Health and the Fifty-Seventh Session of the United Nations Commission on Human Rights

19 March - 27 April 2001, Palais des Nations, Geneva

Draft Working Paper

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Introduction

This report summarizes the main points of discussion relating to health during the 57th Session of the United Nations Commission on Human Rights.

The Commission is the main policy-making body in the United Nations system on human rights. For the first 20 years (1947-1966), it concentrated its efforts on standard-setting, beginning with the Universal Declaration of Human Rights, and gradually creating a range of human rights treaties and declarations. In 1967, the Commission was specifically authorized to deal with violations of human rights. Since then, it has set up an elaborate machinery and procedures, country-oriented or thematic (operating through Special Rapporteurs and working groups), to monitor compliance by States with international human rights law and to investigate alleged violations of human rights.

Since the 1990s, the Commission has increasingly turned its attention to the need of States to be provided with advisory services and technical assistance to overcome obstacles to securing the enjoyment of human rights. At the same time more emphasis has been put on the promotion of economic, social and cultural rights, including the right to development and the right to an adequate standard of living. Increased attention is also being given to the protection of the rights of vulnerable groups in society, including minorities and indigenous peoples and to the protection of the rights of the child and of women, including the eradication of violence against women and the attainment of equal rights for women.

The 57th Session of the Commission on Human Rights was convened from 19 March to 27 April 2001 in the Palais des Nations, United Nations Office at Geneva (UNOG). The WHO is an observer at the Commission. This year, WHO made statements under the following agenda items:

- Agenda Item 10: Economic, Social and Cultural Rights
- Agenda Item 12: Integration of the Human Rights of Women and the Gender Perspective
- Agenda Item 13: Rights of the Child
- Agenda Item 15: Indigenous Issues
- Agenda Item 17: Promotion and Protection of Human Rights, including: d) Science and Environment

The Extension of the Mandate of the High Commissioner for Human Rights

In her opening address to the Commission, Mrs Mary Robinson, High Commissioner for Human Rights, stated that she will not be seeking a second term on completion of her four-year mandate in September. However, a few weeks later it was announced by the Chairman of the Commission, Mr Leandro Despouy, that Mrs Robinson had decided to accept the extension of her mandate by one year.

The Right to Development

Several delegations, including Sweden on behalf of the European Union, and Kenya on behalf of the African states, highlighted the threat preventable diseases, such as HIV/AIDS, malaria and tuberculosis, pose to development. In this context, Cuba and Brazil mentioned the current debate

on intellectual property rights. Brazil said that intellectual property must not undermine the right to access health services.

The Independent Expert on the Right to Development, Dr. Arjun Sengupta, clarified the definition of the right to development, saying that it is the process of development in which all rights and fundamental freedoms are realized. This means that economic development does not fulfil the right to development if it is attended by increased inequalities in society or if there is no improvement in indicators of social development, such as education and health. Dr. Sengupta proposed the use of a voluntary "Development Compact" between the donor community and the country concerned as a method of realising the right to development.

A Resolution was adopted on the right to development, with 48 votes in favour, 2 against and 3 abstentions. This Resolution extends the mandate of the Working Group on the Right to Development for a further year, and the mandate of the Independent Expert for a further three years. Furthermore, it requires the Independent Expert to clarify the proposed "Development Compact".

Economic, Social and Cultural Rights

In his address to the Commission, Mr Datuk Seri Hamid Albar, Minister for Foreign Affairs of Malaysia, stated that although vast swathes of the globe are free from the shackles of political oppression, more live in destitution now than ever before. He stressed that economic, social and cultural rights must be given equal emphasis to civil and political rights, and said that whilst the Commission had moved in this direction of recent years, some rights still need to be given due attention, in particular the right to health or medical care.

A Resolution on the realization of economic, social and cultural rights was adopted by consensus. This Resolution notes with interest the adoption of General Comment No. 14 of the Covenant of Economic, Social and Cultural Rights on the right to health. It also calls upon states to ensure access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable and marginalized groups, and to ensure that national public health strategies address the health concerns of all. It appoints an independent expert to examine the question of a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights (an individual complaints procedure which would enable victims, having exhausted local remedies, to assert claims of violations of economic, social and cultural rights, including the right to health.)

Extreme poverty

Ms. Ann-Marie Lizin, Independent Expert, highlighted the connection of extreme poverty to the lack of access to health care and called for the IMF and the World Bank to incorporate human rights into their poverty reduction program. Ms. Lizin pointed out that extreme poverty has a greater impact on women than men and has caused the current worldwide migration of poor people, which is occurring on a scale that has never been seen before. The Independent Expert outlined a strategy which entailed gathering data about; (a) knowledge of their rights among the poor themselves; (b) training for the fight against poverty; (c) the harnessing of capacities to organize and carry out a genuine campaign against poverty, and (d) the necessary mobilization of a world alliance against poverty. This strategy would include interviews with the poorest people conducted by the Independent Expert, and questionnaires directed to governments, national human rights bodies and NGOs.

A Resolution on human rights and extreme poverty, which was adopted by consensus, reaffirmed that extreme poverty constitutes a violation of human dignity and inhibits the full enjoyment of human rights. Urgent national and international action is therefore required to eliminate this phenomenon. Furthermore, special attention must be given to the plight of women and children, who often bear the greatest burden of extreme poverty.

The Right to Food

Jean Zielger, Special Rapporteur on the Right to Food, highlighted the severe impacts undernourishment has on health. He cited the examples of underdevelopment of brain cells in babies and blindness caused by Vitamin A deficiency. Furthermore, he stressed the need to clarify that the right to food covers not only solid food, but also the nutritional aspects of drinking water. Mr Zielger suggested that developments in biotechnology, including genetically modified plants, the ownership of international patents by agro-businesses from the North and worldwide protection of those patents, was one of the obstacles hampering access to and the availability of food. This was supported by an NGO called the International Federation of Rural Adult Catholic Movements who claimed that genetically modified organisms threaten food security and food safety.

A Resolution on the right to food was adopted, with only one vote against (the United States of America). The Resolution stresses that efforts must be made to mobilize and optimize the allocation and utilization of technical and financial resources from all sources, including external debt relief for developing countries, to reinforce national actions to implement sustainable food security policies. It also requests the Special Rapporteur, in discharging his mandate, to pay attention to the issue of drinking water, taking into account the interdependence of this issue and the right to food.

