Prevention and treatment of non-communicable diseases as a human rights concern

Side event at the 51st Session of the Human Rights Council

29 September 2022

SUMMARY REPORT
SUMMARY

THE PREVENTION AND TREATMENT OF NON-COMMUNICABLE DISEASES AS A HUMAN RIGHTS CONCERN

Side event at the 51st Session of the Human Rights Council, Palais des Nations
Room XXV/WebEX

29 September 2022, 14:00hrs – 15:00hrs

This meeting (co-chaired by UN Nutrition, WHO and OHCHR and co-sponsored by the Government of Portugal, together with several members of the United Nations Inter-Agency Task Force on the Prevention and Control of NCDs [Task Force]) provided the first dedicated session on non-communicable diseases (NCDs) as a human rights concern at the Human Rights Council. The side event is part of the efforts of the Task Force to raise the profile of the prevention and treatment of NCDs as a human rights concern in line with its 2022-2025 Strategy.

The concept note for the meeting is Annex 1. The aims of the meeting were to:

• Promote greater understanding of NCDs as a human rights concern;
• Highlight key elements of a human rights-based approach to the NCD response; and
• Promote greater awareness of the role that the Human Rights Council can play in the prevention and treatment of NCDs, taking into account ongoing work in other health-related areas.

The two expected outcomes of the meeting were both met, i.e.:

1. Stakeholders were sensitized around the human rights dimensions of NCDs, mental health conditions and their risk factors, as well as the key elements of a human rights-based approach to the NCD response; and
2. There seems to be an opportunity for the Human Rights Council to consider how NCDs might be integrated into its work on health.

Opening statements from the co-chairs are in Annex 2. Remarks from the Ambassador of Portugal to the United Nations Office and other international organisations in Geneva and remarks from the IDLO Permanent Observer to the United Nations and International Organizations in Geneva are in Annex 3.

In her remarks during the panel session, Dr. Tlaleng Mofokeng, Special Rapporteur on the Right to Health, underscored the need to address the determinants of health such as the ongoing impact of colonialism and racial discrimination on access to and quality of health services for affected populations. Using insulin as an example, the Special Rapporteur discussed the commercial determinants of health, such as drug price monopolies for NCD medications, and their contribution to inequalities in access to health products. Oscar Cabrera (Director, Health and Human Rights Initiative, Global Center for Legal Innovation on Food Environments, O’Neill Institute for National and Global Health Law) focused on the legal environment, pertaining especially to the right to healthy food and the human rights norms
applicable to private actors involved in the food industry. David Kabanda (Executive Director, Center for Food and Adequate Living Rights, Uganda), drew attention to the legal environment and the right to food in Africa, noting that key problems included an incomplete legal framework for the regulation of the food industry as well as poor enforcement of laws. Widespread corruption further undermines regulation, which requires urgent enforcement, especially in relation to the use of agrochemicals such as glyphosate and Glyphosate Based Herbicides, many of which are highly toxic. Their continued use is a violation of the right to life, health, right to adequate food and to a clean and health environment.

During the discussion, participants raised a number of issues, including: the role of access to key products such as insulin; gender norms and cultural values in dictating women’s and men’s health-seeking behaviours and levels of exposure and vulnerability to NCD risk factors across the life course; the need to bear in mind persons who use drugs or those living with NCDs in prison settings; the importance of access to controlled substances for scientific and medical purposes whilst preventing diversion and abuse.

Next steps:

1. Explore with stakeholders, including Members of the Human Rights Council and WHO, how to enhance support for joined-up action to prevent, treat and control NCDs;
2. Explore practical support at the national level in selected countries for human rights-based action on NCDs;
3. Finalise key messages on NCDs and human rights.

