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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Joint written statement* submitted by the Europe- Third World Centre (CETIM), a non-governmental organization in general consultative status and Association of American Jurists, a non-governmental organization in special consultative status

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

[3 February 2003]

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

Realisation of the Right to health1

The right to health is recognised in numerous international instruments on human rights. It is also recognised that the achievement of the right to health is closely related to and dependent upon the realization of other human rights, in particular, the right to food, clean water, sanitation, housing, land, work, education and basic health services2. The capacity of countries and communities to meet the basic needs of their people (as listed above) is determined by political and economic factors, frequently beyond their control.

It is argued that work towards the achievement of the right to health, within existing institutions and structures, are inadequate. The inadequacies relate largely to constraints imposed by the international political and economic order. Over the past 20 years, this order has concentrated power in the hands of a few powerful nations, international financial institutions and transnational corporations, and has accelerated and deepened inequality, poverty, exploitation, violence and injustice, which are at the root of the ill health and deaths of poor and marginalized people in the world.

The enormous gap between human rights declarations and their realization can only be filled by addressing the international dimensions of power, the crisis in democracy, both nationally and internationally, and the root causes of poverty.

Most of the world's global burden of avoidable disease and death is attributable to the failure to meet basic needs. For example, 50-70% of lower respiratory infections, diarrhoeal disease, malaria and measles (the big killers) in childhood is due to undernutrition3. 88% of diarrhoeal disease is due to unsafe water, sanitation and hygiene, and 99.8% of deaths due to this risk factor take place in developing countries4. Through malnutrition, poverty seriously impairs immune function making children more vulnerable to disease of all kinds5.

The classic public health lessons of the 19th century in Europe and the USA showed that the key public health interventions to improve population health status lie outside the health sector. Furthermore, today's rich countries achieved better health status for their populations through these interventions with the intention that the improvements be both substantial and sustainable rather than superficial and short term.

Poverty is not defined in terms of US$ 1 or 2 per day but in terms of lack of access to goods and services which are essential to life and health and which are entitlements in a rights-based society. This is why many health workers and activists state that "poverty is the disease". Poverty is also the fundamental violation of human rights.

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1 This statement has been elaborated in collaboration with “The People’s Health Movement”.
2 See General Comment by the Committee on Economic, Social and Cultural Rights (No. 14 on the right to the highest attainable standard of health) on the rights and provisions of the International Covenant on Economic, Social and Cultural Rights (E/C.12/200/4, adopted 11 August 2000).
3 Cf. WHO 2002a. World Health Report: Reducing risks, promoting healthy lives, p.53.
4 Cf. WHO 2002a. World Health Report: Reducing risks, promoting healthy lives, p.68.
5 Cf. WHO 2002b. Healthy Environments for children, p.22.

Three aspects of today's world order represent major obstacles to the achievement of right to health.
- Macroeconomic policy - and in particular, unfair terms of trade, impossible debt, and continued appropriation of national resources (human and material). This is imposed on developing nations through international financial institutions and has been accompanied by substantial increases in poverty and inequality between and within countries.
- Unelected and unrepresentative bodies - the International Monetary Fund, the World Bank and the World Trade Organization – favouring private capital and transnational corporations rather than people, are making economic and social decisions globally and nationally.
- The inextricable connections between the military/industrial complex and centres of power - not least as the motor of the economies of rich nations - represent a continual threat to human security, a continual cause of injury and death, and a massive diversion of resources away from the social and public good.

The above processes maintain popular majorities in a state of powerlessness and terror rather than democracy and peace, which are preconditions for the achievement of the right to health.

Policy, strategy and action of the international health community (especially the UN and its specialized agencies, official government aid agencies, private foundations, and even some NGOs), are heavily influenced by neoliberal, political and economic policies.

Medical/technical interventions, delivered to individuals through a mix of commercialised health services (for the solvent) and charitable health services delivered by NGOs (for the insolvent), are proposed not only as solutions to health problems but as the way out of poverty. This approach6 disallows discussion and action about structural inequality and the root causes of poverty and powerlessness and their consequences in terms of avoidable disease and death. In turn, it maintains and reinforces the current international order, which brings inestimable advantages to powerful minorities.

