



Social History of Medicine

**Making Health a Human Right: The World Health Organization and the United Nations Programme on Human Rights and Scientific and Technological Developments**

Journal:	<i>Social History of Medicine</i>
Manuscript ID:	Draft
Manuscript Type:	Original Article
Keyword:	World Health Organization, Global Health Policy, Human Rights , Scientific and Technological Developments

SCHOLARONE™  
Manuscripts

Review

## **Making Health a Human Right: The World Health Organisation and the United Nations Programme on Human Rights and Scientific and Technological Developments**

This article explores the role of the World Health Organisation (WHO) in establishing global health governance through human rights, tracing WHO's evolving participation in the United Nations' (UN's) Programme on Human Rights and Scientific and Technological Developments. From a fear of the risks of technology arising out of the 1968 International Conference on Human Rights, the UN would frame medical science as a serious threat to the rights and freedoms of individuals. However, once WHO actively asserted a position that identified health as a human right, this WHO emergence in rights-based policy discourse would come to reframe science and technology positively in global health policy. With WHO focusing on the right to health as a source of positive obligations on states to realise the benefits of science and technology for the public's health, this analytic narrative highlights a path through which human rights has come to frame global health.

Keywords: World Health Organization, global health policy, human rights, scientific and technological developments

While scholarship has uncovered the sinuous commitment of the World Health Organisation (WHO) in the development and implementation of human rights for health,<sup>1-2</sup> few have examined the health policy gains achieved by WHO when it has participated in the construction of human rights for the public's health. Examining WHO's rights-based influence on global health policy, this article traces WHO's shifting organisational role in the development of human rights discourses under the United Nations' (UN's) Programme on Human Rights and Scientific and Technological Developments.

In the development of the UN's Programme on Human Rights and Scientific and Technological Developments, global health policy turned against medical science to such a degree under the mantle of human rights

---

<sup>1</sup> Taylor 1992, pp. 301-46

<sup>2</sup> Lakin 2001.

1  
2  
3 that WHO was pressed to respond by reasserting the human right to health –  
4  
5 a right it had neglected during crucial years in the ascendancy of human  
6  
7 rights. Through this process, WHO clarified the scope and content of the right  
8  
9 to health for the first time, employing its constitutional mandate for human  
10  
11 rights to realise gains in global health policy.  
12  
13

## 14 15 **I. Human Rights in Global Health Governance**

16  
17 In considering the historical evolution of the health and human rights  
18  
19 movement in the context of global health governance, this analytic narrative  
20  
21 focuses on human rights under international law as tools for public health,  
22  
23 with international human rights offering an influential legal discourse by which  
24  
25 to frame public policy. Under this ‘rights-based approach,’ global health policy  
26  
27 identifies individual rights holders and their entitlements and corresponding  
28  
29 state duty-bearers and their obligations, framing demands on the duty-bearer  
30  
31 to respect, protect, or fulfil each right through, among other options, law  
32  
33 reforms, budget allocations, or program evaluations.<sup>3</sup> As a means to  
34  
35 empowerment, rights-based claims transfer power from the duty-bearer (who  
36  
37 has a legal obligation to develop access to rights) to the rights-holder (who is  
38  
39 entitled to a right rather than being a passive recipient of a charitable  
40  
41 donation). Raising such obligations as ‘rights violations’ offers international  
42  
43 standards by which to structure state duties and evaluate government  
44  
45 conduct, shifting the analysis of health policy from quality of care to social  
46  
47 justice.<sup>4</sup>  
48  
49  
50  
51  
52  
53  
54

55 The codification of health rights in international law begins in the  
56  
57 context of the Second World War. Rising out of the atrocities of war and  
58  
59

---

60  
<sup>3</sup> Gostin 2008.

<sup>4</sup> Parmet 2009.

1  
2  
3 drawing on the working class struggles of the late nineteenth and early  
4  
5 twentieth centuries, social and economic rights would seek to prevent  
6  
7 deprivations like those that had taken place during the Depression and War  
8  
9 that followed.<sup>5</sup> In establishing the contours of a right to health under the  
10  
11 Preamble of the Constitution of the WHO, states declared that ‘the enjoyment  
12  
13 of the highest attainable standard of health is one of the fundamental rights of  
14  
15 every human being,’ defining health positively to include ‘a state of complete  
16  
17 physical, mental, and social well-being and not merely the absence of disease  
18  
19 or infirmity.’ This expansive vision of ‘complete’ health—a vision in line with  
20  
21 public health’s contemporaneous focus on structural determinants of health—  
22  
23 further declares that ‘governments have a responsibility for the health of their  
24  
25 peoples which can be fulfilled only by the provision of adequate health and  
26  
27 social measures.’<sup>6</sup> To govern this sweeping vision of health, the 1946  
28  
29 International Health Conference established three organs by which to realise  
30  
31 the goals of a new global health architecture: (1) the World Health Assembly,  
32  
33 the legislative policy-making body of WHO member states; (2) the Executive  
34  
35 Board, an executive program-developing subset of the World Health  
36  
37 Assembly; and (3) the Secretariat, the bureaucracy that carries out the  
38  
39 decisions of state representatives through an elected Director-General and  
40  
41 appointed staff. Recognizing a necessity to facilitate international cooperation  
42  
43 through autonomous global health governance,<sup>7</sup> representatives of sixty-one  
44  
45 states signed the WHO Constitution on 22 July 1946, after which it remained  
46  
47 open for signature until it came into force on 7 April 1948.  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58

---

59 <sup>5</sup> Donnelly 2003, pp. 20-1.

60 <sup>6</sup> WHO 1948.

<sup>7</sup> Sze 1945.

1  
2  
3  
4 With both WHO and the Universal Declaration of Human Rights  
5  
6 (UDHR) coming into existence in 1948, there was great initial promise that  
7  
8 these two institutions would complement each other, with WHO—like the  
9  
10 other specialised agencies of the UN—supporting human rights through all its  
11  
12 activities. Taking up this human rights mission on the heels of the creation of  
13  
14 the UN and WHO, states developed the 1948 UDHR with the recognition that  
15  
16 ‘the inherent dignity and equal and inalienable rights of all members of the  
17  
18 human family is the foundation of freedom, justice and peace in the world.’ In  
19  
20 considering this basis for a healthy world out of the ashes of the Second  
21  
22 World War, the UDHR proclaims a right to health by which: ‘Everyone has the  
23  
24 right to a standard of living adequate for the health and well-being of himself  
25  
26 and of his family, including food, clothing, housing and medical care and  
27  
28 necessary social services.’<sup>8</sup>  
29  
30  
31  
32  
33

34 Developing and implementing these health rights across the UN and its  
35  
36 specialised agencies, WHO would have the benefit of a robust international  
37  
38 system for cooperation and coordination in human rights. Cooperation in  
39  
40 human rights would be institutionalised through the UN General Assembly’s  
41  
42 Economic and Social Council (ECOSOC), operating through its Commission  
43  
44 on Human Rights—entrusted to make recommendations for the purpose of  
45  
46 ‘promoting universal respect for, and observance of, human right and  
47  
48 fundamental freedoms for all’<sup>9</sup>—to translate the proclaimed rights of the  
49  
50 UDHR into international treaty obligations that could be legally binding on  
51  
52 state parties.<sup>10</sup> This Commission on Human Rights, drawing on the  
53  
54  
55  
56  
57  
58

59 <sup>8</sup> UN General Assembly 1948.

60 <sup>9</sup> ECOSOC Commission on Human Rights 1946.

<sup>10</sup> UN 1945.

