



PAN AMERICAN HEALTH ORGANIZATION
WORLD HEALTH ORGANIZATION



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HEALTH AND HUMAN RIGHTS

Concept paper

Introduction

1. In 1946, the Member States of the World Health Organization (WHO) agreed on a fundamental international principle whereby “The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.”¹ In 1968, for its part, the 59th Session of the Executive Committee of the Pan American Health Organization (PAHO) began to discuss the relationship between health and international human rights instruments in the context of the technical cooperation that PAHO provides to its Member States² (1).

¹ The WHO Constitution was adopted by the International Health Conference held in New York from 19 to 22 June 1946, and was signed on 22 July 1946 by the representatives of 61 States. The United Nations International Covenant on Economic and Social Rights protects “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” (Article 12), and the Protocol of San Salvador of the Organization of American States (OAS) protects “the right to health” (Article 10). Similarly, The Universal Declaration of Human Rights states that: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family”. The American Declaration of the Rights and Duties of Man protects the “right to the preservation of health and to well-being.” The protection of health as a human right is also enshrined in 19 of the 35 PAHO Member States’ constitutions (Bolivia, Brazil, Cuba, Chile, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Uruguay, Venezuela).

² In the technical document “Relations of Health to Law” (CE59/16, 1968), the Executive Committee of PAHO referred to the “right to health” under international human rights instruments such as the American Declaration of the Rights and Duties of Man, the Universal Declaration of Human Rights and

2. In 2007, the ministers and secretaries of health underscored their commitment to the above-mentioned international principle in the *Health Agenda for the Americas (2008-2017)*,³ placing human rights among this instrument's "principles and values," reconfirming the importance of ensuring the highest attainable standard of health, and stating that: "With a view to making this right a reality, the countries should work toward achieving universality, access, and inclusion in health systems that are available for individuals, families, and communities." (2).

3. This paper analyzes the relationship between the health of groups in situations of vulnerability⁴ and the human rights recognized in international human rights instruments and examines the trends and challenges that the Pan American Sanitary Bureau (the Bureau) has observed in the course of its technical cooperation (1998-2009). It offers some recommendations for the PAHO Member States concerning the application of human rights instruments in the context of the activities carried out by health authorities and other governmental and nongovernmental actors.

Background

4. The 49th Directing Council approved the *Strategic Plan 2008-2012, Amended (Official Document 328)* [hereinafter the "Strategic Plan"]. Its Strategic Objective 7 (SO7) is designed to address social and economic factors that are health determinants, and it is intended to pave the way for policies and programs that improve equity in health and incorporate pro-poor, gender-sensitive, human rights-based approaches (3).

5. SO7 focuses on the development and promotion of intersectoral action to influence the social and economic determinants of health and improve equity in health by addressing the needs of poor, vulnerable, and excluded social groups. According to the PAHO Member States, the key challenges in improving equity in health include: (a) developing sufficient expertise on the social and economic determinants of health and

the International Covenant on Economic, Social and Cultural Rights. This technical document is available at http://hist.library.paho.org/English/GOV/CE/59_16.pdf.

³ The Health Agenda for the Americas (2008-2017) was approved in Panama on 3 June 2007, and is a high-level policy instrument on health issues, providing guidelines for the development of future national health plans and for the strategic plans of organizations interested in cooperation on health with countries in the Americas. It is available at:

http://www.paho.org/English/DD/PIN/Health_Agenda.pdf

⁴ Paragraph 13 of this concept paper refers to the technical documents and/or resolutions of the Governing Bodies of PAHO that address the human rights of certain groups in situations of vulnerability and their enjoyment of health. However, other vulnerable groups (not mentioned in paragraph 13) include people living in poverty, ethnic minorities, people living in situations where violence is present, such as areas of armed conflict, newborns, children, refugees, migrants, prisoners and people in custody, displaced persons and lesbian, gay, transvestite, and bisexual (LGBT) groups.

their relationship with the Millennium Development Goals (MDGs)⁵, as well as human rights at the global, regional, and country levels; (b) ensuring that all the technical areas of the Pan American Sanitary Bureau reflect the perspectives of social and economic determinants reflect a human rights-based approach in their programs and normative work, and (c) adopting the correct approach for measuring effects (3).

6. PAHO's Member States have also emphasized that in order to achieve the Region-wide Expected Results (RERs) connected with SO7, "Innovative means of evaluation are required for assessing how policies, programs, plans, laws and interventions are designed, vetted and implemented. New means are also needed to assess whether interventions are effective in bringing about change, in addition to measuring health outcomes." (3).

7. As to the most effective ways of increasing health benefits to groups in situations of vulnerability, the Strategic Plan points out that "Human rights law, as enshrined in international and regional human rights conventions and standards, offers a unifying conceptual and legal framework for these strategies, as well as measures by which to evaluate success and clarify the accountability and responsibilities of the different stakeholders involved" (3).

The three basic relationships between the health of groups in situations of vulnerability and their exercise of human rights

8. *First relationship:* the enjoyment of health and the exercise of human rights are synergistic. Thus, a certain degree of physical and mental health is necessary to exercise internationally recognized human rights and fundamental freedoms and to consequently be able to participate in a State's civil, social, political, cultural, and economic life. At the same time, these human rights and fundamental freedoms are essential to genuine physical and mental well-being (4-6).

