

Psychology In and Out of the Shadows

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The first few years of the new millennium have thrust an assortment of troublesome social issues on Western societies, from immigration to gun control to torture of military prisoners. Organized psychology has taken stands on some of these public matters. In this article I will discuss 3 such issues and the way they were handled by the Canadian Psychological Association and the American Psychological Association: capital punishment, marriage and adoption rights for gay and lesbian parents, and the relationship between ethics and international law regarding the treatment of prisoners. On the first 2 issues the 2 associations took similar stands, but on the third they diverged.

Keywords: ethics and international law, marriage rights, capital punishment

In the last few decades, the Canadian Psychological Association (CPA) has taken stands on controversial social problems including the rights of First Nations, capital punishment, same-sex marriage and adoption, and homelessness and housing. It has developed and revised its ethics code (CPA, 2001) to reflect these and other social concerns, notably under Principle IV, Responsibility to Society.

The American Psychological Association (APA), has also taken stands on social issues, often the same issues and similar stands. But in some cases the approaches of CPA and APA to social issues, and the role of organized psychology, have diverged. In this paper, I will outline some areas of similarity and divergence, concluding with a look at present and future social issues that might engage, or are engaging, organized psychology.

Psychologists and Capital Punishment

Capital punishment provides an example of an issue on which APA and CPA basically agree, but on which they have a somewhat different focus because of different legal and political contexts. In Canada, capital punishment was a divisive political issue, and abolition was slow in coming. In the 1970s, the federal government decided to try a demonstration project: Capital punishment was still on the books, but for a 5-year period every death sentence was commuted. During the moratorium, public support for formal, total abolition continued to grow, and on July 14, 1976, Bill C-84

was passed by a narrow margin of 130 to 124 in a free vote. Most progressive conservatives voted against abolition and continued to campaign for another free vote to bring back the death penalty.

Many, but not all, Canadian psychologists favored abolition. In 1987, as Parliament moved toward holding a free vote to reinstate the death penalty, a motion against capital punishment was prepared for the annual meeting of CPA. An issue arose that has bedeviled professional organizations who take political stands: Should the group's intervention be based entirely on empirical research, or can it also express an ethical and moral position?

Some thought that CPA should only make a public pronouncement if it was supported by empirical evidence. In the case of the death penalty, such evidence would involve research on the deterrence value of capital punishment. A first version of the motion said, "In our scientific judgement studies have shown no evidence whatsoever for deterrence." But many expressed reservations about the narrow empirical approach. They wanted the CPA motion to make a moral/ethical pronouncement. After vigorous debate, members combined the two ideas in a single motion

Whereas use of the death penalty is against our professional, ethical, and scientific values; and whereas in our scientific judgment studies of the effects of capital punishment on homicide rates have shown no evidence whatsoever for deterrence; be it resolved that the membership of the Canadian Psychological Association opposes the reinstatement of the death penalty in Canada. (CPA, 1987)

With passage of the motion, CPA became one of a number of professional organizations to argue against reintroduction of the death penalty. On June 30, 1987, a bill to restore the death penalty was defeated by the House of Commons in a 148–127 vote.

Despite the decline of the death penalty in Western countries, the United States largely resists. Thirty-one American states use the death penalty, 19 have abolished it, and 4 have capital punishment on the books but current governors have imposed a moratorium.

As in Canada, there is strong sentiment against capital punishment among American professionals. APA has joined other social scientists in pointing out to the courts that the death penalty, like incarceration itself, has a strong racial bias. APA's legal staff has submitted *amicus* briefs to the U.S. Supreme Court arguing against

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various aspects of the death penalty, including the execution of children under 18 and of people with serious intellectual disabilities. Since IQ is generally the purview of psychology and psychologists, APA feels it has a particular stake in the intellectual disabilities argument.