1  
2  
3 bureaucratic efforts of the U.N. Secretariat's Division of Human Rights, would  
4  
5 coordinate states and international organisations in developing and  
6  
7  
8 implementing the international legal obligations necessary to realise human  
9  
10 rights norms.  
11

12  
13 As the UN's human rights system worked to develop binding treaty law,  
14  
15 however, WHO would back away from its promising early leadership in health  
16  
17 rights, turning its attention to purely technical enterprises, which it approached  
18  
19 through an 'apolitical' medical lens that would seek a vertical, disease-specific  
20  
21 approach to health.<sup>11</sup> Despite an understanding from the UN General  
22  
23 Assembly that specialised agencies would take responsibility for creating  
24  
25 detailed definitions of the human rights principles within their respective fields  
26  
27 of competence, WHO did comparatively little to clarify these broadly defined  
28  
29 rights for health promotion.<sup>12</sup> In translating the comprehensive vision of the  
30  
31 UDHR into legally-binding covenants, consensus on the development of  
32  
33 human rights quickly faltered largely along ideological and economic lines,  
34  
35 with the Cold War superpowers (and their respective spheres of influence)  
36  
37 split on both a belief in the substance of economic and social rights and the  
38  
39 feasibility of implementing these rights.<sup>13</sup> With the United States and Soviet  
40  
41 Union forcefully challenging each other on the relative prioritization of these  
42  
43 rights, WHO would abandon its early emphasis on a rights-based approach to  
44  
45 global health policy, focusing on technical programs untethered to human  
46  
47 rights obligations.<sup>14</sup> As human rights debates continued without WHO  
48  
49  
50  
51  
52  
53  
54  
55

---

56  
57 <sup>11</sup> Brockington 1958.

58 <sup>12</sup> Meier 2010, pp. 1-50.

59 <sup>13</sup> This debate is addressed in U.N. Doc. A/C.3/L.11. See Alston 1979, pp. 79-  
60 118.

<sup>14</sup> Evang 1967, p. 205.

1  
2  
3 leadership, the UN General Assembly would codify comparatively enfeebled  
4 human rights obligations for health in the 1966 International Covenant on  
5 Economic, Social and Cultural Rights (ICESCR) – under both a ‘right of  
6 everyone to the enjoyment of the highest attainable standard of physical and  
7 mental health’ and a right ‘to enjoy the benefits of scientific progress and its  
8 applications.’<sup>15</sup> To clarify and implement these rights, the UN’s specialised  
9 agencies would take the lead in directing cooperation within their respective  
10 areas of competence, with WHO bearing responsibility pursuant to the right to  
11 health.  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

## 24 **II. The UN Programme on Human Rights and Scientific and** 25 **Technological Developments** 26 27

28  
29 In the context of rising interest in the implementation of human rights  
30 following the 1966 finalization of the UN’s two human rights covenants—the  
31 ICESCR and the International Covenant on Civil and Political Rights  
32 (ICCPR)—states pressed the UN to consider the human rights implications of  
33 scientific developments and medical technologies, with these inter-disciplinary  
34 UN studies forming the basis for international instruments to strengthen the  
35 protection of the human rights. However, rather than building on the  
36 ICESCR’s right ‘to enjoy the benefits of scientific progress and its applications’  
37 in the pursuit of health, states would focus on the dangers of this ‘progress’ to  
38 human rights. With a rights-based apprehension towards science rising out of  
39 the Second World War—as atomic weaponry and medical experimentation,  
40 *inter alia*, provoked debate on the denigration of rights through technology—  
41 this scientific fear would ultimately pervade matters of global health  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60

---

<sup>15</sup> UN General Assembly 1966, Res. 2200A (XXI)

1  
2  
3 governance. Specific to medical science, the 1947 Doctor's Trial at  
4 Nuremberg (through which the details of the Nazi eugenics and medical  
5 experimentation campaigns were made known to the world) highlighted the  
6 extent to which the remarkable progress in the sciences could prove a threat  
7 to individual rights and freedoms.<sup>16</sup> In the wake of the War and Nuremberg  
8 trials, a pervasive fear and uncertainty surrounding the dangers of medical  
9 science took root,<sup>17</sup> elevating to global policy in the UN's focus on science and  
10 technology during the 1968 International Conference on Human Rights.<sup>18</sup>  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

22 The UN designated 1968 as the International Year of Human Rights to  
23 create a yearlong programme to commemorate the twentieth anniversary of  
24 the UDHR, to review of the human rights efforts of the UN, member states,  
25 and specialised agencies, and to undertake intensified activities to raise  
26 awareness of human rights, culminating in an 'International Conference on  
27 Human Rights.'<sup>19</sup> In establishing this Conference, representatives from 120  
28 states and a variety of UN agencies were invited to Teheran to '(1) review the  
29 progress of human rights since the UDHR, (2) evaluate the effectiveness of  
30 UN promotion of human rights, and (3) prepare a programme of future actions  
31 following the ICCPR and ICESCR.'<sup>20</sup>  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45

46 Despite the strong presence of several UN specialised agencies in  
47 preparatory discussion related to the Conference, WHO leadership  
48 maintained a firm stance that 'measures to ensure respect for human rights,  
49 such as legislation, do not come within the competence of WHO.' Reflective  
50  
51  
52  
53  
54  
55

56  
57 <sup>16</sup> Grodin and Annas 2007, pp. 635-54.

58 <sup>17</sup> Beecher 1966, p. 1354.

59 <sup>18</sup> Farer in Weeramantry (ed) 1990, p. 81.

60 <sup>19</sup> UN General Assembly 1963, Resolution 1961 (XVIII).

<sup>20</sup> UN Office of Public Information 1967, pp. 1-38.



1  
2  
3 of its larger scepticism towards rights-based approaches to health, WHO  
4 concluded that 'co-operation in observance of the International Year for  
5  
6 concluded that 'co-operation in observance of the International Year for  
7  
8 Human Rights must therefore be restricted to technical activities that relate  
9  
10 directly to health and to public information work that can be carried out within  
11  
12 existing budgetary provisions.'<sup>21</sup> This sentiment was reinforced in internal  
13  
14 directives to the WHO's Liaison to the UN, to whom the Deputy Director-  
15  
16 General wrote:  
17

18  
19 [T]he United Nations programme of human rights has little  
20  
21 bearing on our work[,] and the many special campaigns which  
22  
23 we are expected to support are proving a real burden ... So it is  
24  
25 advisable for the WHO Representative at this Committee to go  
26  
27 no further than is strictly required by courtesy.<sup>22</sup>  
28  
29  
30

31  
32 In spite of repeated declarations that 'none of the substantive activities  
33  
34 proposed by the Committee comes within the competence of WHO,' the UN  
35  
36 pressed WHO by 1966 to make at least a few token contributions to the  
37  
38 International Year of Human Rights, including in its 1968 activities a UDHR  
39  
40 'anniversary statement' by the Director-General, a World Health Day  
41  
42 statement 'featur[ing] concrete examples of WHO's determination to ensure  
43  
44 the right to health,' and the devotion of 'WHO publications and... special  
45  
46 articles to achievements illustrating the right to health.'<sup>23</sup>  
47  
48  
49

50  
51 WHO's neglect of the development of human rights norms and the  
52  
53 implementation of human rights obligations would reach its nadir in WHO's  
54  
55 halting participation in the 1968 International Conference on Human Rights.  
56  
57

58  
59 <sup>21</sup> UN Committee on the International Year for Human Rights 1964.

60 <sup>22</sup> WHO N64/180/5(B), memorandum from WHO Deputy Director-General P. Dorolle to WHO LUN Director, 29 June 1964.

<sup>23</sup> Administrative Committee on Coordination 1966.