9. *Second relationship:* according to public health experts and the organs and specialized agencies of the United Nations and Inter-American human rights systems, as well as organizations created by international human rights treaties, violation or failure to

⁵ The goals of eradicating extreme poverty and hunger (MDG 1), reducing child mortality (MDG 4), improving maternal health (MDG 5), combating HIV/AIDS, malaria, and other diseases (MDG 6), and ensuring environmental sustainability (MDG 7) are intimately linked to the exercise of certain human rights, such as the right to life, the right to physical integrity, the right to the highest attainable standard of health, the right to the benefits of scientific progress, the right to privacy, the right to freedom of expression, and the right to food and nutrition.

enforce human rights can adversely affect the physical, mental and social well-being of all people⁶ (7).

10. *Third relationship*: public health policy, planning, and legislation can serve to protect basic human rights and fundamental freedoms, or, on the contrary, can hinder the exercise of basic rights related to physical and mental well-being (8-10).

11. The application of international human rights instruments in the context of the health of groups in situations of vulnerability is still in its infancy at the national and regional levels. It is therefore important, as the PAHO Member States have stressed, for health policy, planning, programs, and legislation concerning groups in situations of vulnerability to take into account the existing international norms, especially the international and regional standards and technical guidelines.

12. Considering these relationships, in various technical documents and resolutions the World Health Assembly of the World Health Organization (WHO), the Pan American Sanitary Conference, and the Directing Council have asked the PAHO Member States to “advocate,” “promote,” “protect,” and “safeguard” the human rights of certain groups in situations of vulnerability, especially in the context of services provided by their health agencies. The Member States have been urged to formulate and adopt policies, plans, and legislation in health to promote the well-being of certain vulnerable groups, pursuant to the human rights instruments of the United Nations and Inter-American systems.

13. In their mandates, the PAHO Member States have referred specifically to the relationship between the exercise of human rights and the enjoyment of health in the following groups in situations of vulnerability:

- (a) people with mental disorders (11);
- (b) older persons (12);
- (c) persons with disabilities (13);
- (d) women (and adolescent girls) in connection with maternal mortality and morbidity, gender equality, and violence against women (14-15);
- (e) people living with HIV (16);

⁶ The Directing Council and the Pan American Sanitary Conference have explored and documented the negative impact of human rights violations on the health and welfare of persons with mental illness, persons with disabilities, young people, indigenous peoples, persons with HIV, and women/girls in connection with complications of pregnancy and birth. See, for example, the technical document “Disability: Prevention and Rehabilitation in the Context of the Right to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health and Other Related Rights.” Available at: <http://www.paho.org/english/gov/cd/CD47-15-e.pdf> and <http://www.paho.org/english/gov/cd/CD47-15c-e.pdf>

- (f) indigenous peoples (17); and
- (g) adolescents and young people (18).

Situation Analysis

14. Since 1998 the Pan American Sanitary Bureau has been working closely with ministries/secretariats of health (as well as other government actors), human rights committees, organs, and rapporteurships of the United Nations and Inter-American systems, and with civil society organizations to disseminate international human right instruments. In this technical cooperation process (see paragraph 19), the Bureau has observed and studied the following trends and challenges:

Trends (1998-2009)

- (a) Increasingly, restrictions on the health-related human rights of groups in situations of vulnerability are being studied in greater detail by governments, international organizations, and civil society, since they may imply a failure to enforce the instruments of public international law.
- (b) The human rights committees, organs, and rapporteurships of the United Nations and Inter-American systems are beginning to include items on the health of certain groups in situations of vulnerability in their agendas, reports, and technical cooperation activities.
- (c) PAHO is experiencing growing demand for technical cooperation from the countries' legislatures, courts, and human rights offices ("Ombudspersons") in quest of specialized information on public health in the context of international human rights instruments.
- (d) Increasingly, ministries and secretariats of health are requesting technical cooperation from PAHO in formulating and reforming policies, plans, and health programs to adapt them to international human rights instruments.

Most Significant Challenges (1998-2009)

- (a) Ignorance of international human rights provisions in the services that provide for the health and well-being of the poorest and most excluded communities in situations of vulnerability.

- (b) Limited knowledge in ministries and secretariats of health, as well as among civil society organizations representing the interests of the aforementioned vulnerable groups, about existing obligations and implementation measures in the human rights instruments of the United Nations and Inter-American systems.
- (c) Limited implementation of national mechanisms to promote and protect the right to the enjoyment of the **highest** attainable standard of health and other related human rights, within the context of the care provided by health services, centers, and institutions.

*International human rights instruments applicable in the context of the health of groups in situations of vulnerability*⁷

15. The Member States of the United Nations and the Organization of American States (OAS) have adopted a number of legal human rights instruments that can be used to protect the health of people with mental illness, older persons, persons with disabilities, women, people living with HIV, indigenous peoples, adolescents and young people, and other groups and individuals in situations of vulnerability.

16. These human rights instruments, which are a part of public international law, recognize that all human beings are born free and equal in dignity and rights (20-21) and protect all people, without distinction of race, color, sex, language, religion, political affiliation, national origin, social origin, economic status, or any other characteristic (22-26).

Binding international human rights instruments (see Annex A)

17. Some of these instruments are conventions, treaties, pacts, or protocols, and they are binding for the States that have ratified them, i.e., they oblige States parties to those instruments to adopt the measures agreed upon (27-30).