The Right to Housing

Mr. Miloon Kothari, Special Rapporteur on the right to adequate housing, stated that this issue is intrinsically linked to the health issues of safe drinking water and sanitation and that, unfortunately, the housing situation is deteriorating for the majority of vulnerable groups around the world. He argued that while the right to adequate housing has gained momentum in the past decade and a framework has been established through its UN human rights programme, the numbers of homeless are increasing. Mr. Kothari explicitly highlighted the connection of adequate housing to indigenous and tribal people's rights in the form of land

claims and historic dispossession. Finally, the Special Rapporteur advocated a constructive approach, which would combine legal and practical solutions through the cooperation of individuals, civil society, states and international agencies and institutions.

A Resolution on adequate housing as a component of the right to an adequate standard of living was adopted by consensus. This Resolution included a call to states to give particular attention to individuals, most often women and children, living in extreme poverty, and also to ensure non-discriminatory access to adequate housing, in particular for indigenous people and persons belonging to minorities.

Structural Adjustment and Debt Relief

Mr. Fantu Cheru, the independent expert on structural adjustment and foreign debt relief, did not specifically address many health issues, but was very critical of both the Highly Indebted Poor Countries (HIPC) initiative and the Poverty Reduction Strategy Papers (PRSP). He argued that while the HIPC initiative had good intentions, it was inadequate in that it was too closely connected to the PRSPs, did not address the correct debt and was exclusively overseen by the IMF and the World Bank. Mr. Cheru found that the PRSPs were ineffective because they placed too much emphasis on macroeconomic objectives, which were inconsistent with poverty reduction goals. Although there was an unequal power relation between indebted countries and international financing institutions and no poverty reduction framework, the independent expert believed that the PRSPs were a potential tool for developing countries. Mr. Cheru recommended that this whole issue be revisited, immediate relief be provided to eligible countries, and that, among other issues funding should be focused on HIV/AIDS.

A Resolution on the effects of structural adjustment policies and foreign debt on the full enjoyment of human rights was adopted by a roll-call vote of 31 in favour and 15 opposed, with 7 abstentions. This Resolution stresses the need for the macroeconomic and financial policy issues arising from foreign debt to be integrated, on an equal footing and in a consistent way, with the realization of the broader social development goals of the debtor country. It affirms that the basic rights of the people of debtor countries to, *inter alia*, health services and a healthy environment cannot be subordinated to the implementation of structural adjustment policies, growth programmes and economic reforms arising from debt. It also urges for measures to be taken to alleviate the debt problem of developing countries particularly affected by HIV/AIDS, so that more financial resources can be released and used for health care, research and treatment of the diseases of the population in the affected countries.

The Movement and Dumping of Toxic Products and Waste

Mrs Ouhachi-Vesely, Special Rapporteur on the movement and illegal dumping of toxic products and waste, said that toxics are a serious and constant threat to many human rights, most importantly the rights to life and to health. She told the Commission that rather than there having been a fall in the practice of dumping toxics from industrialised countries in the third world, there had simply been an adaptation in the methods of this illegal phenomenon. Human Rights Advocates International (NGO) called for the expansion of her mandate to cover areas that fall outside its scope. This NGO was particularly concerned by the fact that the current mandate does not cover the use of highly toxic industrial pesticides, the use of depleted uranium during warfare, or the export of hazardous waste when the purpose is claimed to be recycling.

A Resolution on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights was adopted by a roll-call vote of 38 in favour and 15 opposed, with no abstentions. The Resolution renews the mandate of the Special Rapporteur for three years and reaffirms that illicit traffic in and dumping of toxic products constitute a serious threat to the human rights to life, health and a sound environment. The WHO, among other organizations, is invited to intensify coordination, international cooperation and technical assistance on environmentally sound management of toxic chemicals and hazardous wastes, including the question of their transboundary movement.

Human Rights in the Context of HIV/AIDS

Many delegations and dignitaries highlighted the relationship between human rights and the spread of HIV/AIDS. Poland stressed the benefits respect for human rights has in the fight against the epidemic, by:

- Reducing vulnerability to HIV/AIDS infection
- Reducing the negative impact of the epidemic on those infected or suspected of being infected as they are able to live without discrimination
- Facilitating the creation and implementation of effective HIV/AIDS prevention and treatment programmes

A Resolution on the protection of human rights in the context of HIV/AIDS, co-sponsored by over 55 countries from all regions, was adopted by consensus. States are also urged to ensure that their laws, policies and practices respect human rights in the context of HIV/AIDS, and in particular prohibit discrimination.

The United States of America delegation stated that prejudice and societal discrimination put many women at a greater risk from HIV/AIDS, as their lack of control over sexual relationships increases the risk of contracting the virus. In addition, the greater societal stigma they face once infected makes it more difficult to seek adequate care and treatment.

Country delegations from all regions, IGOs and NGOs, all expressed concern at the threat that HIV/AIDS poses to children's health and well-being. Of particular concern was the number of children orphaned as a result of the virus. The International Federation of the Red Cross and Red Crescent Societies (IFRC&RC) cited UNAIDS estimation that one third of all children in southern Africa will be orphans by 2010, and noted that children orphaned by HIV/AIDS often

suffer malnutrition, removal from school and introduction to the labour market, and discrimination.

The HIV/AIDS pandemic was repeatedly identified as a major obstacle to the realisation of economic, social and cultural rights. Several state delegations, IGOs and NGOs stressed that pharmaceutical companies and the international community must find a way to provide accessible medical treatment. Centre Europe – Tiers Monde (NGO), said that it needs to be made clear that the right to life is primary, in order to stop pharmaceutical companies from making exorbitant profits on drugs to combat HIV/AIDS. Brazil suggested that the high cost of these medicines constituted discrimination against the poor and a violation of the right to health, and Zambia stated that promotion and protection of the rights of people with HIV/AIDS has no meaning if it does not give them access to affordable drugs.

A Resolution on access to medication in the context of pandemics such as HIV/AIDS was adopted by a roll-call vote in which there were 52 votes for, 0 against and only 1 abstention (the USA). The Resolution, which was co-sponsored by over 50 countries from all regions, reaffirms that the right of everyone to the highest attainable standard of physical and mental health is a human right, and recognizes that access to medication in the context of pandemics such as HIV/AIDS is one fundamental element for progressive realization of this right. States are called upon to pursue policies which would promote the availability, accessibility and affordability for all without discrimination, of scientifically appropriate and good quality pharmaceuticals and medical technologies used to treat pandemics such as HIV/AIDS. They are also asked to adopt legislation or other measures to safeguard access to such pharmaceuticals and medical technologies from any limitations by third parties.

