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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria

Report of the Secretary-General

Summary

The present report summarizes contributions received from States, United Nations organizations and non-governmental organizations on the steps they have taken to improve access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria.

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I. INTRODUCTION

1. In its resolution 2003/29, the Commission on Human Rights recognized that access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria is a fundamental element for achieving progressively the full realization of the right of everyone to the enjoyment of the highest available standard of physical and mental health. The Commission requested the Secretary-General to solicit comments from Governments, United Nations organs, programmes and specialized agencies and international and non-governmental organizations on the steps they have taken to promote and implement this resolution, where applicable.

2. The present report summarizes replies received from the Governments of Norway and Poland as well as from the World Health Organization. Contributions were also received from the following non-governmental organizations: the Canadian HIV/AIDS Legal Network, the International Council of AIDS Service Organizations, the International Council of Nurses, the International Women's Health Coalition, Oxfam and Physicians for Human Rights.

II. CONTRIBUTIONS FROM STATES

3. According to the Norwegian Communicable Diseases Control Act[1] everyone is entitled to necessary assistance with communicable disease control. A person infected with a communicable disease that is hazardous to public health is entitled to medical evaluation and diagnosis, treatment, care and other necessary assistance. Such assistance may not be denied on the basis that there are no funds in adopted budgets to cover costs.

4. The Government of Norway drew attention to the Seventh Conference of European Health Ministers that took place in Oslo on 12 and 13 June 2003. In the Declaration adopted at the end of the Conference, Ministers requested the Council of Europe to propose measures aimed at reducing inequalities in access to high-quality health care both within and between countries. Ministers agreed to give high priority to identifying the needs of all those individuals who are socially excluded and to mobilize the necessary human and financial resources for an appropriate response to their health needs. The Declaration stated that solidarity cannot be limited to one's own population; it has to be extended to other countries facing similar challenges.

5. Norway has had three action plans for HIV/AIDS prevention since 1986.[2] The current strategic plan incorporates the following guiding principles: measures must encroach as little as possible on personal freedom; efforts must be directed at vulnerable groups where there are cases of HIV and at the general public; authorities must cooperate with NGOs; and society must show solidarity with persons with HIV/AIDS. One example of the expression of these policies is Norway's approach to refugees and asylum-seekers. Voluntary HIV testing is offered as a matter of routine to all refugees and asylum-seekers. The result is to have no bearing on the outcome of an application for asylum.

6. The Government of Poland stressed that the promotion and protection of human rights is an essential component in preventing transmission of HIV and reducing the impact of HIV/AIDS. The National Programme of Prevention of HIV Infections and Care Offered to People with HIV and AIDS for the years 1999-2003 provides guidance for State policy. The Health Care Institutions Act[3] ensures that tests for HIV cannot be done without a patient's

consent other than in the context of blood, tissue and organ donations. The Infectious Disease Act[4] provides that the incidence of all infectious disease including AIDS must be reported to the State Hygiene Institute and provides for free treatment. There are 14 State referral centres for AIDS treatment in Poland.

7. The National AIDS Centre in Poland has as its main objectives to conduct epidemiological surveillance; to prepare and update the national HIV/AIDS prevention programme; to initiate and coordinate activities of the health sector units with respect to the National Programme; to implement national policy for HIV prevention and care for people living with HIV/AIDS; to conduct scientific research with special attention to issues of HIV prevention; to coordinate cooperation between the Ministry of Health and other ministries, governmental agencies and NGOs involved in the implementation of the national programme; and to exchange experience and collaborate with other countries in the area of HIV/AIDS - with a special focus on countries of the region. The Government referred specifically to the importance of regional cooperation.

8. Poland has also conducted several focused prevention campaigns including campaigns directed towards: men; sexually active women (25-30 per cent of the 15,000-20,000 people living with HIV are women); young populations; and heterosexual people between the ages of 18 and 39, because of the increasing number of heterosexual infections. At present preventive activities are directed towards particularly vulnerable groups, including incarcerated persons.

III. CONTRIBUTIONS FROM THE WORLD HEALTH ORGANIZATION

9. The World Health Organization (WHO) declared the lack of access to HIV treatment a global health emergency at the General Assembly High-Level Meeting on HIV/AIDS on 22 September 2003. WHO set the target of reaching 3 million people with antiretroviral (ARV) treatment by the end of 2005.

10. In order to meet this goal WHO will provide Emergency Response Teams at the request of Governments; establish an AIDS Drugs and Diagnostics Facility to assist countries and implementers to navigate in medicine purchasing and financing, while considering best prices and quality; publish simplified treatment guidelines by 1 December 2003; publish uniform standards and simplified tools to track the progress and impact of ARV treatment programmes, including surveillance of drug resistance, to capture the full impact of ARV therapy by 1 December; start the emergency expansion of training and capacity development for health professionals and lay care providers for delivering simplified, standardized ARV treatment; and advocate for funding, together with UNAIDS and other partners. A key component of the strategy will be to strengthen the capacity of community organizations - including people living with HIV/AIDS - to participate at all levels of antiretroviral planning and implementation, including conducting national advocacy and treatment literacy campaigns, training for community-based treatment supporters, and promoting community-driven models of treatment, care and support; and involving communities in research and evaluation. These components will help ensure that programmes are delivered equitably and effectively, reduce stigma and discrimination, and contribute to realizing the right to health of people living with HIV/AIDS.

