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TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING  
TREATMENT OR PUNISHMENT

Draft Code of Medical Ethics

Report of the Secretary-General

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\* A/36/50.

## I. INTRODUCTION

1. The present report has been prepared in accordance with paragraph 1 of General Assembly resolution 35/179 of 15 December 1980. By that resolution the General Assembly requested the Secretary-General to renew his request for comments and suggestions on the draft Code of Medical Ethics prepared by the World Health Organization to Member States, the specialized agencies concerned, interested intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council which had not yet responded to his earlier note, and to submit a revised report to the Economic and Social Council at the first regular session of 1981 and to the General Assembly at its thirty-sixth session.
2. It will be recalled that, in General Assembly resolutions 3218 (XXIX), 3453 (XXX) and 31/85, the World Health Organization had been invited to prepare a draft Code of Medical Ethics relevant to the protection of persons subjected to any form of detention or imprisonment against torture and other cruel, inhuman or degrading treatment or punishment.
3. At its thirty-fourth session, the General Assembly considered the note (A/34/273) by which the Secretary-General had transmitted to the Assembly the report of the World Health Organization on the development of codes of medical ethics. In resolution 34/168 of 17 December 1979, the General Assembly noted that the Executive Board of the World Health Organization had endorsed the principles set forth in the report of its Director-General on the development of codes of medical ethics and had requested its Director-General to transmit that report to the Secretary-General of the United Nations. The General Assembly also requested the Secretary-General to circulate the draft Code of Medical Ethics to Member States, the specialized agencies concerned and interested intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council for comments and suggestions, and to submit a report to the General Assembly at its thirty-fifth session.
4. Having considered these comments (A/35/372), the General Assembly, by resolution 35/179 of 15 December 1980, renewed its request for comments, and requested the Economic and Social Council to consider the draft Code at its next session, taking into account the comments and recommendations submitted, with a view to presenting the draft Code to the General Assembly for adoption at its thirty-sixth session. The Assembly decided to consider this question again at its thirty-sixth session.
5. In accordance with paragraph 1 of resolution 35/179, this report contains a summary of the replies received as at 15 March 1981. Replies received subsequently will be summarized in addenda to the present document. For convenience, the text of the draft Code of Medical Ethics submitted by the World Health Organization is reproduced as an annex to the present document.

## II. REPLIES RECEIVED FROM GOVERNMENTS

### URUGUAY

/Original: Spanish/

/12 March 1981/

The Government of Uruguay wishes to state that the principles proposed in the draft Code of Medical Ethics add nothing new to its national legislation and are not at variance with it, so that there is no reason for not endorsing them. Nevertheless, it is surprising that not a word is said in the draft about the flagrant breach of medical ethics involved when medical practitioners collaborate with subversive terrorists, this of course being contrary to the most elementary principles of human dignity embodied in the Universal Declaration of Human Rights.

The Government of Uruguay therefore suggests the addition of the following, as a new provision, to the draft Code of Medical Ethics: "It is a gross contravention of medical ethics to participate actively or passively in torture inflicted on persons who are victims of subversive terrorists, even when physicians act to preserve the health of such persons but do not, in such a case, report the matter immediately to the authorities".

## III. REPLIES RECEIVED FROM SPECIALIZED AGENCIES

### FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

/Original: English/

/4 March 1981/

The Food and Agriculture Organization of the United Nations has no comment to offer on the text of the draft Code of Medical Ethics but fully supports the principle of such a code.

## IV. REPLIES RECEIVED FROM NON-GOVERNMENTAL ORGANIZATIONS

### INTERNATIONAL UNION OF POLICE FEDERATIONS

/Original: English/

/24 February 1981/

1. The International Union of Police Federations has repeatedly underlined that the police has to respect the human rights of the citizen and has to ensure that no inhuman measures will be taken against him.
2. The Union has considered measures of a medical nature and has pointed out that it expects the police to grant to each prisoner the medical support necessary for the maintenance of his physical condition.
3. The Union fully supports the draft Code of Medical Ethics.

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WORLD MEDICAL ASSOCIATION

/Original: English/

/11 February 1981/

1. The World Medical Association (WMA) recalls that it unanimously adopted, in 1975, the Declaration of Tokyo 1/ which contains guidelines for medical doctors concerning torture and other cruel, inhuman or degrading treatment or punishment in relation to detention and imprisonment. In the opinion of WMA, the Tokyo Declaration leaves no doubts and no possibility of compromise. Its preamble places the problem on a level of pure ethics. It is the privilege of the medical doctor to practise medicine in the service of humanity, to preserve and restore bodily and mental health without distinction as to persons, to comfort and to ease the suffering of his or her patients. The utmost respect for human life is to be maintained even under threat and no use made of any medical knowledge contrary to the laws of humanity. For the purpose of this Declaration, torture is defined as the deliberate, systematic or wanton infliction of physical or mental suffering by one or more persons acting alone or on the orders of any authority, to force another person to yield information, to make a confession, or for any other reason.

2. The thesis defended by the Council for International Organizations of Medical Sciences (CIOMS), embodied in the draft Code endorsed by WHO, is much more flexible than the Tokyo Declaration, especially in defining torture, the role of the physician confronted by it, and the physician's attitude regarding forced feeding of those on hunger strike. In the opinion of WMA, the CIOMS document contains "grey areas" allowing interpretations which could be damaging to tortured persons, since the application of certain provisions would appear to be left to the discretion of the so-called penitentiary "authorities".

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1/ See A/34/273, annex.

ANNEX

Draft Principles of Medical Ethics relevant to the role of  
health personnel in the protection of persons against  
torture and other cruel, inhuman or degrading treatment or  
punishment

Part I. Proposed principles

It is proposed that the Declaration of Tokyo of the World Medical Association and the United Nations Standard Minimum Rules for the Treatment of Prisoners should be supplemented by the following principles of medical ethics for physicians who are in a clinical relationship with prisoners or detainees.

I. Prisoners and detainees have the same rights to the protection of health and the treatment of disease as free citizens.

II. It is a gross contravention of medical ethics for physicians to participate actively or passively in any form of torture as defined in article 1 of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly of the United Nations on 9 December 1975, which reads as follows:

(i) For the purpose of this Declaration, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners.

(ii) Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment.

III. It is also a contravention of medical ethics for physicians to be involved in any other relationship with prisoners or detainees that is not a medical relationship in the sense that its purpose is the protection or improvement of the health of the prisoner or detainee and would be accepted as such outside the prison environment.

IV. It follows that it is a contravention of medical ethics for physicians to apply their knowledge and skills in order to assist in methods of interrogation or to certify prisoners or detainees as fit for any form of punishment that may adversely affect physical or mental health.

V. Participation of physicians in any procedure for restraining prisoners or detainees is not in conformity with medical ethics unless it is determined by purely medical criteria and is necessary for the health and safety of the prisoner himself, and/or of his fellow prisoners or detainees or his guardians.

VI. There may be no derogation from the foregoing principles in case of public emergency or for whatever other reason. However, in situations in which physicians may be compelled under duress to contravene the letter of the foregoing principles their actions should be determined by the will to protect the prisoner or detainee and to minimize noxious effects to health of any cruel, inhuman or degrading treatment or punishment that they may be powerless to prevent.

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