

**11th webinar of the Virtual Medical Consilium on mSTR**

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# Operational research in detention: ethical issues

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## THE FUNDAMENTAL PRINCIPLES

HUMANITY

IMPARTIALITY

NEUTRALITY

INDEPENDENCE

VOLUNTARY SERVICE

UNITY

UNIVERSALITY

# ICRC & Detention

## Protecting and assisting people deprived of their liberty

**We focus on:**

- Ensuring that the living conditions in detention are decent and ensuring the physical and psychological integrity of detainees, in particular by guaranteeing access to food, drinking water, space, shelter and adequate health care and hygiene in a safe environment;
- Ending and preventing torture and other forms of ill-treatment;
- Ensuring that detainees may exercise their rights and enjoy due processes of law;
- Restoring and maintaining links between detainees and their relatives;
- Ending and preventing summary executions and forced disappearances.



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“The health of my patient will be my first consideration”

WMA Declaration of Geneva, 1948



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## Medical research on prisoners

“Presently, the most sought after populations to serve as human research subjects are those in underdeveloped countries, impoverished people and prisoners”

(Elliott & Abadie, 2008; Graebisch, 2002)

### Why?

- “Cheap and available”
- Specific vulnerabilities
  - Autonomy
  - Consent



## Current ethical standards and norms

1947 Nuremberg Code (NB: 1948 Universal Declaration of Human Rights)

1948 WMA Declaration of Geneva (2017)

1964 WMA Declaration of Helsinki (2013)

1966 ICCPR, Article 7: (...)”In particular, no one shall be subjected without his free consent to medical or scientific experimentation“

1988 The UN Body of Principles for the Protection of Detained or Imprisoned Persons

2005 UNESCO Universal Declaration on Bioethics and Human Rights

2016 CIOMS International Ethical Guidelines for Health-related Research Involving Humans



1988 The UN Body of Principles for the Protection of Detained or Imprisoned Persons, Art 22:

“No detained or imprisoned person shall, even with his consent, be subjected to any medical or scientific experimentation which may be detrimental to his health.”

### Why?

- informed and competent **consent** *impossible*
- **autonomy** *never assured*
- *always* a degree of **risk**

→ **ban research to protect prisoners**



**BUT** prisoners have specific needs, in terms of ensuring better management of health issues that are:

- specific to deprivation of liberty
- and/or more prevalent in prison settings
- and/or with specific and critical management characteristics (opportunities and constraints)

**→ ban on research on prisoners**

**=**

**violation of principle  
of equivalence of care!**



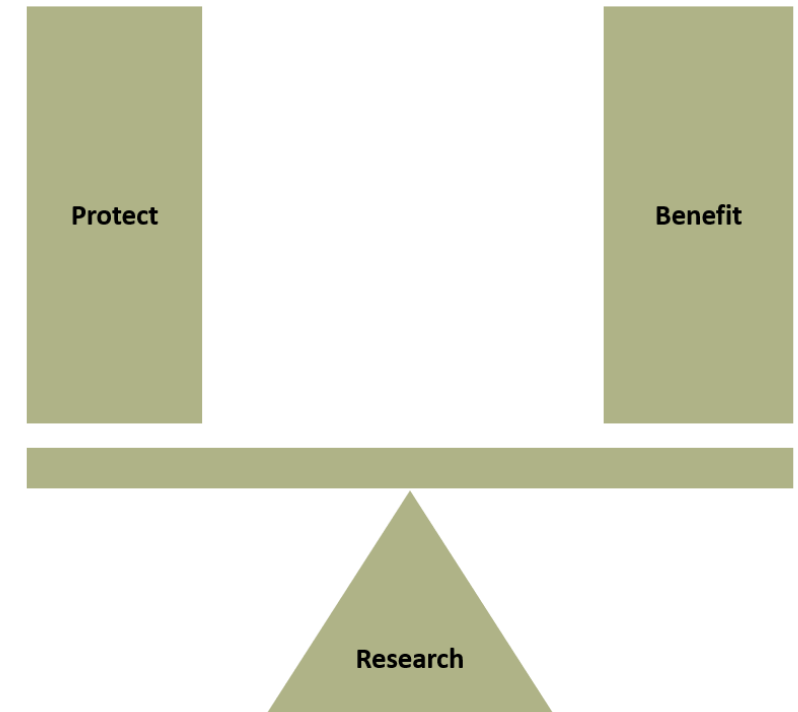
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# Key ethical principles for medical research

- Beneficence / Non- Maleficence
- Autonomy
- Consent
- Priority of individual's rights over society's
- **Key issue = BALANCE**



→ the greater/more direct the expected benefits, the more risks can be conceded, and vice versa.



## Key ethical principles for medical research

→ **The need for independent review**

→ **All research involving human subjects must comply with WMA Declaration of Helsinki**

→ “When involving **particularly vulnerable individuals**, researchers must ensure that the study does not cause participants emotional, physical or psychological harm. Expected risks must be as negligible as possible. Where unexpected harms arise in the course of the study, participants should be removed from the programme” (Ref. Julian Sheather, Emma Plugge, WMA/ICRC web-based course on Human Rights and Ethics for Prison Doctors, Ch. 11. [Doctors in Prisons | Doctors in Prisons | Various \(wcea.education\)](#))





## Vulnerable Groups and Individuals

19. Some groups and individuals are particularly vulnerable and may have an increased likelihood of being wronged or of incurring additional harm.

All vulnerable groups and individuals should receive specifically considered protection.

20. Medical research with a vulnerable group is only justified if the research is responsive to the health needs or priorities of this group and the research cannot be carried out in a non-vulnerable group. In addition, this group should stand to benefit from the knowledge, practices or interventions that result from the research.

