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Force-Feeding of Prisoners on Hunger Strike:  
the Moral Dilemma of Doctor's Duty

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## Introduction

This thesis focuses on the topic of force-feeding of hunger strikers, yet not all kinds of hunger strikers, only those of prisoners who collectively go on a hunger strike. Furthermore, its aim is to understand the physician's job during the force-feeding procedure, and to analyse the dilemma in which the prison doctor finds her/himself, a moral dilemma. In this thesis, a definition of force-feeding and an explanation of its procedure is given. Then there is a clarification on the difference between force-feeding and artificial feeding, which is not intuitively clear. Two other subjects that are discussed are whether prisoners can be called patients in the context of a hunger strike and in relation to the physician; and whether the force-feeding procedure followed by prison doctors can be called treatment. The first chapter is dedicated to the different point of view on force-feeding. The look at different position helps to understand even further the role of the doctor in this context, and the complexity in which the physician is immersed. So, there are given some historical examples of prisoners who had decided to go on hunger strike, and the reason why they had done it – the cases are of the suffragettes, the Irish republicans and the Guantánamo Bay Detention Camp detainees. Another information is revealed: the reasons for which the states decided to force-feed the hunger strikers or to let them starve to death. The second chapter is dedicated to the examination of force-feeding compared to the four generally accepted principles of bioethics – which are: autonomy, beneficence, non-maleficence and justice – and to the principle of respect for human dignity<sup>1</sup>. The third chapter contains various declarations on force-feeding, two of which are written by the World Medical Association. Finally, in the conclusion, there is given a possible solution to the dilemma of the doctor who is, on one side, demanded to force-feed prisoners on hunger strike, but on the other side she/he is asked from associations or individuals to not practice force-feeding; so, the physician struggles between the duty towards the state, and the duty towards morality and professional ethics.

‘To force a person or animal to eat and drink, often putting food into the stomach through a pipe in the mouth’<sup>2</sup>, this is the definition of “force-feed” in the online *Cambridge Dictionary*; despite its simplicity, it explains briefly how force-feeding is performed. Force-feeding, which was called “forcible-feeding” until the 1970s, is a procedure that implicates introducing a so-called stomach tube into the mouth of a prisoner and pushing it down his/her throat so that it arrives in the stomach, then

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<sup>1</sup> Daryl Pullman, “There Are Universal Ethical Principles That Should Govern the Conduct of Medicine and Research Worldwide”, in *Contemporary Debates in Bioethics*, ed. Arthur L. Caplan and Robert Arp, (Chichester (UK): Wiley-Blackwell, 2014), part 1, chap. 1.

<sup>2</sup> “Force-feed”, Cambridge Dictionary, <https://dictionary.cambridge.org/dictionary/english/force-feed>, (accessed 1 September 2018).

liquid food can be poured inside it<sup>3</sup>. It can also sometimes be performed by utilising a nasal tube, so by inserting a tube in the nose of the hunger striker instead of sticking it into the mouth. (In some cases, to feed hunger strikers, authorities also allowed the procedure of rectal hydration which, as the name suggests, consists in ‘inserting a tube into detainees’ anal passage and “feeding” them’<sup>4</sup>. This kind of procedure is considered unacceptable as form of rehydration or alimentation by the World Medical Association in the Declaration of Malta<sup>5</sup>). Since prisoners do not want to eat – otherwise they would have not even started their hunger strikes – they fight against being force-fed; in fact, to prevent them from moving, while the procedure is being practised, someone grasps them and held them tightly to a bed or chair. Furthermore, the insertion of the tube causes most prisoners to vomit, and everyone who had undergone this procedure had said that it is extremely painful, and it is surely rather intrusive<sup>6</sup>. Consequently, can force-feeding be accepted by the Western society? A society where always more attention is put in preserving one’s physical integrity<sup>7</sup>; for instance, nowadays children are not, or at least should not be, beaten up anymore because of the new conception that violence should never be used, especially on children. Another example might be how much the consideration for any form of abuse on women has grown, sexual, physical and psychological violence on women is a hot topic today. Even though these last two examples can still be considered controversial, the majority of people will agree that there is a new way of looking at violence, which is of dislike, therefore force-feeding of prisoners could be considered absolutely unethical by just contemplating it for its cruel aspect<sup>8</sup>. Moreover, can force-feeding be accepted by the medical community? Can doctors practise this procedure, although it goes against the will of the individual who undergoes it? There are many elements of force-feeding that has to be considered while analysing its being ethical; some might be: the assault to the individual’s will; the respect for human dignity; the intention of the doctors in practising the procedure. The ultimate questions are whether force-feeding is ethical or not; and if it is not, whether doctors should do what is commended by state authorities even though it is considered unethical.

Force-feeding has some elements in common with artificial feeding. This last type of procedure is useful to keep alive patients who, because of their mental illnesses, refuse to eat – such as anorexic patients, and coma patients too – since they are unable to eat by themselves. ‘Artificial feeding can be achieved by two different methods. The nutrition can be delivered into the gut whence it can be

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<sup>3</sup> Ian Miller, *A History of Force Feeding: Hunger Strikes, Prisons and Medical Ethics, 1909-1974*, (New York: Palgrave Macmillan, 2016), pp. 2, 3, <https://doi.org/10.1007/978-3-319-31113-5>, (accessed 7 August 2018).

<sup>4</sup> “Senate Report on CIA Torture: Rectal Rehydration”, Human Rights First, <https://www.humanrightsfirst.org/senate-report-cia-torture/rectal-rehydration>, (accessed 29 August 2018).

<sup>5</sup> “WMA Declaration of Malta on Hunger Strikers”, World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>6</sup> Miller, *History of Force Feeding*, pp. 2, 3.

<sup>7</sup> Miller, *History of Force Feeding*, pp. 5, 18.

<sup>8</sup> Miller, *History of Force Feeding*, p. 95.

normally absorbed (*enteral*) or administered directly into the blood stream (*parenteral*)<sup>9</sup>. Even though they are both procedures that prevent an individual from dying due to starvation, they present obvious differences. Force-feeding is usually performed against the individual's will; in fact, the people who undergo force-feeding – who are mostly prisoners – have voluntarily chosen not to eat because of some rational reason<sup>10</sup>. It can generally be said that hunger strikers are not mentally ill when they begin the strike, so that means that their decision is rational because it is usually not obfuscated by the illness (the lack of mental illnesses is fundamental for establishing the competence of making voluntary and rational decisions and so the autonomy of a person). This statement on the presence of competence throughout the hunger strike has been questioned by some; in fact, it can be thought that the refusal of an individual of treatment that will keep her/him alive is itself a demonstration of the mental illness of the hunger striker, because no one would make the rational decision of dying if not obligated to<sup>11</sup>. Having said this, in the rest of the thesis it is assumed that the prisoners who go on hunger strike have the necessary competence to make rational and free-from coercion decisions. For what concerns mentally ill people, they might not want to be fed because of their temporary or permanent illness. So, in this new circumstances, artificial feeding of mentally ill people could be considered acceptable because it is believed to be done for the best interest of the patient. It is important to underline the word “could” because whether artificial feeding is acceptable or not is also a subject of discussion, due to its being intrinsically submerged in paternalism. In fact, where is the line between the acceptability and the unacceptability of a paternalistic decision? Assuming that, there is a margin of acceptability at all. On the contrary, force-feeding of prisoners on hunger strike is often not considered tolerable because it is thought to be done not in the name of the hunger striker's best interest, instead it is done to restrict her/him. So, as written above, the intention at the basis of the action could change the way we consider force-feeding (this topic is discussed in paragraph 2.2). The field of similarities between force-feeding and artificial feeding can be restricted even further because hunger strikers can feed themselves, they are not in coma or paraplegic, rather they want to be fasting. So, it is not even an issue that can concern the disability of the individual, as it is for artificial feeding. Furthermore, when it comes to artificial feeding the word used is “patient”, because they are people with mental illness or physical impossibility of movement; consequently, artificial feeding is indeed a treatment. At this point the definition of artificial feeding inspires two questions: can prisoners be called “patients”? Can force-feeding be called “treatment”?

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<sup>9</sup> “Artificial feeding”, Encyclopedia.com, (from The Oxford Companion to the Body), <https://www.encyclopedia.com/medicine/encyclopedias-almanacs-transcripts-and-maps/artificial-feeding>, (accessed 18 August 2018).

<sup>10</sup> Miller, *History of Force Feeding*, pp. 2, 3.

<sup>11</sup> Mirko Daniel Garasic, *Guantanamo and Other Cases of Enforced Medical Treatment: A Biopolitical Analysis*, (Cham: Springer, 2015), p. 10.

On the website of the English Oxford Dictionary “treatment” is defined as ‘medical care given to a patient for an illness or injury’<sup>12</sup>. So, the force-feeding – in these circumstances, it is better to call it artificial feeding – of mentally ill people who refuse to eat due to their illness is rightly considered a treatment; but should force-feeding of prisoners be called “medical treatment”? And should detainees be referred to as “patients” in this circumstance?

In this outline, an important aspect to answer these questions is the examination of the mental and physical status of prisoners. If a hunger striker has a good mental status, force-feeding should not be utilised. Without going into many details on the concept of autonomy, since it is touched upon in paragraph 2.1, an individual has a good mental status when she/he can make rational choices and can understand the consequences of her/his actions, and his/her decisions are the result of coercion-free reasoning. As written in the previous chapter, the idea of being rational and being mentally capable of understanding is a discussed one; but in this thesis, prisoners who go on hunger strike are considered in a state of competence. For instance, when anorexic patients are considered incapable to consent to treatments due to their illness, which not only stops them from eating, but also from understanding their life-threatening condition, artificial feeding is considered as an involuntary treatment, nonetheless a treatment, because it treats an illness. For hunger strikers in jail the situation is different compared to anorexic patients. In the first place, detainees who go on hunger strike do not suffer from an illness that makes impossible for them to decide what is best, which in their case is to use the only weapon they own to seek what, at least in their vision, is justice. So how can a response to something which is not an illness be called treatment, since a treatment is given to someone who is ill? It is easy to see how, due to the previous reason, the force-feeding of prisoners could not be called “treatment”, it does not treat the hunger strikers, for the very simple fact that she/he has nothing, apart from the desire to see a request satisfied or to honour their moral values.

Even if someone might not agree that the hunger striker’s autonomy should be respected – because of the fact that they are detainees, so their freedom is “rightly” restricted – there is also the more “basic” principle of respect for human dignity, who Daryl Pullman believes to be the moral principle that, due to its universality, can be flexibly used in different settings. Does force-feeding respect human dignity, considering that it is a rather invasive procedure? In defence of force-feeding, it could be affirmed that many medical procedures are invasive, such as a surgical operation; however, those types of procedure are executed with the consent of the patient, or anyway with respect for human dignity. The person who undergo those kinds of procedure is not unwillingly placed in bed and forcefully gripped. Even if she/he might prefer to avoid the procedure for its intrusive and painful nature, she/he knows that the procedure is for his/her own good, while a hunger striker does not think

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<sup>12</sup> “Treatment” [Def. 2], English Oxford Living Dictionaries, <https://en.oxforddictionaries.com/definition/treatment>, (accessed 10 April 2018).

that force-feeding is for its good and does not consent to it neither. Undoubtedly, force-feeding can be considered a rather unpleasant procedure to be subjected to, and this might be another reason why it could not and should not be a medical treatment. Yet it could be argued that many medical treatments are obnoxious, an example could be chemotherapy or radiation therapy for those who have cancer. Without thinking about so highly life-threatening illnesses, even a common wisdom tooth removal is generally perceived detestable. So, the fact that force-feeding is painful does not exclude it to be called “treatment”. For the Millian utilitarian moral theory, pain can be justified if it is for the greater good of saving a life. As Caplan and Arp wrote in their *Contemporary Debates in Bioethics*:

Part and parcel to utilitarianism has always been the idea that the “end” of bringing about good, beneficial, positive, or pleasurable consequences/ results for the majority “justifies the means” or manner in bringing about those consequences/results, even if those means (a) violate some moral principle, or (b) create minimal evil, detrimental, negative, or painful consequences/results for the minority affected by the decision.<sup>13</sup>

Therefore, through this way of thinking, force-feeding is better than letting the hunger striker die.

