certified in Internal Medicine. I have practiced and taught internal medicine continuously for 32 years since 1981. During that time I have ordered, personally inserted, taught the insertion of and supervised feedings by various kinds of nasogastric tubes.
  
- 2. I am also Professor of Bioethics; Maas Family Endowed Chair at the Center for Bioethics at the University of Minnesota Medical School as well as Affiliate Faculty for the Law School, Concentration in Health Law and Bioethics. I have served as President of the American Society of Bioethics and Humanities and received its Distinguished Service Award. I have published four books, nearly thirty chapters and more than 200 medical articles on medical ethics, human rights, tropical medicine, end of life care and geriatric health care. I have worked extensively on the matter of the ethics of military medicine. I

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have published extensively on this topic, including a detailed analysis with a Turkish physician of the handling of the prison hunger strikes in that country (appended). I have been consulted or taught on this matter for more than 10 years in a dozen countries in Europe, Africa, South America, and North America. I am on the Board of the Center for Victims of Torture in Minneapolis Minnesota, the largest such treatment center in North America.

3. The World Medical Association (WMA) has published two authoritative documents describing the duties of physicians with regard to prisoners on hunger striking. They are the Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment (Declaration of Tokyo) and the Declaration of Malta on Hunger Strikers. Both of these codes clearly anticipate the kinds of circumstances and issues that are at the heart of this case. The American Medical Association (AMA) has been a member of the WMA since its inception after World War II. The AMA endorses the WMA analysis of physicians and hunger striking physicians. This AMA determination means that it concurs that forced feeding that is performed by, ordered by, supervised by or monitored by physicians is a violation of medical professional ethics.

4. The International Committee of the Red Cross and the UN Rapporteur on Torture have endorsed the Declaration of Tokyo and the Declaration of Malta as a proper and authoritative analysis of medical ethics with regard to prison hunger strikers generally and in specific application to the situation of the hunger striking prisoners at Guantanamo. These determinations of authority and relevance lead both organizations to conclude that forced feeding of hunger strikers 1) is in general a violation of various international bans of

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"torture or cruel, inhuman, and degrading treatment or punishment" (and thus a violation of international law) and (2) an instance of "torture or cruel, inhuman, and degrading treatment or punishment" at the Guantanamo Bay prison.

5. Numerous other documents implicitly address the situation of hunger striking.

These include:

5a. The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

5b. The United Nations' Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (A/RES/43/173, 1988) states that "cruel, inhuman or degrading treatment or punishment should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental . . . ."

5c. The World Medical Association's Declaration of Geneva asserts that physicians are bound to honor human rights: "At the time of being admitted as a member of the medical profession I solemnly pledge . . . I will not use my medical knowledge to violate human rights and civil liberties, even under threat."

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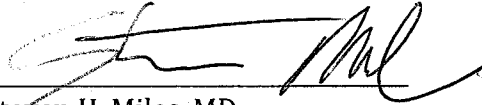
5d. The World Medical Association's Regulations in Times of Armed Conflict (1956, 1983) states, "Medical ethics in times of armed conflict is identical to medical ethics in time of peace."

6. In this instance, the petitioners are hors de combat and are deprived of liberty, held without charge, held without term, held without promise of resolution of their appeals for adjudication or release, held in isolation from their families, subject to extraordinary intrusive surveillance, restricted from minimal prison rights for correspondence, recreation, and communication. Each of these deprivations, intrusions and restrictions violate laws, practices or conventions. Under these extraordinary conditions, a hunger strike is virtually the only means of meaningful expression of personal rights and public appeal open to the petitioners.

7. In this instance, forced feeding is being strategically used to disrupt the possibility and effectiveness of that hunger strike as a form of speech as other conditions entirely bar any other form of expression of speech or relief of the inhumane burdens of the petitioners' indefinite detention.

8. The recruitment of physicians to forcibly intervene with medical technology to prevent prisoners from expressing their civil and human rights is not a therapeutic role for physicians and is a violation of medical ethics and international law and inter alia, a violation of United States law as well.

Executed in Minneapolis, Minnesota, this 20 day of June, 2013.

  
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Steven H. Miles, MD