

## Keynote Speech

### Speaking out on Torture: Misgivings and Challenges of a Military Doctor

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Today I hope to share with you how “the day-to-day trenches of adult existence, banal platitudes (that) can have a life-or-death importance”<sup>1</sup> have affected my work as a military physician and human rights advocate. What the men and women in uniform, and you here in Israel – many of you who have also served in the military – confront on an almost daily basis are not situations that are so remote from all of our lives. In fact, they involve questions that go to the heart of the universals that we must all face at some point or another, universals about beliefs, convictions, and emotions that construct meaning from experience and inform our choices in life. We are all clearly committed to rational thought; indeed the very nature of a decision becomes legitimized if it is the product of rational thought. However, those convictions and emotions that fill our souls and psyche often carry far greater weight than mere rational thought in determining what we do and why and how we do it.

As an American citizen and a soldier, I have been concerned about the conduct of my nation and its complicity with torture, which have stained its reputation and stature. I have spent the equivalent of a few months at Guantánamo, assisted in the defense

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<sup>1</sup> Wallace, David Foster, *This is Water (Some Thoughts Delivered on Significance)*, Commencement Address at Kenyon University (2005), 2008.

of several detainees, and have interviewed a number of alleged terrorists who had been tortured by military personnel, men who were wearing the same uniform that I did for over 28 years.

My friends ask 'how did you get involved in human rights as a former military physician?.' I tell them that I was "kidnapped" six years ago and have been held hostage by my conscience ever since. I also remind them that my introduction and growing involvement with the human rights community – with you and your colleagues – has been the most rewarding experience of my professional life. Like all things that are rewarding and gratifying, the experience has also been distressing and disturbing. I am a reluctant participant, but cannot escape now, and cannot back away from the personal and professional duty that has fallen in my lap, defined some professional commitments, and troubled my conscience.

How can our societies progress, or even see daylight, unless we truly confront the realities of the torture and the cruel treatment of others we happen to label as enemies, detainees, or threats to national security? And, on another plane, how can we reconcile our actions without having a deeper understanding and appreciation for how our minds work, or how our souls are inspired?

The boundaries between objective analysis and personal experience are permeable. While I was an undergraduate studying the philosophy of science, the imprint of Descartes appeared in almost all the courses that I encountered. A sharp line of demarcation separated the objective and subjective worlds, the mind and the brain. It seemed paradoxical considering that the Cartesian universe was being promulgated in the midst of the chaotic and unpredictable climate of the sixties. Almost all that we heard as young undergraduates had some personal point of reference in those heated times – the relevance of the tragic American history of slavery and segregation that had direct relevance to the civil rights struggle, for example, or the record of literature and art that demeaned women.

As I studied to become a physician and psychiatrist, the distinction between those Cartesian worlds blurred even more. And the highly disciplined military world in which I came of age, and in which I spent nearly three decades, offered many more shades of gray than black and white distinctions.

I am encouraged today that the developments in neurosciences, particularly in imaging of the brain, have confirmed my biases and are demonstrating that the domains of the mind and the brain are not mutually exclusive but intricately interwoven. Our feelings and sentiments are expressed in thinking, as our thinking is projected in our feelings, and all of these emotions are enabled by neurons.

So, what relevance do all of these philosophical, psychological, and neuroscientific meanderings have to the vexing issue of torture and the treatment of detainees

and potential enemies? Put simply, I believe that my factual observations, objective analysis, and personal experience coalesce and inform, coherently and reciprocally, all my actions and opinions, especially those that are the most personally challenging. It is not that torture and inhumane treatment of detainees and potential enemies was ever an appealing option. Rather, the process of truly comprehending the complexities involved in not choosing torture and inhumane treatment as options lead us all to the most perilous realm of the "day to day trenches of human experience" and cannot help but call upon the full range of our consciousness.

