

AN OCCASIONAL PAPER

VOLUME 30

The Legacy and  
Contemporary Relevance  
of Nephrologists

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# The Legacy and Contemporary Relevance of





3HUFLYDOIV ZRQGHM@ Ethics WUHDWLVI

RI \HOORZ IHYHU +H FUHDWHG D VFLHQWL¿F \ subjects was intentionally exposed to the bite of the mosquito, which, as ZH DOO NQRZ WRGD\ ZDV WKH YHFWRU RI WKH D WUHPHQGRXV VFLHQWL¿F VXFFHVV DQG 5H WKH QDPLQJ RI D SURPLQHGW \$UP\ KRVSLWDC IRU DOOHJHGO\ KDYLQJ GHYLVHG WKH ¿UVV is that some of these accounts of Reed are more the stuff of legend than KLVWRULFDO IDFW 0RUHRYHU 5HHG¶V H[SHU some serious moral issues.

)LUVW WKH VR FDOOHG FRQVHQQ IRUP ZDV FODLPHG LW ZDV SULQFLSDOO\ DQ HPSOR\F experimental design in the study had been in part anticipated and used by DQ ,WDOLDQ H[SHULPHQWDO LQYHVWLJDWRU K\SRWKHVLV KDG DOUHDG\ EHHQ GHYHORSHG D &XEDQ SK\VLFLDQ 7KH H[SHULPHQW LQ %U criticized as unethical in the treatment of human subjects by the great &DQDGLDQ 7KH] \$À à  
DisEti • P 70 EQ à0 V V P€`0 [ H] 05iH]RQO01

5HHG LV D FDVH RI ORRPLQJ PRUDO SUREOH  
made all the more interesting because Reed is generally presented, still  
WRGD\ DV DQ \$PHULFDQ KHUR %XW , ¶YH VDL  
PRUDO LQVHQVLWLYLW\ LQ PHGLFDO UHVHDUF  
this paper, and I need to return at this point to the research in Germany and  
WR WKH ¿QGLQJV DW 1XUHPEHUJ

Nazi Physicians, the Nuremberg Trials, and the Nuremberg Code

Nuremberg is the most important watershed event in the more than  
\HDUV RI UHVHDUFK LQYROYLQJ KXPdq V  
cruelties in Germany were often administered by well trained and  
prominent physicians. Their extraordinary evil was to change how we  
YLHZ WKH XVH RI KXPdq VXEMHFWV LQ VFLH  
FKDQJH LV IRUHYHU %XW RQH RI WKH FRQFO  
is that we have not resolved all of the problems that became so obvious in  
Nazi Germany.

7KH 1XUHPEHUJ 7ULDOV DQG WKH 1XUHPEH  
major curbs on research in any nation. The succinct Nuremberg Code  
ZDV SUHVFULEHG LQ DV ~~United States~~ WKH MX  
Brandt WKH 1XUHPEHUJ WULDO RI 1D]L SK\VL  
HQJDJHG LQ VR FDOOHG ELRPHGLFDO H[SHUL  
it is a common misconception that these were the earliest examples of  
willfully harmful, vicious research on unwilling human subjects, the  
Nazi experiments were indeed unprecedented in the extensiveness and  
H[WUHPLW\ RI WKH KDUP DQG VXIIHULQJ WR ZH  
many victims. Using subjects drawn from the populations of concentration  
FDPSV -HZV ]\SVLHV 3ROHV DQG 5XVVLDOV  
effects of ingesting poisons, intravenous injections of gasoline, immersion  
LQ LFH ZDWHU DQG WKH OLNH ,QHFWRQR Z  
IHYHU YLUXV DV ZHOOD DV NLOOLQJ SHRSOH V  
were common parts of an extensive pattern of “medical” experiments.

Nazi euthanasia (a dreadful euphemism for the original meaning of the  
WHUP <sup>3</sup>HXWKDQDVL D´ SURJUDPV LQYROYLQJ S  
SHRSOH 7KHVH SURJUDPV ZHUH H[SOLF  
had “worthless lives” and were social “undesirables.” Often doctors made a  
decision whether someone was a social undesirable, and therefore whether



HXWKDQDVLD ZDV DSSURSULDWH %HLQJ VLFM

and other atrocities committed in the name of medical science. . . .

,Q PDQ\ F DVHV H[SHULPHQWV ZHUH SHUIRU  
ZHUH FRQGXFWHG DW UDQGRP IRU QR DGI  
XQGHU UHYROWLQJ SK\VLFDQ FRQGLWLRQV  
conducted with unnecessary suffering and injury and but very little, if  
DQ\ SUHFDXWLRQV ZHUH WDNHQ WR SURWH  
from the possibilities of injury, disability or death. In every one of  
the experiments the subjects experienced extreme pain or torture,  
and in most of them they suffered permanent injury, mutilation, or  
GHDWK HLWKHU DV D GLUHFU UHVXOW RI V  
adequate follow up care.