1  
2  
3 Where other specialised agencies sent several high-ranking representatives,<sup>24</sup>  
4  
5 WHO provided only a single delegate to the Teheran Conference, Dr. A. H.  
6  
7 Taba, Regional Director for the Eastern Mediterranean (and, on his leaving  
8  
9 after one week, the Senior WHO Adviser on Malaria Eradication in Iran,  
10  
11 representing WHO 'part-time and as necessary').<sup>25</sup> Where other specialised  
12  
13 agency reports elaborated human rights within their competence, WHO's  
14  
15 report—'The Right to Health – Its Implications in WHO's Programme of  
16  
17 Work'—discussed WHO's technical programs rather than states'  
18  
19 implementation of health rights.<sup>26</sup> As a result, the resolutions rising out of the  
20  
21 Conference on Human Rights did not address health rights in anything more  
22  
23 than passing mention,<sup>27</sup> an omission reflecting WHO's avoidance of inter-  
24  
25 agency collaboration and antipathy to rights-based approaches to health.  
26  
27  
28  
29  
30  
31

32 Without an institutional bulwark at the intersection of health and human  
33  
34 rights, the Conference served as a platform through which extant fears of  
35  
36 scientific and technological progress would become programmatized in a  
37  
38 resolution directing the UN to study the human rights threat of science and  
39  
40 technology. Concluding that much remains to be done to implement human  
41  
42 rights, the Conference set out a vision of human rights as protective rather  
43  
44 than promotive,<sup>28</sup> extending an earlier European consensus that 'improved  
45  
46 technology may lead to a rise in the economic standard of living, yet create  
47  
48  
49  
50  
51  
52  
53

54  
55 <sup>24</sup> UN General Assembly 1968(a), p. 30.

56 <sup>25</sup> WHO RD.4/8, letter from Regional Director A.H. Taba to Senior WHO  
57 Adviser S.C. Edwards, 2 April 1968.

58 <sup>26</sup> WHO 1968, A/CONF.32/8.

59 <sup>27</sup> WHO N64/180/5, memorandum from UN WHO EMRO Regional Director  
60 A.H. Taba to WHO Director-General M.G. Candau, 30 May 1968.

<sup>28</sup> Ogata in Weeramantry (ed) 1990, p. 1.

1  
2  
3 new threats to health and safety.<sup>29</sup> From the outset of the 1968 Conference,  
4  
5 French Prime Minister Georges Pompidou (a longtime leader in French mid-  
6  
7 century hostility towards the sciences<sup>30</sup>) specifically targeted the  
8  
9 contemporary 'scientific and technical revolution' in health, proclaiming that  
10  
11 'this Conference will certainly feel itself bound to outline a programme bearing  
12  
13 on the problems which this very revolution raises for human rights and life.'<sup>31</sup>  
14  
15 Following the balanced statement of UN Secretary-General U Thant—that 'it  
16  
17 is to the ways and means of turning science and technology from destruction  
18  
19 to the enhancement of life that we should devote our urgent efforts'<sup>32</sup>—France  
20  
21 proceeded to propose a reactionary draft resolution on the issue,<sup>33</sup> which was  
22  
23 incorporated in the Final Act of the International Conference on Human Rights  
24  
25 as a recommendation to develop a UN study addressing:  
26  
27  
28  
29  
30

- 31 1. Respect for privacy in view of recording techniques.
- 32 33 2. Protection of the human personality and its physical and intellectual  
34 integrity in view of the progress in biology, medicine, and  
35  
36 biochemistry.
- 37 38 3. The uses of electronics which may affect the rights of the person  
39 and the limits which should be placed on its uses in a democratic  
40  
41 society.  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56

---

57 <sup>29</sup> UN 1967, p. 15.

58 <sup>30</sup> Gilpin 1968, p. 303.

59 <sup>31</sup> UN 1968(a), p. 42.

60 <sup>32</sup> *Ibid.*, p. 37.

<sup>33</sup> UN 1968(b).

- 1  
2  
3  
4 4. More generally, the balance which should be established between  
5  
6 scientific and technological progress and the intellectual, spiritual,  
7  
8 cultural, and moral advancement of humanity.<sup>34</sup>  
9

10 Thus, with this cautionary framing of the dangers of science and technology  
11  
12 and a paradigm shift in UN priorities favouring protective programs, the UN  
13  
14 General Assembly adopted a December 1968 resolution on 'Human Rights  
15  
16 and Scientific and Technological Developments' to carry out the  
17  
18 recommendations of the Proclamation of Teheran.<sup>35</sup>  
19  
20  
21

22 In accordance with this resolution, the General Assembly invited the  
23  
24 UN Secretary-General to undertake a series of four studies 'of *the problems* in  
25  
26 connexion [sic] with human rights arising from developments in science and  
27  
28 technology' (emphasis added).<sup>36</sup> To accommodate the General Assembly's  
29  
30 request for reports on these human rights 'problems,' the UN Division on  
31  
32 Human Rights sought to gather the expertise of WHO and other specialised  
33  
34 agencies into an Advisory Committee on the Application of Science and  
35  
36 Technology to Development.<sup>37</sup> These interdisciplinary discourses would  
37  
38 encompass WHO's human rights activities throughout the next decade—  
39  
40 outlined in the timeline in Figure 1 below—structuring the institutional  
41  
42 mechanisms through which WHO would come to apply human rights to  
43  
44 health:  
45  
46  
47  
48  
49

50 [Insert Figure 1 about here]  
51  
52  
53  
54  
55  
56

---

57 <sup>34</sup> UN 1968(a), p. 12.

58 <sup>35</sup> UN General Assembly 1968, Res 2450 (XXIII)

59 <sup>36</sup> *Ibid.*, ¶1.

60 <sup>37</sup> UN SO 214(12), letter from UN Division of Human Rights Director Marc Schreiber to WHO Director-General Marcolino G. Candau, 11 April 1969.

### **A. WHO Neglect for Human Rights**

Although there was great initial excitement that WHO would bind the entire world under a shared set of principles for health,<sup>38</sup> the superpowers' irreconcilable positions on social reforms and national health services would soon lay bare WHO's claims to apolitical health policy and paralyze WHO's human rights actions. Buffeted by political forces,<sup>39</sup> the WHO Secretariat allowed the political forces of the Cold War to shape its development and implementation of human rights for health, as 'efforts to place health goals above power politics were pointedly rejected.'<sup>40</sup> With the Soviet states abruptly withdrawing from WHO beginning in 1949,<sup>41</sup> WHO's budget and priorities would soon be subject to the continued funding of the United States.<sup>42</sup> Where WHO had previously held up the UDHR's declaration of a right to health as according with the Organisation's synoptic approach to underlying determinants of health, WHO—under the leadership of Director-General M.G. Candau, the Brazilian former Director of the Division of Organisation of Public Health Services—would come to abrogate its relationship to health rights, finding human rights obligations to involve 'social questions' that were argued to be beyond WHO's 'competence.'<sup>43</sup> By the time that the UN Secretary-General submitted his 1968 comprehensive report to the General Assembly on 'Measures and Activities Undertaken in Connexion

---

<sup>38</sup> 'International health or world health?' 1948, p. 260.

<sup>39</sup> Pethybridge 1965, pp. 247-51.

<sup>40</sup> Lee 2009, p. 24.

<sup>41</sup> Goodman 1952.

<sup>42</sup> Hoole 1976.

<sup>43</sup> UN SO 216/3, letter from WHO Assistant Director-General L. Bernard to UN Deputy Director, Division of Human Rights Edward Lawson, 18 July 1966.