11. WHO is fully committed to achieving the "3 by 5" target by the end of 2005. WHO regards this as a means of achieving the ultimate goal of universal access to antiretrovirals for all who need them, strengthening health systems overall and improving prevention efforts.

IV. CONTRIBUTIONS FROM NON-GOVERNMENTAL ORGANIZATIONS

12. The International Council of AIDS Service Organizations (ICASO) noted that access to primary heath care needs to be guaranteed. Finding the resources for improving health infrastructures is an urgent priority. Medicines need to be made both affordable and available through reliable distribution mechanisms. For example, there are countries where drugs have been offered at extremely low cost or free, yet people living with HIV are still not accessing these treatments in large numbers. However, cost remains an issue. Despite dramatic reductions in the prices of antiretrovirals in some countries, the annual cost of treatment often exceeds national health budgets.

13. ICASO requested that the Commission on Human Rights further distribute and monitor the implementation of revised guideline 6 of the International Guidelines on HIV/AIDS and Human Rights.[5] ICASO also called for immediate, accurate and frequent reports on the realization of the targets for prevention, funding and accessing essential medicines established by the HIV/AIDS Declaration of Commitment of 2001.

14. In its contribution, the International Council of Nurses (ICN) voiced its support for the resolution and provided a summary of activities it has taken consistent with the resolution. These include working with the International Treatment Access Coalition to increase access to antiretrovirals and collaborating with other health professionals, including the World Medical Association, the International Pharmaceutical Federation, the International Association of Physicians in AIDS Care, and the International Federation of Health and Human Rights Organizations, to lobby for access to medicines. The ICN lobbies pharmaceutical companies to make antiretrovirals available to health professionals living with HIV/AIDS as a way of building capacity of health systems. It has also developed a Fact Sheet on Mobilizing Nurses for HIV/AIDS Prevention and Care, which also urges national nurses' associations to lobby for increased access to prevention, treatment and a continuum of care for people living with HIV/AIDS.

15. The International Women's Health Coalition also offered it full support for the implementation of the resolution. It urged the Commission on Human Rights to take all possible action to ensure that agreements entered into by the Council of the World Trade Organization are consistent with the resolution. It further asked the Commission to monitor closely the implementation of the resolution.

16. The Canadian HIV/AIDS Legal Network (the Network) continues to be an active member of the Global Treatment Access Group (GTAG), a working group of Canadian civil society organizations undertaking joint education and advocacy on issues relating to access to treatment and other aspects of health care in developing countries. Following the WTO Council's "Decision on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health" of 30 August 2003, the Government of Canada introduced a bill in Parliament to amend the Patent Act. The Network and other civil society organizations welcomed the initiative. At the time of reporting, the bill was still before Parliament.

17. The Network and some GTAG members have campaigned for Canada to enhance its contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria. In June 2003, a standing committee of the House of Commons recommended that Canada triple its current annual contribution to the Fund. The Network has continued to advocate in relation to Canada's approach on bilateral development assistance programmes regarding scaling up the use of ARV therapy to treat people living with HIV/AIDS in resource-limited settings.

18. Physicians for Human Rights (PHR) drew attention to its Health Action AIDS campaign. It also encouraged States, and the United States of America in particular, to provide international assistance to strengthen health infrastructure in developing countries. This would include training in diagnosis; administering and monitoring ARV therapy; ensuring sufficient medicines and other goods; and strengthening supply chains, increasing laboratory capacity, enhancing management systems and building new health facilities. PHR also referred to the need to stem the "brain drain" of health professionals out of Africa, the need to provide adequate compensation to them and the need to provide safe workplaces and safe health care to patients. The campaign supports the Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria and has called for increased contributions to the Fund.

19. Oxfam noted that while the focus of the resolution is on pandemics, the right to access to medicines extends beyond infectious pandemics to other public health problems.

Notes

[1] Norwegian Communicable Diseases Control Act, 5 August 1994, No. 55, chapter 6.

[2] "Responsibility and consideration: a strategy for prevention of HIV and sexually transmitted diseases", Norwegian Ministry for Health, 2002.

[3] Health Care Institutions Act, 30 August 1991.

[4] Infectious Disease Act, 6 September 2001.

[5] *HIV/AIDS and Human Rights: International Guidelines*, United Nations, New York and Geneva, 1998; *HIV/AIDS and Human Rights: International Guidelines, Revised Guideline 6.* Access to prevention, treatment, care and support, United Nations, New York and Geneva, 2003.