'U \$QGUHZ ,Y\ ZKR VHUYHG GXULQJ WKH  
RQ VFLHQWL¿F DQG HWKLFDO TXHVWLRQV FU  
GRQH IRU LWV SRRU VFLHQWL¿F GHVLJQ LU  
DUJXHG WKDW WKH PHGLFDO WUDJHGLHV ZHU  
experiments, which revealed nothing of use to “civilized medicine.”

7KH H[WUHPH GLVUHJDUG RI HWKLFV LQ WKH  
VXEMHFWV LV DOO WKH PRUH UHPDUNDEOH LQ  
had enacted, on moral grounds, strict regulations or guidelines (Richtlinien)  
to control both human experimentation and the use of innovative therapies  
LQ PHGLFLQH ,V VXHG E\ WKH 5HLFK¶V +HDOV  
remained binding law throughout the period of the Third Reich, but there  
is no evidence of any serious attempt to understand or enforce this law,  
HLWKHU LQ PHGLFLQH RU JRYHUQPHQW DIWH  
,W ZDV GHPDQGHG XQGHU WKLV ODZ WKDW FR  
as appropriate) must always be given “in a clear and undebatable manner.”  
4XHVWLRQV RI WKH QDWXUH RI DSSURSULDW  
careful research design, and special protections for vulnerable subjects  
were all delineated in these guidelines. Human experimentation was  
declared impermissible without consent, and absolutely impermissible  
with dying patients.

,W LV D VSHFLDO LURQ\²D SKHQRPHQDO KL  
nation appears to have had such morally and legally advanced regulations  
DW WKH WLPH RI WKH 1DJL DEXVHV \$ VHFR  
1XUHPEHUJ &RGH LV ZLGHQ\ DVVXPHG WR EH  
KLVWRU\ RI UHVHDUFK HWKLFV WR GHDO ZLW

UHJXODWLRQV DFWXDOO\ FRQWDLQ QR OH  
the Code itself.

an investigator may conduct research and delineates the conditions under which a subject has the ability to volunteer and, in all cases, to withdraw from the research even after it has begun.

:KHWKHU WKH 1XUHPEHUJ &RGH ZDV LQÀXH  
is historically controversial, but, somewhat embarrassingly, it does not appear to have had much of an effect in the United States, even though our MXGJHV KDG GHOLYHUHG WKH MXGJPHQW LQ  
the Code. There is one apparent, but not profoundly important, exception WR WKLV SRLQW DERXW LQÀXHGH 7KH 8 6  
Nuremberg Code, but it was a distant and veiled adoption: Having accepted the Code, the Dept. of Defense never seriously attempted to implement the Code in its conduct. This might seem ludicrous and hypocritical, but when ZH FRPH EHORZ WR WKH 'HFODUDWLRQ RI +HO  
most countries and institutions have behaved roughly as the Department of 'HIHQVH GLG \$GRSW D FRGH DQG WKHQ GR OL

In any event, to bring this discussion of Nuremberg to a conclusion, WKH 1XUHPEHUJ &RGH VHUYHG

to abuses of the sort we had seen in Germany. Partially in response to  
WKLV SHUFHLYHG WKUHDW WKH :RUOG 0HGL  
WKH HDUO\ V DIWHU VRPH SULRU GLVFXVV  
VXLWDEOH FRGH WR GLVWLQJXLVK HWKLFDO I  
RI WKH :0\$¶V FRGH ZDV SURGXFHG LQ EXV  
XQWLO D PHHWLQJ DW +HOVLQNL LQ /HW P  
WKDW WKH 'HFODUDWLRQ RI +HOVLQNL ZDV HC  
RI ZHVWHUQ DOOLHV VHHNLQJ WR GR WKH ULJ  
subjects. Some of the motivation, indeed, seems to be that the wording

a relatively new and untested code of the International Conference on  
+DUPRQLJDWLRQ RULJ

7KH )'\$ KDV GHWHUPLQHG DV , GR WKDW  
and incomplete document. I have no time to go into the details, but the  
PHVVDJHV DUH WZR )LUVW HYHQ LQ D  
the Second World War, little had been done to develop research ethics in a  
GHWDLOHG IRUP LQ DQ\ FRXQWU\ 1XUHPEHUJ  
:RUOG 0HGLFDO \$VVRFLDWLRQ KDG RQO\ D VN  
OLWWOH KDG EHHQ GRQH LQ WKH 8QLWHG 6W  
\*HUPDQ DEXVHV EXW WKHQ IDLOHG WR WDNH

PQD@<sup>3</sup>

\$Q ,QÁXHQLDO 6FKRODU +HQU\ %HHFKHU  
,PPHGLDWHO\ DIWHU WKHVH HYHQWV XQ D

faced with a seriously wrong situation.