International human rights standards/guidelines (see Annex B)

18. International human rights standards or guidelines are also a part of public international law. For the most part, they consist of guidelines in declarations, recommendations, and reports approved by the United Nations General Assembly, the

⁷ The Pan American Sanitary Conference has clarified what international human rights instruments should be used to improve equal access to health, and to incorporate approaches that are pro-poor. The issues and challenges of SO7 as articulated in the Strategic Plan 2008-2012 (p.73) are available at: <http://www.paho.org/english/gov/csp/csp27-od328-e.htm>

General Assembly and other organs of the OAS, the Office of the United Nations High Commissioner for Human Rights, the United Nations Human Rights Council, and the agencies/committees created by United Nations and OAS human rights treaties.

19. Unlike the binding instruments ratified by the PAHO Member States, these standards or guidelines are not binding. However, they do articulate important recommendations that can be integrated into plans, policies, legislation, and national practices to protect the health of people in situations of vulnerability. Furthermore, they provide very important guidance for interpreting the provisions of international human right treaties relating to the health of groups in situations of vulnerability. The value of these standards lies principally in the general consensus among the United Nations Member States, General Assembly, and other organs on the need to promote and protect the human rights of people in situations of vulnerability. The effectiveness of these standards depends on their implementation by the aforementioned States and organizations⁸ (31-32).

Most significant advances (1998-2009)

20. Since 1998, with financial cooperation from the Swedish International Development Cooperation agency (SIDA), the Spanish Agency for International Cooperation (AECI), and the Norwegian Agency for Development Cooperation (NORAD), PAHO has been engaged in a variety of technical cooperation activities pursuant to the recommendations of its Governing Bodies (see paragraph 12). Some of the relevant activities and advances are detailed below:

- (a) Dissemination in 23 countries of international human rights instruments pertinent to the health of persons with mental illness, older persons, persons with disabilities, women and adolescent girls (in relation to sexual and reproductive health), people living with HIV, and indigenous peoples.⁹ These instruments has been disseminated in training workshops and technical consultations with ministries of health, ministries of education, ministries of labor, courts, human rights agencies, legislators, police, penal systems, universities, and civil society organizations (including organizations of health services users and their families).

⁸ The Directing Council, the Pan American Sanitary Conference, and the World Health Assembly of WHO have referred to the human rights standards and guidelines that are applicable in the context of the health of persons with mental illness, persons with disabilities, older persons, adolescents, indigenous peoples, women in the context of sexual and reproductive health, and persons living with HIV.

⁹ These interventions have been carried out in Argentina, Bahamas, Barbados, Belize, Brazil, Chile, Costa Rica, Ecuador, El Salvador, Granada, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Suriname, Uruguay, and Venezuela.

- (b) Technical training for government health personnel on relevant international norms and standards has been provided in Argentina, Belize, Chile, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, and Peru. In all, 300 people working in general hospitals, psychiatric hospitals, and day centers and long-term care facilities for older persons have received training in this way.
- (c) Training for PAHO staff (Headquarters and country offices) on the measures adopted by the Member States to apply international human rights instruments, and on PAHO's role in facilitating implementation of these measures. Approximately 200 staff have received training, with collaboration from the United Nations Special Rapporteur and the Georgetown University and American University law schools in Washington, D.C., on the right to enjoyment of the highest attainable standard of physical and mental health,.
- (d) Collaboration with the Member States to integrate international human rights norms and standards into national policies on mental health (Belize, El Salvador, Paraguay), the health of older persons (Saint Kitts and Nevis), and pharmaceuticals (Panama).
- (e) Collaboration with the Member States to integrate international human rights norms and standards into draft legislation on mental health (Argentina, Barbados, Belize, El Salvador, Grenada, Paraguay, Saint Lucia, Saint Kitts and Nevis, Trinidad and Tobago, Venezuela), persons with disabilities (Chile, Guyana), the health of older persons (Belize), HIV (Guatemala), reproductive health (Honduras, Peru), and immunization (Guatemala and El Salvador).
- (f) Collaboration with the Member States to integrate international human rights norms and standards into a national adolescent health plan (El Salvador) and a national mental health plan (Panama).
- (g) Technical cooperation with the Inter-American Commission on Human Rights (IACHR) of the OAS and PAHO Member States to implement precautionary or "emergency" measures to protect the health and related human rights of 450 patients living in mental health facilities (Paraguay) and to repair hyperbaric chambers and rehabilitation services for indigenous Miskito populations (Nicaragua, Honduras).
- (h) The provision of specialized information, at the request of the IACHR, for preparation of the Commission's thematic and country reports on malnutrition among indigenous children, the situation of people living with HIV in Central America, and the situation of persons with mental disabilities.