In an explanation of its abstention on this Resolution, the USAdelegation said that over-emphasis on the use of pharmaceuticals detracts from the more fundamental need for primary prevention. The USAwas concerned that the apparent questioning of intellectual property rights in the Resolution could discourage investment in the research that is needed to find cures. This delegation suggested that complex health matters are best dealt with by the WHO, as the UN organization with technical competence in those matters. The USA was also concerned about references in the Resolution that appeared to be aimed at creating a new category of rights, such as the reference to the "highest attainable standard of physical and mental health". (The USA has not ratified the International Covenant on Economic, Social and Cultural Rights which contains Article 12 "the right to the highest attainable standard of physical and mental health".)

The Rights of Women and the Girl Child

The growing problem of trafficking, which affects women and children in particular, was one of the most frequently addressed areas of concern. The adoption of the Convention against Transnational Organized Crime and the Protocol to Prevent and Punish Trafficking in Women and Children, which supplements it, were widely welcomed. The EU stressed that inequality and discrimination against women and children are important underlying factors in this contemporary form of slavery, and several delegations noted the need to increase international, national and bilateral cooperation to combat trafficking.

A Resolution on the traffic in women and girls was adopted by consensus. It urges Governments to take measures to address the root factors that encourage trafficking in women and children, and

to criminalize this practice, whilst ensuring protection and assistance to the victims, including through the provision of health care.

The International Criminal Tribunal for the Former Yugoslavia's Foca Judgement was commended by many delegations as the first conviction in which acts of sexual violence committed during wartime were prosecuted as crimes against humanity. It was considered as a major step forward in the fight against impunity by the Special Rapporteur on Violence Against Women, Ms. Radhika Coomaraswamy, and by states, observers and NGOs from all regions.

The multiple discrimination women face when gender discrimination is compounded with other forms of discrimination was also a subject of discussion. This issue was addressed by several states, as well as the High Commissioner in her opening address and Dr. Nafis Sadik during the Special Debate on Tolerance and Reconciliation. It was stressed that women suffering from this multiple discrimination also suffer multiple disadvantages, thus further inhibiting their enjoyment of human rights.

Delegations from all regions stressed the need to ensure women's access to health care, including sexual and reproductive health care. The United Nations Population Fund stated that in spite of national and international efforts to improve reproductive health, access to information, education, and quality reproductive health care is still below the level required.

Delegations from all regions condemned the continuation of harmful traditional practices. On behalf of the EU, Ms Anna Lindh, Minister for Foreign Affairs of Sweden, said that female genital mutilation, which deprives thousands of little girls of a normal healthy life, was continued out of ignorance or sometimes religious misinterpretations, and had no other purpose than to limit and control women. The International Commission of Jurists and Human Rights Watch (both NGOs) highlighted the inadequate protection available to victims of 'honour' crimes, and the failure to prosecute their perpetrators effectively.

Many states expressed their concern at domestic violence. Mexico stated that domestic violence is strongly linked to women's lack of economic resources and violation of their land and housing rights.

A Resolution on the elimination of violence against women was adopted by consensus. It affirms that the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty. Furthermore, the measure strongly condemns physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women. UN agencies are requested to give consideration to violence against women within their respective mandates and to cooperate with and assist the Special Rapporteur, in particular by responding to her requests for information on violence against women, its causes and consequences.

Particular concern was expressed at the effects discrimination against women and girls has on the enjoyment of economic, social and cultural rights. For example, Jean Zielger, Special Rapporteur on the right to food said that gender discrimination was one of the key obstacles to the realization of this right, and the International Alliance of Women (NGO) said that lack of land rights is one of the origins of the feminisation of poverty.

In presenting a Resolution on women's equal ownership of, access to and control over land and equal rights to own property and adequate housing, the delegation of Mexico noted that WHO studies have highlighted the link between morbidity and mortality and the lack of adequate housing. This Resolution, which was adopted by consensus, reaffirms resolution 42/1 of the Commission on the Status of Women, which, *inter alia*, urged States to design and revise laws to ensure that women are accorded full and equal rights to own land and other property, and the right to adequate housing, including through equality in inheritance. The United States of America called for a vote on this paragraph to remove the mention of the right to housing, but only the USA was in favour of this modification.

A Resolution on integrating the human rights of women throughout the UN system was adopted by consensus. This Resolution recognizes the importance of examining the intersection of multiple forms of discrimination from a gender perspective, and their impact on women's advancement.

The Rights of the Child

Several delegations mentioned the problems faced by children living in extreme poverty. Norway, for example, stated that poverty causes lifelong damage to children's minds and bodies, with a continued cycle of poverty transmitted from one generation to the next. Furthermore, this delegation suggested that investments in children are the best guarantee for achieving equitable and sustainable development, and that poverty reduction must begin with the protection and realisation of the rights of the child.

Algeria, Cuba and Senegal all stressed that children's right to health continues to be violated with 170 million children suffering from malnutrition and 11 million children dying from preventable diseases each year.

Delegations from all regions continue to be concerned by sexual exploitation of children and child trafficking. It was also noted with concern that new technology is being used to facilitate sexual abuse of children. Several states condemned the increasing use of the Internet for the dissemination and exchange of pornography. Sweden, on behalf of the EU, called for worldwide action and cooperation to rid the Internet of pornography.

Sweden also raised the problem of violence against children in institutions, schools and at home, including corporal punishment. The Swedish delegation told the Commission that violence against children violates the rights of the child to be treated with dignity and respect.

In his statement to the Commission, Mr Olara Otunnu, Special Representative of the Secretary General for Children and Armed Conflict, said that in the three and a half years that he has held the post, tangible progress had been achieved in moving forward the agenda of children affected by armed conflict. However, Mr Otunnu registered his concern at the gap between the commitments made by parties to armed conflict and the reality that children face at times of war, and he stressed the need to organize a more effective and practical way to monitor the conduct of warring parties.

In an omnibus Resolution on the rights of the child, the Commission called upon States to ensure the right of all children, without discrimination, to the enjoyment of the highest attainable standard of health. The Resolution calls on states to take all appropriate measures to develop sustainable health systems and social services, and to ensure access to such services and systems without discrimination. States were asked to pay particular attention to adequate food and nutrition to prevent disease and malnutrition, to prenatal and post-natal health care, to the special needs of adolescents, to reproductive and sexual health and to threats from substance abuse and violence. Furthermore, States are asked to give support and rehabilitation to children and their families affected by HIV/AIDS, and also to involve children and their caregivers to ensure the effective prevention of HIV infections through correct information and access to affordable, voluntary and confidential care, treatment and testing, giving due attention to the prevention of mother-to-child transmission of the virus. States are also asked to take measures to prevent violence against children and to protect them from torture and other forms of violence,- physical, mental and sexual. States are called upon to take all necessary measures to eliminate all forms of discrimination against girls, including all forms of violence, harmful traditional practices, including female genital mutilation, the root causes of son preference, marriages without free and full consent of the intending spouses and early marriages.

