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COMMISSION DES DROITS DE L'HOMME  
Sous-Commission de la promotion et de  
la protection des droits de l'homme  
Cinquante-sixième session  
Points 4, 5 et 6 de l'ordre du jour provisoire

**DROITS ÉCONOMIQUES, SOCIAUX ET CULTURELS**

**PRÉVENTION DE LA DISCRIMINATION**

**QUESTIONS SPÉCIFIQUES SE RAPPORTANT  
AUX DROITS DE L'HOMME**

**Observations écrites présentées par l'Organisation  
mondiale de la santé (OMS)**

L'Organisation mondiale de la santé se félicite d'avoir la possibilité de présenter à la Sous-Commission de la promotion et de la protection des droits de l'homme une contribution écrite concernant ses initiatives et activités en rapport avec l'ordre du jour de la cinquante-sixième session de la Sous-Commission. Compte tenu du nombre d'activités de l'OMS intéressant la Sous-Commission, le présent document\* contient des exemples de travaux se rapportant aux points 4, 5 et 6 de l'ordre du jour provisoire.

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\* L'annexe est reproduite telle qu'elle a été reçue, en anglais seulement.

**Annex**

**United Nations Sub-Commission on the  
Promotion and Protection of Human Rights**

**Fifty-sixth Session**

**Written submission by the  
World Health Organization**

Items 4, 5 and 6 of the provisional agenda

July 2004



**World Health Organization**

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## GENERAL INFORMATION

### ***The relationship between health and human rights***

The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being, as enshrined in WHO's constitution adopted over 50 years ago.<sup>1</sup>

WHO recognizes that there are complex linkages between health and human rights:

- Violations or lack of attention to human rights can have serious health consequences;
- Health policies and programmes can promote or violate human rights in the ways they are designed or implemented; and
- Steps that respect, protect, and fulfil human rights can reduce vulnerability to ill health and mitigate its impact.

WHO is actively strengthening its role in providing technical and intellectual leadership in the field of health and human rights. Five broad activities have been identified for 2004-2005, as follows:

1. Develop a WHO health and human rights strategy;
2. Enhance the knowledge base concerning rights-based approaches to development and their application to health;
3. Develop tools to integrate human rights into health development policies and programmes;
4. Strengthen WHO's capacity to adopt a human rights-based approach in its work through policy-formulation, research and training; and
5. Advance the right to health in international law and international development processes through advocacy, input to UN mechanisms, and the development of indicators.

#### **AGENDA ITEM 4: ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

### ***The right to health***

WHO welcomed the adoption by the 60<sup>th</sup> session of the Commission on Human Rights of the resolution on "The right of everyone to the enjoyment of the highest attainable standard of physical and mental health" (E/CN.4/2004/L.41), which calls upon States to guarantee that this right is exercised without discrimination of any kind.

In recent years, WHO has strengthened its work on health and human rights. The potential of human rights to contribute to the practice of public health, and to more equitable health outcomes, is increasingly understood and recognized by policy-makers and practitioners alike. In 2004-2005, WHO is focusing on the process of

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<sup>1</sup> *Basic Documents*, Forty-third Edition, Geneva, World Health Organization, 2001. The Constitution was adopted by the International Health Conference in 1946.

developing an Organization-wide health and human rights strategy , which will serve as a policy platform for WHO and ensure that human rights become further "institutionalized" in our everyday work.

WHO is actively working to increase awareness and understanding of the scope, content and application of the right to health. Training for WHO staff on health and human rights was initiated in 2002 and has continued in 2003 and 2004. Recently, consultations on health and human rights took place between WHO headquarters, regional and country offices.

As part of basic building-blocks to develop a solid foundation for WHO's emerging work on health and human rights, an annotated bibliography on health and human rights and a global database on health and human rights actors have been developed and will shortly be available on the website. WHO is also undertaking a global study to assess the extent that the right to health has been enshrined in national constitutions and other legislative frameworks.

A workshop was convened in April 2004 to advance the process of identifying relevant right to health indicators. The importance of bringing multi-disciplinary actors in health and human rights together and of seeking common ground on how to monitor the right to health was emphasized, and both public health experts and human rights practitioners were invited. This work will continue with a series of consultations planned over the next couple of years.

WHO regularly makes use of opportunities to articulate health as a human right and advance other health-related rights on the international human rights agenda, as well as the broader development agenda. This includes streamlining and co-ordinating WHO's input to the UN human rights treaty bodies, collaborating with, and supporting the work of, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and participating in the annual sessions of the Commission and Sub-Commission on Human Rights.

### ***Human rights and extreme poverty***

The report of the Commission on Macroeconomics and Health provides scientific evidence that improved health is a requirement for economic development. It shows that poverty is both a cause and consequence of ill health. Efforts to combat poverty and stimulate economic and social development must focus on tackling the burden of disease- HIV/AIDS, tuberculosis, malaria, poor nutrition and maternal and child conditions.

