

WMA DECLARATION OF MALTA ON HUNGER STRIKERS

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PREAMBLE

1. Hunger strikes occur in various contexts but they mainly give rise to dilemmas in settings where people are detained (prisons, jails and immigration detention centres). They are usually a form of protest by people who lack other ways of making their demands known. In refusing nutrition for a significant period, prisoners and detainees may hope to obtain certain goals by inflicting negative publicity on the authorities. Short-term food refusals rarely raise ethical problems. Prolonged fasting risks death or permanent damage for hunger strikers and can create a conflict of values for physicians. Hunger strikers rarely wish to die but some may be prepared to do so to achieve their aims.

2. Physicians need to ascertain the individual's true intention, especially in collective strikes or situations where peer pressure may be a factor. An emotional challenge arises when hunger strikers who have apparently issued clear instructions not to be resuscitated reach a stage of cognitive impairment. The principle of beneficence urges physicians to resuscitate them but respect for individual autonomy restrains physicians from intervening when a valid and informed refusal has been made. This has been well worked through in many other clinical situations including refusal of life saving treatment. An added difficulty arises in custodial settings because it is not always clear whether the hunger striker's advance instructions were made voluntarily and with appropriate information about the consequences.

PRINCIPLES

3. Duty to act ethically. All physicians are bound by medical ethics in their professional contact with vulnerable people, even when not providing therapy. Whatever their role, physicians must try to prevent coercion or maltreatment of detainees and must protest if it occurs.

4. Respect for autonomy. Physicians should respect individuals' autonomy. This can involve difficult assessments as hunger strikers' true wishes may not be as clear as they appear. Any decisions lack moral force if made by use of threats, peer pressure or coercion. **Hunger strikers should not forcibly be given treatment they refuse. Applying, instructing or assisting forced feeding contrary to an informed and voluntary refusal is unjustifiable. Artificial feeding with the hunger striker's explicit or necessarily implied consent is ethically acceptable.**

5. 'Benefit' and 'harm'. Physicians must exercise their skills and knowledge to benefit those they treat. This is the concept of 'beneficence', which is complemented by that of 'non-maleficence' or primum non nocere. These two concepts need to be in balance. 'Benefit' includes respecting individuals' wishes as well as promoting their welfare. **Avoiding 'harm' means not only minimising damage to health but also not forcing treatment upon competent people nor coercing them to stop fasting.** Beneficence does not necessarily involve prolonging life at all costs, irrespective of other determinants.

Physicians must respect the autonomy of competent individuals, even where this will predictably lead to harm. The loss of competence does not mean that a previous competent refusal of treatment, including artificial feeding should be ignored.

6. Balancing dual loyalties. Physicians attending hunger strikers can experience a conflict between their loyalty to the employing authority (such as prison management) and their loyalty to patients. In this situation, physicians with dual loyalties are bound by the same ethical principles as other physicians, that is to say that their primary obligation is to the individual patient. They remain independent from their employer in regard to medical decisions.

7. **Clinical independence. Physicians must remain objective in their assessments and not allow third parties to influence their medical judgement. They must not allow themselves to be pressured to breach ethical principles, such as intervening medically for non medical reasons.**

8. Confidentiality. The duty of confidentiality is important in building trust but it is not absolute. It can be overridden if non-disclosure seriously and imminently harms others. As with other patients, hunger strikers' confidentiality and privacy should be respected unless they agree to disclosure or unless information sharing is

necessary to prevent serious harm. If individuals agree, their relatives and legal advisers should be kept informed of the situation.

9. Establishing trust. Fostering trust between physicians and hunger strikers is often the key to achieving a resolution that both respects the rights of the hunger strikers and minimises harm to them. Gaining trust can create opportunities to resolve difficult situations. Trust is dependent upon physicians providing accurate advice and being frank with hunger strikers about the limitations of what they can and cannot do, including situations in which the physician may not be able to maintain confidentiality.

10. Physicians must assess the mental capacity of individuals seeking to engage in a hunger strike. This involves verifying that an individual intending to fast is free of any mental conditions that would undermine the person's ability to make informed health care decisions. Individuals with seriously impaired mental capacity may not be able to appreciate the consequences of their actions should they engage in a hunger strike. Those with treatable mental health problems should be directed towards appropriate care for their mental conditions and receive appropriate treatment. Those with untreatable conditions, including severe learning disability or advanced dementia should receive treatment and support to enable them to make such decisions as lie within their competence.

11. As early as possible, physicians should acquire a detailed and accurate medical history of the person who is intending to fast. The medical implications of any existing conditions should be explained to the individual. Physicians should verify that hunger strikers understand the potential health consequences of fasting and forewarn them in plain language of the disadvantages. Physicians should also explain how damage to health can be minimised or delayed by, for example, increasing fluid and thiamine intake. Since the person's decisions regarding a hunger strike can be momentous, ensuring full patient understanding of the medical consequences of fasting is critical. Consistent with best practices for informed consent in health care, the physician should ensure that the patient understands the information conveyed by asking the patient what he or she understands.