A counter-argument could be that the utilitarian way of looking at force-feeding is rather paternalistic. In fact, it is a governmental decision to force-feed prisoners, and often the State makes choices of paternalistic nature. Not taking into consideration the hunger striker’s will, by not only ignoring it, but also by force-feeding her/him seems like an extremely paternalist action. In our modern society, although authorities often have paternalistic approaches toward people – which sometimes is due to their institutional role, so they are justified, and other times they are not – the concept of autonomy and the respect for it are becoming more significant, even in those cases where autonomy means deciding to die. For instance, in many cases Jehovah witnesses have refused life-saving blood transfusions because of their religious beliefs, and for the most part their autonomy has triumphed even if that brought to death<sup>14</sup>. So, if non-paternalistic decisions have been made with the intention of respecting a personal conviction, why should not the prisoners’ will be considered in the same manner?

At this point, it is reasonable to affirm that force-feeding cannot be called “treatment”. In fact, the only support to the contradictory idea is Mill’s utilitarian moral theory that cancel out autonomy, which is one of the most important principle in our modern society. As a consequence of having affirmed that force-feeding is not a treatment, detainees who go on hunger strike should not be called patients in relation to force-feeding. They are not treated or cured from an illness, because to go on hunger strike is their voluntary and conscious decision, so their wills should be respected, and they ultimately should not be called “patients”.

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<sup>13</sup> Arthur L. Caplan and Robert Arp, ed., *Contemporary Debates in Bioethics*, (Chichester (UK): Wiley-Blackwell, 2014), p. 200.

<sup>14</sup> Caplan and Arp, *Contemporary Debates in Bioethics*, p. 167.

In conclusion, force-feeding could not be called, and essentially is not a treatment, because a treatment should cure an illness or injury, and hunger strike is none of the two – it is actually force-feeding that can injure the prisoners because it can provoke internal cuts and wounds. Being such an invasive and aggressive procedure, force-feeding seems to do not value human dignity, consequently neither the principle of respect for human dignity. So, force-feeding of detainees cannot be called “medical treatment”, and hunger strikers in prison cannot be called “patients” when it concerns force-feeding.



## Chapter 1

### Different point of view on hunger strike and force-feeding of prisoners

#### 1.1 Prisoners' reasons to go on hunger strike

As explained in the previous chapter, force-feeding is a consequence of prisoners' hunger strikes. So, to understand the dilemma in which the prison doctors are situated in, it is important to look at the grounds on which, in the past, the prisoners decided to go on hunger strike. The many historical cases of hunger strike and the consequent force-feeding are mainly based on the antagonism between the prisoners and the governments. In fact, for most of the time prisoners went on hunger strike as a sign of protest against the decision of the authorities that concerned them. In this paragraph, there is an examination of three historical cases of groups of prisoners' hunger strike: the suffragettes in England at the beginning of the XX century, the Irish republicans both in Irish and British prisons, and the Guantánamo Bay Detention Camp detainees.

In the 1910s, British suffragettes were the first ones who show the intention of going on hunger strike in groups and for political reason. As Ian Miller said in his book *A History of Force Feeding: Hunger Strikes, Prisons and Medical Ethics, 1909–1974*:

Although Russian prisoners went on hunger strike in the nineteenth century, it was English suffragettes who first demonstrated the political potency of hunger striking in groups. Between 1909 and 1914, imprisoned suffragettes refused food collectively and exhibited an absolute determination to fast until death, if necessary.<sup>15</sup>

So, to avoid suffragettes to die, the British authorities allowed force-feeding. The suffragettes chose hunger strike to ask the government to re-evaluate their status of prisoners; in fact, they wanted to be considered as political prisoners and not as common detainees. A political prisoner has more rights than a common one, because she/he can wear civilian clothes. However, it is generally not all about, what can be called, materialistic upgrades, a political prisoner is also seen differently, in fact political prisoners are not considered criminals, or at least not in the same way as killers; instead, their aim is recognised as valid. Differently, at that time suffragettes were considered as criminals or even as terrorists<sup>16</sup>. As it is widely known, suffragettes' ultimate aim was to achieve equal rights for women and men, which, nowadays, is considered as rightful and necessary to achieve. Suffragettes protests, force-feeding included, had a political meaning, because they were directed to the authorities, and they did not request things such as a larger prison cell, but they asked the authorities to re-evaluate their decisions, so their requests were political, which made impossible for the authorities to accept their request without compromising the State supremacy<sup>17</sup>.

<sup>15</sup> Miller, *History of Force Feeding*, p. 3.

<sup>16</sup> Miller, *History of Force Feeding*, p. 9.

<sup>17</sup> Garasic, *Guantanamo and Other Cases of Enforced Medical Treatment*, p. 82.

Similarly, Irish republican prisoners probably decided to walk on the path of hunger strike after having seen its political power thanks to the suffragettes. In fact, the political power of hunger strike is that it draws public attention to the case. At the beginning of the XX century, the Irish republican prisoners wanted the British Government to grant Ireland its independence. Then in the 70s, Irish republican detainees went on two hunger strikes to ask the British government to accord to them ‘the right to wear their own clothes; the right not to do prison work; the right to freedom of association; the right to organise their own leisure activities; and the right to restoration of lost remission (reduction of sentence)’<sup>18</sup>. They were demanding that the British government would recognise their right to have a political prisoners’ status, because they were considered and detained as terrorists. Once again, as for the suffragettes, the authorities, as expected, did not acknowledge the political background of the Irish republicans’ actions. In order to strengthen their request, they not only went on hunger strike, but they also did different kinds of protest. For instance, one of them was the so-called “blanket protest”<sup>19</sup>, which meant that the detainees did not wear the prison uniform, instead they wore only a blanket to cover up; this protest was against the lack of recognition of the political prisoner’s status. The protests and hunger strike were, for the public opinion, also a sign of the bad conditions Irish republican prisoners were in, and the consequence of these political protests was that Irish republican detainees achieved to have support from sympathisers around the world<sup>20</sup>. Indeed, what drew public attention to the Irish republican prisoners’ situation was the reaction of the Irish and British Governments to those hunger strikes, they asked prison doctors to force-feed them.

A very recent episode of prisoners’ hunger strike in group and the consequent force-feeding of them has happened at Guantánamo Bay Detention Camp in Cuba, which is under the complete jurisdiction and control of the USA, even though the area remains under the sovereignty of Cuba<sup>21</sup>. Mirko Daniel Garasic explained in *Guantanamo and Other Cases of Enforced Medical Treatment: A Biopolitical Analysis*:

The media started to report its name as the US transferred into the detention camp hundreds of individuals taken as prisoners in the military operations in Afghanistan started by the Bush administration as a response to the 9/11 attacks. These people were captured and held in Guantanamo without charge but instead defined as “unlawful combatants”.<sup>22</sup>

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<sup>18</sup> “History: Republican hunger strikes in the Maze prison”, BBC, [http://www.bbc.co.uk/history/events/republican\\_hunger\\_strikes\\_maze](http://www.bbc.co.uk/history/events/republican_hunger_strikes_maze), (accessed 10 August 2018).

<sup>19</sup> “History: Republican hunger strikes in the Maze prison”, BBC, [http://www.bbc.co.uk/history/events/republican\\_hunger\\_strikes\\_maze](http://www.bbc.co.uk/history/events/republican_hunger_strikes_maze), (accessed 10 August 2018).

<sup>20</sup> Miller, *History of Force Feeding*, p. 1.

<sup>21</sup> Garasic, *Guantanamo and Other Cases of Enforced Medical Treatment*, p. 78.

<sup>22</sup> Garasic, *Guantanamo and Other Cases of Enforced Medical Treatment* p. 79.

These detainees were considered by the US Secretary of Defence not as subject of the third Geneva Convention<sup>23</sup> because they were members of Al-Qaeda, which was not a “recognised state party”, as such they were not categorise as “prisoners-of-war”, consequently they were not treated as required by the third Geneva Convention<sup>24</sup>. These prisoners started hunger striking to draw international attention to their treatment. In fact, they demonstrated against the absence of a trial, the impossibility for them, and actually for anybody else, to know exactly for what they were accused of, and the fact that they were considered “unlawful combatants” or “enemy combatants”<sup>25</sup> and not prisoners-of-war. The US Government started force-feeding them to prevent deaths; in fact, in 2013 the number of hunger strikers increased to 103, four of which were hospitalized, and 41 were force-fed with the naso-gastric treatment, which means that a quarter of the prisoners were force-fed<sup>26</sup>.

As explain through the historical examples above, hunger strike is for detainees a weapon that can be used to expose governments behaviour and decisions to the public opinion. In certain circumstances, a prisoner who died because of starvation can be seen as a martyr who sacrificed her/himself for a greater cause, and as a victim of a brutal political game.<sup>27</sup> Actually, hunger strike is the only instrument for prisoners to show their will and their disappointment in the most potentially effective way, and to try to make their voices heard by the governments<sup>28</sup>. With *in the most potentially effective way*, it is meant that even such a shocking action as hunger striking might not be effective and so might not induce the governments to change their minds for what concern the prisoners’ status or request. In fact, the only time the power of collective hunger striking fully worked was for the suffragettes. Many were released soon after the starvation began, due to physicians’ worry that they might have die in jail. According to Miller:

Upon entering Holloway Prison, the prison authorities rejected Marion’s application to be placed in the first division (which would have acknowledged her offense as political). Entirely on her own initiative, Marion decided that she would refuse to eat until her demands were met. She found herself released from Holloway after just four days. Prison staff feared that she might otherwise starve.<sup>29</sup>

Then they started being force-fed instead of being released, because authorities realised that, by realising those female prisoners who were starving themselves, they were restricting that the prison system and power were not functioning. A prison is a place where there is discipline and where people

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<sup>23</sup> *Geneva Convention Relative to the Treatment of Prisoners of War (Third Geneva Convention)*, August 12, 1949, 75 UNTS 135, available from the UN website: [http://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.32\\_GC-III-EN.pdf](http://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.32_GC-III-EN.pdf), (accessed 23 August 2018).

<sup>24</sup> Miller, *History of Force Feeding*, p. 7.

<sup>25</sup> Miller, *History of Force Feeding*, p. 8.

<sup>26</sup> Paul Harris, “Guantánamo Bay hunger strike: quarter of inmates now being force-fed”, *The Guardian*, June 6, 2013, <https://www.theguardian.com/world/2013/jun/06/guantanamo-bay-hunger-strike-quarter-force-fed>, (accessed 12 August 2018).

<sup>27</sup> Miller, *History of Force Feeding*, p. 2.

<sup>28</sup> “WMA Declaration of Malta on Hunger Strikers”, World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>29</sup> Miller, *History of Force Feeding*, p.39.

are sent because of their committed actions and their thought-to-be wrong behaviour; if with a hunger strike people can go back home, then the main aim of jail – which is, or at least should be – of re-education is weakened. . But at the end, the suffragettes achieved their aim to obtain the right to vote – actually, not only by hunger striking, but by various protests. Now, looking back at their actions and protests, we do not consider the suffragettes as terrorists<sup>30</sup>, instead most of us see them in a good light, so as progressists and warriors for the right cause. Regarding the Irish republicans of the early XX century, they did obtain the Irish independence; differently, the Irish republican prisoners of the 70s did not accomplish their goal of annex the North of Ireland to the Republic of Ireland, and neither they have ever been allowed the status of political prisoners; their only victory was that the new Northern Ireland Secretary accepted their request of wearing their own clothes and not jail uniforms, together with some other minor requests<sup>31</sup>. Actually, Irish republicans were first force-fed and then let die because of the changes in hunger strike management policies in the UK and in Ireland. The Irish policy changed after the death of Thomas Ashe, who was an IRA<sup>32</sup> member, in 1917 in Dublin due to pneumonia caused by the force-feeding procedure<sup>33</sup>. In fact, in Ireland after that episode force-feeding was not allowed anymore, that is the reason why in the 80s many Irish republican detainees died from starvation. In the UK, the force-feeding policy changed only in 1974 because of the death of Michael Gaughan, who was part of PIRA<sup>34</sup>, which was caused by complications during the force-feeding procedure<sup>35</sup>.