- (i) Preparation of a questionnaire to introduce the human rights approach in some of the Organization's planning instruments (for the 2010-2011 biennium), training for staff, and documents on country-focused cooperation strategies.
- (j) Six modules on human rights and health have been published, and a remote online training course on human rights and health for all of the Organization's personnel has been launched.¹⁰

Proposal

21. International human rights law is a valuable legal and conceptual framework for: (a) unifying strategies to improve the health of poor and excluded social groups; (b) improving equity in health; (c) clarifying responsibilities and accountability in health systems, and (d) evaluating Member States' progress in meeting the MDGs. To these ends, PAHO proposes to support its Member States through a variety of cooperation mechanisms, including:

- (a) Strengthening the technical capabilities of government health agencies and human rights secretariats and offices to facilitate joint action to monitor, assess, and oversee health service compliance with international human rights instruments
- (b) Creating an enabling environment to facilitate more systematic technical cooperation between PAHO and its Member States in the design, review, and, if necessary, reform of health legislation, plans, and policies so that they include the international human rights provisions that are applicable to groups in situations of vulnerability, especially in the context of primary health care.
- (c) Strengthening health workers' competencies with respect to knowledge about and application of international human rights instruments, chiefly in the context of promoting efficient, high-quality care in the health services, through the sharing of successful experiences between the Member States of PAHO and international organizations.
- (d) Adopting legislative, administrative, educational and other measures to appropriately and dynamically disseminate international norms and standards that protect the right to the enjoyment of the highest attainable standard of health and

¹⁰ The six PAHO modules on the human rights and health of groups in situations of vulnerability are available at:

http://new.paho.org/hq/index.php?option=com_content&task=blogcategory&id=808&Itemid=643.

The online course is available at:

http://www.xceleratemediacom/clients/TATC/clients/PAHO_7_23_2010/

other related human rights among personnel in national legislatures, courts, and competent government entities.

- (e) Strengthening civil society organizations by developing strategies for health and human rights training, awareness, education, and information and taking action to combat stigmatization and discrimination against the groups most affected by health problems, disease, epidemics, and disabilities, drawing on international human right instruments for the purpose.
- (f) Facilitating systematic technical cooperation between PAHO (Headquarters and Representative Offices) and human rights committees, organs, and rapporteurships in the United Nations and Inter-American systems.
- (g) Training all staff (Headquarters and Representative Offices) with assistance from other international agencies, academic institutions, and other collaborating centers, so that the technical areas of the Organization increasingly incorporate the human rights instruments and standards of the United Nations and Inter-American systems in their programs.

Action by the Directing Council

22. The Directing Council is invited to examine and study this document, and to formulate observations and suggestions on the use of international human rights instruments as a unifying conceptual and legal framework for strategies to promote and protect the health of groups in situations of vulnerability. It is also requested to consider approving the proposed resolution included in Annex D.

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Annexes

ANNEX A
INTERNATIONAL HUMAN RIGHTS INSTRUMENTS APPLICABLE IN THE CONTEXT OF THE HEALTH OF
GROUPS IN SITUATIONS OF VULNERABILITY

UNITED NATIONS HUMAN RIGHTS SYSTEM							
Examples of human rights and fundamental freedoms	Universal Declaration of Human Rights	International Covenant on Civil and Political Rights	International Covenant on Economic, Social, and Cultural Rights	Convention on the Rights of the Child	Convention on the Elimination of All Forms of Discrimination against Women	Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries	I Convention on the Rights of Persons with Disabilities
Life	Art. 3	Art. 4		Art. 6.1			Art. 10
Personal integrity	Art. 5	Art. 5		Art. 37.a		Arts. 1 and 16	Art. 17
Personal freedom	Art. 9	Art. 7		Art. 37.b			Art. 14
Judicial guarantees	Art. 10	Art. 8		Art. 40.2		Art. 13	Art. 13
Privacy	Art. 12	Art. 11		Art. 16			Art. 22
Freedom of expression	Art. 19	Art. 13		Art. 13			Art. 21
Name		Art. 18		Art. 7.1			
Freedom of movement and residence	Art. 13	Art. 22		Art. 10.2	Art. 15.4		Art. 18
Equal protection	Art. 7	Art. 24		Art. 2	Arts. 3 and 15.1	Art. 3	Arts. 5 y12
Judicial protection	Art. 8	Art. 25		Art. 40.2	Art. 15.2	Art. 13	Art. 13
Work	Art. 23		Arts. 6 and 7	Art. 32	Art. 11	Art. 20	Art. 27
Highest attainable standard of health	Art. 25		Art. 10	Arts. 17. 19.1 and 24	Art. 12	Art. 25	Art. 25
Education	Art. 26		Art. 13	Art. 28	Art. 10	Arts. 26 and 27	Art. 24
The benefits of the scientific progress	Art. 27		Art. 14	Art. 31.2	Art. 13.c		Art. 32
Social security	Art. 22		Art. 9	Art. 26	Art. 11	Art. 24	Art. 28
Food and nutrition	Art. 25		Art. 12	Art. 24	Art. 14		Art. 28
Protection of the family	Art. 16		Art. 17	Arts. 5 and 27	Art. 16		Art. 23
Protection of older persons	Art. 25	Art. 17	Art. 15				Art. 25

PAHO MEMBER STATES THAT ARE PARTIES TO THE AFOREMENTIONED UNITED NATIONS HUMAN RIGHTS CONVENTIONS OF:

Universal Declaration of Human Rights: not subject to ratification.

International Covenant on Civil and Political Rights: Argentina, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States of America, Uruguay, Venezuela.

Convention on the Elimination of All Forms of Discrimination against Women: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, Venezuela.

Convention. 169 concerning Indigenous and Tribal Peoples in Independent Countries:

Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Ecuador, Guatemala, Honduras, Mexico, Paraguay, Peru, Venezuela.

International Covenant on Economic, Social, and Cultural Rights: Argentina, Barbados, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, Venezuela.

Convention on the Rights of the Child: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, Venezuela.

Convention on the Rights of Persons with Disabilities: Argentina, Bolivia, Brazil, Canada, Chile, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay.