1  
2  
3 [sic] with the International Year of Human Rights,' it included activities taken  
4  
5 by nearly every international organisation – but not WHO.<sup>44</sup> As the  
6  
7 Organisation had largely failed to engage with the legal obligations of the  
8  
9 human right to health, this disposition would dictate its early response to the  
10  
11 UN Programme on Human Rights and Scientific and Technological  
12  
13 Developments.  
14  
15

16  
17       Ambivalent about responding to the UN's initial request for information  
18  
19 on the 'protection of the human personality and its physical and intellectual  
20  
21 integrity, in the light of advances in biology, medicine and biochemistry,' WHO  
22  
23 staff—who were 'not enthusiastic'<sup>45</sup> about a resolution described internally as  
24  
25 'utopian'<sup>46</sup>—responded to the UN's 1969 request for a report on WHO  
26  
27 activities with a 'provisional memorandum' that merely:  
28  
29

- 30  
31       (1) criticized this UN mandate as being 'extremely general in character and  
32  
33       neither enumerates nor illustrates 'problems in connexion [sic] with  
34  
35       human rights arising from developments in science and technology,'  
36  
37       (2) referenced the work of nongovernmental organisations (primarily the  
38  
39       World Medical Association) in preparing resolutions on medical ethics,  
40  
41       and  
42  
43       (3) provided general descriptions of WHO's research and technical  
44  
45       activities from *The Medical Research Programme of the World Health  
46  
47       Organization, 1964-1968.*  
48  
49  
50  
51  
52

53 In enumerating its own activities at the intersection of health and human  
54  
55 rights, WHO cited the Executive Board's 1951 cooperation in the preparation  
56  
57

58  
59 <sup>44</sup> UN 1968(c), A/7195.

<sup>45</sup> WHO N64/180/5, memorandum from M. Sentici to M. Sacks, 8 May 1969.

<sup>46</sup> WHO N64/180/5(E), memorandum from WHO Chief RECS/OPR to WHO  
60 Director RECS, 2 June 1969.

1  
2  
3 of the draft International Covenant on Human Rights and the Secretariat's  
4 recent development of 'principles' in drug testing and safety. The WHO  
5 Secretariat deferred the preparation of its detailed preliminary report to a later,  
6 unspecified date.<sup>47</sup>  
7  
8  
9  
10  
11

12 In the absence of a WHO report, the UN Division of Human Rights'  
13 preliminary 1969 report on human rights and scientific and technological  
14 developments dealt only with the harms of science, containing little more than  
15 a series of extended article quotations on topics ranging from experiments on  
16 human subjects to deterioration of the environment to the hazards of atomic  
17 radiation.<sup>48</sup> When distributed informally to WHO staff, this report was  
18 lambasted in the Secretariat's internal review, alternately described by section  
19 chiefs as a 'waste of time' and 'hotch-potch which looks like a product of  
20 schizophrenia,' 'biased' and 'unbalanced,' 'sensationalist,' and a  
21 misprioritisation of harms.<sup>49</sup> In WHO's confidential, 'frank' response to the  
22 UN, the WHO Secretariat suggested that the report 'must be completely  
23 revised' or else delayed to solicit additional commentary.<sup>50</sup> The UN Division  
24 of Human Rights response—while acknowledging that the report had over-  
25 emphasized the dangers and threats to human rights from science and  
26 technology, agreeing to several specific changes—stressed that WHO's  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49

50  
51 <sup>47</sup> UN SO 214(12), letter from WHO Division of Co-ordination and Evaluation  
52 Director A. Bellerive to UN Division of Human Rights Director Marc Schreiber,  
53 3 July 1969.

54 <sup>48</sup> UN SO 214(12-1-2), letter from UN Division of Human Rights Senior  
55 Human Rights Officer George Brand to WHO Division of Co-ordination and  
56 Evaluation Director A. Bellerive, 8 Dec. 1969.

57 <sup>49</sup> *E.g.* WHO N64/180/5, memorandum from WHO HL Chief to WHO PC  
58 Chief, 18 Dec. 1969.

59 <sup>50</sup> UN SO 214(12-1-2), letter from WHO Division of Co-ordination and  
60 Evaluation Director A. Bellerive to UN Division of Human Rights Senior  
Human Rights Officer George Brand, 12 Jan. 1970.



1  
2  
3 limited contribution was responsible for many weaknesses in the report and  
4 declined to postpone its mandated submission to the Commission on Human  
5  
6  
7  
8 Rights.<sup>51</sup> Following several contentious telephone conversations between  
9  
10  
11 WHO and the UN Division of Human Rights, the WHO Secretariat requested  
12  
13 that its Liaison to the UN attend the 1970 meeting of the UN's Commission on  
14  
15 Human Rights to defend WHO's position and request that WHO assume  
16  
17 complete responsibility for future reports.<sup>52</sup> While WHO notes from the  
18  
19 meeting of the Commission on Human Rights indicate that the WHO  
20  
21 representative 'expressed regret that fuller use had not been made of WHO's  
22  
23 resources; and assured the Commission that the Organisation was prepared  
24  
25 to consider the assumption of complete responsibility for the preparation of  
26  
27 further reports,<sup>53</sup> the draft report of the Commission meeting made no  
28  
29 reference to any WHO statement.<sup>54</sup>  
30  
31  
32  
33

34  
35 Forced to defend the WHO Secretariat's human rights efforts at the  
36  
37 May 1970 session of the World Health Assembly, Director-General Candau  
38  
39 presented WHO's position on the UN Report on Human Rights and Scientific  
40  
41 and Technological Developments. With the World Health Assembly shifting  
42  
43 its priorities given the return of the Soviet states and the rise of a Non-Aligned  
44  
45 Movement of developing states (raising tensions between the limited medical  
46  
47 focus of the Secretariat and the expansive political goals of the Assembly),  
48  
49  
50  
51 Assembly delegates responded with pointed criticism that matters directly  
52

53  
54  
55 <sup>51</sup> UN SO 214(12-1-2), letter from UN Division of Human Rights Senior  
56  
57 Human Rights Officer George Brand to WHO Division of Co-ordination and  
58  
59 Evaluation Director A. Bellerive, 16 Feb. 1970.

<sup>52</sup> WHO N64/180/5, telegram from WHO Assistant Director-General Bernard  
to WHO Liaison Office with United Nations, 24 Feb. 1970.

<sup>53</sup> WHO N64/180/5(E), memorandum from WHO Liaison Office with United  
Nations Director to WHO CE Director A. Bellerive, 2 April 1970.

<sup>54</sup> UN Commission on Human Rights 1970, E/CN.4/1028 and Adds. 1-4.



1  
2  
3 related to health were being studied by the UN rather than by WHO.<sup>55</sup> To  
4  
5 reengage the WHO Secretariat in this process, the World Health Assembly—  
6  
7 reaffirming the right to health and specifying that the health aspects of human  
8  
9 rights were within the competence of WHO—adopted a resolution calling for  
10  
11 WHO cooperation in this effort – ‘to reaffirm to the Secretary-General of the  
12  
13 United Nations the Organisation’s willingness to undertake responsibility for  
14  
15 the preparation of a document dealing with the health aspects of human rights  
16  
17 in the light of scientific and technological developments’ and to study the  
18  
19 implications of this effort to WHO programming.<sup>56</sup> Although the Secretariat  
20  
21 would respond to this World Health Assembly resolution by preparing a  
22  
23 separate summary on ‘medical problems,’<sup>57</sup> the outside consultant enlisted to  
24  
25 draft this summary received explicit instructions that the paper ‘would  
26  
27 eliminate any indication of action by the Organization or any expression of  
28  
29 strongly held views in any of the sections and we would like it to be as  
30  
31 descriptive and ‘low-key’ as possible.’<sup>58</sup>  
32  
33  
34  
35  
36  
37  
38

39 The resulting WHO paper on ‘Human Rights and Scientific and  
40  
41 Technological Developments’ discussed both the human rights concerns of  
42  
43 science and technology and the health harms from human rights violations.  
44  
45 However, with WHO section chiefs having an opportunity to comment on an  
46  
47 initial draft, using their revisions to eliminate positive state obligations to  
48  
49 promote health, the final report acknowledged at most that infringement of  
50  
51  
52  
53

---

54  
55 <sup>55</sup> Quimby 1971.