Vulnerable Groups

Persons with Disabilities

The delegation of the Republic of Ireland highlighted the need for better harnessing of UN human rights instruments and mechanisms in order to protect and monitor the human rights of persons with disabilities. Persons with disabilities are vulnerable to abuse of their economic, social, cultural, civil and political rights, such as denial of their liberty without due process, denial of voting rights, forced sterilization, denial of educational opportunity, employment discrimination and inaccessible public services. Ireland noted that vivid testimony of the reality of human rights violations in mental health was recently heard at the WHO round table discussion on mental health and human rights.

Migrants

The situation of migrant workers drew the attention of many delegations, and there was particular concern at the increase in xenophobia over recent years. The International Labour Organisation said that whilst the current dynamics of globalisation are resulting in increased human displacement and mobility, extensive hostility against, abuse of and violence towards migrants and other non-nationals is becoming much more visible world-wide.

A Resolution on the human rights of migrants was adopted by consensus. This measure strongly condemns all forms of racial discrimination and xenophobia related to access to employment, vocational training, housing, schooling, health services and social services.

Indigenous Issues

Discussion on indigenous issues focused on the United Nations mechanisms that are in place to monitor the human rights of indigenous peoples. Whilst the decision to create a Permanent Forum on Indigenous Issues was widely welcomed, there was a divergence of views over whether it is necessary to appoint a Special Rapporteur for this group. The Resolution on human rights and indigenous issues, which proposed the appointment of such a Special Rapporteur, was eventually adopted by consensus, but Canada, the Russian Federation and India, speaking on behalf of the Asian Group, all expressed the view that the measure was somewhat premature. The role of the Special Rapporteur will be to collect and exchange information on violations of the human rights of indigenous people, as well as making recommendations on appropriate measures and activities to prevent and remedy such violations. The Resolution requests the Special Rapporteur to pay special attention to violations of the human rights of indigenous children.

Science and the Environment

A Resolution on science and the environment was adopted by consensus. It invites the High Commissioner on Human Rights and the Executive Director of the UN Environment Programme to organize a joint seminar to review and assess progress achieved since the UN Conference on Environment and Development on the topic of promoting and protecting human rights in relation to environmental questions.

Bioethics

President Chirac of France made a statement to the Commission, in which he said that the revolution in genetics gave great hope for improvements in health and quality of life. However, he raised the problem of bioethics, asking how the integrity of the human person could be protected when experiments were taking place in human cloning. He said that UNESCO has shown the way with the Universal Declaration on the Human Genome and Human Rights and the creation of an independent ethical commission. President Chirac suggested that using this model, the Secretary General could become the mainspring of ideas on this matter by surrounding himself with experts in the field. Their first task could be to consider a universal text on bioethics.

A Resolution on human rights and bioethics was adopted by consensus. It invites the WHO, among other organizations, to report to the Secretary-General on the activities conducted to ensure that the principles set forth in the Universal Declaration on the Human Genome and

Human Rights are taken into account. This Resolution also invites the Secretary-General to make proposals concerning ways to ensure proper coordination of activities and thinking on bioethics throughout the UN system. He is invited to consider establishing a working group of independent experts from, *inter alia*, the WHO, which would reflect, in particular, on the possible follow-up to the Universal Declaration. The measure draws the attention of Governments to the importance of research on the human genome and its applications for the improvement of health, as well as to the need to safeguard the rights of the individual and protect the confidentiality of genetic data concerning a named person.

Conclusion

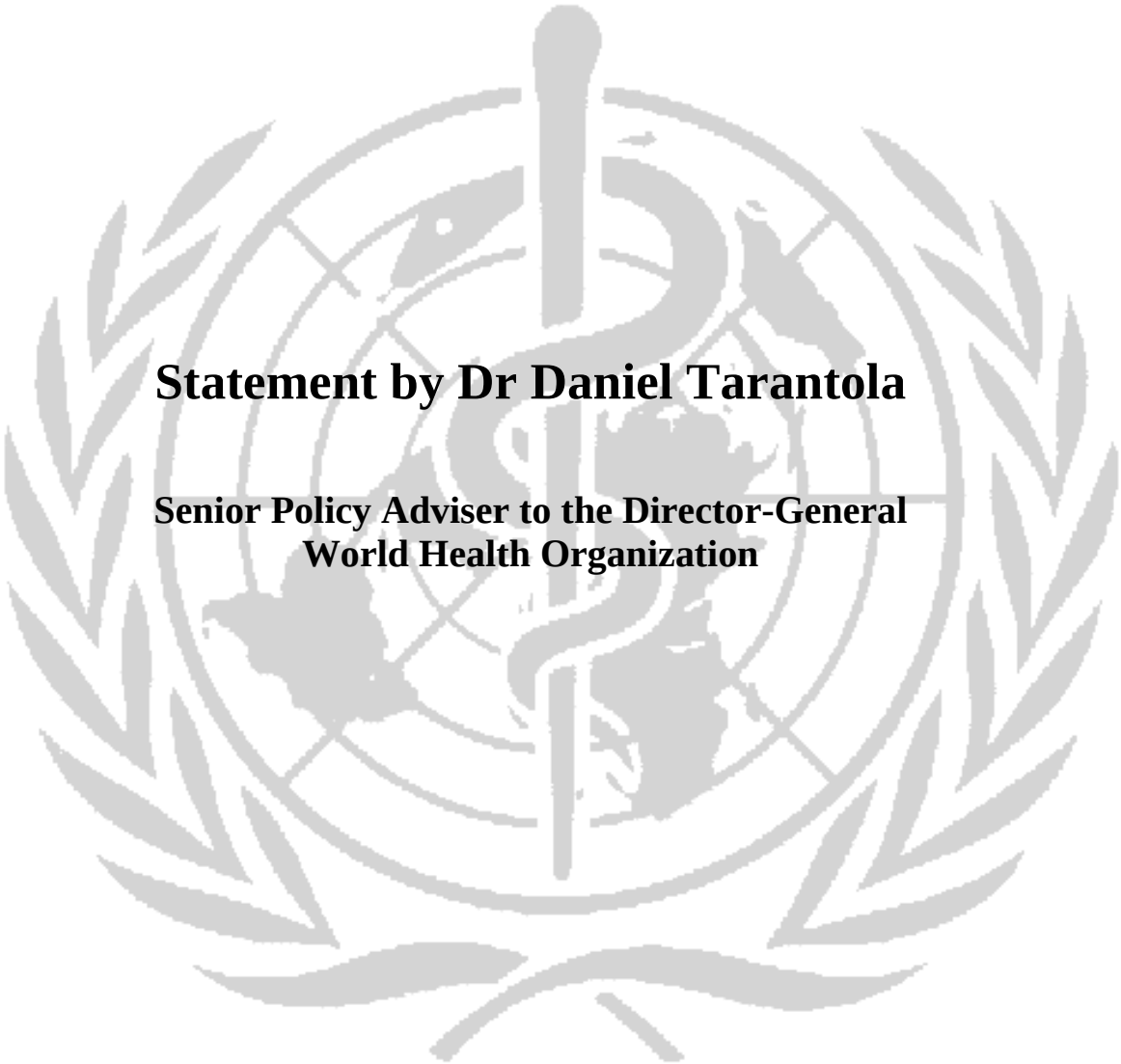
Perhaps the most significant development during the 57th Session of the United Nations Commission on Human Rights, was the adoption of the Resolution on access to medication in the context of pandemics such as HIV/AIDS. The impact of AIDS on the realization of human rights was addressed under many agenda items. Delegations highlighted the obstacle posed by the pandemic to the realization of economic, social and cultural rights, the threat that the epidemic poses to children's health and well-being, and the fact that women are at a heightened risk of infection from HIV/AIDS. However, the promotion of accessibility, affordability and availability of medication was a particular concern, as the co-sponsorship of the Resolution on access to medication in the context of pandemics such as HIV/AIDS by over 50 states demonstrates. In her closing address, the High Commissioner for Human Rights singled out this Resolution as a most welcome initiative, and said that it had identified one of the most urgent and practical applications of the right to health in the world today