WHO's work on health and poverty aims to identify pro-poor health interventions and engage in a dialogue with policy-makers to advance national investment in health and reproductive health. In this regard, WHO provides support at the country level in building the capacity in data analysis as well as providing evidence on matters of inequality and its determinants. The data enables priority-setting and decision-making at both the macro and micro-economic levels and shows the interrelation between health interventions, poverty reduction and socio-economic development.

WHO promotes the inclusion of the Millennium Development Goals (MDGs) in the frameworks of relevant departments and in such instruments as the Poverty Reduction Strategy Papers (PRSPs). There is a growing recognition that achieving the MDG's will require a significant increase in resources for health. WHO continues to be a strong and vocal advocate of additional resources for the health sector, as well as continuing to provide estimates of the resource needed.

In relation to human rights in particular, WHO is currently developing a handbook containing examples of "good practice" in operationalizing a human rights-based approach in the context of poverty-reduction strategies.

### ***Human rights and globalization***

WHO is working to achieve greater policy coherence between trade and health policy so that international trade and multilateral trade rules maximize health benefits and minimize health risks, especially for poor and vulnerable populations. This work aims to build the knowledge base and strengthen capacity in Member States and in WHO itself to recognize and act on a better understanding of the public health implications of multilateral trade agreements.

The programme of work of the organization in this area focuses on the implications for public health of four main WTO Agreements, namely the Agreements on Technical Barriers to Trade (TBT), Sanitary and Phytosanitary Measures (SPS), Trade-Related Intellectual Property Rights (TRIPS), and Trade in Services (GATS).

The priority areas are: access to drugs, traditional medicine knowledge and TRIPS; food safety, cross border spread of infectious diseases and SPS; health services and GATS and health norms and standards and TBT.

Related work on Globalization and Health focuses on assisting countries to assess and act on cross-border risks to public health security. Recognizing that domestic action alone will not be sufficient to ensure health locally, this work also supports necessary collective action to address cross-border health risks and improve health outcomes.

## **AGENDA ITEM 5: PREVENTION OF DISCRIMINATION**

### ***a) Racism, racial discrimination and xenophobia***

The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban in 2001, provided a unique opportunity to address the link between health and discrimination. Since Durban, WHO has been actively promoting and developing activities for the recognition of racism, racial discrimination, xenophobia, and related intolerance as significant social determinants of physical and mental health.

Examples of activities which support the implementation of the Durban Plan of Action include introducing an ethnic perspective into the Millennium Development Goals (MDGs); collecting, systematizing, and disseminating best practices on data disaggregation; supporting governments in redesigning health policies, plans and programs with the participation of vulnerable population groups; and incorporating an ethnic perspective in the health components of poverty reduction strategies (PRSPs) in countries participating in this initiative.

### ***b) Prevention of discrimination and protection of indigenous peoples***

WHO's work on indigenous peoples health has recently been located within the team working on health and human rights; this move recognizes the interrelationship between the realization of human rights and the health of indigenous peoples. Views and opinions on how questions of health and ethnicity should be addressed in the overall context of WHO's policy and programmes is now being sought across all levels of the Organization. Concurrently, close contact is being maintained with relevant Members of the Permanent Forum on Indigenous Issues, in line with the WHA's request that the Secretariat should work closely with the Permanent Forum on Indigenous Issues.

### ***c) Prevention of discrimination and protection of minorities***

Addressing all forms of discrimination throughout the life span reduces vulnerability to, and the impact of, ill health. The grounds for non-discrimination in international human rights law are evolving. In General Comment 14, adopted in 2000, the Committee on Economic, Social and Cultural Rights proscribed "any discrimination in access to health care and underlying determinants of health, as well as to means and entitlements for their procurement, on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation and civil, political, social or other status."

WHO fully supports the drafting of an International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities as an important instrument to protect and promote the human rights of persons with mental and physical disabilities. WHO has established a focal group for the coordination of the work done by the Organization. The focal group also participates in meetings with United Nations bodies based in Geneva, which is an informal reference group for interagency information and collaboration.

As part of its mental health Global Action Programme (mhGAP), WHO is developing guidance material on mental health legislation. It will provide technical guidance on human rights and the development and implementation of mental health legislation. The manual is currently in draft form and has had two international reviews involving more than 100 experts, some selected for their individual knowledge and others as representatives of ministries of health and of national and international user, family, professional, governmental and non-governmental organisations.

WHO hosted an International Forum on Mental Health, Human Rights and Legislation in November 2003. One hundred and five participants from 56 countries attended. The event provided an opportunity for countries to gain technical knowledge on mental health and human rights and provided support and guidance in the development mental health legislation.

WHO has also conducted a number of regional workshops and is providing intensive technical assistance to countries in the development and implementation of national legislative measures to better promote and protect the rights of people with mental disorders.

