

# **Proposal - The establishment of an International Health Professions Ethics Oversight Committee focused on Torture and or Cruel Inhumane Treatment or Punishment**

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## **Background**

The World Medical Association (WMA), in its preamble for the Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment, declares that "it is the privilege of the physician 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 WMA defines torture 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".

In addition to this declaration, other international declarations and resolutions relevant to torture and human rights have been adopted and ratified by most countries members of the United Nations and other international bodies. These include:

- The UN Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Nurses and human rights. <sup>2</sup>
- Nurses' role in the care of detainees and prisoners. <sup>3</sup>
- Torture, Death Penalty and Participation by Nurses in Executions. <sup>4</sup>
- The above-mentioned World Medical Association Declaration of Tokyo. Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment. <sup>5</sup>
- The World Medical Association Declaration Concerning Support for Medical Doctors Refusing to Participate in, or to Condone, the Use of Torture or Other Forms of Cruel, Inhuman or Degrading Treatment <sup>6</sup>
- The World Medical Association Resolution on Physician Participation in Capital Punishment <sup>7</sup>

Considering the above-listed international declarations and resolutions, and the fact that torture is being increasingly used in current conflicts and anti-terrorism campaigns, the creation of a regulatory body **fulfills a crucial need**.

### **Therefore:**

1) The fundamental purpose of the Committee shall be to establish an oversight mechanism that is focused on deficiencies in the above-listed regulation of all health workers throughout the world related to ethics associated with their participation or support of torture and or cruel inhumane treatment or punishment. Health workers shall include, but not be limited to, nurses, medical technicians and especially physicians, and psychologists.

2) The Committee's purview, through priority setting, shall include medically relevant human rights violations related to torture and or cruel inhuman or degrading treatment punishment as defined by Article I of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*UN. Convention Against Torture. 1984*). Within this specific purview the Committee's capability shall encompass abuses related to the Geneva Conventions, the death penalty, the illegal organ trade, the abuse of women, as well as breaches against security detainees and prisoners.

### **Suggested Activities**

3) Within its competence the Committee shall operate a program consisting of the following:

a) The collation of existing standards of practice, and where there is a deficit the establishment of improved standards of practice;

b) The promotion and support of national, provincial, state, or military regulating bodies action to enforce these standards of practice; and

c) The initiation of interventions if these standards are not enforced effectively by national, provincial, state or military regulating bodies, either through a lack of ability or through obstruction by any government,

d) The standards established by the Committee shall be consistent with international norms established by the WMA, ICN, WPA, the IRCT, and the UN. The Committee shall study on a continuing basis the application, administration, execution, and effectiveness of regulations, guidelines, laws and programs of health regulatory agencies throughout the world for the purposes of determining potential problems and/or existing problems.

4) The Committee shall obtain its legal authority through the UN Convention Against Torture and its effectiveness will be assisted by the UN Committee Against Torture (CAT), which is a body of human rights experts that. The Committee is one of seven UN-linked human rights treaty bodies created to monitor implementation of the Convention by State parties. The CAT shall encourage state parties to participate in the International Health Professions Ethics Oversight Committee's Program.

5) The Committee's scope of activities shall not overlap the functions of the International Court of Justice, (ICJ) due to the fact that, as the primary judicial organ of the [United Nations](#), it is a regulatory body. Nor, shall the Committee result in a duplication of function of the CAT, because of its specialized focus on medical and nursing ethics.

6) It is proposed that the WHO shall organize the formation of the Committee, along with the advice of the UN Special Rapporteur on the Right to Health, and the Human Rights Council in order to facilitate financial, authoritative, and jurisdictional issues.

7) The Committee shall be permitted to raise funds publicly, from individuals, foundations, and governments to improve programs. The financial activities of the Committee shall be ethical, accountable and transparent in accordance with international financial standards.

8) The Committee shall comprise of experts, acting in their personal capacity, who are elected by the World Health Assembly in a transparent and democratic manner. These experts shall be nominated by governmental and non-governmental organizations including the WHO, the WMA, the WPA, the ICN, the IRCT, individual activist torture survivors and others.

9) The Committee shall work under the auspices of WHO. It shall utilize applicable areas of the WHO Constitution and WHO logistical support in order to gain authority and access to countries:

*Article 2(k): "to propose conventions, agreements and regulations, and make recommendations with respect to international health matters and to perform such duties as may be assigned thereby to the Organization and are consistent with its objectives."*

*Article 66: "The Organization shall enjoy in the territory of each Member such legal capacity as may be necessary for the fulfillment of its objectives and the exercise of its functions."*

*Article 67: "The Organization shall enjoy in the territory of each Member such privileges and immunities as may be necessary for the fulfillment of its objective and for the exercise of its functions." (WHO. 1989)*

10) In relation to its purview, the Committee shall monitor standards of training of all health workers and it will promote the Istanbul Protocol within this training. The Committee shall receive regular reports from state parties and regulatory agencies. It shall invite submissions from the public and human rights organizations such as Amnesty International, the Physicians for Human Rights, and the ICRC. The Committee shall interview government officials, military medical and nursing officials, and other health workers, including nurses, doctors, paramedics, and technicians for the purpose of data collection, assessment and intervention. On-site inspections shall be conducted at the discretion of the Committee. International attention shall be garnered through the utilization of high profile visits to related sites, government officials or members of opposition groups responsible for medically relevant human rights violations.

11) The Committee shall be accountable to WHO and it shall submit regular recommendations to the WHO, the UN Human Rights Council, state parties, medical and nursing associations and others.

12) The Committee shall have the power to publicize its recommendations as well as information about breaches of medical and nursing ethics related to the Committee's purview.

13) The Committee shall initiate medical tribunals, inquiries, penalties, disciplinary procedures as well as redress for the victims involved and will compile a registry of health workers and other officials who have breached medical ethics within its oversight mandate. The Committee shall have a protective function in that it will focus international attention on health professionals who are human rights defenders.

This proposal is supported by the Victoria Coalition for the Survivors of Torture.

<http://www.vcst.ca/proposal.htm>

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Adopted by General Assembly resolution 37/194 of 18 December 1982  
<http://www.un.org/documents/ga/res/37/a37r194.htm>

<sup>2</sup> ICN. Adopted in 1998. Revised in 2006

<sup>3</sup> ICN. Adopted in 1998, Revised in 2006

<sup>4</sup> ICN. Adopted in 1998. Revised in 2003 and 2006

<sup>5</sup> Adopted by the 29th World Medical Assembly, Tokyo, Japan, October 1975, and editorially revised at the 170th Council Session, Divonne-les-Bains, France, May 2005 and the 173rd Council Session, Divonne-les-Bains, France, May 2006 <http://www.wma.net/e/policy/c18.htm>

<sup>6</sup> Adopted by the 49th WMA General Assembly Hamburg, Germany, November 1997

<http://www.wma.net/e/policy/c19.htm>

<sup>7</sup> Adopted by the 34th World Medical Assembly Lisbon, Portugal, September 28 - October 2, 1981 and amended by the 52nd WMA General Assembly in Edinburgh, Scotland during October 2000  
<http://www.wma.net/e/policy/c1.htm>