APA surveyed the literature, and like CPA, concluded that there is no convincing empirical evidence that capital punishment deters murder. APA is steadily moving toward outright opposition to capital punishment. In 2013, then-president of APA Donald Bersoff argued that his organization should broaden its scope and take on the death penalty per se, not just various aspects of it. Combining moral and empirical arguments, as CPA had done earlier, Bersoff told members, “The death penalty is indefensible from a scientific perspective, and arguing for its abolition is the moral and ethical thing to do” (Bersoff, 2013, p. 5).

Equal Marriage and Adoption Rights

Another social/political issue that engaged both APA and CPA in the 2000s concerned gay marriage and the right of gay people to adopt children.

CPA made a policy statement on gay rights in 1996:

The Canadian Psychological Association supports the inclusion of sexual orientation as a protected ground of discrimination against lesbians, gay men, their relationships and their families in all human rights legislation, public policy, regulation, procedure and practice; the Canadian Psychological Association strongly opposes prejudice, bias and discrimination on the basis of sexual orientation in all areas including spousal and family relationships, benefits and privileges, employment, goods, services, facilities, housing and accommodation. (CPA, 1986)

During my term as president of CPA, in 2003–2004, the organization joined the Coalition For Equal Marriage at a time when the issue of gay marriage was before Parliament. Organized psychology and other professional groups spoke out in public and lobbied legislators. All this culminated in a free vote in which members of Parliament voted for marriage rights for gays and lesbians.

CPA was also involved with the related issue of adoption rights. In 2003, those who opposed gay marriage expanded the fight to oppose adoption by gays and lesbians, whatever their marital status. The tinder was lit when Vatican bishops issued a statement vigorously opposing adoption rights for homosexuals:

As experience has shown, these (same-sex) unions create obstacles in the normal development of children who would be placed in the care of such persons. They would be deprived of the experience of either fatherhood or motherhood. Allowing children to be adopted by persons living in such unions would actually mean doing violence to these children. (Lunman & Leblanc, 2003)

CPA took a strong stand against the Vatican pronouncement. *The Globe and Mail* reported in a front page headline on August 7, 2003, “Vatican Blasted Over Edict on Same-Sex Parenting” (Lunman & Leblanc, 2003). The story quoted me, as CPA president, saying, “The directive by the Vatican last week repeats misconceptions about same-sex parents that are scientifically unfounded. Psychosocial research into lesbian and gay parenting indicates that there is no basis in the scientific literature for this

perception.” The battle was joined, and continued until Parliament made its position known.

APA has also taken legal and political stands on gay rights issues. The association, like CPA, has collected much empirical literature on the outcomes of child rearing by gay and lesbian couples. Summarizing the evidence, APA cited the work of Charlotte Patterson (2000), who found that “lesbian and gay couples are just as supportive and that home environments provided by lesbian and gay parents are just as likely as those provided by heterosexual parents to enable psychosocial growth among family members” (p. 1064).

APA found that there is no scientific basis to assert that lesbians and gays are not equally fit to become parents (Herek, 2006); There is no empirical foundation for concluding that lesbian mothers or gay fathers should not become parents on the basis of their sexual orientation (Patterson, 2000); being involved in a gay or lesbian relationship is unrelated to a person’s ability to care for children (Patterson & Redding, 1996); and lesbian and heterosexual women, and gay and heterosexual fathers, do not differ in their ability to parent (Kweskin & Cook, 1982).

Both CPA and APA noted that opposition to gay adoption rights is largely based on personal opinions and anecdotes rather than evidence derived from research. Both organizations strove to give preeminence to data-driven conclusions, just as they have done in other areas such as psychological treatment.

Torture, Ethics, and International Law

APA and CPA have not always walked the same path in dealing with social issues. They differed in their ethical stance toward the status of international law versus national law. For APA, this became a hot-button issue when rumors began to circulate about involvement of some psychologists in the torture of prisoners at Guantanamo, and changes made to the APA Code of Ethics to facilitate such behavior.