Another important resolution was the Resolution on human rights and indigenous issues, which created the post of Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. Although the Working Group on the elaboration of a draft Declaration on the Rights of Indigenous Peoples has been at work for several years, and the Permanent Forum on Indigenous Issues will become operational in 2002, until the adoption of this Resolution there was no UN mechanism to protect and monitor the human rights of indigenous people. The appointment of a Special Rapporteur should fill this vacuum.

However, whilst there were many positive developments, Mrs Mary Robinson noted in her closing statement that the 57th Session of the Commission on Human Rights saw more voting, amendments from the floor, procedural manoeuvres and rights of reply exercised than any in recent memory. She therefore pointed out that we need to ensure that we do not lose sight of why we are here. Leandro Despouy, Chairman of the Commission, said that it is necessary to undertake further reforms to increase the efficiency of the Commission, including encouraging increased participation of UN specialized agencies in the deliberations of the body.

UN Commission on Human Rights

Agenda Item 10 Economic, Social and Cultural Rights



Statement by Dr Daniel Tarantola

Senior Policy Adviser to the Director-General
World Health Organization

Geneva, 3 April 2001

Thank you, Chair,

The World Health Organization is honoured to address the 57th session of the Commission on Human Rights and to have the opportunity to talk about the advancement of health and human rights. The potential of human rights to contribute to the practice of public health, and to more equitable health outcomes, is being increasingly understood by policymakers and practitioners alike.

This trend is notable in the human rights discourse. WHO provided technical input to the preparation of the General Comment No. 14 on the right to the highest attainable standard of health, adopted last year by the Committee on Economic, Social and Cultural Rights, which clarified the nature and scope of this complex human right.

As part of the recent UN system-wide efforts to integrate human rights in the work of the UN, WHO has been developing a health and human rights strategy. This evolving document examines ways in which Health and Human Rights issues can feature within WHO's work, in supporting it's 191 member states, and in responding to the health needs of their people.

There are many relevant experiences in the health field. The experience of helping governments, communities and affected people in responding to HIV/AIDS has shown the importance of ensuring that health challenges are best addressed in ways that safeguard human rights. An important dimension of this relationship is the design and implementation of health policies and programmes in ways that promote, and do not in any way violate, human rights.

There are other linkages between health and human rights. Lack of attention to - and violations of - human rights may have direct and serious consequences for people's health. Examples include harmful practices, like female genital mutilation or systematic discrimination on the basis of sex and gender roles. Conversely, vulnerability to, and impact of ill health, can be reduced by taking steps to respect, protect and fulfil human rights. Hence, societies that address discrimination on the basis of sex and gender roles, race and religion, and tackle homophobia, sexism, and racism, also create conditions necessary for the better health of all.

In WHO, particular programs are addressing the linkages of their work with human rights. Later in this meeting, statements will be made by WHO under specific agenda items on children, gender and women's health, indigenous issues and bioethics.

Access to essential drugs is explicitly recognized as included in the right to health as elaborated in General Comment No.14. It should be noted here that treatment and cure for TB costs only $11 per person per year. Access to care for TB is not only a health issue but a social, political, and economic challenge. We must bridge the gap between the legal instrument and the reality - and turn TB and other infectious diseases into epidemics of the past.

Within its corporate strategy, WHO focuses on those illnesses which disproportionately affect the most vulnerable population groups. This inevitably brings us into the human rights discourse. It helps to identify groups who are disenfranchised, and, as a result, are denied access to essential care. These include, for example, prisoners who are disproportionately affected by TB and whose access to health-care is limited in many prisons throughout the world.

We should also ask ourselves why more than 80 per cent of smokers begin smoking before the age of 18. Are the core guiding principles of the Convention on the Rights of the Child being applied in all state action and are "appropriate measures being taken to ensure that all segments of society are informed and have access to education?"

Every day 3,000 children die from malaria, a disease which spreads and kills in situations where individuals' right to a healthy environment is not fulfilled. WHO is mobilizing against the deadly spread of malaria - the cause of over a million deaths and millions of lost work and school days in Sub Saharan Africa. Yet there is an inadequate response from economically affluent countries to the call by Africa's Heads of State in April last year, for international solidarity in the effort to Roll Back Malaria in Africa.

Finally, among the major health conditions in our world, Mental Health is a much neglected area where the human rights dimension is an integral component. Discrimination, stigma and social exclusion may be both a cause and a consequence of mental disorders. It is shameful to witness the continuing neglect and mistreatment of some people in mental institutions the world over. A human rights approach - that centers on the human dignity of the individual concerned - is key to addressing the public health challenges posed by mental health. On Friday this week - Word Health Day - a panel discussion is being held here at the Commission - in room 27 - on *why we must stop neglecting mental health as a human rights issue*.

To conclude, in addressing the Commission under this agenda item: economic, social, and cultural rights, WHO recognizes the importance of living up to the challenge of implementing *all* human rights. The interdependence and indivisibility of all human rights prompts the need for more attention to civil and political rights but also, and increasingly so, to economic, social and cultural rights, especially the right to health. This should be a priority for all the international community. We applaud the work of Mary Robinson, the High Commissioner for Human Rights, in leading the response to this challenge.

