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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/36/150.

REPLIES RECEIVED FROM GOVERNMENTS

IRAQ

/Original: Arabic/

/15 April 1981/

1. The points of departure and objectives of the five principles contained in the draft Code of Medical Ethics are compatible with those of the principles of fundamental human rights as set forth in international covenants and declarations.
2. Article 15 of the Prison Department Act, No. 151, of 1969 provides for the establishment within the Prison Department of a medical affairs directorate to be charged with supervising the physical, mental and psychic health of prisoners and detainees and providing the necessary protective and therapeutical services to them.
3. The Act on the Reformation of the Legal System has laid down the basic points of departure of the penal policy, which states, inter alia, that penalty is a means of deterrence and an attempt to avoid perpetration of new crimes and to rehabilitate those who are convicted. One of the basic elements of reforming the Iraqi prison system is to treat prisoners in a way aimed at reforming and rehabilitating them socially.
4. Chapter I of the third book of the Penal Code provides for the punishment of acts affecting man's life or his physical safety, whether he is free, detained or imprisoned. This covers any deliberate assault represented by injury, beating, violence, administering harmful material or committing any other act in contravention of the Code. Article 333 of the Penal Code also provides for the punishment of any public servant who tortures or orders an accused person, a witness or an expert to be tortured.
5. Article 28 of the Doctors' Union Act No. 114 of 1966 provides that any member of the Union who fails to observe the ethics of the medical profession, commits any prohibited acts, behaves in a manner that debases the profession, or refuses to abide by the Union's decisions, shall be liable to the penalties specified by the law. Furthermore, article 54 of the same Code considers the non-observance of the medical conduct specified in directives issued by the Union, causing damage to the reputation of the medical profession or of those who practise it or degrading their scientific or moral position, and failure to respond to urgent requests made by patients on the basis of a medical recommendation as prohibited acts.
6. The Penal Code also deals with the question of coercion in general. Thus, in the chapter on penal liability and the absence of such liability, article 62 of the Code provides that any person who is compelled by a physical or moral force he cannot avoid to commit a crime shall not be held penally liable. This undoubtedly covers the cases where doctors are forced under threat to violate the principles contained in the draft Code of Medical Ethics.

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7. In view of what has been stated above, the principles of the draft Code under consideration are compatible with those that are in force in Iraq.

8. It should also be pointed out that the Doctors' Union issued, in 1969, directives for medical conduct which were based on the provisions of article 54 (E) of the amended Doctors' Union Act. The above instructions regulated the type of conduct which ought to be followed by fellow doctors as well as the medical liability and the relationship between doctors and their patients and medical secrets. These directives cover a wider scope than that covered by the draft Code of Medical Ethics under consideration, since they cover not only the Doctor's relations with all other persons, but also with prisoners or detainees.

IRELAND

/Original: English/

/14 April 1981/

With reference to the Secretary-General's note of 30 January 1981, Ireland supports the draft Code of Medical Ethics (A/34/273, annex).

LUXEMBOURG

/Original: French/

/30 June 1981/

With reference to the note verbale of 30 January 1981 concerning General Assembly resolution 35/179 on the draft Code of Medical Ethics, Luxembourg has no objections to the draft and endorses its conclusions.

PANAMA

/Original: Spanish/

/20 May 1981/

1. While the Government of Panama thinks that the draft Code contains principles which are beneficial to the integrity of the human person and hence to his physical and mental health, it believes that the concept of medical relationships requires further clarification. Furthermore, the idea that restraining procedures are permissible when they are determined by medical criteria and necessary for the health of the prisoner or detainee seems to contradict the original intention of prohibiting such procedures; it would leave the way open for subjective decisions as to when to apply a restraining procedure.

2. With the above qualifications, the Government of Panama agrees with the spirit of the draft Code.

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ZAMBIA

/Original: English/

/10 March 1981/

The Government of Zambia fully supports the proposed Code of Medical Ethics and further emphasizes that, in the context of developing countries, the Code should apply to all health workers and not doctors only.