I believe that as much as the tragedies of torture and cruel, inhuman, and degrading treatments are a sad commentary on the human condition – they also are symbolic and symptomatic of social and political forces that may have unimaginable impact in the 21st century and to each of our lives, our children's lives, and, yes, even their children's lives. Witness the latest revolutions in your neighborhood of nations.

But let me return to my own education as a human rights advocate.

The turning point for me occurred when the photographs of the treatment of detainees at Abu Ghraib were first circulated. The photographs were scandalous and tragic. They reminded me of the famous quotation attributed to General George C. Marshall, Jr:

Once an army is involved in war, there is a beast in every fighting man, which begins tugging at its chains, and a good officer must learn early on how to keep the beast under control, both in his men and himself.

Leaders – officers and non-commissioned officers (sergeants) – are responsible to contain "the beast," as it will inevitably raise its ugly head and overwhelm any of us at any time. The harshest and most brutal instincts can erupt in all of us, if the timing and setting permit. Sadly, we have seen still more evidence of "the beast" in a recent issue of Rolling Stone, where a latter day My Lai appears in photographs of triumphant soldiers involved in brutal killings of civilians in Afghanistan, now publicized in connection with the trial of Specialist Morlock (a defendant who has pleaded guilty and been sentenced to 24 years in prison).

Such is the nature of war, and the dilemma that our nations face – to establish and sustain strong military forces, to protect us against enemies, foreign and domestic, and to acknowledge that employing those armies comes with a cost, one that may threaten our core democratic principles. There are no simple or easy choices, either individually or nationally.

So when the pictures from Abu Ghraib first appeared in May of 2004, I was being interviewed for a senior position at the Department of Defense. One conversation

with the leadership pointedly focused on the policies and procedures governing medical personnel treating detainees.

The medics at Abu Ghraib were responsible to report evidence of abuse and take action to protect the detainees from future harm, which I emphasized in my interviews at the White House Personnel Office. Moreover, I suspected that the Reserves and National Guard that had been called up for the war had not been adequately prepared or trained to be an occupation force – that their leadership had not provided the discipline that was needed to restrain them from acting out when feeling personally threatened in face-to-face encounters.

Needless to say, raising such concerns during a job interview with the Bush White House was not exactly going to guarantee a plum job in the administration, and I did not get hired. So, I proceeded to find clinical work and go about building my new life. My wife – a journalist – encouraged me to write a long op-ed that appeared in the *Washington Post* with the headline, “Unhealthy Silence from the Medics”. I contended that the ethos of the medics – “first, do no harm” – serves, or at least *should* serve, to moderate and balance the impulses of the combat arms. I wondered what had happened in Abu Ghraib with the medics. Clearly they must have witnessed some of the atrocities and if they did, what did that imply about their sense of responsibility? Was there some kind of complicated division, or even conflict, between the loyalty they pledged as soldiers and their loyalties as medical professionals?

No doubt, medical leaders frequently confront opposition and must reconcile competing loyalties in being clinicians and soldiers. But the principles of “just war” and the Geneva Conventions anchor their professional conduct. Those of us who had served during the Vietnam War had those lessons drilled into us, especially after our Army had lapsed when it committed the My Lai massacres. Many of us vowed that those mistakes would never be repeated again.

Shortly after the publication of the op-ed, Leonard Rubenstein (former Executive Director of Physicians for Human Rights USA), whom I have grown to respect deeply, called and invited me to a meeting. My last encounters with human rights groups had been 40 years before when I was in ROTC, and I think we were probably throwing rocks at each other. With some reservation, I agreed to meet and learn more about Physicians for Human Rights USA (PHR).

We discussed with great concern the role of clinicians in interrogations, specifically their assignment to Behavioral Science Consultation Teams, known as BSCTs. The participation of doctors directly in interrogations violated the principles of the Geneva Conventions. To its credit, PHR asked to learn more about military medicine and the responsibilities and roles of military physicians. I had never encountered personal duty with interrogators during my years of active duty and regarded a direct involvement in interrogations as inconsistent with the traditions of military medicine.

