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28 October 1981

ORIGINAL: ENGLISH

Thirty-sixth session
THIRD COMMITTEE
Agenda item 91 (b)

TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT
OR PUNISHMENT

Draft Code of Medical Ethics

Australia, Austria, Costa Rica, Denmark, Federal Republic of Germany,
Greece, Netherlands, New Zealand, Norway, Panama, Portugal, Sweden, and
United States of America: draft resolution

The General Assembly,

Reaffirming the Declaration on the Protection of all Persons from Being Subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment as unanimously adopted in resolution 3453 (XXX),

Recalling its resolution 31/85 by which it invited WHO to prepare a draft code on medical ethics relevant to the protection of persons subjected to any form of detention of imprisonment against torture and other cruel, inhuman or degrading treatment or punishment,

Expressing its appreciation to the WHO Executive Board which endorsed, at its sixty-third session, January 1979, the principles set forth in a report entitled "Development of codes of medical ethics" containing, in an annex, a draft body of principles prepared by the Council for International Organizations of Medical Sciences and entitled "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",

Recalling also resolution 11 of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in which the hope was expressed that the General Assembly would adopt the draft Code, subject to any amendments which might appear to be necessary,

Taking note with appreciation of the Guidelines for medical doctors concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in relation to Detention and Imprisonment, as adopted by the twenty-ninth World Medical Assembly, Tokyo, October 1975,

Bearing in mind ECOSOC-resolution 1981/27 in which it recommended that the General Assembly take measures to finalize a draft Code at its thirty-sixth session,

Recognizing that throughout the world significant medical activities are increasingly being performed by health personnel other than physicians, such as physician-assistants, physical therapists and nurse practitioners,

Alarmed that not infrequently members of the medical profession or other health personnel are engaged in activities which are difficult to reconcile with medical ethics,

Convinced of the need to set standards in this field which ought to be implemented by members of the medical profession and other health personnel as well as by Government officials,

1. Takes note with appreciation of the comments on the proposed principles of medical ethics endorsed by the WHO Executive Board which were received by the Secretary-General from Governments, specialized agencies and non-governmental organizations; *

2. Requests the Secretary-General to circulate among Member States for their further comments the annexed draft-principles of medical ethics as revised in the light of the replies received by the Secretary-General;

3. Decides to consider this question at its thirty-seventh session with a view to adopting the 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.

* Footnote refers to documents.

Annex

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

- I. Prisoners and detainees have the same rights to the protection of physical or mental health and the treatment of disease as those who are not in prison or detained.
- II. It is a gross contravention of medical ethics for health personnel, in particular physicians, having clinical responsibility for prisoners or detainees, to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment.*
- III. It is a contravention of medical ethics for health personnel, in particular 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 physical or mental health of the prisoner or detainee.
- IV. It is also a contravention of medical ethics for health personnel, in particular 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.

* Footnote: (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.

- V. Participation of health personnel, in particular physicians, in any procedure for restraining prisoners or detainees is not in conformity with medical ethics unless it is determined by purely medical criteria in a manner which presents no hazard to the health of prisoners or detainees and is necessary for the physical or mental 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 on any ground whatsoever, including public emergency.