The private sector exerts enormous influence on human health, the environment, development and human rights - in general and increasingly within the United Nations itself. As a result, health is promoted as a tool for economic growth rather than as a human right. Citizen organizations and movements support the mission and values of the United Nations but insist that these objectives must not be subordinated to commercial trade, investment, and finance rules.

The Declaration of Alma Ata in 19787 explicitly recognized structural inequalities and macroeconomic factors as determinants of poverty and therefore of population health status, and called for a New International Economic Order. At the turn of the

6 Exemplified in the Report of WHO's Macroeconomic Commission on Health, which is proposed today as a blueprint for global health policy.
7 International Conference on Primary Health Care sponsored by WHO and UNICEF, held in Kazakhstan, 1978

century, 20 years more evidence of the negative health effects of « free » market neoliberalism is available8.

Paragraph 4 of the General Comment reminds us that « the right to health embraces a wider range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions and a healthy environment9 ».

The conditions referred to above depend largely on the achievement of collective social and economic rights. These have been neglected because action towards this end implies fundamental change to the international order and massive redistribution of wealth.

Conclusions and recommendations

The obstacles, national and international, preventing people, communities and countries from meeting their basic needs should be identified and addressed and this evidence should be used as the basis for policy and action, with a view to their eradication. This is why the Europe - Third World Centre (CETIM) and the American Association of Jurists (AAJ) call on the Special Rapporteur and urge States to consider the following:

-The principle that States are responsible for policy, control and delivery of free, basic health services, easily accessible to all should be at the root of national and international health policy.

-The State, in conformity with its obligations toward its citizens, should guarantee access to food and water. In these circumstances, frantic privatisation, encouraged by international financial and commercial institutions, in diverse sectors – water, agriculture, health, etc.- are incompatible with the obligations of States to respect human rights, in particular the right to health.

-The right to food and water should be developed at the national level with enforcement mechanisms at regional and international levels.

-Agricultural policy should be determined by considerations of food sovereignty. As such, it should not be part of the General Agreement on Trade in Services, which « is first and foremost an instrument for the benefit of business ».10

8 For example, the collapse of health services and spectacular increases in morbidity and mortality in the Russian Federation.
9 See General Comment by Committee on Economic, Social and Cultural Rights (No. 14 on the right to the highest attainable standard of health) on the rights and provisions of the International Covenant on Economic, Social and Cultural Rights (E/C.12/200/4, adopted 11 August 2000).
10 Cf. EC (2000) Opening World Markets for Services. Towards GATS 2000, p.17 http://gats-info.eu.int/gats-info/g2000.pl?NEWS=bbb

- International health policy and action should address, as a first priority, the underlying social, economic and political causes of avoidable disease and death. WHO should appoint a Commission on Poverty and Health to investigate these causes and make recommendations on how to address them.

-Immediate debt cancellation; control of speculation and financial flows with mechanisms such as the Tobin tax; fair trade and the abolition of tax havens, should be advocated.

-A moratorium on public/private partnerships on health should be ordered and an independent evaluation undertaken of such initiatives in terms of health outcomes and the delivery and quality of health services.

-The Global Compact through which private corporations undertake (without any binding legal framework) to respect human rights principles in return for UN support for unfettered markets should be denounced as misleading, inappropriate and undemocratic.

-Access to essential drugs is an integral part of the right to health and is affordable11. TRIPS (Agreement on Trade Related Intellectual Property Rights) is a perversion of the concept of patents which were designed to defend scientific merit not to restrict benefits accruing from scientific discoveries in the pursuit of profit. The WTO is not the appropriate forum for the negotiation of intellectual property agreements.

-WHO should appoint a commission to report on obstacles to access to drugs including trade rules and TRIPS, and to explore alternative arrangements, which place access to drugs as an entitlement to be guaranteed by the state and supported by the UN.

-Any agreements made between international financial institutions, transnational corporations, governments and intergovernmental organizations, should respect International instruments on Human Rights which guarantees, among other things, the sovereignty of States and self determination of people.

-The responsibilities and accountability of both international financial institutions and transnational corporations in terms of meeting human rights obligations should be guaranteed through legally binding rules and regulations. The participation of such non-elected and non-representative bodies in national or global health policy making should be strictly defined and limited to respect democratic principles.

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11 US$100 billion were released in the days that followed 11 September 2001. Only US$30-40 billion (in addition to what is available today) would be required to cover the world's basic needs in food, water, sanitation, basic health care and education.