As I looked deeper into the issue, what surprised me more was how little staffing and deliberation had gone into this major policy directive. Placing physicians and other healthcare providers in unrelated combat support roles constituted a significant departure from established policies and procedures. In most other circumstances, such changes in policy would have followed a protracted analysis by staff and careful consideration by senior leadership. I could not find any evidence of either analysis or thoughtful review with this decision. In fact, policies that eventually became known as "enhanced interrogations" grew out of an uncontested sentiment at the top levels of government that we needed "to take the gloves off" in handling captives and detainees. The policies and procedures that followed, and the attitudes that generated them, lacked review and analysis, were dehumanizing, and reflected ethnic and cultural bias. In short, the thinking was sloppy and had no factual basis. That's no way to run an army, and as a retired general I exercised my prerogative to say so.

I look back with some embarrassment that at one point I actually thought that physicians could work in highly circumscribed roles and advise interrogators. Fortunately, a colleague, and the only other retired Medical Corps General Officer who had been involved, advised that the temptation to cross over the line in such intense conditions was too great to protect either the detainee or the consulting physician.

Further study confirmed that opinion. PHR advocated that the professional medical associations publish official positions opposing doctors' direct involvement in interrogations. Over the years, my review of medical policies in support of CIA practices and numerous logs and medical records of detainees has confirmed my opinion: clinicians should never participate in interrogations under any circumstances. Moreover, they must have the authority and status to act on and report abuse and cruel treatment when it becomes evident.

Most retired Medical Corps General Officers who I approached to join in opposition to torture and related practices demurred. They felt that their positions and responsibilities as physicians did not give them the authority to disagree with combat commanders and senior political leaders. I adamantly disagree. Speaking up about the ethical and proper treatment of soldiers, whether those soldiers are American or those of the enemy is exactly what is expected of military medical leaders.

As my activities became more public, I was invited to participate with other retired generals and admirals (none of them in the medical field) who had been convened by Human Rights First (HRF) to oppose torture. In 2008, HRF set up private sessions with as many Presidential candidates as they could schedule to discuss

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torture, interrogation practices, Guantánamo, and the trials of the detainees in the Military Commissions. More than once, the “ticking bomb” scenario dominated the conversation. Almost all the candidates pointed out deep-seated worries expressed by their constituents that held them responsible to take all and any actions needed to keep the country safe – including torturing a suspect who may know the location of a “bomb” that was about to go off and kill thousands of Americans, including their constituents.

Leaving aside the fact that the “ticking bomb” is largely fictitious, the Presidential campaign of 2008 highlighted the overwhelming power of fear as a proxy for terrorism. To the voters, the fear associated with the “ticking bomb” symbolized the threat of terrorism and justification for war and “an anything goes” mentality to “hunt those guys down.” The sense of fear hijacked any rational conversation. As the “fear factor” was heightened, reasoned debate and deliberation withered.

When I became more involved in terrorism cases and noticed a remarkable absence of deliberate analysis of the terrorist threat, I lost even more confidence in the justification for the course of action we had been following. I came to feel that our political leadership had exploited the “fear factor” to forge a political agenda and not because the detainees realistically endangered our country. Accordingly, I felt it was even more important to oppose torture and cruel, inhuman, and degrading treatments. Torture is counterproductive, and, in fact, it does not enhance, but diminishes, our national defense.

Nonetheless, I have to acknowledge how the enormous political and military realities burdening your nation evoke much greater fear and more immediate threats to your security. I would be presumptuous to ignore the direct impact on your lives, individually and collectively. On the other hand, I have been sensitized to the state of mind that persistent pain, stress, and worry create, and have experienced the insidious and destabilizing effects of pressures and conditions that seem to never go away. Another reason that I oppose torture and cruel, inhuman, and degrading treatment, comes from my conviction that to engage in such heinous acts is to surrender to fear. And leaders – in a family, military unit or community – have the responsibility to assuage and calm, and inspire action that is healing, constructive, and productive rather than replicate the very behavior that we condemn.