56 <sup>56</sup> World Health Assembly 1970, Res. 23.41.

57 <sup>57</sup> UN SO 214(12-1-2), letter from WHO Division of Co-ordination and  
58 Evaluation Director A. Bellerive to UN Division of Human Rights Director Marc  
59 Schreiber, 23 July 1970.

60 <sup>58</sup> WHO N64/18/5(3), letter from WHO Programme Co-ordination Chief  
Michael R. Sacks to Sir John Charles, 16 Sept. 1970.

1  
2  
3 various human rights 'may, directly or indirectly, affect the individual's  
4  
5 physical, mental or social health, and in doing so contravene or violate two  
6  
7 human rights – the more specific human right of freedom and the right to  
8  
9 health.'<sup>59</sup> Despite internal concern that WHO's paper was too technocratic in  
10  
11 its description of health harms and not sufficiently expansive in its  
12  
13 'comprehensive summary' of the health aspects of human rights,<sup>60</sup> WHO  
14  
15 submitted its preliminary memorandum to the General Assembly in October  
16  
17 1970.<sup>61</sup> With the UN's addendum to the Secretary-General's preliminary  
18  
19 report on Human Rights and Scientific and Technological Developments  
20  
21 quoting from this WHO report,<sup>62</sup> but with the WHO Secretariat again declining  
22  
23 to provide any requested comments on UN Secretariat reports,<sup>63</sup> the duelling  
24  
25 UN preliminary report and WHO preliminary memorandum were taken up by  
26  
27 the 1971 meeting of the Commission on Human Rights.  
28  
29  
30  
31  
32  
33

34 During this March 1971 meeting of the Commission on Human Rights,  
35  
36 the Division of Human Rights laid out the UN Secretariat's programme of work  
37  
38 for the coming years, suggesting a postponement of discussion on health until  
39  
40 1974, at which point 'it was hoped that the work under-taken by WHO would  
41  
42 be sufficiently advanced for a report to be made.'<sup>64</sup> (Although WHO presented  
43  
44  
45  
46  
47  
48

49 <sup>59</sup> UN General Assembly, 1970. Doc. A/8055/Add.1. ¶¶ 13-14.

50 <sup>60</sup> WHO N64/180/5(E), telegram from WHO LUN Director to WHO CE  
51 Director, 26 Aug. 1970.

52 <sup>61</sup> WHO N64/180/5(E), letter from WHO Director-General M.G. Candau to UN  
53 Secretary-General U Thant, 20 Oct. 1970.

54 <sup>62</sup> UN SO 214(12-1-2), letter from UN Division of Human Rights Chief of  
55 Section George Brand to WHO Liaison Office with the UN Director R.L.  
56 Coigney, 1 Dec. 1970.

57 <sup>63</sup> WHO N64/180/5(E), memorandum from WHO PC Chief to WHO CE  
58 Director, 14 Dec. 1970.

59 <sup>64</sup> WHO 4N64/445/2, Note for the Record, 13 April 1971, 'Consideration of the  
60 item on "Human Rights and Scientific and Technological Developments" at

1  
2  
3 its own memorandum, acknowledging both the positive and negative aspects  
4 of technology and science on health, the Commission responded only by  
5 requesting that specialised agencies in the future transmit all information to  
6 the Commission through the Secretary-General's report.) Where several  
7 state representatives on the Commission on Human Rights insisted that the  
8 UN focus additionally on the benefits of scientific and technological progress  
9 (rather than simply the dangers), the resulting Commission resolution  
10 requested that future UN Secretary-General reports 'tak[e] into account also  
11 the possibility of using them [developments in science and technology] to  
12 improve living conditions and the enjoyment of economic, social and cultural  
13 rights.'<sup>65</sup>

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
Immediately following this Commission meeting, the UN Division of  
Human Rights met with WHO staff in Geneva to discuss the UN agenda for  
Human Rights and Scientific and Technological Developments. In a far-  
reaching conversation, UN staff suggested that WHO identify additional ways  
and forums, including UN seminars, in which attention could be paid to the  
benefits of science and technology through the lens of the right to health.<sup>66</sup>  
Yet despite WHO's agreement 'in principle' to contribute a paper on the right  
to health for a June 1972 UN human rights seminar on Human Rights and  
Scientific and Technological Developments,<sup>67</sup> WHO would develop no new  
position on health rights, instead suggesting the distribution of WHO's 1970

---

the Twenty-Seventh Session of the Commission on Human Rights. Geneva, 22 February to 26 March 1971'.

<sup>65</sup> Commission on Human Rights 1971, Res. 10(XXVII) ¶4.

<sup>66</sup> WHO N64/86/38, Note for the Record, 26 Mar. 1971.

<sup>67</sup> WHO 4N64/440/7, letter from WHO Programme Co-ordination Chief Michael R. Sacks to UN Division of Human Rights Director Marc Schreiber, 27 Sept. 1971.

1  
2  
3 memorandum on 'Human Rights and Scientific and Technological  
4  
5 Developments.' As the UN continued to pursue the application of human  
6  
7 rights to scientific and technological developments with other specialised  
8  
9 agencies, WHO staff fumed internally over their lack of control in human rights  
10  
11 debates on health, arguing that 'at several stages in the development of this  
12  
13 item, the UN Secretariat systematically ignored WHO's interest in the  
14  
15 question, its preliminary memorandum and its competence.'<sup>68</sup>  
16  
17  
18

19  
20 WHO cooperation continued reluctantly in 1972, based largely on  
21  
22 prodding from the Executive Board and World Health Assembly,<sup>69</sup> with WHO  
23  
24 Secretariat representatives meeting again with the Director of the UN Division  
25  
26 of Human Rights in May 1972 to note the importance of scientific and  
27  
28 technological development to health and to argue that 'the benefits derived  
29  
30 therefrom should not be minimized or distorted by a negative approach  
31  
32 centering entirely on abuses.'<sup>70</sup> Although the UN Director agreed that both  
33  
34 positive and negative aspects would be emphasized in the future, WHO's  
35  
36 scaled-down participation in the subsequent June 1972 UN seminar on  
37  
38 Human Rights and Scientific and Technological Developments (with WHO  
39  
40 backing out of its paper presentation on the right to health at the last minute<sup>71</sup>)  
41  
42 enabled discussion among state representatives to return to the negative  
43  
44 implications of technology on health.<sup>72</sup> With WHO continuing not to send  
45  
46  
47  
48  
49  
50  
51

52  
53 <sup>68</sup> WHO 4N64/445/2, memorandum from WHO LUN Director R.L. Coigney to  
54 WHO CE Director A. Bellerive, 29 Feb. 1972.

55 <sup>69</sup> WHO Executive Board 1972.

56 <sup>70</sup> WHO 4N64/372/1, WHO Notes for the Record, 'Meeting with Mr. Marc  
57 Schreiber, Director, United Nations Division of Human Rights – Friday, 5, May  
58 1972', 29 May 1972.

59 <sup>71</sup> WHO 118/ssc, telegram from WHO Bellerive to UN Schreiber, 8 June 1972.