Finally, we must remember that the main obstacle before us is the poverty of millions of the world's people. This begs resources and political will. Above all it requires courage and vision. In the struggle to tackle poverty and ill-health and to shed light on the most vulnerable, we need to explore new options and synergies for work in health and in human rights.

Thank you.

Annex 2: Agenda Item 12: Integration of the Human Rights of Women and the Gender Perspective

World Health Organization

Statement of the World Health Organization

Agenda Item 12:
Integration of the human rights of women and the gender perspective

The 57th Session of the UN Commission on Human Rights

9 April 2001

Thank you Mr Chairman.

It is an honour to address the Commission on Human Rights and to have this opportunity to reaffirm WHO's commitment to health and human rights. WHO recognises that women's right to the highest attainable standard of health is interdependent on the fulfilment of other human rights. Key among these are the right to freedom from discrimination on the basis of sex and gender roles, the right to information and education, as well as the right to individual autonomy and to participate in decisions that affect all aspects of their lives, including health.

Reproductive and sexual health is, and will continue to be, central to women's health and well being and therefore to their human rights. Reproductive health conditions account for 22 per cent of healthy years of life lost to women annually, in comparison with only 3 per cent for men. Each year, more than 500,000 women die of pregnancy-related causes and countless more suffer illness, infection and long-term disability including infertility and other stigmatising conditions such as vesico-vaginal fistula. The major causes of death and disability are haemorrhage, infection, eclampsia, obstructed labour and unsafe abortion. These deaths and disabilities can be prevented by timely care given by qualified health personnel. Access to information and the means to prevent unwanted pregnancies are also essential, as well as legislation, policies and practices that are made with a view not only to saving women's lives and preserving their health, but also to protecting, respecting and fulfilling women's human rights. WHO is working with countries to help develop such policies and practices, as well as elaborating and promoting the norms and standards needed to ensure the delivery of good quality health care services.

Mr Chairman,

Over the past few years, it has become clear that women and girls are particularly vulnerable to sexually transmitted infections including HIV/AIDS. This is not only because of biological susceptibility, but also because of serious gender power imbalances. In many situations women are dependent financially and emotionally on

their male partners, family members or employers, leading to a lack of power to control when, how and with whom they have sex. In 1980, 20 per cent of the adults infected with HIV were women. By the end of 1999 46 per cent of HIV positive adults were women. In various studies, between 80 and 90 per cent of infected women in ante-natal clinics have been found to have no possible source of infection other than their own husbands. In some countries infection rates of adolescent girls now run 3-6 times higher than those of boys of the same age. This underlines the critical importance of collecting sex-disaggregated data, and of conducting a gender analysis to understand why there are such discrepancies. Policies, interventions and health services must be designed specifically to redress such gender inequalities. WHO is working with Member States to take such steps in their HIV/AIDS and reproductive health programmes, as a key to addressing both the dramatic health effects of the epidemic as well as those of gender inequities and inequalities. It is also supporting research into areas which specifically address some of women's most critical health needs in this area, such as choices in pregnancy, childbirth and infant feeding.

Violence against women continues to be a major public health and human rights concern. Rape and domestic violence account for an estimated 5-16 per cent of healthy years of life lost by women of reproductive age, and the proportion of women who experience violence at the hands of an intimate partner during their lifetime ranges from 10 to more than 50 per cent. Women in all countries and all social strata are at risk of such violence from infancy through childhood and adolescence into adulthood and old age. Physical violence is frequently accompanied by sexual abuse, and the extent and complexity of the health consequences are still being assessed. They include physical injury and death, but also mental health problems such as depression, phobias and eating disorders, as well as reproductive and sexual health problems such as unwanted pregnancy, sexually transmitted infections including HIV, irritable bowel syndrome, and gynaecological disorders. Physical abuse and coerced sex are associated with emotional and behavioural damage leading to low self esteem, drug and alcohol abuse and high risk sexual behaviour including early sexual début, multiple partners, unprotected sex and prostitution. Intimate partner violence also has an impact on infant and child health: the children of women suffering such violence have a higher rate of mortality, diarrhoea and malnutrition than those of women not having suffered such violence. WHO is supporting

the collection of comparative data from a variety of countries on the incidence of domestic violence, the health consequences and the related risk and protective factors. It is also elaborating medico-legal guidelines for health workers to help treat and refer women victims of sexual violence who present to the health service.

Discrimination against girls and women manifests itself in culture-specific practices such as female infanticide, forced marriages of girls, dowry killings, abusive widowhood practices and female genital mutilation. The incidence, prevalence and impact of such harmful traditional practices have barely been examined, with the exception of female genital mutilation. Between 100 –140 million women have undergone female genital mutilation. It is estimated that 2 million girls are at risk of undergoing some form of female genital mutilation every year, and that at least 15 per cent of these suffer the most severe form – infibulation - which is the cutting away of the external genitalia and stitching the vaginal opening. WHO has consistently opposed the practice of female genital mutilation by health professionals in any setting. Unless there is a concerted effort to eliminate the practice, women's human rights will continue to be violated and women and girls will continue to bear the scars, trauma and health risks.

In conclusion, Mr Chairman,

Women's and girls' health is affected throughout their lifespan by neglect and violations of rights that occur in early childhood and continue throughout their lives. These cumulatively contribute to women's and girls' ill-health. It is therefore critical that public health and human rights be used together to achieve both better health outcomes and greater respect, protection and fulfilment of all women's human rights.

Thank you.

Annex 3: Agenda Item 13: Rights of the Child

The 57th session of the UN Commission on Human Rights

Agenda Item 13 Rights of the Child

Mr Chairman,

As the Commission may recall, at its 56th session, WHO addressed the particular situation of adolescent boys. This year, in light of the UN General Assembly Special Sessions on Children and HIV/AIDS, we would like to emphasize the sexual and reproductive health of the world's 1.2 billion adolescents, as a key component of adolescents' overall health and development. It is the commitment of WHO to support the optimal physical and psychosocial development of adolescents, including a healthy sexuality, and thereby the protection and fulfilment of their right to the highest attainable standard of health.

In September, the Special Session on Children will pay specific attention to this once largely forgotten but critically important age group, and WHO strongly supports the inclusion of adolescent health and development as one of the key outcome areas of the Session. Though adolescents are generally perceived to be healthy, more than one million of them annually lose their lives mostly through accidents, suicide, violence, pregnancy related complications and treatable or preventable illnesses.

