



Torture¹ is internationally prohibited; yet it happens increasingly and with impunity all over the world. Health professionals are crucial to torture prevention, detection and treatment. Sadly, some of them are complicit in its perpetration. The UN Principles of Medical Ethics embraced by all health educational institutions in the world establish high standards for health professionals; however, these are not enforceable at any inter-governmental level. State, provincial, or national bodies are unable (or unwilling) to exercise their mandate to maintain high ethical standards in health services.

Vision

Considering the complexity of the issue and the lack of a comprehensive body to address it, we envision the establishment of an *Oversight Committee* that, by partnering civil society and national governments with the World Health Organisation (WHO), the United Nations Committee Against Torture (UNCAT), and the International Criminal Court (ICC), could act as a comprehensive oversight mechanism to address the gaps in regulating the role of health professionals in preventing, detecting and treating survivors of torture.

The Oversight Committee would have the UN Principles of Medical Ethics as its main reference, and it would be formed by a group of selected international experts. Acting under the auspices of WHO, this group of experts would have 3 major roles: 1) compile relevant international standards of health ethics; 2) support health regulatory agencies from state, provincial, and national bodies, including the military and police; and 3) draft recommendations and initiate interventions when education or investigations, hearings, and censure are required.

The scope of the proposed Oversight Committee is narrow, focusing on the ethical conduct of health professionals when dealing with cases of survivors or victims of torture and cruel inhumane and degrading treatment or punishment. It is designed to bring together government and civil society so that there is collaboration regarding expertise and funding. It would rely on three international bodies, without duplicating their functions: the UN Committee Against Torture, the International Criminal Court and the constitution of the World Health Organization.

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".

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

¹ Torture, as defined by the UN, is "... any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him, or a third person, information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity..."

- 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.²
- The International Council of Nurses' (ICN) statements: Nurses and human rights³, Nurses' role in the care of detainees and prisoners⁴, and Torture, Death Penalty and Participation by Nurses in Executions.⁵
- The World Medical Association (WMA) Declaration of Tokyo's Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment.⁶
- The WMA 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.⁷
- The WMA Resolution on Physician Participation in Capital Punishment.⁸

The International Oversight Committee for Health Professionals and Torture

Purpose

The fundamental purpose of the Oversight Committee would be to establish a mechanism that ensures all health professionals throughout the world are aware of the ethical implications of their role in preventing, detecting and treating torture, and cruel inhumane treatment or punishment. Health professionals include, but are not limited to: physicians, nurses, psychologists, therapists, and medical technicians.

The Oversight Committee's role, through priority setting, shall include health-related human rights violations, torture and or cruel inhuman or degrading treatment or 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).

The Oversight Committee shall operate an international program consisting of the following main functions:

²<https://treaties.un.org/doc/Publication/UNTS/Volume%201465/volume-1465-I-24841-English.pdf>

UN. 1982. Principles of Medical Ethics. Adopted by General Assembly resolution 37/194 of 18 December 1982.

<http://www.un.org/documents/ga/res/37/a37r194.htm>

³ ICN. Adopted in 1998. Revised in 2006. <http://www1.umn.edu/humanrts/instree/nursesrole.html>

⁴ ICN. Adopted in 1998, Revised in 2006. <http://www1.umn.edu/humanrts/instree/prisonerscare.html>

⁵ ICN. Adopted in 1998. Revised in 2003 and 2006: <http://www1.umn.edu/humanrts/instree/executions.html>

⁶ WMA. Declaration of Tokyo. 2016. Adopted by the 29th World Medical Assembly, Tokyo, Japan, October 1975

Editorially revised by the 170th WMA Council Session, Divonne-les-Bains, France, May 2005 and the 173rd WMA Council Session, Divonne-les-Bains, France, May 2006. Revised by the 67th WMA General Assembly, Taipei, Taiwan, October 2016.

<https://www.wma.net/policies-post/wma-declaration-of-tokyo-guidelines-for-physicians-concerning-torture-and-other-cruel-inhuman-or-degrading-treatment-or-punishment-in-relation-to-detention-and-imprisonment/>

⁷ Adopted by the 49th WMA General Assembly, Hamburg, Germany, November 1997, reaffirmed by the 176th WMA Council Session, Berlin, Germany, May 2007, and reaffirmed with minor revision by the 207th WMA Council session, Chicago, United States, October 2017.

<https://www.wma.net/policies-post/wma-declaration-of-hamburg-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/>

⁸ 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.

www.medekspert.az/tr/chapter12/resources/WMA%20Resolution%20on%20Capital%20Punishment.pdf

1. The collation of existing standards of practice, and the recommendation of improved standards of practice where there is a deficit.
2. The promotion and support of national, provincial, state, and military health regulating bodies and actions to implement these standards of practice.
3. The initiation of interventions if international health ethical standards are not implemented, with National regulatory agencies (collegiate bodies, unions, etc) expected to carry out the recommendations of the Oversight Committee,

Functioning

The Committee would be comprised of experts, acting in their personal capacity, who are elected by the World Health Assembly in a transparent and democratic manner. These experts would 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.

The Oversight Committee's scope of activities would not overlap the functions of the International Criminal Court (ICC), nor would the Committee result in a duplication of function of the UNCAT, because of its specialized focus on health professional ethics.

Other functions assigned the Oversight Committee would include:

- The Committee would have a protective function, as it would highlight international attention on health professionals who are human rights defenders.
- Working under the auspices of WHO, the Committee would utilize applicable areas of the WHO Constitution and WHO logistical support in order to gain authority and access to countries.
- The Committee would monitor international standards of training and education of all health workers, and promote the Istanbul Protocol⁹ within this training.
- The Committee would request reports from health-related governmental bodies and regulatory agencies. It would also invite submissions from non-profit organizations, the public, and human rights organizations such as Amnesty International, the Physicians for Human Rights, Doctors Without Borders, and the International Committee of the Red Cross.
- On-site interviews and investigations would be conducted at the discretion of the Committee, bringing international attention to medically relevant human rights violations.
- The Committee would submit regular recommendations to the WHO, the UN Human Rights Council, state parties, medical and nursing associations, and other relevant stakeholders.
- The Committee would publish reports and recommendations, as well as information about success stories and breaches of health professional ethics related to the Committee's mandate.

*A proposal by the Victoria Coalition for Survivors of Torture.
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⁹ The Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, commonly known as the Istanbul Protocol, is the first set of international guidelines for documentation of torture and its consequences. It became an official United Nations document in 1999.
<http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>