It turns out that he was right and that the abuses reached up to the



medical attention made them readily available subjects. The subjects were also misinformed that research procedures such as painful spinal taps were

D ³VSHFLDO IUHH WUHDWPHQW ´ D SDWHQWOL

care necessary to treat them (that is, to treat whatever could be treated  
RI WKH GLVDELOLWLHV WKDW UHVXOWHG IUR  
end the study, but without offering any form treatment for the survivors.  
7XVNHJHH KDG EHFRPH D WUXH \$PHULFDQ WU  
something from this tragedy and almost immediately began to reform the

setting. Sometimes there are excusing conditions for wrong actions

EHFDXVH DOWHUQDWLYH YLHZV DUH XQDYDLO  
FRQWH[W EXW DOWHUQDWLYH YLHZV ZHUH D  
ZHUH FRQVLGHUHG PDWWHUV RI WKH XWPRV  
WR WKH UHOHYDQW SDUWLHV ,W ZDV NQRZQ  
WKDW D GHEDWH KDG RFFXUUHG GXULQJ WKH  
LQ 1D]L \*HUPDQ\ WKDW WKH \$PHULFDQ 0H  
&RXQFLO KDG VLGHG LQ ZLWK ZKDW ZRXO  
WKDW YROXQWDU\ FRQVHQW WR SDUWLFLSDV

the Hippocratic tradition required physicians to put the care of patients

¿UVW QRW WR GHYLDWH UDGLFDOO\ IURP D  
KDUP WR SDWLHQWV WKURXJK QRQWKHUDSHX  
was a long tradition of post-Hippocratic writings in medical ethics of  
¿JXUHV ZKR UHFRJQLJHG QRQWKHUDSHXWLF I  
subjects had consented. Thus, requirements such as voluntary consent to  
experimentation and protection against harmful interventions had long  
been present in the medical community and even were present in some  
JRYHUQPHQW SROLFLHV WUDFHDEOH WR WKH

In light of this history, neither physicians nor government and

XQLYHUVLW\ RI¿FLDOV ZKR SDUWLFLSDWHG L  
V LQ WKH 8 6 FRXOG SODXVLEO\ DSSHDO V  
EHFDXVH WKH\ DQG WKH RI¿FLDOV DW WKHLU  
KLJKHU RI¿FLDOV LQ PHGLFLQH FRXOG KDY

contextual moral ignorance. There was ample opportunity for remediation  
of inadequate moral beliefs and therefore culpability for the continuance of  
those beliefs. The excuse of nonculpable ignorance, then, is not credible.

The Work of the National Commission for the Protection of

+XPDQ 6XEMHFWV

,W LV VWULNLQJ WKDW D FRPPLWWHH WKDV  
7XVNHJHH DG KRF DGYLVRU\ SDQHO FRXOG KD  
²DQG WKDW ZH ZRXOG QRW OHDUQ PXF  
DEXVHV XQWLO <HW DV WKH ¿QDO WRXF  
DGYLVRU\ SDQHO¶V UHSRUW DQG ZKLOH QDW  
6XSUHPH &RXUW¶V LPSHQGLQJ GHFLVLRQ RQ

Roe v. Wade, newspapers began to publish reports that PHS-supported



research activities of the biomedical and behavioral sciences be brought under the critical eye of, and possibly the control of, impartial persons ZKR ZHUH QRW WKHPVHOYHV VFLHQWLWVWV \$ one that placed responsibility for the protection of human subjects on the shoulders of individual investigators. That is, federal policies relied on the discretion and good judgment of investigators to determine under

assigned to those engaged in the review of research. Several other reports,  
ERWK EHIRUH DQG DIWHU UHDFKHG VLPLODU  
ZDV DSSDUHQW WR HYHU\ NQRZOHGJHDEOH RE  
review in the U. S. is seriously strained and seriously underfunded in many  
RI RXU JUHDW PHGLFDO UHVHDFK LQVWLWXW  
on notice, and some have even had their federal funding withdrawn.