60 <sup>72</sup> WHO 4N64/440/7, memorandum from WHO Liaison Officer with IAEA G.  
Meilland to WHO CE Director Bellerive, 6 July 1972.

1  
2  
3 important documentary support on human rights for the UN's work on science  
4 and technology, a Division of Human Rights section chief was sent to WHO  
5  
6 headquarters in July 1972 to collect the relevant documents himself from  
7  
8 WHO's 'International Digest of Health Legislation.'<sup>73</sup> Given the WHO  
9  
10 Secretariat's continuing intransigence towards human rights discourse, the  
11  
12 UN worked with contributions from every specialised agency except WHO to  
13  
14 create its December 1972 Report on 'The Impact of Scientific and  
15  
16 Technological Development on Economic, Social and Cultural Rights,' leading  
17  
18 the UN Secretariat to analyse all economic and social rights likely to be  
19  
20 affected by science and technology except the right to health.<sup>74</sup> When UN  
21  
22 General Assembly came to review this report—noting the obvious omission of  
23  
24 health rights in the UN's study of economic, social and cultural rights—the  
25  
26 General Assembly resolved that the Secretary-General pay greater attention  
27  
28 in the final UN study to, *inter alia*, the right to health.<sup>75</sup>

### 36 **B. WHO Reclamation of Human Rights**

37  
38 With the World Health Assembly pressing forward in the early 1970s to  
39  
40 bring change to the leadership and direction of the WHO Secretariat,  
41  
42 however, there was a return to the promise of international human rights  
43  
44 standards as a means to realise an improved standard of global health.  
45  
46 Concurrent with the expansion of the broader human rights movement,  
47  
48 human rights organisations, and human rights instruments,<sup>76</sup> WHO would  
49  
50 seek to expand its influence on determinants of health by redefining global  
51  
52  
53  
54

---

55  
56 <sup>73</sup> UN SO 212 (12-1-2), letter from UN Division of Human Rights Chief of  
57 Section George Brand to WHO Programme Co-ordination Chief Michael R.  
58 Sacks, 30 May 1972.

59 <sup>74</sup> UN 1973.

60 <sup>75</sup> UN General Assembly 1972, Res. 3026B (XXVII). ¶ 3.

<sup>76</sup> Donnelly 1986, pp. 599-642.

1  
2  
3 health policy to reflect human rights standards.<sup>77</sup> Increased human rights  
4  
5 coordination among specialised agencies within the UN system would  
6  
7 buttress WHO efforts, providing added collaborative opportunities in human  
8  
9 rights advancement for health.<sup>78</sup> With the July 1973 election of Director-  
10  
11 General Halfdan Mahler, the Danish Assistant Director-General and former  
12  
13 Director of WHO's Program in Project Systems Analysis, WHO embarked on  
14  
15 its Health For All Campaign as a means to advance primary health care  
16  
17 through rights-based global health governance. As the UN moved to  
18  
19 commemorate the twenty-fifth anniversary of the UDHR, WHO's August 1973  
20  
21 progress report proclaimed the Organisation's new path for health policy, a  
22  
23 path founded upon the bedrock principles of human rights, emphasizing the  
24  
25 rights-based language of the WHO Constitution as a framework for the  
26  
27 promotion of medical science and technology:  
28  
29  
30  
31  
32

33  
34 Disease and disability are widespread, and very few countries in  
35  
36 the world are providing to all their citizens in need the very best  
37  
38 that medical science and technology have to offer. So the value  
39  
40 of the right [to health] lies in its acceptance by governments as a  
41  
42 priority goal, its general recognition as a basis for practical  
43  
44 health policy.<sup>79</sup>  
45  
46  
47

48 The WHO Secretariat would hold out human rights as a force for global  
49  
50 health, using international negotiations, articles, and conferences to apply the  
51  
52  
53  
54  
55

---

56  
57 <sup>77</sup> Meier 2010.

58 <sup>78</sup> Administrative Committee on Co-ordination 1974.

59 <sup>79</sup> Mahler 1973 in WHO 4N64/180/2, letter from WHO Division of Co-  
60 ordination and Evaluation Director A. Bellerive to UN Division of Human Rights Director Marc Schreiber, 30 Aug 1973.

1  
2  
3 right to health to the benefits of science and technology and extoll human  
4 rights obligations as guiding principles to the achievement of health for all.  
5  
6

7  
8 Reengaging the UN's longstanding inter-agency collaboration on the  
9 human rights implications of scientific and technological developments and  
10 taking up its repeatedly postponed study on Health Aspects of Human Rights  
11 in Light of Scientific & Technological Developments, WHO began in 1973 (a)  
12 to comment on UN reports relative to the right to health and (b) to develop an  
13 independent report on the health aspects of human rights.<sup>80</sup> In considering  
14 the health aspects of human rights, WHO found assistance for this study from  
15 its nongovernmental partners, with WHO benefiting from Secretariat  
16 participation in the October 1973 meeting of the World Medical Association  
17 (discussing problems of computers and confidentiality in medicine)<sup>81</sup> and the  
18 November 1973 Roundtable Symposium of the Council for International  
19 Organisations of Medical Sciences (CIOMS) (devoted to medical ethics and  
20 human rights).<sup>82</sup> With WHO's Chief Legal Officer participating in this latter  
21 meeting, a role in international human rights law that had not previously been  
22 part of the mandate of WHO's legal office, WHO sought to use this CIOMS  
23 Roundtable 'as a prelude to our contribution to the Commission on Human  
24 Rights.'<sup>83</sup> Soliciting feedback on early drafts of WHO's integrated report on  
25 human rights and scientific and technological developments in public health,  
26 WHO program officers came together to prepare a complete draft in early  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53

---

54  
55 <sup>80</sup> UN SO214 (12-1-2), letter from WHO Programme Co-ordination Chief  
56 Michael R. Sacks to UN Division of Human Rights George Brand, 18 Dec.  
57 1973.

58 <sup>81</sup> World Medical Association 1973.

59 <sup>82</sup> WHO 1974.

60 <sup>83</sup> WHO N61/86/154(A), memorandum from WHO PC Chief to WHO Director  
General, 23 Feb. 1973.



1  
2  
3 1974, whereupon Director-General Mahler sought to tailor this draft to meet  
4  
5 WHO's overlapping responsibilities before the Commission on Human Rights,  
6  
7 UN General Assembly, WHO Executive Board, and World Health Assembly.<sup>84</sup>  
8  
9 With meetings between the WHO leadership and the UN Division of Human  
10  
11 Rights beginning in October 1974 to finalize the WHO report,<sup>85</sup> it was decided  
12  
13 that WHO's health report for the UN Secretary-General had reached such an  
14  
15 expansive scope that it could be cross-applied to the UN General Assembly's  
16  
17 related request for comment on the protection of populations against social  
18  
19 and material inequalities resulting from the use of scientific and technological  
20  
21 developments and to WHO's consultations on previous reports by the Division  
22  
23 of Human Rights.<sup>86</sup>  
24  
25  
26  
27  
28

29 WHO's final report, 'Health Aspects of Human Rights in the Light of  
30  
31 Scientific and Technological Development,' covered a wide range of topics at  
32  
33 the intersection of health technology and human rights, including chapters on  
34  
35 the beginning of life, reproduction, human experimentation, death, organ  
36  
37 transplantation, computerized medical records, psychosurgery, environmental  
38  
39 protection, and compulsory measures for health protection. Overlying all  
40  
41 these topics, this WHO report begins with a chapter on 'health as a human  
42  
43 right.' Through this introductory chapter, WHO presented both 'what benefits  
44  
45 *and* what parallel potential risks new developments may entail as far as the  
46  
47 right to health,' considering 'the exact significance of this right, what it  
48  
49 involves, and what is its true perspective' (emphasis added). Reinterpreting  
50  
51  
52  
53  
54  
55

56  
57 <sup>84</sup> WHO 4N64/445/2, memorandum from WHO Legal Director and Programme  
58 Co-ordination Chief to WHO Chiefs of all Sections, 27 June 1974.

