



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/32/138
26 July 1977

ORIGINAL: ENGLISH

Thirty-second session
Item 80 of the provisional agenda^a

TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Draft code of conduct for law enforcement
officials

Note by the Secretary-General

1. At its fifty-fourth session, the Economic and Social Council, on the recommendation of the Commission on Human Rights, adopted resolution 1794 (LIV) of 18 May 1973, by which it invited the Committee on Crime Prevention and Control to consider the possibility of including in its work programme the question of preparing an international code of police ethics and to transmit its recommendations to the Commission on Human Rights, at an appropriate future session, of the desirability, scope and possible content of an international code of police ethics.
2. At its third session, in 1974, the Committee on Crime Prevention and Control affirmed the need for standards of police performance and recommended that a draft code should be submitted in 1975 to the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (see E/CN.5/516).
3. At its twenty-ninth session, the General Assembly, by its resolution 3218 (XXIX) of 5 November 1974, inter alia, requested the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, taking into account the consideration given to the question by the Committee on Crime Prevention and Control, to give urgent attention to the question of the development of an international code of ethics for police and related law enforcement agencies.
4. The Fifth Congress, in 1975, discussed the scope and content of the draft code, but not reaching an agreement on its final formulation, recommended the establishment of a committee of experts. ^{1/}

^a A/32/150.

^{1/} See Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (United Nations publication, Sales No. 76.IV.2), paras. 254-258.

5. That recommendation was conveyed to the General Assembly at its thirtieth session. The General Assembly, by its resolution 3453 (XXX) of 9 December 1975, requested the Committee on Crime Prevention and Control to elaborate, on the basis of, inter alia, the proposals submitted to and conclusions arrived at by the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, a draft code of conduct for law enforcement officials and to submit this draft code to the General Assembly at its thirty-second session, through the Commission for Social Development and the Economic and Social Council.

6. At its fourth session, in 1976, the Committee on Crime Prevention and Control finalized a draft code of conduct for law enforcement officials, to be submitted through the Social Development Commission and the Economic and Social Council to the General Assembly at its thirty-second session (E/CN.5/536, annex V).

7. The code deals with the rights and duties of law enforcement officials in the performance of their duties, stressing in particular the obligations to respect and protect human dignity and human rights, the prohibition of torture or other cruel, inhuman or degrading treatment or punishment and the inadmissibility of all acts of corruption.

8. At its thirty-first session, the General Assembly, by its resolution 31/85 of 13 December 1976, welcomed the work of the Committee on Crime Prevention and Control and, inter alia, invited the Economic and Social Council to give due priority to the examination of the draft code of conduct for law enforcement officials proposed by the Committee on Crime Prevention and Control, in order that the Council at its sixty-second session and the General Assembly at its thirty-second session might take further steps with a view to the adoption of this instrument.

9. At its sixty-second session, the Economic and Social Council adopted resolution 2075 (LXII) on the report of the Committee on Crime Prevention and Control on its fourth session, by which, inter alia, the Council submitted a draft resolution for adoption by the General Assembly the text of which is reproduced in the annex to the present document.

ANNEX

Draft resolution submitted by the Economic and Social Council
for adoption by the General Assembly

Code of conduct for law enforcement officials

The General Assembly,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recalling, in particular, the rights and freedoms proclaimed in the Universal Declaration of Human Rights a/ and the International Covenant on Civil and Political Rights, b/

Recalling also the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in its resolution 3452 (XXX) of 9 December 1975,

Recalling further paragraph 3 of its resolution 3453 (XXX) of 9 December 1975, in which it requested the Committee on Crime Prevention and Control to elaborate a draft code of conduct for law enforcement officials,

Mindful that the nature of the functions of law enforcement and the manner in which these are exercised have a direct impact on the quality of life of individuals as well as of society as a whole,

Conscious of the difficult task which law enforcement officials are performing conscientiously and with dignity, in compliance with the principles of human rights,

Aware, nevertheless, of the potential of abuse which the exercise of such awesome duties entails,

Recognizing that the establishment of a code of conduct for law enforcement officials is only one of several important measures for providing the citizenry served by law enforcement officials with protection of all their rights and interests,

Aware that there are additional important principles and prerequisites for the humane performance of law enforcement functions, namely:

(a) That, like all agencies of the criminal justice system, every law enforcement agency should be representative of and responsive and accountable to the community as a whole;

a/ General Assembly resolution 217 A (III).

b/ General Assembly resolution 2200 A (XXI), annex.

(b) That the effective maintenance of ethical standards among law enforcement officials depends on the existence of a well-conceived, popularly accepted and humane system of laws;

(c) That every law enforcement official is part of the criminal justice system, the aim of which is to prevent and control crime, and that the conduct of every functionary within the system has an impact on the entire system;

(d) That every law enforcement agency, in fulfilment of the first premise of every profession, should be held to the duty of disciplining itself in complete conformity with the principles and standards herein provided and that the actions of law enforcement officials should be responsive to public scrutiny, whether exercised by a review board, a ministry, a procuracy, the judiciary, an ombudsman, a citizens' committee, or any combination thereof, or any other reviewing agency;

(e) That standards as such remain moot unless their content and meaning, through education and training, and through monitoring, become part of the creed of every law enforcement official;

Adopts the Code of Conduct for Law Enforcement Officials below, drafted by the Committee on Crime Prevention and Control at its fourth session, to serve as a body of principles for observance by law enforcement officials of all nations.

