



**Economic and Social
Council**

Distr.
LIMITED

E/CN.4/2005/L.28
12 April 2005

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixty-first session
Agenda item 10

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

**Albania*, Angola*, Armenia, Bolivia*, Brazil, China, Croatia*, Cuba,
Dominican Republic, El Salvador*, Guatemala, Honduras, Israel*,
Mexico, Nigeria, Paraguay, Switzerland*, Thailand*, Turkey*,
Uruguay* and Venezuela*: draft resolution**

**2005/... The right of everyone to the enjoyment of the highest
attainable standard of physical and mental health**

The Commission on Human Rights,

Reaffirming the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural 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 and the Convention on the Rights of the Child,

Reaffirming also that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is a human right, as reflected, inter alia, in article 25, paragraph 1, of the Universal Declaration of Human Rights, article 12 of the International Covenant on Economic, Social and Cultural Rights and article 24 of the Convention on the

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Rights of the Child, as well as, with respect to non-discrimination, in article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination and in article 12, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, and that such a right derives from the inherent dignity of the human person,

Recalling that, according to the Constitution of the World Health Organization, health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity,

Considering that, according to the International Classification of Functioning, Disability and Health of the World Health Organization, “disability” refers to a range of impairments, activity limitations and participation restrictions, whether permanent or transitory,

Recalling the establishment of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities by General Assembly resolution 56/168 of 19 December 2001,

Welcoming the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to the Commission on Human Rights at its sixty-first session (E/CN.4/2005/51 and Add.1-4),

Recalling the relevant provisions of declarations and programmes of action adopted by the major United Nations conferences, summits and special sessions and their follow-up meetings,

Recalling all its previous resolutions concerning the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Recalling general comment No. 14 (2000) on the right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights), adopted by the Committee on Economic, Social and Cultural Rights at its twenty-second session,

Recalling also general comment No. 15 (2002) on the right to water (articles 11 and 12 of the Covenant), adopted by the Committee at its twenty ninth session,

Recalling further general comment No. 3 (2003) on HIV/AIDS and the rights of the child, adopted by the Committee on the Rights of the Child at its thirty-second session,

Recalling general recommendation No. 24 (1999) on women and health (article 12 of the Convention on the Elimination of All Forms of Discrimination against Women), adopted by the Committee on the Elimination of Discrimination against Women at its twentieth session,

Recalling also that the International Labour Organization Convention concerning Occupational Safety and Health and the Working Environment, 1981 (No. 155) emphasizes the importance of promoting coherent national policy in the matter of occupational safety and health of workers with the aim of preventing accidents and injury to health occurring in the course of work,

Taking note of resolution EB115.R11 adopted on 24 January 2005 by the Executive Board of the World Health Organization at its one-hundred and fifteenth session on health action in relation to crises and disasters, with particular emphasis on the South Asian earthquakes and tsunami of 26 December 2004,

Recalling resolution 47/1 of 14 March 2003 on women, the girl child and HIV/AIDS, adopted by the Commission on the Status of Women,

Stressing that gender equality and the empowerment of women and girls are fundamental elements in the reduction of their vulnerability to HIV/AIDS and in the reversal of the pandemic, and noting the importance of increasing investments in, and accelerating research on, the development of effective HIV prevention methods, including female-controlled methods and microbicides,

Acknowledging that persons with disabilities related to mental disorders are vulnerable members of society since they face barriers to their full inclusion and participation in society, and stressing that such barriers need to be addressed in accordance with human rights principles,

Recognizing a need for States, in cooperation with international organizations and civil society, including non-governmental organizations and the private sector, to create favourable

conditions at the national, regional and international levels to ensure the full and effective realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Noting the need for States to progressively realize the right to the enjoyment of the highest attainable standard of physical and mental health and noting the important contribution that international assistance and cooperation can make in this regard,

Mindful that States should take into account the right of everyone to the enjoyment of the highest attainable standard of physical and mental health in their relevant national and international policy-making processes,

Recognizing the indispensable role that health professionals play in the promotion and protection of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Welcoming the initiatives of the Secretary-General and relevant United Nations bodies and programmes, such as the World Health Organization and the Joint United Nations Programme on HIV/AIDS (UNAIDS), as well as public-private partnership initiatives, such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, which contribute to improvements in addressing health issues worldwide, including in developing countries, while noting that further progress should be achieved in this regard, including in the mobilization of resources,

Concerned about the interrelationships between poverty and the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in particular that ill-health can be both a cause and a consequence of poverty,

Recalling the development goals of the United Nations Millennium Declaration, in particular the four health-related development goals,

Considering that sexual and reproductive health are integral elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Recalling the Declaration on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and Public Health adopted at the Fourth Ministerial

Conference of the World Trade Organization, held in Doha in November 2001, and the decision of the General Council of the World Trade Organization of 30 August 2003 on the implementation of paragraph 6 of the Declaration,

Stressing the importance of monitoring and analysing the pharmaceutical and public health implications of relevant international agreements, including trade agreements, so that States can effectively assess and subsequently develop pharmaceutical and health policies and regulatory measures that address their concerns and priorities, and are able to maximize the positive and mitigate the negative impact of those agreements, while respecting all international obligations applicable to them,

1. *Urges* States to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of their available resources, with a view to achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