Adolescents are at the centre of the HIV/AIDS pandemic, with over two and a half million youth becoming infected with HIV each year. In view of this, WHO is pleased to note the inclusion of the internationally agreed target on reduction of HIV/AIDS using infection rates in youth as the benchmark, in the outcome documents for both the Special Sessions on Children and on HIV/AIDS. WHO has strengthened its attention to this area by, *inter alia*, expanding its HIV/AIDS department with a view to being better able to fulfil its technical functions with its Governmental, UN and civil society partners.

Furthermore, globally, between one-fifth and one-sixth of all births each year are to women aged 15 to 19. Adolescent girls, especially in the younger age group, face special risks in pregnancy, as do their babies. More women aged 15-19 years die from pregnancy-related causes than from any other cause, making maternal mortality among this age group twice as high as for women in their 20s. Young adolescents, especially those not yet 15, are more likely than older adolescents and adult women to experience premature labour, miscarriage and stillbirth and they are up to four times as likely as

women over 20 to die from pregnancy-related causes. These deaths and ill health are the tragic manifestation, among other things, of sex and age discrimination both within society broadly and at the level of health services. Adolescents' right to the highest attainable standard of health can only be protected and fulfilled through the provision of information and services to address their reproductive and sexual needs in a manner consistent with their evolving capacities as young people, as emphasized in the ICPD Plus Five and Beijing Plus Five Consensus documents. These services should include the prevention of unwanted pregnancy, appropriate care during pregnancy and childbirth, and the prevention and treatment of sexually transmitted infections, including HIV/ AIDS.

Sexual and reproductive health of adolescents is further undermined by the alarming and very widespread incidence of sexual violence, a direct violation of the right to freedom from all forms of violence, and which has an impact on adolescents' enjoyment of all other human rights. Sexual violence affects children and adolescents in all parts of the world. In some countries, up to 36% of girls and 29% of boys have suffered from child sexual abuse, while in others, up to 46% of girls, and 20% of boys have experienced sexual coercion.

Child sexual abuse and coercion may result in non-fatal injuries, sexually-transmitted diseases including HIV/AIDS, unwanted pregnancies, mental health sequellae and death. Victims of child sexual abuse and coercion are more likely to adopt self-destructive behaviours; they are twice as likely to have multiple partners in a single year and to engage in casual sex with partners they do not know; and four times as likely to have worked in prostitution. WHO has addressed sexual violence through the production of the first World Report on Violence and Health, which will present global evidence on the magnitude and causes of sexual violence, and will propose effective strategies and policies to prevent the growth of this problem

In conclusion, Mr Chairman,

WHO, in collaboration with its UN partners, has articulated five major areas of interventions for the promotion of adolescent health and development. These are the creation of safe and supportive environments, provision of information, provision of

counselling and skills, and improving their access to health services and facilitating their participation. However, all too often, these basic requirements and indeed rights continue to remain largely unfulfilled, leading to poor personal development and endangerment of future productivity. In many ways, it could be said that problems such as HIV/AIDS and too early and unwanted pregnancies are symptomatic of a collective failure to protect and fulfil the health and development rights of adolescents

WHO is committed to support Governments in their efforts to provide the safe and supportive environments for the health and development of adolescents; environments that provide them opportunities to grow and thrive in good health. The participation of multiple sectors in the community, including young people themselves, is crucial in this respect.

Finally, WHO calls upon States Parties to the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women to give effect to their legal obligations under these instruments and to strengthen implementation efforts.

Thank you, Mr Chairman.

UN Commission on Human Rights

Agenda Item 15: Indigenous Issues

Statement by Ms Jacqueline Sims

WHO Focal Point on Health of Indigenous Peoples
World Health Organization

Geneva, 12 April 2001

Mr Chairman,

The World Health Organization greatly appreciates this opportunity to address the 57th Session of the Commission on Human Rights on the question of Indigenous Issues.

WHO notes with grave concern the dearth of reliable data and information on indigenous peoples' health, which impedes a broad national and global understanding of the range and extent of health issues affecting indigenous peoples' everywhere. While much is known informally, scientifically accurate and widely available knowledge on indigenous health is incomplete and fragmented.

This information gap obstructs regional and national efforts to proceed with the establishment of workplans on indigenous peoples' health, as called for in World Health Assembly Resolution 53.10 in May 2000, as the necessary evidence-base and infrastructural foundation for creating such plans is absent. Even in industrialized countries where considerable health research has taken place, a consistent national assessment of indigenous peoples' health status is hard to obtain and wide discrepancies in estimates and statistics are common.

Despite the data gaps, some consistent patterns emerge. These show that indigenous peoples everywhere have generally higher morbidity and mortality patterns than other population groups, lower life expectancy, and higher infant and child mortality rates. Basic services such as water, sanitation, transport, and energy – all strongly linked to health status – tend to be less frequently available to indigenous communities. Environmental quality is frequently low in areas where indigenous peoples reside.

Trends also show that indigenous and tribal peoples in a wide range of developing countries suffer overwhelmingly from malaria, tuberculosis, respiratory and diarrhoeal disease, as well as from nutritional deficiencies. Injuries and disabilities affect high proportions of indigenous peoples everywhere. The non-communicable and lifestyle diseases commonly associated with indigenous peoples – diabetes, mental health issues, substance use, and violence-related injuries – occur almost exclusively in a small number of industrialized countries. Health issues typical of developing countries – malnutrition, malaria, TB, and diarrhoeal disease – are found among indigenous and tribal peoples in developed countries.

The common denominators linking the types of ill-health experienced by indigenous peoples everywhere are poverty and marginalization, exacerbated by lack of access to culturally competent health services. These signal indigenous peoples' inability to exercise the enjoyment of the right to the highest attainable standard of health, to adequate food and nutrition and, overall, to an adequate standard of living.

Overt or implicit discrimination violates one of the fundamental principles of human rights and often lies at the root of poor health status. Systematic and wide-spread discrimination over centuries has manifested itself in poor living conditions and poor health of indigenous peoples all over the world. It continues to manifest itself through unequal access to health services.

The provision of and access to health-related information is considered an "underlying determinant of health" and an integral part of the right to health (General Comment 14 adopted by the Committee on Economic, Social and Cultural Rights, May, 2000). Systematic information on the types of ill-health affecting indigenous peoples in both developed and developing countries is needed, as the scattered and fragmented patterns characteristic of indigenous peoples' health research initiatives do not permit aggregation or comparison. The present small scale of most studies, the inconsistency of methodological approaches, and the incomparability of results regionally or globally impedes identification of the common and consistent root causes of indigenous peoples' poor health – causes often linked to the neglect or violation of basic human rights.