INTERNATIONAL HUMAN RIGHTS INSTRUMENTS APPLICABLE IN THE CONTEXT OF THE HEALTH OF
GROUPS IN SITUATIONS OF VULNERABILITY

INTER-AMERICAN HUMAN RIGHTS SYSTEM					
Examples of some human rights and fundamental freedoms	American Declaration on the Rights and Duties of Man	American Convention on Human Rights (Pact of San José)	Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (Protocol of San Salvador)	Inter-American Convention for the Elimination of All Forms of Discrimination against Persons With Disabilities	Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará)
Life	Art. I	Art. 4			Art. 4.a
Personal integrity	Art. XXV	Art. 5			Art. 4
Personal freedom	Art. I	Art. 7			Art. 4.c
Judicial guarantees	Art. XVIII	Art. 8			Art. 7.f
Privacy	Art. V	Art. 11			Art. 4
Freedom of expression	Art. IV	Art. 13			Art. 4
Name		Art. 18			Art. 4
Freedom of movement and residence	Art. VIII	Art. 22			Art. 4
Equal protection	Art. II	Art. 24		Arts. II and III	Art. 4.f
Judicial protection	Art. XXVI	Art. 25			Arts. 4.g and 7
Work	Art. XIV		Arts. 6 and 7	Art. III. 1.a	Art. 4
Highest attainable standard of health	Art. XI		Art. 10	Arts. III. 2.a and III. 2.b	Art. 4.b
Education	Art. XII		Art. 13	Arts. III. 1.a and 2.b	Art. 4
The benefits of the scientific progress	Art. XIII		Art. 14	Arts. III. 2 and IV. 2	Art. 4
Social security	Art. XXXV		Art. 9		Art. 4
Food and nutrition	Art. XI		Art. 12		Art. 4
Protection of older persons	Art. XVI		Art. 17		Art. 9
Protection of the family	Art. VI	Art. 17	Art. 15		Art. 4

PAHO MEMBER STATES THAT ARE PARTIES TO THE AFOREMENTIONED INTER-AMERICAN HUMAN RIGHTS TREATIES:

American Declaration on the Rights and Duties of Man: not subject to ratification.

American Convention on Human Rights (Pact of San José): Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago, Uruguay, Venezuela.

Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (Protocol of San Salvador): Argentina, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Mexico, Panama, Paraguay, Peru, Suriname, Uruguay.

Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará): Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts, and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, Venezuela.

Inter-American Convention on the Elimination of All Forms of Discrimination against Persons With Disabilities: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Uruguay, Venezuela.

**EXAMPLES OF INTERNATIONAL HUMAN RIGHTS STANDARDS
AND GUIDELINES APPLICABLE IN THE CONTEXT OF
THE HEALTH OF VULNERABLE GROUPS
(NON-EXHAUSTIVE LIST)**

United Nations Human Rights System:

- (a) Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care. United Nations General Assembly. <http://www2.ohchr.org/english/law/principles.htm>.
- (b) Standard Rules on the Equalization of Opportunities for Persons with Disabilities. United Nations General Assembly. <http://www2.ohchr.org/english/law/opportunities.htm>.
- (c) United Nations Principles for Older Persons. United Nations General Assembly. <http://www2.ohchr.org/english/law/pdf/olderpersons.pdf>.
- (d) Human Rights Council Resolution 11/8 on preventable maternal mortality and morbidity and human rights. United Nations Human Rights Council. http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_11_8.pdf.
- (e) International Guidelines on HIV/AIDS and Human Rights guidelines. Office of the United Nations High Commissioner for Human Rights and the Joint United Nations Programme on HIV/AIDS. http://data.unaids.org/Publications/IRC-pub07/jc1252-internguidelines_en.pdf.
- (f) United Nations Declaration on the Rights of Indigenous Peoples. United Nations General Assembly. <http://www.un.org/esa/socdev/unpfii/en/drip.html>.
- (g) Persons with disabilities, general comment 5. United Nations Committee on Economic, Social and Cultural Rights. <http://www1.umn.edu/humanrts/gencomm/epcomm5e.htm>.
- (h) The right to the enjoyment of the highest attainable standard of health, general comment 14 (Article 12, International Covenant on Economic, Social and Cultural Rights). Committee on Economic, Social, and Cultural Rights. [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.2000.4.En](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En).

- (i) The economic, social, and cultural rights of older persons, General Comment 6. Committee on Economic, Social, and Cultural Rights.
<http://www.unhchr.ch/tbs/doc.nsf/0/482a0aced8049067c12563ed005acf9e?OpenDocument>.
- (j) General Recommendation No. 24 on women and health. Committee on the Elimination of All Forms of Discrimination against Women.
<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom24>.
- (k) General Comment 4 on adolescent health and development in the context of the Convention on the Rights of the Child. Committee on the Rights of the Child.
[http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CRC.GC.2003.4.En](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CRC.GC.2003.4.En).
- (l) General comment 3 on HIV/AIDS and human rights. Committee on the Rights of the Child.
[http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CRC.GC.2003.3.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CRC.GC.2003.3.En?OpenDocument).