25 October 2022
Annex 1.

Concept note

Side event at the 51st Session of the Human Rights Council
Palais des Nations Room XXV/WebEX
29 September 2022
14:00hrs – 15:00hrs


Objectives

- To promote greater understanding of NCDs as a human rights concern
- To highlight key elements of a human rights-based approach to the NCD response
- To promote greater awareness of the role that the Human Rights Council can play in the prevention and treatment of NCDs, taking into account ongoing work in other health-related areas.

Background

Noncommunicable diseases (NCDs) are chronic conditions which result from a combination of genetic, physiological, environmental and behavioral risk factors. Although NCDs are often associated with older age groups, individuals across all stages of life are exposed to the major risk factors contributing to NCDs: consumption of tobacco and exposure to tobacco smoke, insufficient physical activity, the harmful use of alcohol, air pollution and unhealthy diets.

NCDs, which include cardiovascular diseases, diabetes, cancer and chronic respiratory disease, are collectively responsible for almost 70% of all deaths worldwide, killing an estimated 41 million persons annually, making them the leading cause of global mortality and disability. NCDs also account for more than 16 million premature deaths (i.e. deaths between the ages of 30 and 69 years), 82 per cent of which occur in low- and middle-income countries. One in every eight persons in the world, including around one fifth of children and adolescents, live with a mental health condition. Poor mental health is estimated to cost the global economy USD 2.5 trillion a year in reduced economic productivity and physical ill-health.

NCDs and the international human rights framework

The right to health is recognised in several instruments, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, as well as in various regional human rights instruments. It is a composite right, calling for non-discriminatory, timely and appropriate access to health services for all, as well as for attention to the underlying determinants of health. These determinants, which influence persons’

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1. https://www.who.int/health-topics/noncommunicable-diseases#tab=tab_1
2. https://www.who.int/health-topics/mental-health#tab=tab_2
ability to enjoy their right to health, are mostly found outside of the health care system, in the conditions in which persons are born, grow, live, work and age.

The prevalence of NCDs is closely associated with socio-economic, commercial, environmental, structural and other determinants, and these include exposure to risk factors for NCDs and mental health conditions, poverty, predatory commercial practices, discriminatory laws and policies, early childhood health and poor occupational and environmental conditions. Poverty and poor health literacy play a significant role in the extent to which persons are exposed to the main risk factors, resulting in persons in vulnerable situations becoming more ill and dying sooner than persons in more affluent circumstances.

Populations and groups in situations of vulnerability and marginalisation often encounter financial and other barriers to accessing health-care services, such as high cost, long duration of treatment, loss of income due to illness, and the resulting impoverishment. In health settings, discrimination against certain groups of persons living with or at risk of NCDs or mental conditions, and the failure to safeguard patient dignity, discourage many from seeking essential care. With its emphasis on respect for dignity, and privacy, on prioritising attention to persons in vulnerable situations, and on eliminating inequality and discrimination, the human rights-based approach to health is essential for an effective response to NCDs and mental health conditions.

While the right to health may be realised progressively, States are still required to ensure the satisfaction of the minimum essential levels of the right to health. These “core obligations” include: (a) ensuring the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalised groups; (b) ensuring access to sufficient, safe and nutritious food; (c) ensuring access to basic shelter, housing and sanitation; providing access to essential drugs; (d) ensuring an equitable distribution of all health facilities, goods and services; and (d) adopting and implementing a national public health strategy and plan of action which address the health concerns of the whole population. Among obligations of comparable import are the obligations to ensure child health care, to provide education and access to health information and to provide appropriate training for health personnel, including education on health and human rights. All of these interventions, underpinned by the allocation of the maximum available resources for health, are also indispensable for the effective prevention, treatment and control of NCDs.

**NCDS in the 2030 Agenda for Sustainable Development**

NCDs and mental health are a key challenge not only to achieving health and well-being for all, but also for global development. In addition to target 3.4 (by 2030, reduce by one third premature mortality from non-communicable diseases through prevention and treatment and promote mental health and well-being), the majority of targets under Sustainable Development Goal 3 (ensuring healthy lives and promoting well-being for all, at all ages) have a direct bearing on NCDs and mental health. Target 3.8 relates to achieving universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all, while target 3.a calls for strengthening the implementation of the WHO Framework Convention on Tobacco Control (WHO FCTC) in all countries.