In conclusion, hunger strike is often the only instrument prisoners have to show their disagreement on what constitutes governmental decisions about their prisoner status or prisoners' finale aim. Hunger strike helps detainees to recall international attention on their situation and on the will of the prisoners. Furthermore, a death from starvation might be seen by the public opinion as a sign of the bad conditions prisoners are in, which might not necessarily be the reason why detainees went on hunger strike, because prisoners go on hunger strike for a greater cause than their own life, which is why they are ready to die from starvation in order to achieve their goal. For instance, the Irish republicans thought their nation was definitely more important than their life, which is why some of them, such as Bobby Sands, died from starvation while being in jail. Suffragettes had the absolute desire and goal to have equal rights. When it comes to the Guantánamo detainees, they had the collective aim of justice, which means that they asked to be acknowledged with their charge and

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<sup>30</sup> Miller, *History of Force Feeding*, p. 9.

<sup>31</sup> "History: Republican hunger strikes in the Maze prison", BBC, [http://www.bbc.co.uk/history/events/republican\\_hunger\\_strikes\\_maze](http://www.bbc.co.uk/history/events/republican_hunger_strikes_maze), (accessed 10 August 2018).

<sup>32</sup> IRA is the acronym of Irish Republican Army.

<sup>33</sup> Miller, *History of Force Feeding*, p. 4.

<sup>34</sup> PIRA is the acronym of Provisional Irish Republican Army.

<sup>35</sup> Ian Miller, "Why H-Block hunger strikers were not force-fed", *Irish Times*, July 5, 2016, <https://www.irishtimes.com/culture/books/why-h-block-hunger-strikers-were-not-force-fed-1.2706786>, (accessed 30 August 2018).

they requested a fair trial. In 2016, Khalid Qasim, an inmate of Guantánamo detention camp who went on hunger strike, wrote an article on the newspaper Aljazeera saying:

This hunger strike, as we all know, is not going to help me. I do not do it to achieve my liberty. I do it to breathe life into my sense of justice. I do it to defend myself in a place where there is no defence. I do it in the name of fairness and human rights – and all the things America stands for but does not respect in its prisons.<sup>36</sup>

As seen in this quote, usually hunger strikers know that their hunger strike might not actually have a positive outcome; the chances that their request may be accepted are extremely low. So, they do these protests not pretending to have material results, instead they do it to respect their dignity and moral values. As shown in this paragraph, collective hunger strikes of prisoners have some recurrent elements, which are: protest against authorities, discontentment with their conditions and status in prison, and a strong feeling of being at the service of a moral value that guides their choices.

## 1.2 Governments' reasons to demand that doctors force-feed prisoners who go on hunger strike

Looking at the cases in which prisoners decided to go on hunger strike together for a common motif, as seen before, the reasons behind their actions were to protest against governments and authorities. Authorities and governments had important roles in this scenario, in fact, according to Garasic:

Hunger Strikes are the quintessential representation of biopolitics: the State can decide whether to let one die or keep one alive in accordance with what is most functional to its political message. This crucial awareness of the dynamics in place should help us understanding the multi-layer complexity that Hunger Strikes carry with them: they do not only represent a medical or bioethical issue, but they are—by default—also and always a political act, thus to be considered a [bio]political issue as well. [...] Not allowing for their continuation in the name of the respect for the hunger strikers' lives can thus be seen as an efficient way for the authorities to mitigate the political effects of the strike. Aside from a political interference, in terms of medical ethics, this is a limiting factor for an individual's right to choose competently according to his own best interests.<sup>37</sup>

When authorities must deal with these situations, they have two options from which they can choose from: to force-feed the hunger strikers or to let them starve to death. Both alternatives may bring up public attention and discontent.

The first to be analysed is the case in which the government decides to force-feed hunger strikers. The first time force-feeding policies were introduced was when the British government wanted to stop the suffragettes' hunger strikes, which were causing public chaos<sup>38</sup>. Suffragettes in the beginning

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<sup>36</sup> Khalid Qasim, "Hunger striking for 'dignity' in Guantanamo", *Aljazeera*, August 24, 2016, <https://www.aljazeera.com/indepth/features/2016/08/khalid-qasim-hunger-strike-guantanamo-160823112235473.html>, (accessed 12 August 2018)

<sup>37</sup> Garasic, *Guantanamo and Other Cases of Enforced Medical Treatment*, p. 83.

<sup>38</sup> Ian Miller, "Starving to death in medical care: Ethics, food, emotions and dying in Britain and America, 1970s–1990s", *BioSocieties*, vol. 12, issue 1, (2017): p. 90. <https://doi.org/10.1057/s41292-016-0034-z> (accessed 10 August 2018).

were force-fed just after one week of starving because jail staff was afraid they might die<sup>39</sup>. The first time the British government allowed the force-feeding of suffragettes was in 1909, because of the suffragettes' first group hunger strike. The British government arrived at this decision because until then many suffragettes went on hunger strike while in prison and the authorities found themselves always in the position to release them. Then they finally decided to force-feed the detainees, because otherwise, as said before, the concept of prison and its purpose were totally useless. So, one reason for force-feeding is the necessity to maintain the order and the State dominance<sup>40</sup>. On another point of view, force-feeding might have been necessary in order to maintain the prisoner, who was starving her/himself, alive. If a detainee dies in a prison, it is a sign of its deprived conditions<sup>41</sup>. If force-feeding was used just to maintain order and to keep prisoners alive, the force-feeding procedure might have been made less unpleasant. Garasic wrote:

I agree that force-feeding could be conducted in an extremely painful and uncomfortable manner, and in this case should be considered torture. However, one has to bear in mind that there can be other ways of force-feeding, without the need to impact so dramatically on the prisoners' psyche. Aside from the nocturnal treatment of anorexic patients [...], naso-gastric treatment is also commonly used in cases of cystic fibrosis, where parents often choose to feed their children while asleep to reduce the pain and psychological burden of the procedure. As a result, this method is gaining popularity even among adults suffering from the same condition.<sup>42</sup>

Force-feeding was, and still is, the only instrument which might be used to stop hunger strikers' protest. In fact, force-feeding was seen as an invasive procedure, and for hunger strikers the idea of being obliged to undergo a painful and intrusive procedure could discourage them from starving themselves. Force-feeding was intrusive because it was performed on someone who did not want to be subject to it. But its perception was bolstered by prisoners' stories on force-feeding – involving pain, violence and abuse – and started drawing public attention to its perceived (or existing) cruelty. So, at a certain point, the decision of the authorities started to be questioned. Public opinion started looking at force-feeding not as a way to keep prisoners alive, neither as a treatment or a necessity in order to keep the re-educational and coercive dimension of jail. Force-feeding started to be seen by many (some examples are given in chapter 3) as a system to impose the government's power over the detainees, not in a legitimate way (as it normally is when it comes to respect discipline inside a prison or to make prisoners serve a term of imprisonment as decided by the court) but in a rather brutal and forced way.

Nowadays, looking at the suffragettes being force-fed, it might seem to us – “us” meaning Western society – as a cruelty because of the idea of women being grasped against their will,

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<sup>39</sup> Miller, *History of Force Feeding*, pp. 14, 23, 25.

<sup>40</sup> Miller, *History of Force Feeding*, p. 39.

<sup>41</sup> Miller, *History of Force Feeding*, p. 1.

<sup>42</sup> Garasic, *Guantanamo and Other Cases of Enforced Medical Treatment*, p. 82.

nowadays we are more emotional concerning violence on women. Additionally, we might consider suffragettes force-feeding to be wrong because we now think that the reasons why suffragettes were protesting – equal vote rights for men and women – are not just legitimate but right. Another factor that adds up to the reasons why today we could consider the British government decision to force-feed suffragettes differently from the past is that after the Second World War our concept of what doctors can or cannot do without the patient consent has drastically changed. When the Second World War ended, the inhumane experiments performed by the Nazis and the Japanese doctors on individuals that did not consent to them were exposed. Because of them, medicine and researches started to be founded on new principles and new notions that considered differently doctors' duties and patients', or research participants', rights. In fact, currently, according to some bioethical approaches, sensitive cases of patients' future are handled on the notion of autonomy, and with no reference to a paternalistic approach<sup>43</sup> (the concept of paternalism is explained in paragraph 2.1) This shift from a paternalistic approach to an autonomy one has brought in our minds the idea that force-feeding someone should not be allowed because, as the term itself says, it is a procedure done against the individual's will (as the twenty-third principle of the WMA Declaration of Malta on Hunger Strikers reveals)<sup>44</sup>.

Under these circumstances, the government's decision to demand that prison doctors force-feed hunger strikers was not widely accepted, and neither it is today. The governments can just force-feed prisoners or let them starve to death, if they do not want to release the prisoners, which undoubtedly would not be the case. Although governments may have wanted to keep valid force-feeding policies, in some cases they had to distance themselves from these policies because of some events that compelled them to do so. As remarked above, in Ireland, force-feeding ceased in 1917 after Thomas Ashe's death due to pneumonia caused by force-feeding. Because of the policy change concerning force-feeding<sup>45</sup>, the British government had to let starve to death numerous prisoners and this decision was considered to be more the result of the UK Prime Minister Margaret Thatcher's hard-line stance on political protests rather than a choice made to benefit the hunger strikers' health<sup>46</sup>. On one hand, the fact that at that time the UK was led by someone who was so committed to be immovable did not positively add to the general unfavourable view on force-feeding. On the other hand, after a death caused – even if it might be indirectly – by force-feeding, the authorities had no other choice than changing policies because the government was accused for that death. So, to avoid being called responsible for such deaths, the only possible thing to do is to stop asking doctors to practice the

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<sup>43</sup> Garasic, *Guantanamo and Other Cases of Enforced Medical Treatment*, p. vii.

<sup>44</sup> "WMA Declaration of Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>45</sup> Miller, *History of Force Feeding*, p. 4.

<sup>46</sup> Miller, "Starving to death in medical care", p. 102.



force-feeding procedure. The problem is that, in this type of situation, governments can just let prisoners who go on hunger strike die, since it would be counter-productive for the authorities to release the detainees. In fact, during the 80s, ten Irish republican prisoners died during the hunger strikes in the Northern Irish prison of Long Kesh, the first one of whom was Bobby Sands – who then became an idol for the Irish republicans<sup>47</sup>. It should be noticed that the British government could have welcomed the prisoners' requests and easily stop the hunger strikes, but it chose not to do it. Even though corpses can be a symbol of the poor condition in which the detainees are, British authorities probably thought that it was not so important for their political power to satisfy the hunger strikers; instead it was easier, in the grand scheme of things, to let hunger strikers die. In past centuries, many heads of state have behaved in this manner; however, state supremacy is a problem that is not covered in this thesis; instead, paternalism of the state over its population is discussed in the next chapter of this thesis. Looking back at the Irish republican hunger strikers, even if we are not Irish republicans, we might feel compassion for both those who were force-fed and those who starved. For what concerns Guantánamo Bay detainees, our perception of the force-feeding procedure might be different, because of the fact that it is something very actual, but also because we consider them terrorists, or at least the US government does. In fact, there was not, and has not been yet, a trial that declared them culprit; the Guantánamo inmates could be or could not be actual supporters on Al-Qaeda, and so terrorists. Therefore, it could be said that, if prisoners do not have a trial, they cannot be called terrorists, and they have not committed any crime, consequently they should not be incarcerated.

Apart from these observations, the problem is always the same in all these three cases, nowadays to many of us – again, “us” meaning Western society – both force-feeding and letting prisoners starve seem cruel and humiliating<sup>48</sup>. In the next chapter, there is an overview on bioethics principles of autonomy, beneficence, non-maleficence and justice, and how force-feeding relates to them.