59 <sup>85</sup> WHO 4N64/445/2, Anderson R. J. Note for the File, 15 Oct. 1974.

60 <sup>86</sup> WHO 4N64/445/2, telegram from WHO Programme Co-ordination Chief  
Flache to WHO UN Liaison Malafatopoulos, 5 Nov. 1974.



1  
2  
3 the WHO Constitution to assure a comprehensive system of social insurance,  
4  
5 an interpretation long resisted by the political goals of the United States and  
6  
7 the medical agenda of WHO staff, WHO found collective public health  
8  
9 obligations under the right to health, laying out a communitarian human rights  
10  
11 ethic by which there exist 'positive aspects for which the State and the  
12  
13 community have a duty to ensure that the individual citizen benefits, but those  
14  
15 rights may entail negative elements in that the individual citizen has the duty  
16  
17 to limit his rights for the benefit of the community.' Given this overview and  
18  
19 outline of relevant topics, WHO's report concludes that '[t]he right to health  
20  
21 presents negative as well as positive aspects,' with this negative conception  
22  
23 framing public health measures in human rights terms, including 'the duty of  
24  
25 the citizen to submit himself to a number of requirements, as for example  
26  
27 immunization or other compulsory measures, in order to prevent the right to  
28  
29 health of other citizens being endangered.'<sup>87</sup>

30  
31  
32  
33  
34  
35  
36 With the WHO Secretariat now aligned with the majority of WHO  
37  
38 member states and with the United States less resolute in its opposition, the  
39  
40 Executive Board would formally approve the Secretariat's report, finding in  
41  
42 January 1975 that 'the right of every human being to the enjoyment of the  
43  
44 highest attainable standard of health, as laid down in the WHO Constitution,  
45  
46 can best be ensured under conditions of continuing scientific and  
47  
48 technological progress.'<sup>88</sup> The WHO Secretariat would take comfort in this  
49  
50 Executive Board endorsement and embark on future human rights studies  
51  
52 concerning scientific and technological developments related to economic and  
53  
54  
55  
56  
57  
58  
59  
60

---

<sup>87</sup> WHO 1974.

<sup>88</sup> WHO Executive Board 1975.

1  
2  
3 social development.<sup>89</sup> Marking this shift, Director-General Mahler submitted  
4 the Executive Board's resolution and WHO report to the UN Secretary-  
5  
6 General, expressing his personal commitment to human rights cooperation: 'I  
7  
8 wish to assure you that I look forward to an even closer collaboration with the  
9  
10 United Nations and other specialised agencies ... for the successful  
11  
12 accomplishment of this broad matter of concern to the individual and to the  
13  
14 community.'<sup>90</sup> Given the Executive Board's approval 'to continue the studies  
15  
16 suggested in the report,' WHO sought in early 1975 to reclaim its leadership  
17  
18 role in collaborative studies of health rights, reaching out first to the UN  
19  
20 Division of Human Rights and other specialised agencies to organize an  
21  
22 informal joint meeting to discuss collaboratively the future needs of the  
23  
24 Commission on Human Rights.<sup>91-92</sup> In accordance with the UN General  
25  
26 Assembly's invitation 'to consider the preparation of recommendations  
27  
28 concerning international standards,'<sup>93</sup> WHO also reached out to national  
29  
30 governments for assistance, with the Director-General pointing out that: (1)  
31  
32 'health is a fundamental human right,' (2) WHO 'has a role to play in human  
33  
34 rights,' and (3) 'future contributions to the United Nations should reflect the  
35  
36 experience of Member States.'<sup>94</sup> Finally, as the WHO Secretariat began its  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46

---

47  
48 <sup>89</sup> WHO 4N64/445/2, memorandum from WHO CWO Chief M.R. Sacks and  
49 WHO LEG Director F. Gutteridge to WHO COR Director and WHO Deputy  
50 Director-General, 5 Feb. 1975.

51 <sup>90</sup> WHO 4N64/445/2, letter from WHO Director-General H. Mahler to UN  
52 Secretary-General, 18 Feb. 1975.

53 <sup>91</sup> UN G/SO214(12-1-2), letter from WHO Co-ordination with Other  
54 Organizations Chief Michael R. Sacks to UN Division of Human Rights  
55 Director Marc Schreiber, 27 Feb. 1975.

56 <sup>92</sup> E.g., WHO 4N64/445/2, letter from WHO Director-General M. Mahler to  
57 UNESCO Director-General Amadou Mahtar M'Bow, 4 Mar. 1975.

58 <sup>93</sup> UN General Assembly 1974, Res. 3268(XXIX).

59 <sup>94</sup> WHO C.L.5.1975, letter from WHO Director-General H. Mahler to multiple  
60 states, 13 Mar. 1975.

1  
2  
3 first concerted study of these human rights issues—working feverishly to  
4 prepare a report on international standards for the UN General Assembly’s  
5  
6  
7  
8 1975 Session—WHO sought further assistance from its nongovernmental  
9  
10  
11 partners ‘in developing new approaches to studies in the area of human  
12  
13 rights.’<sup>95</sup>  
14

15 As the UN Commission on Human Rights moved in 1975 to create a  
16  
17 rights-based framework to balance state concerns for public health with  
18  
19 individual liberties, WHO submitted a detailed memorandum to assist the  
20  
21 appointed UN Special Rapporteur in her study on ‘The Individual’s Duties to  
22  
23 the Community and the Limitations on Human Rights and Freedoms under  
24  
25 Article 29 of the Universal Declaration of Human Rights.’ With this  
26  
27 memorandum originating out the WHO’s legal office—newly engaged in  
28  
29 human rights issues and consequently renamed the Office of Constitutional  
30  
31 and Legal Matters—WHO provided detailed legal reasoning for state  
32  
33 derogations from individual rights for the public’s health, outlining individual  
34  
35 obligations (1) to submit to health examinations and vaccinations, (2) to notify  
36  
37 health authorities of communicable disease exposure, and (3) to undergo  
38  
39 treatments, surveillance, isolation or hospitalization. Framing a human rights  
40  
41 basis for public health, WHO’s legal staff followed through on the  
42  
43 Organisation’s expansive reinterpretation of the WHO Constitution, finding in  
44  
45 WHO’s constitutional mandate for health that ‘the role of the Organisation  
46  
47 extends into the realm of social medicine and into such specific fields as  
48  
49 mental health, public health, education, nutrition, housing, maternal and child  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60

---

<sup>95</sup> WHO 4N64/445/2, letter from WHO Director-General H. Mahler to multiple nongovernmental organizations, 13 Mar. 1975.