The prevention, treatment and management of NCDs and mental health contributes to achieving Goal 3 as well as several other Sustainable Development Goals, including: SDGs 1, no poverty, SDG 2 zero hunger, SDG 4 quality education, SDG 5 gender equality, SDG 7 affordable and clean energy, SDG 8 decent work and economic growth, SDG 10 reduced inequalities, SDG 11 sustainable cities and communities, SDG 12 responsible consumption and production, and SDG 13 climate action.

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4 See Committee on Economic, Social and Cultural Rights, General Comment No. 14 (2000), paras. 43-44.)
**Action in the United Nations system**

The WHO FCTC entered into force in 2005 and is one of the most widely ratified treaties. It is an evidence-based treaty which reaffirms the right of all persons to the highest attainable standard of health and provides guidance in addressing one of the most influential risk factors for NCDs. The Economic and Social Council (ECOSOC) established the Ad Hoc Inter-Agency Task Force on Tobacco Control in 1999 to build up a joint United Nations response and to strengthen global support for tobacco control.

In July 2013, following the commitments made in the United Nations Political Declaration on the Prevention and Control of NCDs5, the World Health Assembly endorsed the Global Action Plan for the Prevention and Control of NCDs (2013-2030).6 The United Nations Inter-Agency Task Force on the Prevention and Control of Non-communicable Diseases was established by the UN Secretary-General by expanding the mandate of the Ad Hoc Inter-Agency Task Force on Tobacco Control. The Global Action Plan provides Member States with a road map and policy options to achieve nine global NCD targets.

Given the work of the Council in promoting human rights-based approaches across a range of areas including maternal health, access to medicines, vaccines and other health products, mental health and child health, the Human Rights Council is well positioned to focus attention on addressing NCDs as a human rights concern. The COVID-19 pandemic saw the de-prioritisation of many public health initiatives and essential health services, including those for NCDs and mental health, even though NCDs and their risk factors were shown to increase susceptibility to COVID-19 infection as well as the likelihood of worse outcomes.7 As such, the need to ground the prevention and treatment of NCDs in the human rights obligations of States is more critical than ever.

This side event during the 51st Session of the Human Rights Council will highlight the global burden of NCDs, the role played by their modifiable risk factors, and how human rights are critical for an effective response. The meeting will draw attention to the opportunities available for the Council to explore more direct engagement on NCDs and mental health.

**Venue:** Palais des Nations Room XXV. Participation is also possible through WebEX using the following login details:

Via WebEX link: https://ungeneva-vc.webex.com/ungeneva-vc/j.php?MTID=mb4674e6f882d3afbb49ce830a92317b4

Via meeting number:
Meeting number (access code): 2744 340 7646
Meeting password: QZf4DdszJ57

**Co-chairs:**
- Todd Howland, Chief – Development and Economic & Social Issues Branch, OHCHR
- Dr Naoko Yamamoto, Chair - UN Nutrition and Assistant Director-General for Universal Health Coverage and Healthier Populations (WHO)

**Video statement:** H.E. Mr. Rui Maciera, Ambassador of Portugal to the United Nations Office and other international organisations in Geneva

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• Mark Cassayre, IDLO Permanent Observer to the United Nations and International Organizations in Geneva: How the Council can contribute to the NCD response: Policy and advocacy perspectives

**Moderator:** Nick Banatvala, Head of the Secretariat of the UN Interagency Task Force on NCDs, WHO

**Panelists:**
- Dr. Tlaleng Mofokeng, Special Rapporteur on the Right to Health: linking human rights and NCDs, with emphasis on the gender dimensions
- Oscar Cabrera, Director, Health and Human Rights Initiative, Global Center for Legal Innovation on Food Environments, O’Neill Institute for National and Global Health Law, Visiting Professor of Law, Georgetown Law
- David Kabanda, Executive Director, Center for Food and Adequate Living Rights, Uganda: The legal environment and the right to food