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<sup>47</sup>“History: Republican hunger strikes in the Maze prison”, BBC, [http://www.bbc.co.uk/history/events/republican\\_hunger\\_strikes\\_maze](http://www.bbc.co.uk/history/events/republican_hunger_strikes_maze), (accessed 10 August 2018).

<sup>48</sup> Miller, *History of Force Feeding*, pp. 5, 18.



## Chapter 2

### Force-feeding in relation to the four commonly accepted principles of bioethics and to the principle of respect for human dignity

In bioethics, there is an open discussion of whether there are or there are not some principles that lead, or at least should lead, medicine and research. In the book *Contemporary Debates in Bioethics*, edited by A. L. Caplan and R. Arp, one of the topics is ‘Are There Universal Ethical Principles That Should Govern the Conduct of Medicine and Research Worldwide?’<sup>49</sup> which is discussed by D. Pullman and K.S. Decker. The first one arrived at the conclusion that there is at least one major universal ethical principle that he calls ‘the principle of respect for human dignity’<sup>50</sup> (this principle will be talked about in paragraph 2.5), which can rule every medical and research case; the latter affirmed that, even though there are biomedical ethical principles, these ones cannot be universal because, as he wrote:

First, moral principles in medicine are better understood as tools rather than standards, and we must be careful about what is historically contingent in them. Second, the effort to find universal principles behind divergent practices seems arbitrary, since principles are essentially contested. Third, the normative force of principles that seem universal has diffuse sources, meaning that they are conditioned by the prior existence of relationships between moral agents and patients.<sup>51</sup>

In addition to two opinions above, T. Beauchamp and D. Childress affirmed that there are four principles of bioethics: autonomy, beneficence, non-maleficence and justice<sup>52</sup>. For Pullman, these four principles cannot be universal, because in certain societies they do not govern the conduct of medicine and research<sup>53</sup>. Apart from their universality or lack of it, these four principles are commonly considered the bases of health care ethics. Anyway, in the context of force-feeding prisoners on hunger strike, the principle of autonomy, beneficence, non-maleficence and justice are applicable, as well as the so-called ‘principle of respect for human dignity’<sup>54</sup>. So, in the following paragraphs there is an examination of the relation between force-feeding and the principles written

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<sup>49</sup> Caplan and Arp, *Contemporary Debates in Bioethics*, p. 13.

<sup>50</sup> Pullman, “There Are Universal Ethical Principles That Should Govern the Conduct of Medicine and Research Worldwide”, part 1, chap. 1.

<sup>51</sup> Kevin S. Decker, “There Are No Universal Ethical Principles That Should Govern the Conduct of Medicine and Research Worldwide”, in *Contemporary Debates in Bioethics*, ed. Arthur L. Caplan and Robert Arp, (Chichester (UK): Wiley-Blackwell, 2014), p. 27.

<sup>52</sup> Bruce Jennings, “Autonomy”, in *The Oxford Handbook of Bioethics*, ed. Bonnie Steinbock, (Oxford; New York: Oxford University Press, 2007), p. 73.

<sup>53</sup> Pullman, “There Are Universal Ethical Principles That Should Govern the Conduct of Medicine and Research Worldwide”, p. 13.

<sup>54</sup> Pullman, “There Are Universal Ethical Principles That Should Govern the Conduct of Medicine and Research Worldwide”, part 1, chap. 1.

above; starting from the four principles fixed by Beauchamp and Childress, continuing with Pullman's universal principle.

## 2.1 Autonomy

The first bioethical principle to be talked about is the principle of autonomy, which is also the foundation of Kant's deontological moral theory. 'The most common way of defining personal autonomy has been through the idea of self-governance: the possibility of one's own personality, preferences and uniqueness without external interference, be it physical or psychological'<sup>55</sup>. Accordingly, a patient must decide freely whether to undergo treatments and procedures or not<sup>56</sup>; in fact, autonomy is strictly correlated to informed consent. Every patient, before she/he decides whether or not to undergo any form of procedure, or to take any kind of prescription or treatment, should be told by doctors what she/he will be going through, so that she/he makes fully informed decisions.<sup>57</sup>

Going back to the pre-Second World War period, Western medical ethics was based on the Hippocratic Oath, for which doctors has the task to benefit patients, do everything they can to help patients recover and heal, and not harm them; so, it fixed the principles of beneficence and non-maleficence, which are the oldest principles in medicine and research ethics. In the Hippocratic Oath period, there was the conception that doctors know best, consequently they were the only ones that could be considered entitled to take decisions for a patient's health<sup>58</sup>. So, back then, doctors had a paternalistic approach in the way they behaved with patients: they decided what it was the best procedure to which the patient had to undergo. Paternalism has also brought to the experiments conducted by the Nazis and the Japanese doctors<sup>59</sup>, which were the main reasons why there had been a change in the way the roles of patients and doctors were perceived. Those experiments were abusing of the power of doctors; as a matter of fact, people were used for atrocious tests that challenged human physical and mental limits. In fact, after the end of the war there was a trial at Nuremberg, of which the judges were of the four winning forces – UK, USA, France and the URSS. With the trial, judges enunciated research principles, which are known as the Nuremberg Code, that switched the core of medicine and research (because with the Nuremberg Code, the special importance in the conscious and free involvement of a patient or research participant had been revealed)<sup>60</sup>.

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<sup>55</sup> Garasic, *Guantanamo and Other Cases of Enforced Medical Treatment*, p. 2.

<sup>56</sup> "What are the Basic Principles of Medical Ethics?", <https://web.stanford.edu/class/siw198q/websites/reprotech/New%20Ways%20of%20Making%20Babies/EthicVoc.htm>, (accessed 26 August 2018).

<sup>57</sup> Nir Eyal, "Informed Consent", *The Stanford Encyclopedia of Philosophy*, (Fall 2012 Edition), ed. Edward N. Zalta, <https://plato.stanford.edu/archives/fall2012/entries/informed-consent/>, (accessed 20 August 2018).

<sup>58</sup> Garasic, *Guantanamo and Other Cases of Enforced Medical Treatment*, p. 13.

<sup>59</sup> Garasic, *Guantanamo and Other Cases of Enforced Medical Treatment*, p. vii.

<sup>60</sup> Evelyn Shuster, "Fifty Years Later: The Significance of the Nuremberg Code", *The New England Journal of Medicine*, November 13, 1997, <https://www.nejm.org/doi/full/10.1056/NEJM199711133372006>, (accessed 21 August 2018).

In our modern society, although authorities often have paternalistic approaches toward people – which sometimes is due to their institutional role, so they are justified, and other times they are not – the concept of autonomy and the respect for it are – or at least are becoming – more significant, even in those cases where autonomy means deciding to die. For instance, in many cases Jehovah witnesses have refused life-saving blood transfusions because of their religious beliefs, and for the most part their autonomy has triumphed even if that brought to death. Another example is people with cancer, they are free of deciding when to stop chemotherapy, albeit that choice might take their lives. So, with this modern Western conception in mind – and supposing that this thinking pattern, based on respect for autonomy, is the only one that it is used for the rest of this paragraph – new questions arise: if non-paternalistic decisions have already been made with the intention of respecting a personal conviction, why should not prisoners’ will be considered in the same manner? So, why should not prisoners’ decision be respected? Why is not prisoners’ autonomy valued in the same as a patient’s autonomy? It is true that, as said previously, detainees cannot be considered completely autonomous because they are in prison, and so it is obvious that their freedom must be restricted. However, it is also true that in jail freedom is not, or at least should not be, entirely ripped away from the individual; there are some areas of freedom that cannot be touched. For instance, in the member states of the Council of Europe, those states cannot deprive anyone from: the right to life<sup>61</sup>, the freedom from torture<sup>62</sup>, the freedom from slavery and forced labour<sup>63</sup>, the right to a fair trial<sup>64</sup>, and protection from retrospective laws<sup>65</sup>. Prisoners have these rights and freedoms as well<sup>66</sup>. There is also something else that should be kept in mind: in the historical cases displayed previously, prisoners felt like they were obliged to go on hunger strike – or in the case of the Irish republicans, even other types of strike – because they thought the authorities did listen to their requests<sup>67</sup>. Apart from the fact that prisoners still have freedom to some extent, there is also another factor that should be respected, which is detainees’ autonomy. Some might affirm that autonomy cannot always be respected; for instance, if a dying patient allows to be tortured or to be part of inhuman experiments, her/his autonomy – and so decisions – should not be respected because it would be to disrespect human dignity. So, the patient

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<sup>61</sup> Council of Europe, European Court of Human Rights, European Convention on Human Rights, section 1, art. 2, available from [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf), (accessed 3 September 2018).

<sup>62</sup> Council of Europe, European Court of Human Rights, European Convention on Human Rights, section 1, art. 3, available from [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf), (accessed 3 September 2018).

<sup>63</sup> Council of Europe, European Court of Human Rights, European Convention on Human Rights, section 1, art. 4, available from [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf), (accessed 3 September 2018).

<sup>64</sup> Council of Europe, European Court of Human Rights, European Convention on Human Rights, section 1, art. 6, available from [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf), (accessed 3 September 2018).

<sup>65</sup> Council of Europe, European Court of Human Rights, European Convention on Human Rights, section 1, art. 7, available from [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf), (accessed 3 September 2018).

<sup>66</sup> Rachel Schon, “What human Rights Do Prisoners Have?”, *Rights Info*, July 19, 2016, <https://rightsinfo.org/prisoners-still-afforded-human-rights/>, (accessed 3 September 2018).

<sup>67</sup> “WMA Declaration of Malta on Hunger Strikers”, World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

or research participant should be put in front of limited choices which are reasonable, but it is difficult to determine what is reasonable and what is not<sup>68</sup>.

In conclusion, if autonomy was the only principle on which medicine and research are based on, and if the autonomy of the individual had always to be respected, then doctors force-feeding prisoners would violate the detainees' autonomy. With this conception, if the decision of detainers was to protest through a hunger strike, the state should not interfere by force-feeding them, otherwise it could be considered an abuse of power.

## 2.2 Non-maleficence

Beneficence and non-maleficence are other two of the four commonly accepted principles of bioethics. As written above, these two are believed to be the oldest ones, because they were originated already in the period of the Hippocratic Oath, which means in the fifth century BC<sup>69</sup>. This paragraph is dedicated to the notion of non-maleficence, while the next one to beneficence.

The principal of non-maleficence necessitates that a physician does not intentionally harm or injures the patient, neither by actively doing something or by not doing something. However, there are circumstances in which harm seems unavoidable, and in these cases physician should of course choose the lesser of the two evils. Generally, most people would be willing to experience some pain if the procedure that they must undergo will save their lives; however, under other circumstances, the patients might choose otherwise<sup>70</sup>.

In order to apply the notion of non-maleficence to force-feeding and hunger strike, the difference between a patient and a prisoner who go on hunger strike must be remembered: a detainee cannot be considered as a patient, therefore there will always be a gap between the application of the principle of non-maleficence in a doctor-patient context and in a doctor-hunger striker context, because in this case the doctor should harm the prisoner. On the grounds of non-maleficence, a doctor must not purposely harm or provoke injure to the hunger striker. Consequently, it all relies on the intention of the physician who is demanded to force-feed prisoners. If the physician does it because she/he believes that by force-feeding prisoners is saving lives, even though it is provoking pain and it is injuring the hunger strike. (Because prisoners do not want to be force-fed, so they move while the tube is insert in their throat and while food is poured into it; therefore, this ensemble of elements can

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<sup>68</sup> Paul Ulhas MacNeill, "Regulating Experimentation in Research and Medical Practice", in *A Companion to Bioethics* (Second Edition), ed. Helga Kuhse and Peter Singer, (Chichester, (U.K.); Malden, (MA): Wiley-Blackwell, 2009), pp. 480, 481.

<sup>69</sup> Helga Kuhse and Peter Singer, ed., *A Companion to Bioethics* (Second Edition), (Chichester, (U.K.); Malden, (MA): Wiley-Blackwell, 2009), p. 4.