Inter-American Human Rights System

- (a) Recommendation of the Inter-American Commission on Human Rights (IACHR) for the Promotion and Protection of Persons of the Mentally Ill.
<http://www.cidh.org/annualrep/2000eng/chap.6e.htm>.
- (b) Program of Action for the Decade of the Americas for the Rights and Dignity of Persons with Disabilities. OAS General Assembly. http://www.oas.org/DIL/AG-RES_2230_XXXVI-O-06_eng.pdf.
- (c) Brasilia Declaration of the Second Regional Intergovernmental Conference on Aging: Towards a Society for All Ages and Rights-Based Social Protection. ECLAC.
http://www.un.org/esa/socdev/ageing/documents/regional_review/Declaracion_Brasilia.pdf.
- (d) Promotion of Women's Human Rights and Gender Equity and Equality. OAS General Assembly. http://www.sice.oas.org/Genderandtrade/2454_e.pdf.

- (e) Human Rights and Older Adults. OAS General Assembly. http://www.oas.org/dil/AG-RES_2455-2009_eng.doc.
- (f) Prevention and Eradication of the Commercial Sexual Exploitation and the Smuggling of and Trafficking in Minors. OAS General Assembly. http://www.oas.org/dil/AG-RES_2486-2009_eng.doc.
- (g) Declaration of Medellín: Youth and Democratic Values. OAS General Assembly. http://www.oas.org/38ag/documents/declaracion_eng.doc.
- (h) Water, Health, and Human Rights. OAS General Assembly. <http://www.civil-society.oas.org/General%20Assembly%20Resolutions/Panama/AG%20RES%202349%20ENG.doc>.



PAN AMERICAN HEALTH ORGANIZATION
Pan American Sanitary Bureau, Regional Office of the
WORLD HEALTH ORGANIZATION

CD50/12 (Eng.)
Annex C

ANALYTICAL FORM TO LINK AGENDA ITEM WITH ORGANIZATIONAL MANDATES

1. Agenda item: 4.13. Health and human rights.

2. Responsible unit: Gender, Ethnicity, and Health (GEH) – Human rights.

3. Preparing officer: Mr. Javier Vásquez, Regional Adviser on Human Rights Law.

4. List of collaborating centers and national institutions linked to this Agenda item:

- *Georgetown University Law Center* (Washington, DC.), WHO/PAHO Collaborating Center on Public Health Law and Human Rights
- *Washington College of Law, American University* (Washington, DC).
- Spanish Agency for International Development Cooperation (AECID).
- Swedish International Development Cooperation Agency (SIDA).
- Inter-American Commission on Human Rights (IACHR).
- Committee on Economic, Social, and Cultural Rights.
- Committee on Rights of Persons With Disabilities.
- Committee on the Elimination of All Forms of Discrimination against Women.
- Inter-American Institute of Human Rights.
- Office of the High Commissioner for the Human Rights of United Nations.
- ECLAC/CELADE.
- PAHO/WHO Collaborating Center for Addiction and Mental Health, University of Toronto.
- HelpAge Internacional.
- National Alliance on Mental Illness (NAMI).
- Mental Disability Rights International (MDRI).
- United Nations Population Fund (UNFPA).
- The New York Academy of Medicine.
- International Planned Parenthood Federation (IPPF).
- Global Action on Aging, Human Rights Centre, University of Essex.
- Inter-American Inclusion.
- University of Texas Law School.

5. Link between Agenda item and Health Agenda for the Americas 2008-2017:

- Declaration of the ministers and secretaries of health.
- Statement of intent: paragraphs 2 and 3.
- Principles and values: paragraphs 9, 11 and 12.

6. Link between Agenda item and Strategic Plan 2008-2012:

Linkage with SO7 (RER 7.1, 7.4, 7.5); SO2 (RER 2.1, 2.2, 2.3); SO3 (RER 3.1, 3.2, 3.3); SO4 (RER 4.1, 4.2, 4.5, 4.6, 4.8); SO9 (RER 9.1, 9.2); SO10 (RER 10.1, 10.2) and SO15 (RER 15.1, 15.2, 15.3).

7. Best practices in this area and examples from countries within the Region of the Americas:

Since 1998, with financial collaboration from the Swedish, Spanish and Norwegian cooperation agencies, PAHO has been engaged in various technical cooperation activities pursuant to the recommendations of its Governing Bodies (see paragraph 19 of the concept paper). Some of the relevant activities and progress are detailed below:

- Dissemination of international human right instruments in 23 countries;
- Technical training for health personnel on international norms and standards applicable in the context of the health agencies;
- Training for PAHO staff (Headquarters and Representative Offices) on measures adopted by the Member States to apply international human rights instruments, and PAHO's role in facilitating their application;
- Collaboration with Member States to incorporate international human rights norms and standards in national policy, planning, and legislation on older persons, mental health, HIV, aging, disabilities, and adolescent health;
- Technical collaboration with the OAS Inter-American Commission on Human Rights (IACHR);
- Publication of six modules on human rights and health, and the launch of remote online training on human rights and health.

8. Financial implications of this Agenda item:

The recommendations mentioned in the proposed resolution have financial implications that are necessary for their execution. The Bureau's activity in promoting and strengthening the application of international human rights instruments in the context of the health groups in situations of vulnerability, pursuant to RER 7.4 (indicator 7.4.1), will require US\$ 450,000, of which close to \$380,000 will be provided by the Diversity and Human Rights project (GEH).