My journeys into the realm of torture moved from the theoretical and philosophical to the actual and concrete when I became involved in the defense of Omar Khadr. Khadr is a Canadian citizen, who was captured as a 15-year-old after a firefight in Khost, Afghanistan. When first asked to assist with the case in 2006, I had no idea about his life story or the details of the charges. The defense attorneys did inform me that he was a very young adolescent when captured, appeared troubled and symptomatic, and had been held in Guantánamo without the benefit of treatment or schooling.

That did not seem right to me.

Furthermore, the defense attorneys could not secure the approval of the Convening Authority (the judicial arm of the Department of Defense) to conduct a medical and psychiatric evaluation of him. I agreed to assist at the same time that my misgivings about our policies and procedures had been growing. After a detailed review of the case and hundreds of hours of meetings with Omar, I feel unequivocally that he is not an enemy of the West and deserves help for how he has suffered. Sadly, I have reviewed dozens of other cases and discovered other shameful records of torture and cruel treatment of other detainees. What we have done is wrong for many reasons, morally and strategically. The detention facility at Guantánamo and our actions have compromised our international stature and our ability to defend our country against terrorist threats.

The Khadr case illustrates another insidious theme that degrades our national defense – a racist campaign directed at “radical Jihadism.” This political ideology has been distorted and amplified by government prosecutors to justify harsh and inflexible treatment of men and women simply based on their religious beliefs. Such prejudice clashes with the American heritage of being a “nation of immigrants” and thriving on the diversity and energy that many different people have brought to our shores throughout our history.

This conference has been organized to pursue accountability for torture and cruel, inhuman, and degrading treatment. That is the domain of political activism, of which I know little despite my committed engagement in the democratic processes. I do feel strongly about one possibility for securing greater accountability.

To have accountability there must be transparency and publicity. As the old saying goes, “Sunshine is the best disinfectant.” I feel strongly that the community of healers – physicians, particularly, and other clinicians – must become actively engaged and speak out against violations of human rights. Like other professional groups, physicians and clinicians are subject to political pressure and economic realities. But having taken the oath to “first do no harm” – they cannot back away from the responsibility to act when they see harm being done. I have not heard of a compelling argument – put forth by any political or military expert – that convinces me that any action done with the express intent of harming another individual does any good for the defense of a community or national security. In fact, the lessons of warfare in the 21st century instruct us quite differently – that insurgencies and counter-insurgencies revolve around individual interests, feelings of safety, and personal well-being. To think that violating personal dignity and welfare strengthens national defense defies all reasonable logic. Not today, and probably not ever in our history.

Clinicians and healers, in or out of uniform, can advance on another front: helping the citizens, individually and collectively, to protect themselves from the insidious and

degrading "fear factor." Living under conditions of persistent threat diminishes our capacity to think and act rationally. We live in a time in which developments in the neurosciences and genetics, the epigenetic phenomena, help us 'see' the effects. Fear and threats to security do not promote a healthy state of mind. In fact, they weaken us, individually and collectively, over time. We must take corrective action – to counter the lingering effects of fear and the exploitation of the 'fear factor' by political agencies. Fear is neither a political nor a military strategy. It is also antithetical to basic morality.

I would like to close by sharing with you a few principles that have anchored my professional convictions and actions, even under conditions of extreme stress, when feeling threatened or afraid, and when struggling with the inevitable competing loyalties with which I have served: soldier and physician, citizen and human rights activist, general and defender of detainees. There have been times when I have not always lived up to my standards, even as those standards have become clearer to me over time.