I have no time to go into what these problems are in particular, but  
, FDQ VD\ WKDW WKH\ RFFXU DW PXOWLSOH C  
institutions of research medicine. The United States is not in jeopardy of  
EHLQJ \*HUPDQ\ LQ WKH V DQG LW LV QRW  
RI %XW RQH RI WKH PRVW LPSRUWDQW C  
Holocaust and from the entire history of biomedical research with human  
VXEMHFWV LV WKDW RXU V\ VWHP KDV QHYHU



,QVWLWXWH RI 0HGLFLQH 5HVSRQVLEOH 5HVHDFK  
5HVHDFK 3DUWLFLSDQWV (G 'DQLHO ') +DQQD ( DG  
7KH 1DWLRQDO \$FDGHPLHV 3UHVV

+ \PDQ Y -HZLVK &KURQLF 'LVHDPVH +RVSLWDO 1 <

,Y\ \$QGUHZ 7KH KLVWRU\ DQG HWKLFV RI WKH XVH RI  
6FLHQFH -XO\

-RQHV -DPHV + %DG %ORRG QG HG 1HZ <RUN 0D[Z

.DW] -D\ HG ([SHULPHQDWLRQ ZLWK +XPDQ %HL  
)RXQGDLRQ

/HGHHU 6XVDQ ( DQG 0RUHQR -RQDWKDQ ' 5H  
UHVHDFK HWKLFV .HQHG\ ,QVWLWXWH RI (WKLFV -

/HYLQH 5REHUW - (WKLFV DQG 5HJXODWLRQ RI &OLQ  
6FKZDU]HQEHUJ QG HG 1HZ +DYHQ <DOH

0DFNOLQ 5XWK 8QLYHUVLW\ RI WKH 1XUHPEHUJ &  
1XUHPEHUJ &RGH (G \*HRUJH - \$QQDV DQG 0LFKDH  
8QLYHUVLW\ 3UHVV SS

0DUVKDOO (UQHVW 'RHV WKH PRUDO SKLORVRSK\ RI  
,5% \$ 5HYLHZ RI +XPDQ 6XEMHFWV 5HVHDFK

0LWVFKHUOLFK \$OH[DQGHU 'RFWRUV RI ,QIDP\ 7KH  
([WHQGHG HGLWLRQ 7UDQV +HLQ] 1RUGHQ 1HZ <RUN

0RUHQR -RQDWKDQ ' \*RRGE\H WR DOO WKDW WKH H  
VXEMHFWV UHVHDFK +DVWLQJV &HQWHU 5HSRUW



BBBBB \$SSHQGLFHV , DQG , , WR 7KH %HOPRQW 5HSRUW  
RI +XPDP 6XEMHFWV RI 5HVHDFK YROV :DVKLQJWF  
DQG 26

2VOHU 6LU :LOOLDP 7KH (YROXWLRQ RI 0RGHUQ 0HGL  
DW <DOH 8QLYHUVLW\ RQ WKH 6LOOLDPQ )RXQGDWL  
8QLYHUVLW\ 3UHV

3HUFLYDO 7KRDPV 0HGLFDO (WKLFV RU D &RGH RI ,  
3URIHVVLQRDO &RQGXFV RI 3K\VLFLDQV DQG 6XUJHR  
DYDLODEOH HGLWLRQ LV 3HUFLYDO 1V 0HGLFDO (WKL  
1 < 5REHUW ( .ULHJHU 3XEOLVKLQJ &RPSDQ\

5RWKPDQ 'DYLQ :HUH 7XVNHJHH :LOORZEURN µ6W  
5HSRUW \$SULO

6DVV +DQV 0DUWLQ 5HLFKVUXQGFKUHLEHQ 3U  
FRQFHUQLQJ QHZ WKHUDS\ DQG KXPDP H[SHULPHQV  
3KLORVRSK\

6PLGRYLFK 9LNHQWL\ >SVHXGRQ\ P 9 9HUHVDHII@ 7K  
6LPHRQ /LQGHQ /RQGRQ \*UDQW 5LFKDUGV

Toulmin, Stephen. The National Commission on human experimentation: procedures  
DQG RXWFRPHV ,Q (QJHOKDUGW +7 -U &DSODQ \$  
Studies in the Resolution and Closure of Disputes in Science and Technology. New  
<RUN &DPEULGJH 8QLYHUVLW\ 3UHV

8QLWHG 6WDWHV Y .DUO %UDQGW 7ULDOV RI :DU &U  
7ULEXQDOV XQGHU &RQWURO &RXQFLO /DZ 1R 0LC  
8 6 \*RYHUQPHQW 3ULQWLQJ 2I¿FH 9ROV DQG

9HDWFK 5REHUW 0 )URP 1XUHPEHUJ WKURXJK WKH  
9DQGHUSRRO +< 7KH (WKLFV RI 5HVHDFK ,QYROYLQ  
&HQWXU\ )UHGHULFN 0' 8QLYHUVLW\ 3XEOLVKLQJ \*U

:RUOG +HDWK 2UJDQLJDWLRQ WK :RUOG 0HGLF  
'HFODUDWLRQ RI +HOVLQNL UHFRPPHQGDWLRQV JXL  
UHVHDFK LQYROYLQJ KXPDP VXEMHFWV 1HZ (QJOD



VOLUME 1 "The Private and Public Intellectual in the World and the Academy"

VOLUME 2 "Managed Care: Some Basic Ethical Issues"

VOLUME 3