In this section I will review the controversial involvement of psychologists in the harsh interrogation of prisoners by the U.S. military, and I will then contrast the way in which this behavior was reflected in changes to the APA Code of Ethics versus the approach to statements in, and revisions to, the CPA code during the same period.

When he first ran for president of the United States in 2008, Barack Obama promised to close the prison camp at Guantanamo Bay run by the military, and various black sites around the world run by the Central Intelligence Agency. In 2016, as his second term drew to a close, the camp at Guantanamo was still open. The detainees were held without charges or trials (O’Donell, 2015). The United Nations rapporteurs were still calling on the American administration to close the facility, to either try prisoners or return them to their home countries, and “to investigate those (Americans) who committed torture and other cruel or inhuman treatment, as well as those high level officials who ordered, tolerated or instigated such crimes” (United Nations Rapporteurs, 2016).

The camp at Guantanamo, CIA, black sites, and Abu Ghraib prison have all become notorious for mistreatment of prisoners (Report of the Committee on Armed Services, United States Senate, 2008). At Guantanamo, this included waterboarding, sleep deprivation, severe humiliation, exploitation of phobias, use of extremes of heat and cold, sensory overload, and isolation. Some

of the advisors to the military and to the C.I.A., and on occasion some of the actual interrogators, were psychologists.

During the decade of “enhanced interrogations,” both CPA and APA revised their codes of ethics. APA’s changes made it easier to cooperate with the U.S. Department of Defense. CPA’s went in the opposite direction, strengthening the link between professional ethics and respect for international law.

Many APA members became alarmed when they learned about the involvement of psychologists in places of torture. In 2008, a dissident group organized a referendum that would make it unethical for psychologists to work at sites that employed torture, with torture being defined by international law, not by the U.S. administration or the military. The motion passed 59% to 41%.

Nothing much happened as a result of the vote. Several years later, an Independent Report commissioned by APA would conclude that senior staff and elected officers put roadblocks in the way of implementation of the will of the membership.

In 2014, Pulitzer Prize winning journalist James Risen, who had covered the torture story for the New York Times, published a comprehensive account of APA’s involvement. His book, *Pay Any Price: Greed, Power, and Endless War* (Risen, 2014), made it virtually impossible for APA to continue with blanket denials, even though APA’s (2014) official response was to attack Risen’s work, claiming that his conclusions about APA were “largely based on innuendo and one-sided reporting.” But membership was dropping, including prominent psychologists such as Ken Pope. He had served as chair of the APA ethics committee, was a Fellow of nine APA divisions, and was recipient of the APA award for Distinguished Contribution to Public Service. In 2008 he resigned from APA, explaining,

I respectfully disagreed with decisive changes that APA had made in its ethical stance after the events of September 11, 2001. In my view those changes moved APA far from its ethical foundation, historical traditions, and basic values, and beyond what I could in good conscience support with my membership. (cited in Pope & Vasquez, 2011, p. 450)

In a thoughtful analysis published in this journal, Pope (2016) contrasted professional ethics and guild ethics. Professional ethics are primarily intended to set standards of behavior that protect the public from the misdeeds of members of the profession. Guild ethics, on the other hand, primarily advance the interest of members. He said that from 1992 onward APA’s various positions on interrogation and torture reflected guild ethics, protecting members and the organization from condemnation over involvement in so-called enhanced interrogations.

With prominent psychologists leaving the association, something had to be done. In November, 2014, the Association hired David Hoffman, a respected Chicago lawyer, and gave him a mandate:

To conduct an independent review of whether there was any factual support for the assertion that APA engaged in activity that would constitute collusion with the Bush administration to promote, support or facilitate the use of “enhanced” interrogation techniques by the United States in the war on terror.

APA promised to make the results public, and it did so in 2015, putting the damning report on the APA website (Hoffman, 2015).