**Expected outcomes:**
3. Stakeholders are sensitized around the human rights dimensions of NCDs, mental health conditions and their risk factors, as well as the key elements of a human rights-based approach to the NCD response.
4. Opportunities for the Human Rights Council to support the prevention and management of NCDs and mental health are highlighted, taking into account ongoing work in other health-related areas.

**Background documents:**
- [Political declaration of the third high-level meeting](https://www.who.int/governance/ga/73/i/19_10_2018_speeches_and_declarations/en/) of the General Assembly on the prevention and control of non-communicable diseases (res. 73/2)
Annex 2. Opening statements from the co-chairs

Todd Howland, Chief – Development and Economic & Social Issues Branch, OHCHR

Excellencies, Colleagues, Ladies and Gentlemen

It is my pleasure to welcome you all today to this event on NCDs as a human rights concern, and I would like to thank the other co-sponsors, particularly the Permanent Mission of Portugal, represented by His Excellency Mr. Rui Maciera.

I also acknowledge the leadership - within the UN system - of the Secretariat of the UN Interagency Task Force on NCDs and the commitment of the Task Force members to raising the profile of these diseases and to improving the way we respond to them.

The role of human rights in health is generally not well understood, and NCDs are no exception. There are many reasons for this but one of them is a narrow conception of health as involving mainly the delivery of services.

However, we know that the right to health is not merely a matter of ensuring access to services; it is a matter of making sure that good quality health services are available and accessible to everyone without discrimination. Equally importantly, upholding the right to health means removing the barriers which come with the circumstances into which we are born and in which we live.

As we often say, human rights are interrelated and interdependent, each right depending on the realisation of others for its full exercise. We have seen with the COVID-19 pandemic, for example, how the realisation of the right to social protection enabled access to health services, to the right to food and to the right to an adequate standard of living.

In the case of NCDs, exposure to the major risk factors – unhealthy diets, inadequate physical activity, tobacco use and the harmful use of alcohol – is closely (though not exclusively) connected to low socio-economic status which in turn affects access to health information, health care and adequate and nutritious food, among other things.

As the COVID-19 pandemic has also highlighted, it is imperative that we consider and respond to threats to global health in a holistic manner. Integrating human rights into public health is vital to this approach.

Recognising this imperative, the Council has developed a large body of work on the right to health, including on mental health, maternal mortality and morbidity, HIV/AIDS, mental health and access to medicines, vaccines and other health products.

At the level of the General Assembly, we have two Political Declarations on the Prevention and Control of Non-Communicable Diseases. Both reaffirm the right to health, and the Political Declaration of 2011 acknowledges the urgent need for greater measures at the global, regional and national levels to prevent and control non-communicable diseases.

Today’s discussion will focus attention on the importance of human rights and how they can be incorporated into NCD prevention, treatment and control. We’re in good hands with our three panelists who will help us draw out these elements and position us for a fruitful conversation.

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I now hand over to my co-chair, Dr. Naoko Yamamoto, who joins us in her capacity as the Chair of UN Nutrition and Assistant Director-General for Universal Health Coverage and Healthier Populations at WHO. Thank you

Dr Naoko Yamamoto, Chair - UN Nutrition and Assistant Director-General for Universal Health Coverage and Healthier Populations, WHO

Excellencies, distinguished speakers, esteemed colleagues, and friends. Our deep appreciation to the Government of Portugal for co-sponsoring this side event along with several organizations. I am delighted to join you today as Assistant Director-General of Healthier Populations in WHO and as Chair of UN Nutrition, the system’s common voice for nutrition.