I have learned that:

- Societies endow doctors – healers – with special authority and respect. They cannot abuse that privilege, ever.
- American officers take an oath to the Constitution of the United States to uphold the laws and defend the country against all enemies, foreign and domestic. But the emphasis is that this is an oath to the laws that govern the nation, and not to any individual or political agency. Our laws constitute the cornerstone of our democracies and the hope that they will continue to thrive.
- American soldiers are human rights advocates. We defend the laws of our nation and uphold our Constitution that is grounded in the dictum that "all men are created equal, that they are endowed by their Creator with certain inalienable rights, and that among these are life, liberty and the pursuit of happiness."
- America traditionally has sustained a strong military to preserve the peace, and that going to war is a last resort. Soldiers who have 'seen' war know it is ugly and most are unwilling to go again.
- The Abrahamic religions share a belief in the sanctity of man, and that defiling any one individual defiles us all. When we torture or act in cruel and inhuman ways, we injure one another and sin against God and Man.
- As a physician and senior leader, I do not have the option to back away from difficult, and potentially hurtful, troubling, or troublesome problems. Because society has bestowed special trust and authority in me – as a physician and senior leader – I

owe my fellow citizens and community the responsibility to take on the challenges that come my way. I am obligated to speak truth to power.

- And finally, perhaps most importantly – each of us makes a difference.

More than ever, I believe you are the leaders of the future. You have come together, from diverse backgrounds and beliefs and religions, have committed yourselves to a vision of peace and greater prosperity, not simply economic but in terms of moral and ethical stature. You cannot let the tyrants, despots, and demagogues who only seek power and personal gain snatch a better life away from you. Too often, they incarnate the instincts of greed, hatred, fear, and anger that have impoverished and enslaved too many people. By holding to your values and a sense of higher purpose, you can make a difference. Your campaign – your journey – takes you down a path one step at a time, a path often neither recognized nor acclaimed, and certainly not easy.

And perhaps, you will have moments like I have had – doubting yourself, lacking confidence, and confounded as you try to discern your next steps. I encourage you to seek strength from each other and have faith and confidence that what you are doing is right. Being right is more than feeling self-righteous – it involves feeling humble in the great expanse of mankind, seeking wisdom, and having the deepest compassion for your fellow man and woman. The whole world is looking at you and prays for your success. Because in the end, we who are gathered here this evening, know where these individual templates and beliefs come from. We know they come from inside each one of us in the mysterious alchemy of our beliefs, convictions, and emotions that construct meaning from experience and inform our choices in life. And then we look at the person to our right, and the person to our left, and try to apprehend the enormity of that universe of beliefs, convictions, emotions and meaning within them.

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Because the ultimate challenge and the ultimate goal is to try to reach that level of empathy and understanding, not just with our friends, but also with those who inspire fear in us. That is not to preach the gospel of some sentimental version of love thy enemy, but instead to challenge each of us, with toughness and rigor, to recognize that as long as we have the capacity to depersonalize others, we have the capacity to diminish the importance of the day to day trenches that determine life or death experience. And our job as physicians, as leaders and as human beings, is to never diminish that importance.

The hopes and anxieties of the world are telescoped into your backyards. Every word, every action, in this complicated country ripples across the globe, and touches people

unimaginably in this highly interconnected network we call the 21st century. The landscape has changed, and so must the political and military strategies that govern them. The past few months have reawakened us to the power of the individual; human rights that are bestowed on us all can turn around governments and old orders. Empowering individual citizens comes with releasing them from the fears, hatred, greed, and ambition that disrupt their lives. Our challenge is to act individually and collectively to free ourselves from tyranny – from cruel, inhuman, and degrading acts that are committed against all of us – to see things differently and to eschew our old beliefs. In the midst of intense stress and threats to our lives and livelihoods, that is not an easy thing to do. But, if we can, when we can, we will embody principles and guides that affirm our common humanity and love for all – especially as physicians, especially as soldiers, whether military or not, who defend freedom and democracy.