The independent inquiry report came as a shock to many APA members and created an upheaval that saw some senior staff, who had been criticized in the report, leave APA. They included the CEO, the deputy CEO, the Executive Director for Public and Member Communications, and the head of the ethics office. Others who were criticized by Hoffman, including the APA president, recused themselves from decisions arising from the independent inquiry.

There was a clamor to make things right, and much talk about the need for APA to “reset its moral compass” (APA, 2015). A start on this was made in August, 2015, when the governing Council at last faced the necessity of implementing the 2008 membership vote. Council had before it the following motion:

Psychologists shall not supervise, be in the presence of, or otherwise assist any national security interrogations for any military or intelligence entities, including private contractors working on their behalf, nor advise on conditions of confinement insofar as these might facilitate such an interrogation.

Council members, in an open, recorded vote, were almost unanimously in favor: The result, with a handful of abstentions, was 157 yes and 1 no. The public gallery erupted with applause. All Canadian representatives voted for the motion.¹

As a result of the Council vote, APA officials dispatched letters to President Obama, the Secretary of Defense, the Attorney General, the director of the CIA, and Congress, informing them of APA’s policy changes. Letters were also sent to licensing boards, informing them of the sense of the Council that any complaint against a psychologist who refuses to comply with the call to leave Guantanamo should be reviewed “with prejudice.” On the last day of 2015, the U.S. government agreed to the requests from APA—no military psychologist would be assigned to sites such as Guantanamo, except to treat military personnel (Risen, 2015).

As soon as APA informed the military of APA’s new position, the military asked APA to reverse that position. Brad Carson, Acting Principal Deputy Secretary of Defense for Personnel and Readiness in the Department of Defense, said,

The context of future conflicts—whether a traditional international armed conflict like World War II, a defense of the homeland against international terrorist organizations like Al Qaeda or the Islamic State in Iraq and the Levant, or something entirely unpredictable—is today unknown. A code covering psychologists’ ethics in future national security roles needs to fit all such contexts . . . a blanket prohibition on participation by psychologists in national security interrogations does not. (cited in Risen, 2016)

This appeal from the military, and arguments made by military psychologists in APA, have left the matter anything but settled despite the overwhelming vote in August of 2015. In fact, the principles that were voted on, while communicated to political leaders and the military, have yet to be enshrined in the APA code of ethics.

Psychologists who are concerned about torture at Guantanamo and similar sites tend to rest their argument on international law.

¹ Meetings of APA Council are open to the public and the press for most issues. The press and public were on hand for the historic vote in August, 2015. In the interest of full disclosure: As a member of Council, I participated in the recorded vote, voting in favour of the motion.

But psychologists in the U.S. military were adamant that international law must be subordinate to the laws of the country: APA's (*Society for Military Psychology* (2015), in dismissing Hoffman's independent report, said,

One of the fundamental errors repeatedly echoed throughout the Hoffman Report involves the relationship between U.S. and international law. Uniformed members of the military, including psychologists who serve as officers, are bound by oath and regulation to uphold the U.S. Constitution and federal laws. As such, for military psychologists, international law cannot take precedence should there be a conflict between the two. (p. 14).

CPA, on the other hand, gives pride of place to international law. The Canadian code, in standard IV.27, tells ethical psychologists not to "contribute to, nor engage, in research or any other activity that contravenes international humanitarian law, such as the development of methods intended for use in the torture of persons, the development of prohibited weapons, or destruction of the environment" (CPA, 2001). CPA explained, in a note to IV.27, that, "reference to international law is intended to give a broader definition of law than simply the law of a single country. . . ." (CPA, 2001, p. 94).

