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TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT

Draft Code of Medical Ethics

Report of the Secretary-General

Addendum

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* A/36/50.

I. REPLIES RECEIVED FROM GOVERNMENTS

UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND

/Original: English/

/8 April 1981/

1. The United Kingdom agrees that the ethical standards of medical personnel in relation to persons who are at risk of being tortured or subjected to other cruel, inhuman or degrading treatment or punishment could usefully be reviewed and, if necessary, clarified and expanded. The draft code produced by the World Health Organization makes a valuable contribution to this process by identifying several important points of principle, some of which are already subsumed in existing instruments such as the United Nations Standard Minimum Rules for the Treatment of Prisoners 1/ and the Declaration of Tokyo. 2/ It is for consideration whether progress in this field could best be made by the development of a separate code of medical ethics or by comprehensive revision of the relevant United Nations instruments. In so doing, it will be important to clarify the field of medical personnel to whom any code should apply since, as it stands, the present draft seems aimed primarily at physicians. It will also be important to ensure that the code does not conflict with article 5 of the Tokyo Declaration in relation to the treatment of prisoners who refuse nourishment.

2. Subject to that, the United Kingdom offers the following preliminary comments on the draft principles which, it is understood, are to be regarded as recommended guide-lines for Governments:

(a) Principle I. The United Kingdom endorses this, subject to the understanding that it does not imply that prisoners are to be regarded as having unrestricted freedom to be treated by a medical attendant of their own choice.

(b) Principle III. As drafted, this principle appears to exclude the possibility of a legitimate non-medical relationship. It should include a proviso, making it clear that a proper relationship, which would be recognized as such if it were to occur outside the prison environment, is not to be regarded as excluded.

(c) Principle IV. This principle exemplifies the difficulty inherent in this draft code that in seeking to define medical ethics in the context of torture, it has embraced wider questions concerning the general relationship between medical practitioners and persons deprived of their liberty. The assertion that physicians should not certify prisoners or detainees as fit for any form of punishment that may adversely affect physical or mental health takes this principle

1/ First United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report by the Secretariat (United Nations publication, Sales No. 1956.IV.4, annex J.A.

2/ See A/34/273, annex.

outside the field of torture and raises questions about its compatibility with the United Nations Standard Minimum Rules for the Treatment of Prisoners.

(d) Principle VI. It is noted that the second sentence of this principle does not refer to torture, but to cruel, inhuman or degrading treatment or punishment. It may, however, be preferable to delete it because it leaves open the possibility of a defence of "superior orders" and therefore may conflict with accepted international doctrine on this subject, in particular that contained in the instruments on humanitarian law in armed conflict.

II. REPLIES RECEIVED FROM NON-GOVERNMENTAL ORGANIZATIONS

INTERNATIONAL PEDIATRIC ASSOCIATION

Original: English

30 March 1981

1. Concerning the draft Principles of Medical Ethics (A/34/273, annex), the only change we propose is the omission of the word "severe" at II (i). We consider that any pain or torture is severe.
2. The Standing Committee of the Association agrees with all the recommendations made in the note by the Secretary-General (A/34/273, annex), and is particularly concerned with the need to avoid all such abuses in pregnant women, mothers, children and adolescents.
