HSD/HHR/December 1999
Original: English
Distr.: Restricted

Informal Consultation on Health and Human Rights

WHO, Geneva, 13-14 December 1999

Report

World Health Organization

Introduction

An Informal Consultation on Health and Human Rights was held 13-14 December 1999, at WHO Headquarters, aimed at involving WHO staff in the process of integrating human rights at WHO. WHO staff participated alongside with a small group of outside experts/resource persons. General discussion and presentations by the resource persons and selected WHO staff, currently involved in human rights work, evolved around the four specific objectives of the consultation:

1. *To review the origins, evolution and experiences in the practice of a human rights approach with particular reference to health.*

2. *To discuss the complementarity between public health and human rights approaches.*

3. *To discuss the implications for WHO of "integrating" a human rights approach.*

4. *To contribute to the development of a WHO Working Paper on Health and Human Rights.*

This report seeks to highlight the main observations and recommendations, grouping them under the four specific objectives with a view to assessing how far they were met. With regard to the final objective, the meeting divided into two working groups each tasked with reviewing a draft discussion paper entitled "Towards a WHO Strategy on Health and Human Rights" prepared by WHO Consultant Professor Virginia A. Leary. Specifically, they were asked to assess how the paper addresses the four emphases and the four strategic directions of WHO's draft Corporate Strategy document.[1] An overarching question to explore, as a starting point for the working group deliberations, was whether there was "added value" for WHO in adopting a human rights approach.

Objective 1. To review the origins, evolution and experiences in the practice of a human rights approach with particular reference to health

Within the international community - and the UN system - the term "human rights" has a specific connotation: it refers to an internationally agreed upon set of principles and norms contained in treaties, declarations, resolutions and recommendations at the international and regional levels. Although human rights law allows for limitations of some rights on grounds of public health, there is increasing recognition that public health programmes and policies themselves must be consistent with human rights. In addition, specific criteria need to met before a restriction by a government can be imposed (it must be in accordance with the law; in the interest of a legitimate objective; strictly necessary; the least restrictive alternative: and not unreasonable or discriminatory in the way its applied).

[1] The Draft WHO Corporate Strategy - 4 New emphases: a broader approach to health within the context of human development, humanitarian action and human rights, focusing particularly on the links between health and poverty reduction; a greater role in establishing wider national and international consensus on health policy, strategies and standards- through managing the generation and application of research, knowledge and expertise; triggering more effective action to improve health, and to decrease inequities in health outcomes through carefully negotiated partnerships and catalysing action on the part of others; creating an organizational culture that encourages strategic thinking, global influence, prompt action, creative networking and innovation. 4 Strategic directions: 1) reducing excess mortality, morbidity and disability, especially in poor and marginalized populations; 2) promoting healthy lifestyles and reducing risk factors to human health that arise from environmental, economic, social and behavioural causes; 3) developing health systems that equitably improve health outcomes, respond to peoples' legitimate demands, and are financially fair. 4) developing an enabling policy and institutional environment in the health sector, and promoting an effective health dimension to social, economic, environmental and development policy.

International human rights documents relevant to health *include* the Universal Declaration of Human Rights; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination Against Women; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the Convention on the Rights of the Child.

Governmental obligations fall under the categories of *respect, protect and fulfil*. In other words, human rights spell out what the government cannot do to its citizens, can do to them and should do for them.

The need to look at the totality of human rights instruments in considering norms applicable to particular health issues was stressed, bearing in mind the recent series of international UN conferences, including Vienna, Beijing, Copenhagen and Cairo which dealt with themes relating to health and human rights.

Economic, social, cultural, civil and political rights are interdependent. The universality of human rights serves as a common language transcending culture, religion and socio-economic barriers. In this regard, participants noted that human rights could provide a platform to engage in dialogue with governments on health and broader social and economic issues that impact health. In addition, human rights were considered as having the potential to shape the behaviour of governments and individuals towards positive actions aimed at benefiting health.

Objective 2. To discuss the complementarity between public health and human rights approaches

Promoting and protecting health and promoting and protecting human rights are inextricably connected. Key features of a human rights approach were outlined as concrete governmental obligations, empowerment, individual autonomy, and participation. Public health was described as the totality of the organized effort in society to protect and promote the health of the population, placing central importance on health inequalities and the examination of long-term social, economic and environmental changes affecting populations' health. It was said to be facing tremendous challenges in seeking to reform and adjust to the changing global context. Public health practitioners need to consider the relevance of human rights in the context of these modernizing efforts.

The majority of the participants felt that the human rights perspective has the potential to constructively inform the practice of public health. In this context, two ways of considering the relationship between health and human rights were presented. Firstly, how health policies and programmes can promote or violate rights in the ways they are designed or implemented. Secondly, how violations or lack of attention to rights have serious health consequences.

Human rights were also thought to provide a useful tool for advancing public health goals in various ways: as a framework for analysis and research into the complex nature of health problems we are facing today, including the broad determinants of health within and beyond the health sector; as a platform for advocacy and lobbying; and as a means to

generate action through utilizing various mechanisms for implementation at the international, regional and national levels.