Every year, noncommunicable diseases account for 71% of all deaths globally, which represent about 41 million deaths, mostly in low- and middle-income countries. This means that almost every family in the world is touched by an individual affected by NCDs. This is very costly to our societies as well as a huge barrier to living healthy lives and the fully exercise of human rights. With the existing knowledge, we know what we have to do to improve the situation.

Many years of public health interventions, research and evidence give us important lessons about the risk factors for NCDs, including the contribution of tobacco use, harmful use of alcohol, physical inactivity, air pollution, obesity, poor-quality diets, and poor living conditions. We know how to diagnose and treat NCDs, how to educate and train medical professionals and health care workers. Yet, our common challenge is to create societies where all people have access to information, prevention measures, necessary treatment and essential support. To do this we must address the root causes of the NCD epidemic. Let’s take, for example, obesity, which represents a common a burden for all regions. If we really want to address its root causes, we must ensure access to healthy foods and also work with all-sectors from farm to plate. We must adopt a comprehensive approach that links other sectors such as housing, work, education, and development to really prevent all forms of malnutrition.And in this multi-sectoral cooperation, we need common principles.

Human rights’ principles provide this common understanding that link all sectors together. When it comes to guaranteeing access to essential, quality services for people suffering from NCDs, we need universal health coverage. We need laws, systems, and adequate resources to ensure access to medicines, care, and support. And most importantly, we must pay attention to the populations and individuals that are more vulnerable and at greater risk of suffering from human rights violations across their life course such as children and women, who require a strong focus.

This is a matter of equity, life, and dignity. In today’s discussion we will address these matters of huge importance to our work. WHO and UN Nutrition stand ready to work with the Human Rights Council to advance on the prevention and treatment of NCDs and other health-related areas. I look forward to our fruitful discussion. I thank you and hand over to the moderator, Nick Banatvala.
Remarks from the Ambassador of Portugal to the United Nations Office and other international organisations in Geneva

Madame Special Rapporteur, cochairs, esteemed members of the panel, colleagues and friends.

Portugal is pleased to co-sponsor this event because we believe there is a clear human rights perspective on noncommunicable diseases. And we are all grateful to the Office of the High Commissioner and specifically to the Thematic Engagement Special Procedures and Right to Development Division for having prepared the remarkable concept note.

I will quote it liberally.

As we know, the right to health is recognized in several instruments including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child, as well as in various regional human rights instruments.

On the Human Rights Council, the resolutions on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, like the one that established the mandate of the Special Rapporteur back in 2002, have also touched on this subject.

According to the most recent report of WHO, *Invisible Numbers*: the true extent of non-communicable diseases and what to do about them, in every two seconds one person under the age of 70 dies of an NCD. Eighty two percent of those deaths take place in low- and middle-income countries. NCDs which includes cardiovascular disease, diabetes, cancer and chronic respiratory disease are collectively responsible for almost seventy percent of all deaths worldwide, making them the leading cause of global mortality and disability.

Major risk factors that lead to NCDs are tobacco use, unhealthy diet, harmful use of alcohol, physical inactivity and air pollution. Eliminating these factors could prevent or delay millions of premature deaths.

As also indicated in the WHO report, NCDs are an enormous strain on global and national economies. According to some estimates they will cost some US$30 trillion in the years 2011 to 2030.

The COVID-19 pandemic saw the deprioritization of many public health initiatives and essential health services including for NCDs and mental health, even though NCDs and their risk factors were shown to increase susceptibility to COVID-19 infections.

In 2022, only a handful of countries were on track to meet the SDG target on reducing early deaths from NCDs by a third by 2030. One thing that the WHO report clearly emphasizes is that spending an additional US$18 billion per year across low- and middle-income countries could result in benefits worth trillions of dollars, proving that health should be seen as an investment not as a cost.