12. A thorough examination of the hunger striker should be made at the start of the fast including measuring body weight. Management of future symptoms, including those unconnected to the fast, should be discussed with hunger strikers. Also, the person's values and wishes regarding medical treatment in the event of a prolonged fast should be noted. If the hunger striker consents, medical examinations should be carried out regularly in order to determine necessary treatments. The physical environment should be evaluated in order to develop recommendations for preventing negative effects.

13. Continuing communication between the physician and hunger strikers is essential. Physicians should ascertain on a daily basis whether individuals wish to continue a hunger strike and what they want to be done when they are no longer able to communicate meaningfully. The clinician should identify whether the individual is willing, in the absence of their demands being met, to continue the fast even until death. These findings must be appropriately recorded.

14. Sometimes hunger strikers accept an intravenous solution transfusion or other forms of medical treatment. A refusal to accept certain interventions must not prejudice any other aspect of the medical care, such as treatment of infections or of pain.

15. Physicians should talk to hunger strikers in privacy and out of earshot of all other people, including other detainees. Clear communication is essential and, where necessary, interpreters unconnected to the detaining authorities should be available and they too must respect confidentiality.

16. Physicians need to satisfy themselves that food or treatment refusal is the individual's voluntary choice. Hunger strikers should be protected from coercion. Physicians can often help to achieve this and should be aware that coercion may come from the authorities, the peer group, or others, such as family members. Physicians or other health care personnel may not apply undue pressure of any sort on the hunger striker to suspend the strike. Treatment or care of the hunger striker must not be conditional upon suspension of the hunger strike. Any restraint or pressure including but not limited to hand-cuffing, isolation, tying the hunger striker to a bed or any kind of physical restraint due to the hunger strike is not acceptable.

17. If a physician is unable for reasons of conscience to abide by a hunger striker's refusal of treatment or artificial feeding, the physician should make this clear at the outset, and must be sure to refer the hunger striker to another physician who is willing to abide by the hunger striker's refusal.

18. When a physician takes over the case, the hunger striker may have already lost mental capacity so that there is no opportunity to discuss the individual's wishes regarding medical intervention to preserve life. Consideration and respect must be given to any advance instructions made by the hunger striker. Advance refusals of treatment must be followed if they reflect the voluntary wish of the individual when competent. In custodial settings, the possibility of advance instructions having been made under pressure needs to be considered. Where physicians have serious doubts about the individual's intention, any instructions must be

treated with great caution. If well informed and voluntarily made, however, advance instructions can only generally be overridden if they become invalid because the situation in which the decision was made has changed radically since the individual lost competence.

19. If no discussion with the individual is possible and no advance instructions or any other evidence or note in the clinical records of a discussion exist, physicians have to act in what they judge to be in the person's best interests. This means considering the hunger strikers' previously expressed wishes, their personal and cultural values as well as their physical health. In the absence of any evidence of hunger strikers' former wishes, physicians should decide whether or not to provide feeding, without interference from third parties.

20. Physicians may rarely and exceptionally consider it justifiable to go against advance instructions refusing treatment because, for example, the refusal is thought to have been made under duress. If, after resuscitation and having regained their mental faculties, hunger strikers continue to reiterate their intention to fast, that decision should be respected. It is ethical to allow a determined hunger striker to die with dignity rather than submit that person to repeated interventions against his or her will. Physicians acting against an advanced refusal of treatment must be prepared to justify that action to relevant authorities including professional regulators.

21. Artificial feeding, when used in the patient's clinical interest, can be ethically appropriate if competent hunger strikers agree to it. However, in accordance with the WMA Declaration of Tokyo, 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 decision, he or she shall not be fed artificially. Artificial feeding can also be acceptable if incompetent individuals have left no unpressured advance instructions refusing it, in order to preserve the life of the hunger striker or to prevent severe irreversible disability. Rectal hydration is not and must never be used as a form of therapy for rehydration or nutritional support in fasting patients.

22. When a patient is physically able to begin oral feeding, every caution must be taken to ensure implementation of the most up to date guidelines of refeeding.

23. All kinds of interventions for enteral or parenteral feeding against the will of the mentally competent hunger striker are "to be considered as "forced feeding". Forced 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.

THE ROLE OF NATIONAL MEDICAL ASSOCIATIONS (NMAS) AND THE WMA

24. NMAs should organize and provide educational programmes highlighting the ethical dimensions of hunger strikes, appropriate medical approaches, treatments, and interventions. They shall make efforts to update physicians' professional knowledge and skills.

NMAs should work to provide mechanisms for supporting physicians working in prisons/jails/immigration detention centers, who may often find themselves in conflict situations and, as stated in the WMA Declaration of Hamburg, shall support any physicians experiencing pressure to compromise their ethical principles.

NMAs have a responsibility to make efforts to prevent unethical practices, to take a position and speak out against ethical violations, and to investigate them properly.

25. The World Medical Association will support physicians and NMAs confronted with political pressures as a result of defending an ethically justifiable position, as stated in the WMA Declaration of Hamburg.