In addition, human rights principles can serve as a standard of assessment and review of progress made by governments in the area of health. They have the potential to make concrete states' responsibilities towards health based upon accountability and the obligation to take corrective action. Human rights thus provide a comprehensive and holistic framework at the national level where health is a component among many necessary factors entailing governmental obligations. Participants also noted that the Right to Development adds obligations of the international community and states vis-à-vis each other, providing a comprehensive setting in which to consider the complex health challenges we face today.

Generally, the human rights approach is perceived as being more "bottoms-up". For example, rather than labeling large sectors of society as "the poor", human rights will consider the context in which particular individual groups have been rendered vulnerable for various reasons. A human rights strategy, basing itself on governmental obligations, will then entail empowering those groups to identify their own problems and solutions.

A human rights approach of identifying particular groups with a view to devising specific courses of action tailored to addressing their concerns has implications for data collection. Appropriate indicators could play an important role in monitoring the implementation of human rights. Work needs to be done, however, in the development of such indicators to disaggregate them on internationally recognized grounds for non-discrimination.

Ethics and social justice as governing moral underpinnings of public health have many commonalities with human rights. Equity is a fundamental principle in public health and equality and the norm of non-discrimination are fundamental norms of human rights law. Human rights prohibits discrimination "on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".[2] In addition, discrimination on the basis of age and health status have been explicitly addressed in the UN Convention on the Rights of the Child (which indicates that economic, cultural, civil, political and social rights with few exceptions apply to children up to 18 years of age) and the Commission on Human Rights, respectively.

The scope of human rights principles vis-à-vis ethics needs further examination. Similarly, the extent to which equity can be illuminated by human rights needs to be explored. An observation was made that the public health approach of defining equity in a particular context was more "top-down", through expert studies and analysis, whereas a human rights approach also considers the importance of carving out space to allow claims to be asserted by the groups directly in any particular social setting. Human rights norms are thus given their specific content through the jurisprudence generated largely by individual claims.

Participants felt that a systematic approach to identify, understand and negotiate the human rights impact of public health policies, programmes and practices needed to be devised with the optimal goal of achieving the best possible harmonization of public health goals and respect for human rights and dignity.

[2] Article 26 of the International Covenant on Civil and Political Rights.

Objective 3. To discuss the implications for WHO of "integrating" a human rights approach

Overall, human rights considerations are intrinsic to WHO's work. The mandate of the Organization is unquestionably "rights-based". Human rights constitute a core constitutional foundation of WHO. In addition, an obligation to promote and protect human rights flows from its institutional nature as an intergovernmental organization composed of Member States bound by international law.

The Secretary-General's call in 1997 to mainstream human rights in all UN agencies mandates the current exercise.[3] Within the UN system, human rights have been designated as cutting across each of the four substantive fields of Secretariat work, namely, peace and security; economic and social affairs; development cooperation and humanitarian affairs. WHO has some catching up to do on this front compared with other UN agencies, which have come much further on human rights. At present, it was noted, WHO under-utilizes its regulatory and normative functions in favour of a more technical approach, leading to excessive caution towards the human rights component of WHO's mandate.

An important facet of a successful mainstreaming strategy is consistent use of rights terminology. Another piece of advice given was the need for coherence based upon in-house coordination within WHO in its dealings with global and regional human rights mechanisms such as the UN treaty bodies. Also, it was stressed that WHO approach the challenge of integrating human rights as an incremental process. The need for an appropriate balance between legal and technical expertise in the process was recommended.

Integrating human rights in WHO will also lead to inevitable questions being raised. For example, if the data, which WHO collects, is sufficiently human rights sensitive. An observation was made whether it differentiates between government *unwillingness* and government *incapacity*. Similarly, an observation made, based upon first-hand experience of integrating human rights into a WHO programme, was that an increased focus on rights may give rise to new considerations and the identification of new programme needs. Some such areas identified by participants could include the legislative and technical advice that WHO provides to governments, which would need to be consistent with human rights. Another was the training of health personnel, in particular in relation to abuses against vulnerable groups and individuals, which should include a human rights component bearing in mind that health workers often are the first, and sometimes the only, officials victims have access to.

Integrating human rights in WHO will also entail a greater role in dealing with the outside world on human rights issues, most notably the Office of the High Commissioner on Human Rights (OHCHR), the human rights NGO community, and the various human rights mechanisms. As regards the latter, the OHCHR put forward some concrete issues currently on the agenda of the human rights bodies and machineries of the UN which indicate possible areas of close collaboration between WHO and the OHCHR.[4] Another

[3] The July 1997 report to the General Assembly entitled "Renewing the United Nations: A Programme for Reform" the Secretary General of the UN placed human rights among the core activities of the Organization. According to this report. "a major task for the future will be to enhance the human rights programme and integrate it into a broad range of the Organization's activities".