<sup>70</sup> Thomas R. McCormick, "Principles of Bioethics", *Ethics in Medicine: University of Washington School of Medicine*, <https://depts.washington.edu/bioethx/tools/princpl.html>, (accessed 21 August 2018).

cause injuries, like cuts, or it can cause the patient to vomit)<sup>71</sup>. Differently, if a doctor practises force-feeding with any form, even if subtle, of intention of harming the hunger striker, her/his way of acting goes against the principle of non-maleficence. If a doctor liked practising painful treatments and procedure on a patient or a research participant, she/he would not be a doctor for the right reasons. A doctor should not obtain joy from giving painful treatments, because that means that the doctor does not do his job for the right reason<sup>72</sup>.

In addition, there are some situations where an action can have both a positive effect and a negative one<sup>73</sup>. So, in those cases how should a doctor behave according to the principle of non-maleficence? The behaviour is regulated by the so-called principle or doctrine of double effect, which is based on four conditions<sup>74</sup>. The first one is that the action done by an agent must not be congenitally wrong; it must be morally good, or at least neutral. The second condition, so the second element that the principle of double effect behaviour must match, is that the individual who does the action must not have bad intentions, she/he must want that her/his behaviour generates only good effects, even though bad effects might be anticipated. The third condition is that the good effect must be the result of the action, so the action does not have to produce a bad effect from whence a good effect is created, but the good effect must be directly produced. The last condition is that the good effect must compensate the bad effect<sup>75</sup>. (Often it is difficult to understand whether a bad effect is intentional or just foreseen but unintentional)<sup>76</sup>. Some examples of the implementation of the doctrine of double effect are given by Alison McIntyre:

A doctor who intends to hasten the death of a terminally ill patient by injecting a large dose of morphine would act impermissibly because he intends to bring about the patient's death. However, a doctor who intended to relieve the patient's pain with that same dose and merely foresaw the hastening of the patient's death would act permissibly.

[...]

Sacrificing one's own life in order to save the lives of others can be distinguished from suicide by characterizing the agent's intention: a soldier who throws himself on a live grenade intends to shield others

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<sup>71</sup> Miller, *History of Force Feeding*, p. 2.

<sup>72</sup> Thomas R. McCormick, "Principles of Bioethics", *Ethics in Medicine: University of Washington School of Medicine*, <https://depts.washington.edu/bioethx/tools/princpl.html>, (accessed 21 August 2018).

<sup>73</sup> Thomas R. McCormick, "Principles of Bioethics", *Ethics in Medicine: University of Washington School of Medicine*, <https://depts.washington.edu/bioethx/tools/princpl.html>, (accessed 21 August 2018).

<sup>74</sup> Alison McIntyre, "Doctrine of Double Effect", *The Stanford Encyclopedia of Philosophy* (Winter 2014 Edition), ed. Edward N. Zalta, <https://plato.stanford.edu/archives/win2014/entries/double-effect/>, (accessed 26 August 2018).

<sup>75</sup> Alison McIntyre, "Doctrine of Double Effect", *The Stanford Encyclopedia of Philosophy* (Winter 2014 Edition), ed. Edward N. Zalta, <https://plato.stanford.edu/archives/win2014/entries/double-effect/>, (accessed 26 August 2018).

<sup>76</sup> Dan W. Brock, "Medical Decisions at the End of Life", in *A Companion to Bioethics* (Second Edition), ed. Helga Kuhse and Peter Singer, (Chichester, (U.K.); Malden, (MA): Wiley-Blackwell, 2009), p. 271.

from its blast and merely foresees his own death; by contrast, a person who commits suicide intends to bring his or her own life to an end.<sup>77</sup>

Force-feeding can be judged through the doctrine of double effect, because it has both a positive and a negative effect. It has a positive consequence because the hunger striker remains alive, but it has a negative effect because the hunger striker experiences pain and she/he is psychologically affected by force-feeding. If force-feeding is considered not inherently wrong (for example, if it is seen in the same way as artificial feeding is – which is not how it has been considered in the previous paragraphs – so, as an action that prevents hunger strikers from dying); if the intention of the doctor, who force-feeds prisoners, is good; if the result of force-feeding is considered as good, because it saves lives; if it is believed that the good effect of force-feeding is bigger than the unintentional bad effect – the pain and possible injuries provoked to the patients; then, force-feeding is permissible for the principle of double effect. Force-feeding is seen in a positive way also from an utilitarian point of view. In fact, for the utilitarian way of thinking<sup>78</sup>, what is important is the outcome of the evaluation of people who are alive and who are dead; so, if lives are saved, the result is positive, even though to save them, those who are saved had to experience pain and injuries<sup>79</sup>. Analysing the hunger strike through the notion of non-maleficence, and comparing it to the second example given by A. McIntyre and written above, the hunger strike is considered acceptable because the prisoner's aim is to demand the authorities a change. In the mind of the prisoners seen in the historical examples, they went on hunger strike for a bigger goal than just their own benefits, and they surely did not go on hunger strike to commit suicide. They foresaw the possibility of death, but they did not aim for it.

To conclude, for what concerns the notion of non-maleficence and the doctrine of double effect, it all depends on the way force-feeding is seen.

### 2.3 Beneficence

‘The ordinary meaning of this principle is that health care providers have a duty to be of a benefit to the patient, as well as to take positive steps to prevent and to remove harm from the patient’<sup>80</sup>. Sometimes the principle of beneficence strongly diverges from the principle of autonomy. If an individual is willing to refuse treatments even though those ones are beneficent to her/him, the doctor finds himself in a problematic position. On one side, the physician should respect the individual's autonomy, so she/he should not impose treatments on the patient. On the other side, taking into

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<sup>77</sup> Alison McIntyre, “Doctrine of Double Effect”, *The Stanford Encyclopedia of Philosophy* (Winter 2014 Edition), ed. Edward N. Zalta, <https://plato.stanford.edu/archives/win2014/entries/double-effect/>, (accessed 26 August 2018).

<sup>78</sup> Richard Mervyn Hare, “A Utilitarian Approach”, in *A Companion to Bioethics* (Second Edition), ed. Helga Kuhse and Peter Singer, (Chichester, (U.K.); Malden, (MA): Wiley-Blackwell, 2009), part III, chap. 9.

<sup>79</sup> Caplan and Arp, *Contemporary Debates in Bioethics*, p. 200.

<sup>80</sup> Thomas R. McCormick, “Principles of Bioethics”, *Ethics in Medicine: University of Washington School of Medicine*, <https://depts.washington.edu/bioethx/tools/princpl.html>, (accessed 21 August 2018).



consideration the notion of beneficence, the doctor should do what is best for the patient. But how to define what is best? If the physician is the one who decides, and her/his decision goes against the patient's one, the physician's action can be considered as paternalistic. But there could be a difference between a paternalistic action and one that is based on the notion of beneficence. In fact, a paternalistic approach always puts the decisions of the physician in a higher position than the patient's one; while the principle of beneficence considers superior the doctor's judgement only in a specific situation<sup>81</sup>.

According to the principle of beneficence, force-feeding is in some respects good and for some others not that much. In fact, if confronted to the notion of not inflicting harm, force-feeding cannot be considered a good action, because it inflicts harm to the hunger strikers, because often they choke, vomit, have injuries and are psychologically influenced<sup>82</sup>. For what concerns preventing harm, force-feeding does in fact prevent the greater harm which is dying, even though it provokes some kind of pain. Concerning the infliction and prevention of harm through force-feeding, the World Medical Association, in the fifth principle of the Declaration of Malta on Hunger Strikers adopted in 1991, affirmed that avoiding harm is not just the minimisation of physical and psychological harm but also avoiding forced treatments upon free and rational individuals. So, for the WMA, the notion of beneficence does not necessarily mean the preservation of life at all costs, without the consideration for personal decisions<sup>83</sup>.

In conclusion, force-feeding, in relation to the principle of beneficence, is in an utilitarian way good, because it prevents hunger strikers from dying. However it does generally harm the hunger strikers, if not physically, mentally; and as Miller wrote 'by the early twentieth century, freedom from physical coercion and deliberately inflicted pain was generally seen as a basic human right'<sup>84</sup>.

## 2.4 Justice

The principle of justice could be described as the moral obligation to act on the basis of fair adjudication between competing claims. As such, it is linked to fairness, entitlement and equality. In health care ethics, this can be subdivided into three categories: fair distribution of scarce resources (distributive justice), respect for people's rights (rights based justice) and respect for morally acceptable laws (legal justice).<sup>85</sup>

Concerning the comparison between force-feeding and the principle of justice, it is possible that hunger strikers might consider force-feeding not as a fair provision of care. For instance, if the doctors

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<sup>81</sup> Garasic, *Guantanamo and Other Cases of Enforced Medical Treatment*, p. 9.

<sup>82</sup> Miller, *History of Force Feeding*, p. 2.

<sup>83</sup> "WMA Declaration of Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>84</sup> Miller, *History of Force-Feeding*, pp. 5, 18.

<sup>85</sup> "Justice: The four common bioethical principles", Alzheimer Europe, last updated March 29, 2010, <https://www.alzheimer-europe.org/Ethics/Definitions-and-approaches/The-four-common-bioethical-principles/Justice>, (accessed 26 August 2018).

who force-fed the Irish republican detainees, who were Catholic, had been Protestant, it would have been justifiable for the hunger strikers to think that the way they were treated would have not been the same way of how Protestants would have been treated, and so in an unfair way. According to the right based justice, if force-feeding is considered fair or not, it all depends on which rights are considered inviolable. If the right of self-determination and autonomy are inviolable, then force-feeding is unjust. Also, if self-ownership (which can be defined as the right to own ourselves and our own bodies)<sup>86</sup> is considered an inviolable right, force-feeding cannot fit in the criterions of the principle of justice. Instead, if the right to life is considered inviolable, and this one does not include the right to die, then force-feeding can be considered as a just procedure. When it comes to the legal justice notion, it is difficult to define what laws are morally admissible and what are not, because the criterion which determine what is considered good and what bad is based on principles, and depending on the principle, a law can be allowable or not. For instance, if a law about freedom from torture and humiliating treatment is a morally admissible law, then force-feeding can be considered unjust by the hunger strikers who undergo it and those against it<sup>87</sup>.

To conclude, the principle of justice depends on the other principles and on which is considered dominant. So, it is subjected to the differences in society and culture. Consequently, force-feeding is unfair if the dominant principle is autonomy; it would be fair if every hunger striker was force-fed, ad it is fair if the sanctity of life<sup>88</sup> is prevailing over autonomy.

## 2.5 Principle of respect for human dignity

Daryl Pullman, in *Contemporary Debates in Bioethics*, wrote ‘I defend the claim that the very notion of morality requires the recognition of at least one overarching, universal moral principle that I call the *principle of respect for human dignity*’<sup>89</sup>. He also affirms that the principle of respect for human dignity is fundamental to the notion of morality, because this last one requires responsibility towards the moral worth of the entire humanity, which is dignity. Pullman wrote that all human beings have dignity, not because we gained it or earned it, but simply for the fact of being humans<sup>90</sup>. He added ‘When used in this sense, we mean to convey the idea that all human beings have basic moral worth irrespective of any contingent historical, traditional, or cultural circumstance’<sup>91</sup> he also knows

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<sup>86</sup> Anita Allen, ‘Privacy and Medicine’, *The Stanford Encyclopedia of Philosophy* (Winter 2016 Edition), ed. Edward N. Zalta, <https://plato.stanford.edu/entries/privacy-medicine/>, (accessed 27 August 2018).

<sup>87</sup> Miller, *History of Force-Feeding*, pp. 5, 18.

<sup>88</sup> David P. Gushee, “The Sanctity of Life”, *The Center of Bioethics and Human Dignity: Trinity International University*, June 15, 2006, <https://cbhd.org/content/sanctity-life>, (accessed 1 September 2018).

<sup>89</sup> Pullman, “There Are Universal Ethical Principles That Should Govern the Conduct of Medicine and Research Worldwide”, p. 17.

<sup>90</sup> Pullman, “There Are Universal Ethical Principles That Should Govern the Conduct of Medicine and Research Worldwide”, part 1, chap.1.