PAN AMERICAN HEALTH ORGANIZATION
WORLD HEALTH ORGANIZATION



50th DIRECTING COUNCIL

62nd SESSION OF THE REGIONAL COMMITTEE

Washington, D.C., USA, 27 September - 1 October 2010

CD50/12 (Eng.)
Annex D
ORIGINAL: SPANISH

PROPOSED RESOLUTION

HEALTH AND HUMAN RIGHTS

THE 50th DIRECTING COUNCIL,

Having considered the concept paper, *Health and Human Rights* (Document CD50/12);

Bearing in mind that the Constitution of the World Health Organization establishes a basic international principle whereby “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition”;

Recognizing that in the Health Agenda for the Americas (2008-2017) the ministers and secretaries of health: (a) declared their renewed commitment to the above-mentioned principle established in the WHO Constitution; (b) recognized that human rights are part of the principles and values inherent to the Health Agenda; and (c) declared that, to make the right to the enjoyment of the highest attainable standard of health a reality, the countries should work toward universality, access, integrity, quality, and inclusion in health systems that are available for individuals, families, and communities;

Aware that the PAHO Strategic Plan 2008-2012 Amended states that “...Human rights law, as enshrined in international and regional human rights conventions and standards, offers a unifying conceptual and legal framework for these strategies, as well as measures by which to evaluate success and clarify the accountability and responsibilities of the different stakeholders involved”;

Recognizing that the human rights instruments of the United Nations and Inter-American systems are useful for the progress of the Member States towards the achievement of the Millennium Development Goals (MDGs), especially those related to eradicate extreme poverty and hunger (MDG 1), reduce child mortality (MDG 4), improve maternal health (MDG 5), and combat HIV/AIDS, malaria and other diseases (MDG 6);

Observing that the Pan American Sanitary Conference and the Directing Council have recommended that the Member States formulate and adopt policies, plans, and legislation in health consistent with the applicable international human rights instruments in the context of mental health (Document CD49/11), active and healthy aging (Document CD49/8), adolescent and youth health (Document CD49/12), gender equality (Document CD49/13), the reduction of maternal mortality and morbidity (Document CSP26/14), access to care for people living with HIV (Document CD46/20), the health of indigenous peoples (Document CD47/13), and disability, prevention, and rehabilitation (Document CD47/15), among others;

Recognizing that in some PAHO Member States matters related to health may be under different jurisdictional levels,

RESOLVES:

1. To urge Member States, taking into account their national context, financial and budgetary resources, and legislation currently in force, to:
 - (a) strengthen the technical capacity of their health authority to work with the corresponding government human rights entities, such as ombudspersons' offices and human rights secretariats to evaluate and oversee implementation of the applicable international human rights instruments related to health;
 - (b) strengthen the technical capacity of the health authority to provide support for the formulation of health policies and plans consistent with the applicable international human rights instruments related to health;
 - (c) support PAHO's technical cooperation in the formulation, review and, if necessary, reform of national health plans and legislation, incorporating the applicable international human rights instruments, especially those related to the protection of groups in vulnerable situations;
 - (d) promote and strengthen training programs for health workers on the applicable international human rights instruments;

- (e) formulate and, if possible, adopt legislative, administrative, educational, and other measures to disseminate the applicable international human rights instruments on protection of the right to the enjoyment of the highest attainable standard of health and other related human rights among the appropriate personnel in the legislative and judicial branches and other governmental authorities;
 - (f) as appropriate, promote the dissemination of information among civil society organizations and other social actors on the applicable international human rights instruments related to health, to address stigmatization, discrimination and exclusion of groups in vulnerable situations.
2. To request the Director, within the financial possibilities of the Organization:
- (a) to facilitate PAHO technical cooperation with the human rights committees, organs, and rapporteurships of the United Nations and Inter-American systems;
 - (b) to train Organization staff so that the technical areas, especially those most closely involved in protecting the health of groups in vulnerable situations, gradually incorporate the international human rights instruments related to health into their programs;
 - (c) to promote and stimulate collaboration and research with academic institutions, the private sector, civil society organizations, and other social actors, when appropriate, to promote and protect human rights, in keeping with the international human rights instruments related to health;
 - (d) to promote the sharing of good practices and successful experiences among the Member States of PAHO so as to prevent the stigmatization, discrimination and exclusion of groups in vulnerable situations.



PAN AMERICAN HEALTH ORGANIZATION
Pan American Sanitary Bureau, Regional Office of the
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CD50/12 (Eng.)
Annex E

**Report on the Financial and Administrative Implications for the
Secretariat of the Proposed Resolution**

1. Agenda item: 4.8. Health and Human Rights

2. Linkage to Program Budget:

(a) Area of work:

SO7: To address the underlying social and economic determinants of health through policies and programs that enhance health equity and integrate pro-poor, gender-responsive, and human rights-based approaches.

(b) Expected result:

RER 7.1: Significance of determinants of health and social policies recognized throughout the Organization and incorporated into normative work and technical cooperation with Member States and other partners.

RER 7.4: Ethics and human rights-based approaches to health promoted within PAHO/WHO and at national, regional, and global levels.

RER 7.5: Gender analysis and responsive actions incorporated into PAHO/WHO's normative work and technical cooperation provided to Member States for formulation of gender sensitive policies and programs.

(a) Area of work:

SO2: To combat HIV/AIDS, tuberculosis, and malaria.

(b) Expected result:

RER 2.1: Member States supported through technical cooperation for the prevention of, and treatment, support and care for patients with HIV/AIDS, tuberculosis and malaria, including innovative approaches for increasing coverage of the interventions among poor people, hard-to-reach and vulnerable populations.