[4] These were as follows: problems relating to inadequate public health services; environmental problems affecting health; availability of adequate food and nutrition; access to safe drinking water; health protection for vulnerable and disadvantaged groups; equal access to adequate medical services and treatment; equal access to vaccinations; traditional practices affecting the health of women and

implication would be that WHO keep abreast of developments in the human rights arena relevant to health and adopt policies and practices around them.

Objective 4. To contribute to the development of a WHO Working Paper on Health and Human Rights

The working groups presented a number of concrete revisions, additions and suggested amendments to the draft discussion paper. The next step will be to incorporate these changes by revising the paper. This revised paper will, in turn, serve as a comprehensive background document to a *WHO strategy on health and human rights*.

Conclusion

Participants at the consultation expressed support for the process of integrating human rights at WHO and outlined many benefits to adopting a human rights approach to health. The importance of ensuring that the integration process be transparent, inclusive and participatory, involving WHO staff from HQ, regions and country offices, was underlined. Sharing experiences with sister agencies, who have undergone similar experiences, was considered useful as well as drawing on outside international expertise in the field of health and human rights. Finally, ideas were floated for the next consultation, which included a review of health indicators and national benchmarking in human rights; the need to asses how to measure the impact of human rights integration in WHO; and the consideration of health as a component in human development and how this relates to human rights.

children; protection of basic rights of persons with physical and mental disabilities; development in life sciences; and bioethics and their effect on human rights.

Annex 1
Meeting Schedule

Monday 13 December 1999

09.30 to 10.00 **Opening Session**

Mrs Poonam Singh
Executive Director, Sustainable Development & Healthy Environments

Dr Daniel Tarantola
Senior Policy Adviser to the Director-General

Mr Osamu Shiraishi
Acting Director, Research and Right to Development Branch
Office of the UN High Commissioner for Human Rights

Chair: Dr John Martin
Health in Sustainable Development

10.00 to 10.45 **Panel Discussion**

(1) **The Origins and Evolution of the Linkages between Human Rights and Health**
Dr Sofia Gruskin
Director, Human Rights Programme, Francois Xavier Bagnoud Center for Health and Human Rights,
Harvard School of Public Health

(2) **The PAHO Experience**
Dr Monica Bolis
Regional Health Legislation Advisor, Public Policy and Health Program, Health and Development Division,
WHO Regional Office for the Americas

(3) **Public Health Challenges for the new Millenium**
Professor Robert Beaglehole
University of Auckland

(4) **Experiences from work with the right to food and nutrition as a human right: Highlights of normative and practical developments**
Dr Wenche Barth Eide
Associate Professor, University of Oslo

10.45 to 11.15 ***Coffee***

11.15 to 12.30 **Discussion of Panel Presentations**

12.30 to 14.00 ***Lunch***

Cont.

14.00 to 14.30	**Introduction to WHO Working Paper on Health and Human Rights** Professor Virginia Leary WHO Consultant
14.30 to 15.00	**Discussion**
15.00 to 15.20	**Briefing on ongoing rights-based work in WHO**
15.20 to 15.30	**Introduction to group work**
15.30 to 15.40	***Tea***
15.40 to 17.30	**Working Groups**

Tuesday 14 December 1999

09.30 to 09.45	**Interim Feedback by Groups in Plenary**
09.45 to 10.45	**Finalize Group Work**
10.45 to 11.15	***Coffee***
11.15 to 12.30	**Group Presentations**
	Comments by Resource Persons
	Discussion
12.30 to 14.00	***Lunch***
14.00 to 15.30	**Mainstreaming a Human Rights Approach in WHO** **Round up discussion; next steps** Chair: Dr Daniel Tarantola Senior Policy Adviser to the Director-General
15.30 to 15.45	**Close**

Annex 2
List of participants

Paivikki Aaku, OHCHR

Kitty Arambulo, OHCHR

Robert Beaglehole, SDE/HSD - WHO

Filippa Bergin, FCH/RHR - WHO

Monica Bolis, PAHO - WHO

Angia Bone, CDS/CPE - WHO

Luca Burci Gian, LEG - WHO

Magdalena Cerda, HSC/DPR - WHO

Nick Drager, SDE/HSD - WHO

Wenche Barth Eide, ESAF - FAO

Sofia Gruskin, Francois Xavier Bagnoud Center, HSPH

Virginia Leary, SDE/HHR – WHO

Miriam Maluwa, UNAIDS

John Martin, SDE/HSD - WHO

Nina Mattock, CDS/CRD - WHO

*Helena Nygren-Krug, SDE/HHR - WHO

Geneviève Pinet, EIP/GPE - WHO

Sylvain Poitras, MNH/MHP - WHO

Margaret Reeves, FCH/CAH - WHO

Osamu Shiraishi, OHCHR

Poonam Khetrapal Singh, SDE - WHO

Marcus Stahlhofer, FCH/CAH - WHO

Daniel Tarantola, DGO - WHO

Eva Wallstam, SDE/HSD – WHO

* Meeting organizer and author of this report.