Utilitarian Ethics: Harming a Few to Protect the Many

One argument used to back up harsh treatment of detainees is that such treatment might benefit the general public. Hoffman and his staff of investigators interviewed officials of APA, who apparently used this argument to justify torture. According to Hoffman, this was advanced as third-party beneficence:

Harm to one individual (a detainee) must be weighed against the benefits to third parties (the public) that would result if, for instance, information from the detainee stopped a terrorist attack. Those taking this position would argue that strict ethical constraints on psychologists in this situation would therefore be inappropriate. (Hoffman, 2015, p. 70)

Third-party beneficence is a version of the well-known (and controversial) utilitarian position in ethics: Do the greatest good for the greatest number (Mill, 2002).

The CPA ethics code, on the other hand, has consistently taken a position against utilitarianism as a guiding principle:

When a person's welfare appears to conflict with benefits to society, it is often possible to find ways of working for the benefit of society that do not violate respect and responsible caring for the person. However, if this is not possible, the dignity and well-being of a person should not be sacrificed to a vision of the greater good of society, and greater weight must be given to respect and responsible caring for the person. (CPA, 2001, p. 31)

Another key difference between the CPA and the APA codes of ethics is the extent to which ethics is subordinate to agreements between psychologists and those with whom they contract to provide service. The CPA code states that ethical psychologists should "enter only into agreements or contracts that allow them to act in accordance with the ethical principles and standards of this Code" (2001, IV.14).

In contrast, APA *changed* its code to suit the agreements it wanted to make with the U.S. Department of Defense. Before the

American military's reliance on torture, ethics trumped other considerations such as contracts with employers. The APA code at the beginning of the new millennium said,

If the demands of an organization with which psychologists are affiliated conflicts with this ethical code, psychologists clarify the nature of the conflict, make known their commitment to the ethics code, and to the extent feasible, *seek to resolve the conflict in a way that permits the fullest adherence to the ethics code* (APA, 1992).

But in the years following 9/11, APA made changes to its code that were compatible with the requirements of the military. The revised 2002 code said that when ethics conflicted with regulations or the law, "psychologists should try to resolve the conflict. If this was not possible, psychologists may adhere to the requirements of the law, regulations or other governing legal authority" (APA, 2002). Hoffman pointed out that this loophole in the 2002 code "allowed CIA and DOD psychologists to follow explicitly unethical orders and still be considered ethical as long as they tried to "resolve" the conflict (Hoffman, 2015, p. 70).

CPA took a very different approach to the conflict between an ethical standard and a law or regulation. IV.29 of the CPA code says that "psychologists should speak out and/or act, in a manner consistent with the four principles of this code, if the policies, laws or regulations of the social structure within which they work seriously ignore or contradict any of the principles of this Code" (CPA, 2001).

A cynic might say that it is the U.S., not Canada, that is fighting the war on terror, and hence has harder moral conflicts to face. But that sells Canada short. With troops serving in Afghanistan from late 2001 to 2011, Canadians had much opportunity to face ethical conflicts. In 2010 a Canadian officer was convicted of "discreditable conduct" for shooting an insurgent who had wounds too serious for him to be transported to a field hospital. The presiding officer explained that he would not be sent to jail because the officer was "probably caught between his moral values and his duties as a soldier" (Canadian Broadcasting Corporation, 2010).

A detained teenager in Somalia was tortured and died at the hands of Canadian soldiers. The public outcry caused the military to alter aspects of its culture, ethics, and procedures (Létourneau, 1997). Although psychologists were not involved in these cases, CPA inspected its own code of ethics to ensure that psychologists caught up in such situations would have proper ethical guidance (Sinclair & Okros, 2006).

Moving Ahead

In this issue of *Canadian Psychology*, authors were invited to discuss events of the recent past and the discipline's opportunities and challenges. I have focused on the years around and since 9/11, because there have been significant social issues that have engaged organized psychology during that period. I have gone afield from the usual clinical focus of psychology because of my interest in what our ethics code calls "social responsibility" (CPA, 2001).