<sup>91</sup> Pullman, “There Are Universal Ethical Principles That Should Govern the Conduct of Medicine and Research Worldwide”, p. 21.



that this notion of human dignity permits to each social and cultural group to develop different moral bases, even though they all have to respect human dignity<sup>92</sup>. With this mindset, a crime against humanity is not just a crime against the single victims, but against humankind in its entirety, so we should all protect our human dignity. So, it can be said that we do not acquire a right to be treated with dignity, but rather that we have rights because we innately possess human dignity<sup>93</sup>.

Now, on to the comparison of force-feeding to the principle of respect for human dignity, so the principle for which we must respect this innate aspect. In our modern Western society, we tend to not accept violence anymore because our increased sensitivity toward violence itself, but also pain, respect for physical integrity, self-ownership and individuals' autonomy<sup>94</sup>. Many have considered force-feeding as merciless and as an actual torture, these opinions are told in the next chapter. The governments that demanded jail doctors to force-feed hunger strikers did not considered force-feeding as a procedure that attacked human dignity, or they used, what some might call, stratagems in order to do it anyway. For instance, (as also said before in paragraph 2.1) the USA declared that Guantánamo Bay detainees were not subjected to the Third Geneva Convention because they were members of Al-Qaeda and so they were not treated as required by the Convention<sup>95</sup>.

To conclude, to some force-feeding is a threat to human dignity, while for others it is too strong to affirm that force-feeding is such a thing.

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<sup>92</sup> Pullman, "There Are Universal Ethical Principles That Should Govern the Conduct of Medicine and Research Worldwide", part 1, chap.1.

<sup>93</sup> Pullman, "There Are Universal Ethical Principles That Should Govern the Conduct of Medicine and Research Worldwide", p. 21, 25.

<sup>94</sup> Miller, *History of Force Feeding*, pp. 5, 18.

<sup>95</sup> Miller, *History of Force Feeding*, p. 7.

## Chapter 3

### Declaration against force-feeding

Over the last decades, there have been some declaration against force-feeding, in addition to the various protests. In 1975, the 29<sup>th</sup> World Medical Assembly adopted the WMA Declaration of Tokyo, which is a declaration on the ‘guidelines for physicians concerning torture and other cruel, inhuman, or degrading treatment or punishment in relation to detention and imprisonment’<sup>96</sup> and it was lastly revised in 2016 by the 67<sup>th</sup> WMA General Assembly.

The eighth article of the Declaration concerns the case of prisoners who go on hunger strike and it declares:

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, as stated in WMA Declaration of Malta on Hunger Strikers. The decision as to the capacity of the prisoner to form such a judgment should be confirmed by at least one other independent physician. The consequences of the refusal of nourishment shall be explained by the physician to the prisoner.<sup>97</sup>

This definition underlines the importance of the presence of competence from the hunger striker, in fact to determine her/his capacity to make rational and uninfluenced decisions is also required the additional judgements of at least another physician<sup>98</sup>.

In the preamble WMA Declaration of Malta on Hunger Strikers, which was adopted in 1991 by the 43<sup>rd</sup> Medical Assembly and revised for the last time in 2017<sup>99</sup>, there is a description of the context in which hunger strikes usually happen. In this description, it is written that usually hunger strikes are made by detainees who cannot make their voices heard in any other way; so, by refusing nourishment

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<sup>96</sup> “WMA Declaration of Tokyo – Guidelines for Physicians concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment”, World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-tokyo-guidelines-for-physicians-concerning-torture-and-other-cruel-inhuman-or-degrading-treatment-or-punishment-in-relation-to-detention-and-imprisonment/>, (accessed 28 August 2018).

<sup>97</sup> “WMA Declaration of Tokyo – Guidelines for Physicians concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment”, World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-tokyo-guidelines-for-physicians-concerning-torture-and-other-cruel-inhuman-or-degrading-treatment-or-punishment-in-relation-to-detention-and-imprisonment/>, (accessed 28 August 2018).

<sup>98</sup> “WMA Declaration of Tokyo – Guidelines for Physicians concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment”, World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-tokyo-guidelines-for-physicians-concerning-torture-and-other-cruel-inhuman-or-degrading-treatment-or-punishment-in-relation-to-detention-and-imprisonment/>, (accessed 28 August 2018).

<sup>99</sup> “WMA Declaration Malta on Hunger Strikers”, World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

they try to draw attention on their demand<sup>100</sup>. The World Medical Assembly also affirmed that it is important that physicians assure prisoners' true will to go on hunger strike, and even in the case of loss of competence during the hunger strike, the previous rational decision of refusing treatment should not be ignored<sup>101</sup>. In the 23<sup>rd</sup> principle of the WMA Declaration of Malta, it is stated:

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.<sup>102</sup>

In addition, in the third principles of the Declaration of Malta, the WMA affirmed that physician should do their best to avoid coerce and humiliating treatments of prisoners; furthermore, they must protest if they know of detainees mistreated<sup>103</sup>. Accordingly, in the first article of the Declaration of Tokyo, the World Medical Assembly declared that doctors must not participate or even just allows torture or other merciless and chastening actions toward prisoners, 'whatever the offense of which the victim of such procedures is suspected, accused or guilty, and whatever the victim's beliefs or motives, and in all situations, including armed conflict and civil strife'<sup>104</sup>. The problem is that often those authorities are the same one that order to force-feed prisoners. So, what should the physicians do? The World Medical Assembly wrote in the sixth principle of the Declaration of Malta that physicians must be independent from the authorities for which she/he works. So, if the authorities demand that she/he force-feeds a prisoner, the doctor must honour her/his prime responsibility which is to do the best interest of the patient and respect her/his decisions<sup>105</sup>. The declaration of Malta also affirmed in the twentieth that it is ethically accepted for prisoners to die with dignity during a hunger strike, that they made for a cause that is dear to their heart, instead of being force-fed to stay alive at all costs when detainees' will is different<sup>106</sup>. Physicians must also try to create a relationship of trust between the hunger striker and her/himself, so that it is easier to arrive at a solution that is approved

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<sup>100</sup> "WMA Declaration Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>101</sup> "WMA Declaration of Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>102</sup> "WMA Declaration of Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>103</sup> "WMA Declaration of Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>104</sup> "WMA Declaration of Tokyo – Guidelines for Physicians concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-tokyo-guidelines-for-physicians-concerning-torture-and-other-cruel-inhuman-or-degrading-treatment-or-punishment-in-relation-to-detention-and-imprisonment/>, (accessed 28 August 2018).

<sup>105</sup> "WMA Declaration of Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>106</sup> "WMA Declaration of Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

by both. To create trust, it is important that physicians talk to the hunger strikers, which is something that must continue over the whole hunger strike, also because in this way doctors understand the state of mental and physical health of the hunger striker<sup>107</sup>. It is also fundamental that physicians acknowledge the health situation of the hunger striker from the beginning so that she/he can suggest the best way for the prisoner to go on with the hunger strike<sup>108</sup>. The Declaration of Malta also says that if a physician cannot oversee a hunger striker due to her/his conscience, then she/he should ask to another doctor to take over the case<sup>109</sup>. So, it is essential that physicians respect prisoners' decisions to go on hunger when it is done voluntarily and rationally, that is why doctors also have to confirm the criterion of competence<sup>110</sup>. So, doctors do have a detailed guide of how to behave when facing hunger strikers, but there is always the problem of transforming written words into actions. Refusing to force-feed a hunger striker when our state demands it, it is not easy. Furthermore, it is possible that the physicians do agree with authorities' idea to force-feed prisoners who go on hunger strike.

To conclude, it is important to notice that these declarations are not legally mandatory<sup>111</sup>, this is their problem. For instance, physicians should follow the principles written in the Declaration of Malta, but if the state is not obliged to adopt them, then physicians are put in a very difficult position. On one hand, they ethically must not force-feed prisoners; on the other hand, some might say that it is normal to think that it is not true that physicians should not always do the patient's interests, but they should follow the demands of the authorities.

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<sup>107</sup> "WMA Declaration of Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>108</sup> "WMA Declaration of Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>109</sup> "WMA Declaration of Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>110</sup> "WMA Declaration of Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>111</sup> Miller, *History of Force-Feeding*, p. 19.

## Conclusion

Throughout this thesis, hunger strike and force-feeding were analysed, and judgements concerning them were explored. So, this chapter is entirely dedicated to the moral dilemma that maintain prison physicians in the constant limbo of whether they should or should not force-feed prisoners. To answer to this question there is the need to focus once again on the WMA declaration of Malta on hunger strikers, to go back to the historical cases described previously (suffragettes, Irish republicans and Guantánamo Bay inmates), and to touch upon some of the principles of bioethics.

The WMA Declaration of Malta not only prohibit any form of force-feeding without the hunger striker's consent, and any form of cruel and humiliating treatment, but also gives some guidelines for doctors so that they know how to behave when somebody goes on hunger strike<sup>112</sup>. In fact, the Declaration, in principle twenty-three, says that doctors must always respect their medical ethics and they must be independent, so their decision-making process that concerns the patient's therapy must be free from external influences<sup>113</sup>.

It is useful to compare historical cases with the WMA Declaration of Malta to presume what is the perception of hunger strikers on physicians. During the suffragettes' hunger strikes, it is conceivable that there was no trust between hunger strikers and physicians; in fact, suffragettes described force-feeding as extremely degrading and they saw the physician's figure as oppressive and cruel. Miller wrote 'suffragettes portrayed their force-fed bodies as being battered, assaulted, and harmed in an orgy of prison violence. In doing so, they evoked a crisis in professional conduct'<sup>114</sup>. It can be thought that this way of picturing force-feeding is probably too derogatory; certainly, if something is described as cruel and inhumane by the people who experienced it, then it is easier that the rest of society sees it as terrible. But it is also true that it must have not just be invented. Furthermore, Irish republicans and Guantánamo detainees described it as a form of punishment<sup>115</sup>. One of the elements that make force-feeding so negative is its been forced upon hunger strikers due to the fact that they are not willing to end their strike and they do not agree in being force-fed. Consequently, doctors by force-feeding them do something that is morally unacceptable in our

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<sup>112</sup> "WMA Declaration of Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>113</sup> "WMA Declaration of Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>114</sup> Miller, *History of Force-Feeding*, p. 36.

<sup>115</sup> Spencer Ackerman, "Guantánamo force-feeding amounts to punishment, detainee's lawyers argue" *The Guardian*, October 6, 2014, <https://www.theguardian.com/us-news/2014/oct/06/guantanamo-force-feeding-punishment-trial-abu-dhiab>, (accessed 30 August 2018).

modern Western society where the consciousness of the respect for autonomy and human rights is so strong<sup>116</sup>.

In the case of Guantánamo Bay (as previously said), the US has said that those detainees are excluded from the Third Geneva Convention because of their non-belonging to the category of prisoners-of-war<sup>117</sup>, so they do not have to be treated as required by the four article of the Convention<sup>118</sup>, which does not mean that military doctors should force-feed Guantánamo prisoners (or treated in a humiliating and cruel way), considering that force-feeding is ethically not allowed<sup>119</sup>.

Additionally, during the suffragettes' and the Irish republicans' hunger strike physicians might have been political opponents of the hunger strikers; in fact, the WMA Declaration of Tokyo has specified that doctors must not tolerate or participate in humiliating and cruel practises 'whatever the victim's beliefs or motives'<sup>120</sup>.

There have also been some historical cases of hunger strikes with no force-feeding involved, the one told here is the case of the prisoners of Long Kesh Prison. In this situation, the British government has stopped force-feeding, after Michael Gaughan's death, because in the 1975 the World Medical Association declared that force-feeding should have not be done, so the British government had to adapt to it<sup>121</sup>.