Another group, much neglected in both the health and human rights arenas, is migrants- both migrants seeking health care and those providing health care. On the eve of the International Day of Migrants in December 2003, WHO launched the publication "International Migration, Health and Human Rights". This publication was produced and disseminated jointly with the International Labour Office (ILO), the Office of the High Commissioner for Human Rights (OHCHR), the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), the International Centre for Migration and Health (ICMH), the Ethical Globalization Initiative (EGI), December 18 and the Instituto Mario Negri (IMN). The report draws attention to important human rights issues that migration poses for health policy-makers. It also examines important topical developments, including emerging infectious diseases such as Severe Acute Respiratory Syndrome (SARS) and international trade agreements, including WTO's General Agreement on Trade in Services (GATS). It recognizes the global economic benefits of liberalizing migration and urges that migration policies and programmes promote the health and human rights of migrants.

The greatest health and human rights challenge of our time is HIV/AIDS. Fear, stigma, discrimination and other forms of human rights violations remain major impediments to the prevention of HIV transmission and the provision of treatment, care and support. We know now that the most effective responses to the HIV/AIDS epidemic are those which work to prevent the stigma and discrimination associated with HIV/AIDS and protect the human rights—civil, cultural, economic, political and social—of people living with HIV/AIDS and those most at risk of infection.

On World AIDS Day, 1 December 2003, WHO and UNAIDS launched the "3 by 5" Initiative. The Initiative provides a roadmap for meeting the target of delivering antiretroviral therapy to three million people living with AIDS by the end of 2005. There is good evidence that the provision of antiretroviral therapy will help reduce stigma and discrimination, as people who have the possibility for treatment are more likely to come forward and be tested, and promote more openness about HIV/AIDS.

Also on World AIDS Day 2003, the Pan American Health Organization (PAHO) launched a report, "[Understanding and Responding to HIV/AIDS-Related Stigma and Discrimination in the Health Sector](#)". This review aims to contribute to deeper understanding of HIV/AIDS-related stigma and discrimination in the health services. It does so firstly through an analysis of the components of the phenomenon, how they relate and where gaps in knowledge exist; secondly by comparing studies of stigma and discrimination and projects designed to reduce their incidence and impact; and thirdly by outlining strategies for a comprehensive response. The perspective is global, though the publication makes extensive references to Latin America and the Caribbean.

In addition, on Human Rights Day, 10 December 2003, WHO in collaboration with the United Nations Office for the High Commissioner for Human rights (OHCHR) and the United Nations Joint Programme for HIV/AIDS (UNAIDS) launched a colourful, interactive cartoon booklet for young people called "HIV/AIDS Stand Up for Human Rights". The cartoon is designed to raise awareness and mobilise action to tackle HIV-related stigma and discrimination.

## AGENDA ITEM 6: OTHER HUMAN RIGHTS ISSUES

### **a) Women and human rights**

WHO welcomes the Report of Paul Hunt, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, submitted in accordance with Commission resolution 2003/28 and its reference to rights related to sexual and reproductive health.

This year is the tenth anniversary of the International Conference on Population and Development held in Cairo, and next year that of the Fourth World Conference on Women. Both of these landmark events and their programmes of action clearly emphasised the need for promoting gender equity and equality, as well as the promotion and protection of human rights in the area of women's health. WHO's work contributes to the goals of these programmes of action, and we carry out a number of specific projects to promote gender equality and human rights.

As a critical component of gender mainstreaming, WHO is preparing guidance on Gender-Relevant Indicators in Health to assist health workers and managers in identifying and addressing gender issues. In addition, as gender considerations are not routinely integrated into health research, WHO is developing a resource kit for this purpose. In addition to generic tools, health interventions guidelines are also being developed on integrating gender into HIV/AIDS programmes at the national level.

WHO is continuing to pay special attention to promoting and protecting human rights related to sexual and reproductive health. In the area of technical assistance to countries, a human rights tool has been designed to facilitate a multi-disciplinary analysis of the legal, policy and health system determinants of maternal and neonatal mortality and morbidity and the interventions to address them. Regarding regional and national capacity building, a training manual on gender and rights has been developed and used in several regions to train health programme managers to enable them to address gender and rights within their policies and programmes. The extensive work with the UN Human Rights Treaty Monitoring Bodies aims to ensure that sexual and reproductive health and rights issues are addressed in the Committee's concluding observations so that WHO can support government to use this mechanism for implementing human rights in their programming and planning on sexual and reproductive health.

Violence against women (VAW) also remains a priority issue for WHO. The WHO Multi-Country Study on Women's Health and Domestic Violence is the first study to gather data on the prevalence of violence against women and women's health that is comparable across countries. Its results will be used in countries and globally to generate policies and strategies to respond to this problem. To address the issue of sexual violence, WHO began an initiative in 2001 to strengthen the health sector response to this problem. A major product of this initiative, *Guidelines for medico-legal care for victims of sexual violence*, is designed to enable health workers to provide comprehensive care for the medical and psychological needs of survivors of sexual assault and to carry out appropriate forensic examinations.

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