The prevalence of NCDs is closely associated with socioeconomic environmental and other determinants. These include exposure to risk factors and mental health conditions, poverty, discriminatory laws and policies, early childhood health, and poor occupational and environmental conditions.
The Special Rapporteur on the Right to Health - here with us - has addressed the issue of NCDs in a statement in July 2020 which highlighted how unhealthy diets have a direct impact on overweight and obesity and therefore are key contributing factors to NCDs and to their related premature morbidity and mortality in all regions. She also noted that having the right to a healthy mind, States should regulate the activities of the food and beverage industry which are increasingly implicated in the global obesity and NCD epidemic in order to mitigate the detrimental impact of the products on the enjoyment of the right to health and other rights.

In conclusion, without clear efforts to promote action on the prevention of NCDs, they will remain on the margins of global health action. We cannot remain passive in the face of NCDs, and in Geneva we have the responsibility to break silos and be an instrument for further dialogue and coordinated actions, namely between the Human Rights Council and WHO.

This panel is a great step in this direction. I wish you a very successful discussion.

Thank you very much.

Remarks from Mark Cassayre, IDLO Permanent Observer to the United Nations and International Organizations in Geneva

Thank you, Chair, and my thanks to the Mission of Portugal for organizing this event.

Distinguished guests, colleagues,

In 1996 the (then) UN Commission on Human Rights requested the High Commissioner for Human Rights to develop guidelines on promoting and protecting human rights in the context of HIV and AIDS.

The resulting ‘International Guidelines on HIV/AIDS and Human Rights’ were the outcome of a participatory process which involved people living with HIV and representatives of key affected populations - as well as public health and legal experts. The Guidelines were welcomed by the Commission in 1997. Strategies and programmes of many UN agencies and intergovernmental and multilateral organizations today are grounded in the human rights principles described in the Guidelines.

The Guidelines were embraced by civil society organizations at all levels and served as standards for government action on HIV. The Guidelines also provided guidance for IDLO to ground our Health Law Programme and HIV work in the human rights-based approach.

But why I am talking about HIV for an NCD event?

Because lessons from the HIV and Human Rights experience can inform our interventions to tackle NCDs.

I will mention three:
1. The indivisibility of human rights. For example, in affirming the civic space that permits civil society and communities responding to NCDs to mobilize and advocate for government action.
2. Addressing inequalities and discrimination. Rights-based approaches also require States to address the underlying drivers of illness – the social determinants of health – such as stigma and discrimination.

3. The protection of vulnerable and marginalised groups and individuals. These people are often disproportionately exposed to NCD risk factors and more likely to be affected by NCDs.

At IDLO, we have applied these lessons to support countries in tackling NCDs. For instance, in East Africa and South Asia, we have built the capacity and empowered civil society organizations to participate in decision-making processes for laws and policies for NCD prevention and our early work on HIV with law schools is now providing opportunities for multidisciplinary collaboration between public health and legal scholars to address NCDs. In essence, the human rights-based approach has informed IDLO’s health law interventions to support countries to tackle NCDs.

This is not the first time the Human Rights Council addresses a global health pandemic. The Council, and its predecessor, the Commission on Human Rights, have long provided guidance on States’ international human rights obligations in the response to HIV.

In recent years the Human Rights Council has also considered the extensive OHCHR guidance on human rights-based approaches to maternal morbidity and mortality.

As the experience from HIV and maternal mortality demonstrate, authoritative guidance on human rights-based approaches on health issues can effectively advance the right to health. Such an approach could strengthen NCD responses at all levels.

IDLO stands ready to support the Council in this endeavour, in collaboration with partners from WHO, UN Nutrition and other UN Agencies.

Thank you
This publication was led by the Office of the United Nations High Commissioner for Human Rights and the Secretariat of the United Nations Inter-Agency Task Force on the Prevention and Control of Non-communicable Diseases. The publication does not represent an official position of the Office of the United Nations High Commissioner for Human Rights United Nations, the United Nations Inter-Agency Task Force or its members.