RER 2.2: Member States supported through technical cooperation to develop and expand gender-sensitive policies and plans for HIV/AIDS, malaria and TB prevention, support, treatment and care.

<p>RER 2.3: Member States supported through technical cooperation to develop and implement policies and programs to improve equitable access to quality essential medicines, diagnostics, and other commodities for the prevention and treatment of HIV, tuberculosis, and malaria.</p>
<p>(a) Area of work:</p> <p>SO3: To prevent and reduce disease, disability, and premature death from chronic non-communicable diseases, mental disorders, violence, and injury.</p> <p>(b) Expected result:</p> <p>RER 3.1: Member States supported through technical cooperation to increase political, financial and technical commitment to address chronic non-communicable conditions, mental and behavioral disorders, violence, road safety, and disabilities.</p> <p>RER 3.2: Member States supported through technical cooperation for the development and implementation of policies, strategies, and regulations regarding chronic non-communicable conditions, mental and behavioral disorders, violence, road safety, disabilities, and oral diseases.</p> <p>RER 3.3: Member States are supported through technical cooperation to compile, analyze, disseminate, and utilize data on the magnitude, causes, and results of chronic noncommunicable diseases, mental and behavioral disorders, violence, injuries caused by travel in public thoroughfares, and disabilities.</p>
<p>(a) Area of work:</p> <p>SO4: To reduce morbidity and mortality and improve health during key stages of life, including pregnancy, childbirth, the neonatal period, childhood, and adolescence, and improve sexual and reproductive health and promote active and healthy aging for all individuals.</p> <p>(b) Expected result:</p> <p>RER 4.1: Member States supported through technical cooperation to develop comprehensive policies, plans, and strategies that promote universal access to a continuum of care throughout the life cycle; to integrate service delivery; and to strengthen coordination with civil society, the private sector, and partnerships with UN and Inter-American system agencies and others (e.g., NGOs).</p>

<p>RER 4.2: Member States supported through technical cooperation to strengthen national/local capacity to produce new evidence and interventions; and to improve the surveillance and information systems in sexual and reproductive health, and in maternal, neonatal, child, adolescent, and older adult health.</p> <p>RER 4.5: Member States supported through technical cooperation to improve child health and development, taking into consideration international agreements.</p> <p>RER 4.6: Member States supported through technical cooperation for the implementation of policies and strategies on adolescent health and development.</p> <p>RER 4.8: Member States supported through technical cooperation to increase advocacy for aging as a public health issue, and to maintain maximum functional capability throughout the life course.</p>
<p>(a) Area of work:</p> <p>SO9: To improve nutrition, food safety, and food security to support the individual throughout the life course, and in support of public health and sustainable development</p> <p>(b) Expected result:</p> <p>RER 9.1: Partnerships and alliances formed, leadership build, and coordination and networking developed with all stakeholders at country, regional, and global levels, to promote advocacy and communication, communication, stimulate intersectoral actions, and increase investment in nutrition, food safety, and food security.</p> <p>RER 9.2: Member States supported through technical cooperation to increase their capacity to assess and respond to all forms of malnutrition and zoonotic and non-zoonotic foodborne diseases, and to promote healthy dietary practices.</p>
<p>(a) Area of work:</p> <p>SO10: To improve organization, management, and delivery of health services .</p> <p>(b) Expected result:</p> <p>RER 10.1: Member States supported through technical cooperation to strengthen health systems based on Primary Health Care, promoting equitable access to health care services of good quality, with priority given to vulnerable population groups.</p>
<p>RER 10.2: Member States supported through technical cooperation to strengthen organizational and managerial practices in health services' institutions and networks, to improve performance, and to achieve collaboration and synergy between public and private providers.</p>

(a) Area of work:

SO15: To provide leadership, strengthen governance, and foster partnership and collaboration with Member States, the United Nations system, and other stakeholders to fulfill the mandate of PAHO/WHO in advancing the global health agenda, as set out in WHO's 11th General Programme of Work and the Health Agenda for the Americas.

(b) Expected result:

RER 15.1: Effective leadership and direction of the Organization exercised through the enhancement of governance and the coherence, accountability, and synergy of PAHO/WHO's work to fulfill the mandate in advancing the global, regional, subregional, and national health agendas

RER 15.2: Effective PAHO/WHO country presence established to implement the PAHO/WHO Country Cooperation Strategies (CCS), which are (1) aligned with Member States' national health and development agendas, and (2) harmonized with the United Nations country team and other development partners.

RER 15.3: Regional health and development mechanisms established, including partnerships for international health and advocacy, to provide more sustained and predictable technical and financial resources for health, in support of the Health Agenda for the Americas.

3. Financial implications:

(a) Total estimated cost for implementation over the lifecycle of the resolution (estimated to the nearest US\$ 10,000, including staff and activities): US\$ 1.3 million.

(b) Estimated cost for the biennium 2010-2011 (estimated to the nearest US\$ 10,000, including staff and activities): US\$ 450,000.

(c) Of the estimated cost noted in (b), what can be subsumed under existing programmed activities?: US\$ 190,000.

4. Administrative implications

(a) Indicate the levels of the Organization at which the work will be undertaken: regional, subregional, and country.

(b) Additional staffing requirements (indicate additional required staff full-time equivalents, noting necessary skills profile): N/A

(c) Time frames (indicate broad time frames for the implementation and evaluation): 2010-2015.