FORCE-FEEDING OF PRISONERS AND DETAINNEES ON HUNGER STRIKE

Right to Self-Determination versus Right to Intervention

Pauline JACOBS
SUMMARY OF CONTENTS

Acknowledgements .......................................................... vii

Contents ................................................................. xiii

List of abbreviations ................................................... xix

Introduction ............................................................... 1

1. What is this book about? ............................................... 1
2. Reasons for research and the research question ................. 3
3. Medical (law) approach or human right approach? ............ 4
4. Delineation ............................................................ 8
5. Structure of the book ................................................. 8
6. Methodology .......................................................... 10

Chapter One. Prisoners and detainees on hunger strike ........... 13

1. Introduction .......................................................... 13
2. Definitions ........................................................... 13
3. Difference from suicide and euthanasia ............................ 22
4. “On and off” hunger striking ......................................... 23
5. The physical consequences of a hunger strike .................. 23
6. Recovery after a hunger strike ...................................... 26
7. Death as result of a hunger strike ................................... 26
8. Procedures for force-feeding and artificial feeding ............. 29
9. Conclusions .......................................................... 34

Chapter Two. The concept of personal autonomy, the right to self-determination and informed consent and refusal in health care ....... 37

1. Introduction .......................................................... 37
2. Definitions of personal autonomy and the right to self-determination ....... 38
3. The relationship between the concepts of personal autonomy, the right to self-determination, the right to physical integrity and informed consent and refusal ........................................... 44
4. Informed consent .............................................................. 45
5. Paternalism ........................................................................ 58
6. Competence ....................................................................... 59
7. Surrogate decision-making for incompetent patients ............... 65
8. Expressions and codifications of personal autonomy, the right to self-determination and informed consent ............................................. 67
9. Conclusions ....................................................................... 76

Chapter Three. The prisoner’s and detainee’s personal autonomy and right to self-determination in health care ........................................... 79

1. Introduction ......................................................................... 79
2. Health care in prisons and other places of detention ............... 80
3. Dual loyalties ....................................................................... 98
4. Human rights for prisoners and detainees or “inherent limitations”? .................. 98
5. Positive obligations on the basis of Article 2 ECHR .............. 103
6. The prisoner’s and detainee’s right to consent to and refuse medical treatment ............................................. 112
7. Conclusions ....................................................................... 125

Chapter Four. Arguments for and against force-feeding prisoners and detainees on hunger strike ....................................................... 127

1. Introduction ......................................................................... 127
2. Arguments against force-feeding prisoners and detainees on hunger strike ............................................. 128
3. Arguments for force-feeding prisoners and detainees on hunger strike ...... 135
4. Conclusions ....................................................................... 145

Chapter Five. International and European documents and case law on force-feeding prisoners and detainees on hunger strike ....................................................... 147

1. Introduction ......................................................................... 147
2. International documents and case law on force-feeding prisoners and detainees on hunger strike ............................................. 148
3. European documents and case law on force-feeding prisoners and detainees on hunger strike ............................................. 176
4. NGO analysis of force-feeding prisoners and detainees on hunger strike .... 209
5. Conclusions ....................................................................... 214
ICE Is Force-Feeding Some Immigrant Detainees on Hunger Strikes: AP. The associated press (garance burke and martha mendoza). Updated on. 6:15.Â The force-feeding of detainees through nasal tubes at Guantanamo Bay garnered international blowback. Hunger strikes began shortly after the military prison opened in 2002, with force-feeding starting in early 2006 following mass refusals to eat. After four weeks without eating, the body's metabolic systems start to break down, and hunger strikers can risk permanent damage, including cognitive impairment, said Dr. Marc Stern, a correctional physician at the University of Washington in Seattle who has previously consulted with the Department of Homeland Security.