As the right to participation is a guiding principle for our work in this area, WHO intends to work with Member States as well as indigenous partners to strengthen systematic data collection by ethnicity, gender and age, and to develop a comparative operational health research programme with strong capacity-building and training components. In this way, the evidence-base on health disparities between indigenous and other population groups will be expanded and strengthened, which in turn will enhance the capacity of WHO and its Member States to develop specific plans of action in accordance with recent WHA Resolutions on the issue of indigenous health.

To conclude, WHO can play an important role in contributing to the protection and promotion of indigenous peoples' rights world-wide, through the creation and use of a sound evidence-base. This may serve as an important step towards making the enjoyment of the highest attainable standard of health for indigenous peoples worldwide a reality.

Thank you.

Annex 5: Agenda Item 17: Promotion and Protection of Human Rights, including: d) Science and Environment

The 57th session of the UN Commission on Human Rights

Agenda Item 17d Promotion and protection of human rights: Science and Environment

Thank You Chair,

The sequencing of the human genome marks the beginning of a new era of scientific discovery. The application of this new knowledge to medicine provides an unparalleled opportunity to advance the health of all. At the same time, the **ethical, legal and social implications** (ELSI) of genomics have come into sharper focus. Concerns raised about these implications relate directly to the impact of the new scientific advances on the promotion and protection of human rights. This is evident from the strength of public concern about cloning, genetically modified food organisms, the possibility of genetic enhancements and the ethics of genetic research on vulnerable populations.

Several key human rights lie at the heart of ethical, legal and social implications of genomics. These are the rights to:

- Equality and non-discrimination;
- Education, information and participation;
- Privacy, individual autonomy and physical integrity;
- The highest attainable standard of health; and to
- Life, to benefit from scientific progress, to social security, and to an adequate standard of living, including adequate food, water, clothing and housing.

These rights make an impact on both the uses of genomics and the research conducted to discover those uses.

We are in the process of consultations designed to develop an agenda and work plan for WHO in the area of ethical, legal and social implications of genomics, especially for developing countries. Discussions with our regional offices, informal planning groups and other UN agencies are on-going but have highlighted the link between the implications of genomics and human rights. I would like to take this opportunity to expand on the relationship between genomics and human rights by presenting the ethical, legal and social issues that have been raised by our consultations and may form the basis for a new WHO initiative in this area. There are six topics.

The first is the **use of genetics in prevention** which means the introduction of genetic tests and related technologies into communities. This raises questions about equality in distribution of services and discrimination as a result of genetic disclosure.

Many developing countries lack even the most basic genetic services, others have well-developed programs that reach only a fraction of their population. Yet in some developing countries, genetic disorders and congenital malformations are among the top public health priorities. Genetic tests are currently available to detect rare, monogenic disorders and congenital malformations. Recent advances in genomics mean that soon a variety of tests for disease susceptibility will also be available. The ethical and social implications of genetic testing are two-fold:

- The first is to ensure that results of genetic testing do not lead to discrimination, either for employment, insurance or education or to stigmatization of families or communities.
- The second is to ensure that the genetic tests known to be effective in promoting healthy communities are available to all, including those in developing countries.

Failure to address the issue of provision of proven, effective genetic services impedes the right to benefit from scientific progress.

The second issue is **resource allocation**. There is a tendency for pharmaceutical and biotechnology companies to focus their research and development capacity on diseases prevalent in developed countries. This commercially successful strategy has two ethical, legal and social implications for genomics:

- A new, proven, beneficial genetic technology targeted for use in developed countries is often prohibitively expensive for those in developing countries; and
- Diseases that cause high burden in developing countries may be overlooked in the research and development process of many companies. This means that the application of genomics to address serious diseases in low-income countries is often not fully developed.

The right to enjoy the benefits of scientific progress and its applications places obligations on governments to take the steps necessary to conserve, develop and diffuse science and scientific research, as well as ensure freedom of scientific enquiry. Science that targets the risk factors and diseases that effect the majority of the world's population should be supported to ensure that all people benefit from the new genomic technology.

The third component is capacity building and education**. The right to education, information and participation is at stake here. People living in developing countries need not be left behind by the genomics revolution. Building research capacity in genetics through education/training programs for health professionals and the general public is an important part of a community-based genetic service. The right to seek, receive and impart information on all matters related to health prompts WHO to ensure that the risks and benefits of genetic technology are known to all.**

Discrimination and stigma **are often discussed as outcomes of making the genetic composition of a community available to governments and/or researchers. Genetic information has a stigma attached to it not only for individuals, but also for families and communities. Genetic information can be used to discriminate against individual and communities that become associated with disease-causing gene(s). Such an association has the potential to create what has been called a "genetic underclass". The trend towards genetic determinism, underlined by media discussion of 'good' *vs* 'bad' genes, needs to be brought back into proper perspective through comprehensive education of health professionals and the general public about the limitations of genetics.**

The fifth topic, ethical conduct of research**, refers to both the behaviour of individual researchers and to the nature of research carried out in developing countries. The ethical, legal and social implications of genetic research include:**

- Making sure that quality research designs are used when genetic research is done in developing countries;

- Ensuring that the research reflects the health needs of the participating community; and
- Safe-guarding the dignity, integrity, the right to participate in decisions affecting one's own health, privacy and other relevant human rights of individuals within communities participating in research through informed consent and proper protection of data.

The last issue is Privacy and confidentiality**. Genetic data represents uniquely private information about an individual and also about a family and a community. There are specific medical situations where it would be unethical not to disclose genetic information to family members. Clearly, there are also unethical uses of disclosed genetic information, especially if it is used to withhold insurance or employment. Privacy and confidentiality concerns differ for genetic information obtained from research, genetic testing services and genetic data banks. Nonetheless, the human rights to privacy, individual autonomy and physical integrity are all at stake whenever genetic data is misused.**

In conclusion, we are in the process of developing an agenda and work plan for the ethical, legal, and social implications of genomics that will incorporate the work of nearly all WHO clusters, both at HQ and in the regions. Our Director General, Dr Gro Harlem Brundtland, in a recent lecture to the London School of Economics, set the boundaries for an agenda in genomics when she said, "Our challenge will be fourfold:

- to anticipate the consequences of new discoveries rather than reacting to the effects;
- to assess the ethical aspects of this new knowledge;
- to determine which of the downstream products of this discovery are public goods and therefore should enjoy some protection from commercial exploitation; and
- to ensure widest possible access."

WHO will continue to bring 'the voice of health and human rights' to discussions about the ethical, legal and social aspects of genomics.

Thank you.

NMH/MNC/HGN
10 April 2001