To conclude, even though in the past prisoners who went on collective hunger strikes were force-fed, nowadays this practice is considered unacceptable by many, even associations such as the World Medical Association. If governments do not require physicians to practice force-feeding for political motifs or to restore their power over the detainees – which are both not reasonable reason to put in place such a procedure, then they should not demand force-feeding at all. Authorities used to demand prison doctors to force-feed prisoners because they were afraid that they would die and that would indicate the deplorable conditions of jails<sup>122</sup>. But, nowadays, it is asked to authorities to let the prisoners continue their voluntary hunger strike, because it is better for them that they die with dignity

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<sup>116</sup> Miller, *History of Force-Feeding*, p. 18

<sup>117</sup> *Geneva Convention Relative to the Treatment of Prisoners of War (Third Geneva Convention)*, August 12, 1949, 75 UNTS 135, available from the UN website: [http://www.un.org/en/genocideprevention/documents/atrocities-crimes/D0c.32\\_GC-III-EN.pdf](http://www.un.org/en/genocideprevention/documents/atrocities-crimes/D0c.32_GC-III-EN.pdf), (accessed 23 August 2018).

<sup>118</sup> Miller, *History of Force-Feeding*, p. 7.

<sup>119</sup> "WMA Declaration of Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>120</sup> "WMA Declaration of Tokyo – Guidelines for Physicians concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-tokyo-guidelines-for-physicians-concerning-torture-and-other-cruel-inhuman-or-degrading-treatment-or-punishment-in-relation-to-detention-and-imprisonment/>, (accessed 28 August 2018).

<sup>121</sup> Miller, "Why H-Block hunger strikers were not force-fed", *Irish Times*, July 5, 2016, <https://www.irishtimes.com/culture/books/why-h-block-hunger-strikers-were-not-force-fed-1.2706786>, (accessed 30 August 2018).

<sup>122</sup> Miller, *History of Force-Feeding*, p. 1.

and for a cause they believe in<sup>123</sup>, instead of been forced to live by authorities which prisoners are protesting against. Furthermore, if doctors or authorities believe that by force-feeding hunger strikers they are actually acting in accordance with the principle of non-maleficence or beneficence (because they are preventing the hunger strikers to die), then they should consider what declared by the WMA in its Declaration of Malta. In fact, there is written that force-feeding is not morally acceptable even if it is done with the intention of benefiting the hunger striker<sup>124</sup>, also that (as already mentioned in paragraphs 2.3 and 2.5) beneficence includes also not obliging someone onto doing or receiving something that the individual does not want<sup>125</sup>. So, the Declaration of Malta casted new light on doctors overseeing and monitoring prisoners through their hunger strike, which is now the acceptable thing to do.

Having discussed all the possible circumstances and reasons, should or should not physicians force-feed prisoners who go on hunger strike – because asked by authorities? No, they should not.

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<sup>123</sup> “WMA Declaration of Malta on Hunger Strikers”, World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>124</sup> “WMA Declaration of Malta on Hunger Strikers”, World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).

<sup>125</sup> “WMA Declaration of Malta on Hunger Strikers”, World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (accessed 29 August 2018).



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## Riassunto

La tesi è incentrata sul tema dell'alimentazione forzata dei detenuti che decidono di fare uno sciopero della fame collettivo. Più precisamente, il suo scopo è di cercare di comprendere quale sia il ruolo e l'importanza del medico nella procedura dell'alimentazione forzata, ma anche, e soprattutto, di affrontare il dilemma morale in cui si trova il medico del penitenziario a cui viene richiesto di procedere all'alimentazione forzata di un carcerato. Il medico deve rispettare le disposizioni delle autorità ad egli sovrastanti (che quindi possono richiedere che il medico metta in atto l'alimentazione forzata del detenuto), ma allo stesso tempo deve avere a che fare con la ritenuta mancata eticità del gesto. In questa tesi viene data una definizione di alimentazione forzata e viene analizzata la differenza tra alimentazione forzata e la nutrizione artificiale. Ad esempio, la *World Medical Association*<sup>126</sup> (da ora in avanti abbreviata in WMA) ritiene che l'alimentazione forzata dei prigionieri sia immorale, tant'è che ha scritto una dichiarazione proprio riguardo il comportamento che il medico deve avere nei confronti di coloro che vanno in sciopero della fame, la *WMA Declaration of Malta on Hunger Strikers*<sup>127</sup>. Inoltre, in questa tesi si discute la possibilità o meno di definire un detenuto, in sciopero della fame e che per questo viene alimentato forzatamente, "paziente" e di chiamare l'alimentazione forzata "trattamento medico". Per capire effettivamente la complessità in cui il medico si trova è utile prendere in considerazione i diversi punti di vista nei riguardi dell'alimentazione forzata e dello sciopero della fame; da un lato i punti di vista delle autorità, dei governi (anche nel caso in cui abbiano deciso di non alimentare forzatamente i detenuti, ma di lasciarli morire di fame) e dall'altro lato le visioni dei detenuti. Per fare ciò, si può guardare ed analizzare i diversi casi storici di sciopero della fame collettivo da parte di detenuti che sono poi stati alimentati a forza; ovvero il caso delle suffragette, quello dei repubblicani irlandesi e quello dei detenuti del campo di prigionia di Guantánamo. Nella tesi inoltre si analizza l'alimentazione forzata attraverso i quattro principi di bioetica generalmente riconosciuti (*autonomy, non-maleficence, beneficence and justice*)<sup>128</sup> e il cosiddetto *principle of respect for human dignity*<sup>129</sup>. In aggiunta, come accennato precedentemente, si espongono anche i punti di vista della WMA, che in effetti esprimono disapprovazione nei confronti

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<sup>126</sup> Per maggiori informazioni sulla World Medical Association si può consultare il sito dell'associazione (in inglese, francese e spagnolo): <https://www.wma.net/> (consultato il 7 Settembre 2018).

<sup>127</sup> "WMA Declaration of Malta on Hunger Strikers", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-malta-on-hunger-strikers/>, (consultato il 29 Agosto 2018).

<sup>128</sup> Bruce Jennings, "Autonomy", in *The Oxford Handbook of Bioethics*, ed. Bonnie Steinbock, (Oxford; New York: Oxford University Press, 2007), p. 73.

I quattro principi possono essere tradotti come: autonomia, non-maleficenza, beneficenza e giustizia.

<sup>129</sup> Daryl Pullman, "There Are Universal Ethical Principles That Should Govern the Conduct of Medicine and Research Worldwide", in *Contemporary Debates in Bioethics*, ed. Arthur L. Caplan and Robert Arp, (Chichester (UK): Wiley-Blackwell, 2014), parte 1, capitolo 1.

Il *principle of respect for human dignity* può essere letteralmente tradotto in italiano come il principio del rispetto per la dignità umana.

dell'alimentazione forzata e anzi la credono immorale e non eticamente professionale. Nell'ultima parte di questa tesi si traggono le conclusioni sul dilemma del medico per quanto riguarda l'alimentazione forzata.

Nell'introduzione della tesi, si descrive la procedura dell'alimentazione forzata (che è stata tratta dal libro di Ian Miller che si chiama *A History of Force Feeding: Hunger Strikes, Prisons and Medical Ethics, 1909–1974*<sup>130</sup>). L'alimentazione forzata di coloro che sono in sciopero della fame consiste nell'introduzione di un tubo nella bocca o nel naso di un detenuto che sta scioperando e spingere il tubo all'interno del corpo dell'individuo fino a che non giunge allo stomaco. A questo punto viene versato nel tubo del cibo liquido. Come è possibile immaginare, i detenuti cercano di fare resistenza a questa procedura in quanto effettivamente non vogliono nessuna fonte di alimentazione essendo in sciopero della fame. Per questo viene chiamata "alimentazione forzata". Inoltre, cercando di non essere sottoposti a questa procedura, gli scioperanti si dimenano e perciò vengono legati a letti o sedie. L'utilizzo del tubo può indurre a involontario vomito o soffocamento e in aggiunta se il cibo liquido va nei polmoni invece che nello stomaco può provocare una polmonite e condurre alla morte.

Successivamente, si espongono le differenze tra l'alimentazione forzata e la nutrizione artificiale<sup>131</sup>. Quest'ultima è utile per mantenere in vita quei pazienti che, ad esempio, si rifiutano di mangiare per via di una malattia mentale (come i pazienti anoressici), ma anche quelli che sono impossibilitati a nutrirsi da soli. Anche se entrambe le procedure hanno come scopo quello di mantenere in vita degli individui, l'alimentazione forzata (come si può comprendere anche dal nome) è eseguita contro la volontà degli scioperanti perché sono essi che hanno deciso di fare lo sciopero della fame e sarà compito del medico giudicare se essi sono competenti o meno a prendere decisioni autonome e razionali. Spesso la nutrizione artificiale di pazienti anoressici viene considerata moralmente giusta perché si ritiene che questi individui non siano in grado di intendere, in quel momento, a causa di una malattia mentale che li frena dal capire il loro bisogno di alimentazione. Questo approccio può essere ritenuto paternalistico, ma generalmente considerato eticamente corretto. Al contrario, l'alimentazione forzata può essere vista come un atto moralmente ingiusto perché non è eseguita per il bene e l'interesse di colui che fa lo sciopero della fame.

Sempre nell'introduzione, si discute se l'alimentazione forzata posso o meno essere chiamata "trattamento medico" e se i prigionieri che vanno in sciopero della fame e che vengono alimentati a forza possono essere chiamati "pazienti", tutto questo seguendo la logica della lingua inglese. Dopo varie argomentazioni, si arriva alla conclusione che l'alimentazione forzata non può essere

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<sup>130</sup> Ian Miller, *A History of Force Feeding: Hunger Strikes, Prisons and Medical Ethics, 1909-1974*, (New York: [Palgrave Macmillan](https://doi.org/10.1007/978-3-319-31113-5), 2016), pp. 2, 3, <https://doi.org/10.1007/978-3-319-31113-5>, (consultato il 7 Agosto 2018).

<sup>131</sup> Per maggiori informazioni sulla nutrizione artificiale si può consultare il sito della SINPE: *Società Italiana di Nutrizione Artificiale e Metabolismo*, <http://www.sinpe.org/linee-guida/contenuti-linee-guida-sinpe/>, (consultato il 7 Settembre 2018).

considerata come trattamento medico perché un trattamento deve curare una malattia o una ferita e dato che nel contesto dello sciopero della fame non ci sono né malattie né ferite accidentali (visto che lo sciopero della fame è una scelta del detenuto), allora l'alimentazione forzata non cura nulla. Conseguentemente, il detenuto non può essere considerato come un paziente durante la procedura dell'alimentazione forzata, mentre può essere considerato tale durante le visite mediche dedicate al controllo dello stato di salute dello scioperante.

Nel paragrafo 1.1 del primo capitolo, si affrontano le motivazioni per cui i detenuti iniziano lo sciopero della fame, tutto ciò attraverso dei casi storici. Le suffragette sono state il primo caso di sciopero della fame collettivo di detenuti e, in più, per motivi politici. Esse iniziarono lo sciopero per contestare la decisione del governo britannico di non considerarle come prigioniere politiche, ma come criminali comuni. Per quanto riguarda i repubblicani irlandesi, all'inizio del XX secolo, essi iniziarono uno sciopero della fame collettivo per chiedere al governo britannico l'indipendenza; poi negli anni 70 del XX secolo, essi chiesero, così come le suffragette, lo status di prigionieri politici visto che erano stati incarcerati perché considerati dal governo britannico come terroristi. Un esempio più attuale di sciopero della fame con conseguente alimentazione forzata è quello dei detenuti nel campo di prigionia di Guantánamo, che si trova a Cuba e che è sotto la completa giurisdizione e controllo degli Stati Uniti, anche se l'area continua ad essere sottoposta alla sovranità di Cuba. In questo campo detentivo sono detenuti coloro che sono stati catturati durante le missioni in Afghanistan essendo considerati terroristi. Tali detenuti vengono considerati dagli Stati Uniti come membri di Al-Qaeda e dunque non prigionieri di guerra (non oggetto della Convenzione di Ginevra relativa al trattamento dei prigionieri di guerra<sup>132</sup>), ma cosiddetti *unlawful combatants*<sup>133</sup>. I detenuti di Guantánamo hanno iniziato a scioperare per la loro impossibilità di conoscere di cosa fossero accusati e per la mancanza di un giusto processo. È importante considerare che spesso le richieste dei detenuti non sono ascoltate, o comunque non accettate, dalle autorità; per cui per essi l'unico vero strumento per essere ascoltati e per potenzialmente attirare l'attenzione dell'opinione pubblica è quello di fare lo sciopero della fame.

