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PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

**Joint written statement* submitted by the International Council of Nurses (ICN) and
the World Medical Association (WMA), non-governmental organizations on the
Roster**

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[25 August 2008]

* This written statement is issued, unedited, in the language(s) received from the
submitting non-governmental organization(s).

Extension of the mandate of UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health in order to include health professionals' autonomy and freedom from reprisal

For a number of years, the International Council of Nurses (ICN) and the World Medical Association (WMA) have been working for the establishment of a UN Special Rapporteur on the autonomy and freedom from reprisal of Health Professionals. In the process we realised this was a complicated and resource intensive post and our two organisations were flexible and open to other options. That is why ICN and WMA were pleased when the post of UN Special Rapporteur on the Right to Health was established. We have been collaborating with Paul Hunt on a number of human rights issues including the right to health and the protection of health professionals. However, his mandate did not officially include the autonomy and freedom from reprisal of health professionals.

The International Council of Nurses and the World Medical Association, representing over 20 million nurses and physicians worldwide, therefore submit this joint proposal to the 8th session of the Human Rights Council with a view to embedding the autonomy and freedom from reprisal of health professionals within the existing mandate of the UN Special Rapporteur on the Right to Health and to including the surveillance and action on human rights violations related to health professionals.

Health professionals, key players in the advancement of the right to health for all

Health professionals are key players in the health team - delivering health care to individuals, families and communities regardless of their colour, creed, gender, religion or political affiliation.

The Commission on Human Rights in its resolutions 2002/31 and 2004/27 recognises 'a need for States, in cooperation with international organizations and civil society, including non-governmental organizations and the private sector, to create favourable conditions at the national, regional and international levels to ensure the full and effective realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health'.

Fostering such conditions requires that those who provide healthcare – nurses, physicians, midwives, dentists, pharmacists – can practice their professions with dignity, integrity and independence and within safe working conditions.

The report of 31 January 2008 of Paul Hunt¹, Special Rapporteur on the Right to Health, indicates that 'While human resources in health have attracted increasing attention in recent years, the human rights dimension of the issue rarely receive significant consideration'. Such a dimension requires, namely, that the human rights of health workers are respected 'for example, freedoms of association, assembly and expression. They must be provided with the opportunity of active and informed participation in health policymaking. The safety of health workers, who are disproportionately exposed to health hazards, is a major human rights issue'.

¹ A/HRC/11, 31 January 2008

Protecting health professionals from human rights violations, one determinant of the right to health

Autonomy: Health professionals have an ethical duty to serve humanity in times of peace, during conflict and in disaster, to care for those that have been tortured, and those that are sick and dying, regardless of their political affiliation. It is incompatible with their professional duty for health care providers to be directed by governments as to who they can or cannot treat. Indeed it is against their ethical codes to discriminate on the basis of colour, gender, creed, religion, social status or political affiliation. To deny health care to anyone on these grounds would be a gross violation of professional conduct and subject to severe measures, including loss of their licence to practice their profession.

Freedom from reprisal: Health professionals often suffer reprisals for providing treatment and counselling to those whose human rights have been violated. Governments that do not respect human rights often use torture as one of their methods of coercion. Torture victims require treatment by health professionals, who in turn often themselves become the victims of further attacks and reprisals. Health professionals worldwide are being harassed, imprisoned and tortured because they have treated patients who belong to other political parties.

It is paradoxical that health professionals suffer reprisals for providing treatment and care to people. It is unacceptable that they are often prevented from providing care, are tortured, imprisoned, banished or killed in the line of duty. It is equally disturbing that health facilities and health profession training institutions are too often targeted for wanton destruction.

Accordingly, we call on the UN High Commission for Human Rights, governments, non-governmental organisations and others to give their full support to expand the mandate of the Special Rapporteur on the Right to Health to ensure health professionals' autonomy and freedom from reprisal in providing care to all people.

As part of the extension of the mandate, the Special Rapporteur should:

- Gather, request, receive and exchange information from a human rights perspective on the status and working environment of health professionals, in particular on the role of health professionals working in situations where either their rights to give, or the rights of their patients to receive treatment are threatened;
- Collect these information from all relevant sources, including governments, national and international health professional organisations as well as civil society;
- Make appeals for the protection of health professionals when they are in danger merely because of their professional or human rights activities;
- Report on the status of human rights violations of health professionals as an obstacle to the right to health and make recommendations on appropriate measures to guarantee the autonomy and integrity of health professionals in providing care for all people, including the right for health professionals to report human rights violations without risk of reprisal by authorities, as well as the defence of patients who are in danger of suffering human rights violations solely because of seeking medical treatment;

- Gather, request, receive and exchange information from all relevant sources about health professionals voluntarily adopting discriminatory practices, and/or practising their professions in violation of human rights, such as participation in torture or in death penalty.
- Include systematically in its annual report a comprehensive assessment of the status and working environment of health professionals from a human rights perspective, addressing the essential components indicated above.