Annex

Code of Conduct for Law Enforcement Officials

Article 1

Law enforcement officials must at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Commentary:

(a) The term law enforcement official includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest and detention;

(b) In countries where police powers are exercised by military authorities, whether uniformed or not, or by state security forces, the definition of law enforcement officials shall be regarded as including officers of such services;

(c) Service to the community is intended to include particularly the rendition of services of assistance to those members of the community who by reason of personal, economic, social or other emergencies are in need of immediate aid;

(d) This provision is intended to cover not only all violent, predatory and harmful acts, but extends to the full range of prohibitions under penal statutes. It extends to conduct by persons not capable of incurring criminal liability.

Article 2

In the performance of their duty, law enforcement officials should respect and protect human dignity and maintain and uphold the human rights of all persons.

Commentary:

(a) The human rights in question derive from national and international law. The human rights under international law are guaranteed under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Standard Minimum Rules for the Treatment of Prisoners, the Vienna Convention on Consular Relations, and other international instruments:

(b) National commentaries to this provision should identify regional or national provisions identifying these rights.

Article 3

Law enforcement officials may never use more force than necessary in the performance of their duty.

Commentary:

(a) This provision emphasizes that the use of force by law enforcement officials should be exceptional:

(b) While it implies that law enforcement officials may be authorized to use such force as is reasonable under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, any force used beyond what is essential for these purposes is not tolerable;

(c) National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case, however, should this provision be interpreted to authorize the use of force which is disproportionate to the legitimate objective to be achieved.

Article 4

Matters of a confidential nature in the possession of law enforcement officials should be kept confidential, unless the performance of duty, or the needs of justice, require otherwise.

Commentary:

By the nature of their duties, law enforcement officials obtain information which may be potentially harmful to the interests, and especially the reputation, of others. By law, such information can be utilized only for the conduct of legal proceedings. Any divulgence not made in the performance of duty and not serving the needs of justice is improper.

Article 5

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Commentary:

(a) This prohibition derives from the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly, according to which:

Such acts are an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and other international human rights instruments.

(b) The Declaration defines torture as follows:

... 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".

(c) The terms "cruel, inhuman or degrading treatment or punishment" have not been defined by the General Assembly, but should be interpreted to extend the widest possible protection against abuses, whether physical or mental.

(d) The provision is intended to cover all persons who are in any way involved in conduct covered by this provision.

Article 6

Law enforcement officials having custody of persons needing medical attention should secure such attention and take immediate action to meet the needs of the person in custody.

Commentary:

(a) "Medical attention" refers to services rendered by any medical personnel, including certified medical practitioners and paramedics. While in practice the medical personnel referred to is likely to be attached to the law enforcement operation, the provision should be understood to require law enforcement officials to take into account the judgment of medical personnel from outside the law enforcement operation. This envisages that the person in question has access to medical attention from other medical personnel, including that person's own physician.

(b) All medical personnel must act in conformity with principles of medical ethics.

Article 7

Law enforcement officials must refrain from and rigorously oppose and pursue all acts of corruption.

Commentary:

(a) Corruption is intolerable in all phases of life, particularly in the public service agencies. Governments cannot expect to enforce the law among their citizens if they cannot, or will not, enforce their law against their own agents and within their own agencies.

(b) While the definition of corruption must be subject to national law, it should be understood to encompass the commission or omission of an act in the performance of or in connexion with one's duties, in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted.

Article 8

Law enforcement officials must refrain from and prevent and rigorously oppose all violations of this code by taking appropriate action, to the best of their capability. When violations have occurred, or can be expected to occur, law enforcement officials should report the matter within the chain of command, or take such other actions as are lawfully open to them, including, when necessary, the reporting to any agency with reviewing or remedial power.

Commentary:

(a) The provision seeks to preserve the balance between the need for internal discipline of the agency on which the public safety is largely dependent, on the one hand, and the need for dealing with violations of basic human rights, on the other. A law enforcement official should report violations within the chain of command and take legal action outside the chain of command only when no other remedies are available.

(b) The term 'agency with reviewing or remedial power' refers to any agency existing under national law, whether internal to the law enforcement agency, or independent thereof, with statutory, customary or other power to review grievances and complaints arising out of violations within the purview of this code.

(c) While in most countries such agencies are statutory bodies, in some countries the mass media may be regarded as performing similar complaint review functions so that a law enforcement official, on his own initiative, may be justified in bringing his report to public attention by such means, as a last resort, consistent with the laws and customs of the country in question.

Article 9

A law enforcement official who, in fulfilling the obligation of this code, erroneously exceeds the limits of law despite honest and conscientious assessment, is entitled to the full protection afforded by national law.

Article 10

A law enforcement official who complies with the provisions of this code deserves the respect, the full support and the collaboration of the community and of the law enforcement agency in which such official serves, as well as the support of the law enforcement profession.