In 1967, Martin Luther King challenged psychologists to expand the scope of their research and their traditional work settings. He urged us to "study and support structural changes to reduce class, race, gender disparities in earnings, health and education" (King, 1967). In both Canada and the United States, many psychologists have, as King suggested, gone beyond their traditional topics of

inquiry and service, and have put psychological data into the hands of policymakers and courts to redress social problems.

Psychologists were involved in the war on poverty (Bailey & Danziger, 2013), and school desegregation. The school desegregation case *Brown versus Board of Education* marked the first time that psychological research had been accepted as scientific evidence by the U.S. Supreme Court. I have given other, more recent examples of psychology and social responsibility, such as the abolition of the death penalty and parental and adoptive rights for gay and lesbian couples.

Turning to the future, there are a number of social policy issues that are ripe for study and advocacy, such as the disparity in wealth between the rich and the poor, and the wide spectrum of health and mental health problems related to this disparity.

On the other hand, politicians sometimes psychologize social problems, drawing attention to mental health from other causes and possible solutions. Such is the case with gun violence, including mass murder and school shootings (Tait, 2016). After a recent mass shooting in the United States, President Obama promised money for mental health (Sola, 2016), and presidential candidate Donald Trump, a fierce opponent of gun control, blamed the shootings on “sickos” (Diamond, 2016). APA presidential officers Susan McDaniel and Barry Anton worry that this focus on psychological disorders ignores factors such as drug and alcohol use, intense emotional crises, economic factors, and access to guns (McDaniel & Anton, 2015).

Some application of psychology to real-world problems, as in using social psychological theory and data to develop interrogation programs, is highly controversial. Since the Hoffman report on APA’s role in “enhanced interrogations,” the organization has made, and will make a number of significant changes to its policies and procedures to address concerns raised by members and by the public. A special commission has been created to review the association’s ethics processes and procedures. This commission includes distinguished psychologists and other ethics experts from various disciplines. It will report to APA governance by 2017.

Professional Ethics and the Way Forward

An important point of interaction between professional organizations and the public they serve is the development and promulgation of codes of ethics that guide the profession’s members. Even though regulatory bodies are responsible for enforcement of such codes at the state or provincial level, professional organizations such as CPA and APA usually lead the way in developing the principles and standards that are then adopted by regulators.

The future health and reputation of professional organizations will rest in part on how they develop their codes of ethics. In Canada, CPA once relied on the APA Code, but has long since developed its own. As I write this article, CPA’s Committee on Ethics (COE) is going through a periodic review and revision of the CPA code. Many changes have been suggested, and the COE has put a draft to its members for consideration.

In the United States, the Director of the Office of Ethics for APA was the first casualty of the Hoffman report. APA’s governing Council is considering changes to the APA Code of Ethics to provide standards that will guide members faced with the various problems outlined in the Hoffman report. These are expected to focus on, among other things, the necessity of avoiding conflicts of

interest such as those between military obligation and professional standards.

APA’S senior officers hope that projected changes will help them to reset the association’s moral compass (APA, 2015).

Résumé

Au cours des premières années du nouveau millénaire, les sociétés occidentales ont dû s’interroger sur divers sujets épineux, depuis l’immigration jusqu’au contrôle des armes à feu, en passant par la torture des prisonniers militaires. Les regroupements des professionnels de la psychologie ont pris position sur certains de ces dossiers publics. Dans cet article, l’auteur discute de trois de ces questions et de la façon dont la Société canadienne de psychologie et l’American Psychological Association ont traité ces dossiers : la peine capitale, le mariage homosexuel et le droit à l’adoption des gais et lesbiennes, et la relation entre l’éthique et le droit international en ce qui concerne le traitement des prisonniers. Les deux organisations ont adopté des positions semblables pour les deux premiers dossiers, mais leurs positions diffèrent pour le troisième.

Mots-clés : déontologie et droit international, droit au mariage, peine de mort.

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Received March 3, 2016

Revision received May 11, 2016

Accepted May 17, 2016 ■

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