2. *Calls upon* the international community to continue to assist the developing countries in promoting the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including through financial and technical support as well as training of personnel, while recognizing that the primary responsibility for promoting and protecting all human rights rests with States;

3. *Calls upon* the international community to enhance relief assistance to populations affected by devastation caused by natural disasters as well as by man-made events in order to ensure their physical and mental health recovery;

4. *Calls upon* States to guarantee that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health will be exercised without discrimination of any kind;

5. *Calls upon* States to pay attention, as necessary, to the physical and mental health of vulnerable groups, including, when appropriate, by adopting positive measures;

6. *Encourages* States to recognize the particular needs of persons with disabilities related to mental disorders, as well as their families, including by reflecting their needs in national health and social policies, such as national poverty reduction strategies;

7. *Calls upon* States to introduce, as far as possible, community-based care and support for persons with disabilities related to mental disorders, in order to ensure their access to medical and social services that promote their independence and autonomy and support their social integration;

8. *Urges* States to ensure the participation of persons with disabilities related to mental disorders, their families and representatives in the design, implementation and monitoring of laws, policies and programmes relating to mental health-care and support services;

9. *Recommends* a careful monitoring and review of practices related to the treatment of people with disabilities related to mental disorders that are undertaken without their informed consent;

10. *Affirms* the importance of ensuring the accountability of national health authorities and institutions, and the effectiveness and transparency of the treatment procedures adopted in the case of mental health;

11. *Emphasizes* the need to ensure that people with disabilities related to mental disorders are guaranteed equal protection of their sexual and reproductive health, including protection from forced sterilization and sexual violence;

12. *Invites* States to become parties to the World Health Organization Framework Convention on Tobacco Control;

13. *Reaffirms* that the achievement of the highest attainable standard of physical and mental health is a most important worldwide social goal, the realization of which requires action by many other social and economic sectors in addition to the health sector;

14. *Calls upon* States to place a gender perspective at the centre of all policies and programmes affecting women's health;

15. *Also calls upon* States to protect and promote sexual and reproductive health as integral elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

16. *Considers* it to be of the utmost importance to enhance all States' efforts for the effective prevention of violence that causes physical and mental injury, particularly with a view to reducing its possible negative impact on the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

17. *Affirms* that access to a sufficient amount of safe, clean water for personal and domestic use and adequate nutrition is fundamental to the realization of the right of everyone to the enjoyment of the highest attainable standard of health;

18. *Also affirms* that good governance, sound economic policies and solid democratic institutions responsive to the needs of the people are also key to the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

19. *Decides* to extend, for a period of three years, the mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, as reflected in article 25, paragraph 1, of the Universal Declaration of Human Rights, article 12 of the International Covenant on Economic, Social and Cultural Rights, article 24 of the Convention on the Rights of the Child and article 12 of the Convention on the Elimination of All Forms of Discrimination against Women, as well as on the right to non-discrimination as reflected in article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination;

20. *Requests* the Special Rapporteur:

(a) To gather, request, receive and exchange information from all relevant sources, including Governments, intergovernmental organizations and non-governmental organizations, on the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

(b) To develop a regular dialogue and discuss possible areas of cooperation with all relevant actors, including Governments, relevant United Nations bodies, specialized agencies and programmes, in particular the World Health Organization and UNAIDS, as well as non-governmental organizations and international financial institutions;

(c) To report on the status, throughout the world, of the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in accordance with the provisions of the instruments listed in paragraph 19 above, and on developments relating to this right, including on laws, policies and good practices most beneficial to its enjoyment and obstacles encountered domestically and internationally to its implementation;

(d) To make recommendations on appropriate measures to promote and protect the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, with a view to supporting States' efforts to enhance public health;

21. *Requests* the Special Rapporteur to avoid in his work any duplication or overlapping with the work, competence and mandate of other international bodies active in health issues;

22. *Invites* the Special Rapporteur to apply a gender perspective in his work and to pay special attention to the needs of children in the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

23. *Also invites* the Special Rapporteur to take into account in his work the relevant provisions of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1), as well as of the declarations and programmes of action adopted by the major United Nations conferences and summits and their follow-up meetings, and to bear in mind general comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights and general recommendation No. 24 (1999) of the Committee on the Elimination of Discrimination against Women, as well as any other general comment that treaty bodies adopt on related provisions of relevant instruments;

24. *Invites* the Special Rapporteur, within his existing mandate, to continue to explore how efforts to realize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health can reinforce poverty reduction strategies;

25. *Also invites* the Special Rapporteur, within his existing mandate, to continue his analysis of the human rights dimensions of the issues of neglected diseases and diseases particularly affecting developing countries, and also the national and international dimensions of those issues;

26. *Requests* the United Nations High Commissioner for Human Rights to provide all the necessary resources for the effective fulfilment of the Special Rapporteur's mandate from within existing resources;

27. *Calls upon* Governments to cooperate fully with the Special Rapporteur in the implementation of his mandate, to provide all information requested and to respond promptly to his communications;

28. *Requests* the Special Rapporteur to submit annually a report to the Commission and an interim report to the General Assembly on the activities performed under his mandate;

29. *Decides* to continue consideration of this matter at its sixty-second session under the same agenda item;

30. *Recommends* the following draft decision to the Economic and Social Council for adoption:

“The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/... of ... April 2005, approves the Commission's decision to extend for a period of three years the mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”