Continuando, nel paragrafo 1.2 si espongono le ragioni per cui, nei casi storici espressi sopra, i governi e, più in generale, le autorità abbiano chiesto ai medici di sottoporre gli scioperanti all'alimentazione forzata, ma anche i casi in cui abbiano deciso di non alimentarli con conseguente morte di questi. La prima volta che il governo britannico ha permesso l'alimentazione forzata delle suffragette è stato nel 1909, in corrispondenza del primo sciopero della fame di gruppo. Le autorità

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<sup>132</sup> *La Convenzione di Ginevra relativa al trattamento dei prigionieri di guerra* si può trovare in italiano sul portale del Governo svizzero: *Il Consiglio federale, Il portale del Governo svizzero*, <https://www.admin.ch/opc/it/classified-compilation/19490187/index.html>, (consultato il 7 Settembre 2018).

<sup>133</sup> Mirko Daniel Garasic, *Guantanamo and Other Cases of Enforced Medical Treatment: A Biopolitical Analysis*, (Cham: Springer, 2015), p. 79.

britanniche arrivarono a questa decisione perché, precedentemente, molte suffragette incarcerate iniziarono lo sciopero della fame e le autorità si videro costrette a rilasciarle per paura che esse potessero morire in prigione (anche perché la morte di detenute/i in carcere sarebbe stata interpretata come un segno delle pessime condizioni di vita in carcere). Ma così facendo, ossia liberandole, il vero scopo della prigione, di rieducazione e sconto della pena per chi ha commesso un'azione legalmente ritenuta sbagliata, venne meno. Pertanto, il governo britannico iniziò l'alimentazione forzata delle suffragette, anche per mantenere l'ordine interno al carcere. Per le stesse ragioni, i repubblicani irlandesi furono sottoposti all'alimentazione forzata. Nel 1917 Thomas Ashe, un membro dell'IRA<sup>134</sup>, morì in carcere a causa di una polmonite dopo essere stato alimentato a forza; da quel momento il governo irlandese cambiò le sue politiche riguardanti l'alimentazione forzata dei carcerati, non consentendo più questa pratica. Al contrario, il governo britannico continuò a consentirla fino a che non ci fu anche nelle prigioni britanniche un caso di morte dopo l'alimentazione forzata, ovvero la morte di Michael Gaughan, un membro della PIRA<sup>135</sup>, nel 1974. Da questo momento in poi i repubblicani irlandesi non furono più sottoposti all'alimentazione forzata, tant'è che negli anni 80 nella prigione di Long Kesh in Irlanda del Nord morirono molti prigionieri entrati in sciopero della fame, di cui il più conosciuto fu Bobby Sands. Per quanto riguarda i detenuti a Guantánamo, nel 2013 il numero di scioperanti aumentò a 103, di cui 41 furono sottoposti ad alimentazione forzata via naso.

Nel secondo capitolo, si analizza l'alimentazione forzata attraverso i quattro principi di bioetica comunemente riconosciuti, ovvero il principio dell'autonomia, quello della non-malvagità, quello della beneficenza e quello della giustizia; ma anche attraverso il principio del rispetto della dignità umana. L'autonomia può essere definita come la possibilità per un individuo di avere delle proprie preferenze, dei propri gusti, una propria personalità senza interferenze fisiche o psicologiche<sup>136</sup>. Il principio dell'autonomia è in contrasto con l'approccio paternalistico in quanto secondo quest'ultimo è il medico che decide quale sia il trattamento o intervento medico corretto per il paziente, senza che quest'ultimo intervenga nella decisione. Prima della Seconda Guerra Mondiale, l'approccio utilizzato nel rapporto medico-paziente era quello paternalistico, ma in seguito agli esperimenti disumani fatti dai Nazisti, si iniziò a cambiare approccio. Infatti, con il Codice di Norimberga<sup>137</sup> si sono individuati i principi fondamentali su cui si devono basare le sperimentazioni mediche e la medicina in generale. Uno dei criteri fondamentale è appunto la possibilità di fare scelte autonome, libere da coercizioni e

<sup>134</sup> IRA è l'acronimo di *Irish Republican Army*, tradotto in italiano come Esercito Repubblicano Irlandese.

<sup>135</sup> PIRA è l'acronimo di *Provisional Irish Republican Army*, organizzazione creata nel 1969 dalla scissione dell'IRA e che ha connotati più radicali. Per maggiori informazioni sulla storia dell'IRA si può consultare il sito dell'Enciclopedia Treccani: *Treccani*, IRA, <http://www.treccani.it/enciclopedia/ira/> (consultato l'8 Settembre 2018).

<sup>136</sup> Garasic, *Guantanamo and Other Cases of Enforced Medical Treatment*, p. 2.

<sup>137</sup> Per maggiori informazioni sul Codice di Norimberga si può consultare il sito dell'Enciclopedia Treccani: *Treccani*, Codice di Norimberga, [http://www.treccani.it/enciclopedia/codice-di-norimberga\\_%28Enciclopedia-della-Scienza-e-della-Tecnica%29/](http://www.treccani.it/enciclopedia/codice-di-norimberga_%28Enciclopedia-della-Scienza-e-della-Tecnica%29/), (consultato l'8 Settembre 2018).



prese sulla base di un'informazione completa riguardo ciò che si dovrà affrontare o meno (il cosiddetto consenso informato). Al giorno d'oggi, il rispetto dell'autonomia di un individuo è ritenuto fondamentale, tant'è che molte volte l'autonomia di un paziente viene rispettata anche a costo della sua vita. Ad esempio, la maggior parte delle volte viene accettata e rispettata la volontà dei testimoni di Geova di rifiutare le trasfusioni di sangue, per via della loro religione, anche se ciò vuol dire morire. Dunque, per quale motivo l'autonoma scelta dei prigionieri di andare in sciopero della fame non dovrebbe essere rispettata essendo essi sottoposti all'alimentazione forzata? Per quanto riguarda il principio della non-maleficenza, esso richiede che un dottore non debba intenzionalmente provocare del dolore o del male al paziente, né attivamente né passivamente. Anche se in alcuni casi è impossibile evitare di fare alcun tipo di male al paziente e dunque il medico deve scegliere ciò che è meno, per così dire, malvagio<sup>138</sup>. Dunque, il rispetto del principio di non-maleficenza si nota dall'intenzione con cui un medico mette in atto l'alimentazione forzata su un prigioniero che va in sciopero della fame. Se il medico vuole provocare del male, allora ovviamente questa sua azione non sarà corretta; se invece ha l'intenzione di salvare lo scioperante, allora l'azione del medico può essere considerata giusta dal punto di vista del principio di non-maleficenza. Inoltre, anche in una concezione utilitarista l'alimentazione forzata è ritenuta un'azione positiva perché essa permette che il numero di persone in vita non diminuisca anche a costo di provocare dolore in coloro che vengono sottoposti a tale procedura. Ciò vale a dire che il male minore vince sul male maggiore. Quest'idea è ripresa anche nel principio della beneficenza, infatti esso richiede che il dottore provveda ad alleviare il dolore del paziente e a rimuovere o impedire danni al paziente<sup>139</sup>. Da un lato l'alimentazione forzata previene il male maggiore che è la morte dello scioperante, dall'altro lato però spesso provoca dei danni ad esso perché induce al vomito e al soffocamento. C'è d'aggiungere che il principio della beneficenza è spesso in contrasto con quello dell'autonomia, dato che se si previene il male maggiore, ovvero la morte, l'autonomia dello scioperante viene limitata. L'ultimo principio della bioetica comunemente accettato è quello della giustizia, ovvero bilanciare equamente le esigenze discordanti. Esso è legato ai concetti di equità, diritto ed uguaglianza<sup>140</sup>. Secondo questo principio, se l'alimentazione forzata sia giusta o meno dipende da chi giudica l'azione, ma anche da quale principio si ritiene sovrasti l'altro. Infine, vi è il principio del rispetto della dignità umana che Daryl Pullman considera universale anche se adattabile a varie culture. In questo principio, la dignità umana è una caratteristica che tutti gli esseri umani hanno solo perché sono umani, non è un valore morale che

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<sup>138</sup> Thomas R. McCormick, "Principles of Bioethics", *Ethics in Medicine: University of Washington School of Medicine*, <https://depts.washington.edu/bioethx/tools/princpl.html>, (consultato il 21 Agosto 2018).

<sup>139</sup> Thomas R. McCormick, "Principles of Bioethics", *Ethics in Medicine: University of Washington School of Medicine*, <https://depts.washington.edu/bioethx/tools/princpl.html>, (consultato il 21 Agosto 2018).

<sup>140</sup> "Justice: The four common bioethical principles", Alzheimer Europe, last updated March 29, 2010, <https://www.alzheimer-europe.org/Ethics/Definitions-and-approaches/The-four-common-bioethical-principles/Justice>, (consultato il 26 Agosto 2018).

viene acquisito o guadagnato, lo si è e basta<sup>141</sup>. Molti hanno considerato l'alimentazione forzata come un atto disumano e degradante (ad esempio, lo ha ritenuto tale la WMA) e dunque contro la dignità umana.

Nel terzo capitolo, ci sono espongono le dichiarazioni del WMA contro l'alimentazione forzata. Infatti già nel 1975 nella Dichiarazione di Tokyo<sup>142</sup>, la WMA aveva espresso che i detenuti in sciopero della fame non dovessero essere sottoposti all'alimentazione forzata. Successivamente, nel 1991 la WMA adottò la Dichiarazione di Malta, ovvero una dichiarazione espressamente incentrata su come i dottori debbano comportarsi in caso di sciopero della fame di individui, di cui maggiormente detenuti per l'appunto. In questa dichiarazione, la WMA dichiara che il medico, anche se con buone intenzioni, non deve sottoporre ad alimentazione forzata gli scioperanti; egli deve, inoltre, accertare che lo scioperante abbia deciso di rifiutare l'alimentazione con una sua propria scelta libera e razionale. Il punto fondamentale di questa dichiarazione è che l'alimentazione forzata non è mai eticamente accettabile.

Nella conclusione, ci si pone la domanda fondamentale, ovvero quella che riguarda il dilemma morale in cui si trova il medico nel caso in cui le autorità gli chiedano di praticare l'alimentazione forzata sui prigionieri. Da un lato questa pratica viene ritenuta eticamente non accettabile, così come dichiarato dalla WMA, ma dall'altro lato essa viene richiesta dall'autorità. Sulla base delle considerazioni ed elementi sovraesposti, nella tesi si afferma che il medico, qualsiasi sia la sua intenzione, non debba alimentare forzatamente un detenuto in sciopero della fame perché quest'azione va contro l'autonomia dell'individuo, così come non è di beneficio ad esso perché il concetto del non recare danno, così come richiesto dai principi di non-maleficenza e beneficenza, non vuol dire solo evitare che egli muoia, ma anche non costringerle a sospendere lo sciopero della fame o alimentarle a forza un prigioniero (così come dichiarato dalla WMA nel principio numero 5 della Dichiarazione di Malta).

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<sup>141</sup> Daryl Pullman, "There Are Universal Ethical Principles That Should Govern the Conduct of Medicine and Research Worldwide", in *Contemporary Debates in Bioethics*, ed. Arthur L. Caplan and Robert Arp, (Chichester (UK): Wiley-Blackwell, 2014), parte 1, capitolo 1.

<sup>142</sup> "WMA Declaration of Tokyo – Guidelines for Physicians concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment", World Medical Association, <https://www.wma.net/policies-post/wma-declaration-of-tokyo-guidelines-for-physicians-concerning-torture-and-other-cruel-inhuman-or-degrading-treatment-or-punishment-in-relation-to-detention-and-imprisonment/>, (consultato il 28 Agosto 2018).