1  
2  
3 health and welfare.<sup>96</sup> To support WHO's legitimacy in setting global public  
4  
5 health standards, WHO's legal staff referenced and provided the UN Special  
6  
7 Rapporteur with copies of WHO's evolving legislative standards (including the  
8  
9 International Health Regulations and the International Digest of Health  
10  
11 Legislation) and legal analyses (on national legislation, regulation, and  
12  
13 jurisprudence clarifying public health authorities).  
14  
15

16  
17  
18 In the midst of these studies, the UN Secretariat moved in April 1975 to  
19  
20 draft the Secretary-General's final report pursuant to the UN General  
21  
22 Assembly's original 1968 resolution on 'Human Rights and Scientific and  
23  
24 Technological Developments' – a report on 'the balance which should be  
25  
26 established between scientific and technological progress and the intellectual,  
27  
28 spiritual, cultural and moral advancement of humanity.' To accommodate its  
29  
30 various human rights commitments related to scientific and technological  
31  
32 developments, WHO staff met with the Division of Human Rights in May 1975,  
33  
34 whereupon WHO agreed to produce:  
35  
36  
37

- 38  
39 (1) a short summary for the UN Secretary-General's report on the effects  
40  
41 of scientific and technological developments on social and material  
42  
43 inequalities and on the benefits to human rights resulting from  
44  
45 developments in science and technology and  
46  
47  
48 (2) a full report to the 1976 session of the Commission on Human Rights  
49  
50 on the benefits of science and technology in raising standards of living  
51  
52  
53  
54  
55  
56  
57  
58

59  
60  

---

<sup>96</sup> WHO 4N64/327/1, letter from WHO Constitutional and Legal Matters Chief Claude-Henri Vignes to UN Division of Human Rights Deputy Director Erica Irene Daes, 19 Sept. 1975.

1  
2  
3 to facilitate the enjoyment of underlying determinants of health, and as  
4  
5 such, the realization of the human right to health.<sup>97</sup>  
6  
7

8 Thereafter participating in inter-agency meetings to finalize the UN Secretary-  
9  
10 General's report on the balance between technological progress and health,  
11  
12 WHO's human rights involvement would result in a UN chapter focused on the  
13  
14 positive human rights implications of technology on health – 'the uses to  
15  
16 which modern science and technology may be put in the interest of promoting  
17  
18 human rights.' Recommending a UN Declaration on Human Rights and  
19  
20 Scientific and Technological Developments,<sup>98</sup> these meetings would—for the  
21  
22 first time—frame the beneficial aspects of new biological and medical  
23  
24 discoveries in promoting health. As a result, these beneficial effects of  
25  
26 science and technology in realising the right to health would be incorporated  
27  
28 in (1) the UN Secretariat's 1975 Report on 'the balance which should be  
29  
30 established between scientific and technological progress and the intellectual,  
31  
32 spiritual, cultural and moral advancement of humanity'<sup>99</sup> and (2) the UN  
33  
34 General Assembly's 1975 consideration of a draft declaration concerning 'the  
35  
36 use of scientific and technological progress in the interest of peace and for the  
37  
38 benefit of mankind.'<sup>100</sup>  
39  
40  
41  
42  
43  
44

45  
46 Drawing on WHO's contributions, the 1975 session of the UN General  
47  
48 Assembly would highlight global differences between individual and collective  
49  
50  
51  
52  
53

54  
55 <sup>97</sup> WHO 4N64/445/2, Anderson R. J. Note for the Record, 'WHO Co-ordination  
56 with Other Organizations', 27 May 1975.

57 <sup>98</sup> UN G/SO214(12-1-5), letter from UN Division of Human Rights Officer-in-  
58 charge George Brand to WHO Deputy Director-General Thomas A. Lambo,  
59 26 Sept. 1975.

60 <sup>99</sup> UN 1975.

<sup>100</sup> UN General Assembly 1975, Res. 3384 (XXX).

1  
2  
3 rights in health.<sup>101</sup> With Soviet states long heralding the positive benefits of  
4 scientific and technological progress in addressing ‘human rights problems of  
5 society as a whole’<sup>102</sup> (a societal concern reflected in Soviet reengagement  
6 with WHO and the global smallpox eradication campaign), the Soviet Union  
7 sought to leverage the UN’s human rights debate to advance technological  
8 progress for the public’s health.<sup>103</sup> Following ideological debates among  
9 states on the relative emphasis of societal rights vis-à-vis individual rights—  
10 with developing states joining the Soviet bloc in opposing Western-style  
11 individual rights protections against the harms of science and technology—the  
12 UN General Assembly adopted (95-0, 20 abstentions) the Declaration on the  
13 Use of Scientific and Technological Progress in the Interests of Peace and for  
14 the Benefit of Mankind on November 10, 1975.<sup>104</sup>

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60

With a powerful base of authority in this Declaration, WHO would develop its paper on the ‘positive effects of technological advances on health and human rights,’ completing the UN’s series of papers concerning the impact of science and technology on the range of human rights codified in the UDHR.<sup>105</sup> These benefits of science and technology would be incorporated into WHO preparations for an International Conference on Primary Health Care, a conference leading to what would become WHO’s principal rights-based global health policy pursuant to the 1978 Declaration of Alma-Ata.<sup>106</sup>

---

<sup>101</sup> WHO 1976, pp. 347-359.

<sup>102</sup> WHO 4N64/445/2, memorandum from WHO Liaison Office with United Nations to WHO Office of the Director General, 19 December 1974.

<sup>103</sup> Parrott 1983.

<sup>104</sup> UN General Assembly 1975, Res. 3384 (XXX).

<sup>105</sup> UN G/SO214(12-1-2), letter from UN Division of Human Rights Officer-in-Charge George Brand to WHO Co-ordination with other Organizations Chief Michael R. Sacks, 10 Nov. 1975.

<sup>106</sup> WHO 1978.

1  
2  
3 As the UN Commission on Human Rights continued debates on the risks and  
4 benefits of science and technology on human rights, the WHO Secretariat  
5 would assure that the positive benefits of science and technology on health  
6 rights would not be abandoned in future negotiations, resulting in detailed  
7 support for the realization of health through the UN's 1979 Conference on  
8 Science and Technology for Development and the UN General Assembly's  
9 1982 resolution concluding its program on Human Rights and Scientific and  
10 Technological Developments.<sup>107</sup>  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

### 22 **III. WHO Advances International Human Rights for Global Health Policy**

23  
24  
25 Where global policy evolved in its application of human rights, from the  
26 prevention of the risks of science and technology to the promotion of the  
27 benefits of science and technology, WHO became leading force in this shift  
28 for global health. As seen in this case, when WHO has taken leadership in  
29 health rights, engaging consistently in political advocacy to meet its public  
30 health goals through human rights norms, it has proven its ability to influence  
31 international human rights discourse to facilitate global health policy.  
32  
33  
34  
35  
36  
37  
38  
39  
40

41 The development of WHO's 'Health Aspects of Human Rights in the  
42 Light of Scientific and Technological Developments' had a clear effect on the  
43 UN General Assembly's adoption of the Declaration on the Use of Scientific  
44 and Technological Progress in the Interests of Peace and for the Benefit of  
45 Mankind, marking a paradigm shift in the predominant ideologies guiding  
46 global health governance through human rights. While seeking to frame the  
47 health implications of scientific and technological development, WHO  
48 emerged at the intersection of two critical debates taking place in human  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60

---

<sup>107</sup> UN General Assembly 1982, Res. 3656.



1  
2  
3 rights and global health policy: the harms and benefits of science and  
4  
5 technology and the individual and collective nature of human rights. At this  
6  
7 crossroads for health and human rights, WHO acted influentially to highlight  
8  
9 the benefits of science and technology on a human right to health,  
10  
11 implementing this right to encompass collective obligations for the public's  
12  
13 health. Over the course of a decade, these WHO positions shifted human  
14  
15 rights through global health governance, employing international human rights  
16  
17 to frame global health policy. When the UN General Assembly culminated its  
18  
19 rights-based focus on science and technology, its Declaration on the Use of  
20  
21 Scientific and Technological Progress in the Interests of Peace and for the  
22  
23 Benefit of Mankind would frame science and technology as a benefit to the  
24  
25 human rights of populations, rather than as an infringement on the freedoms  
26  
27 of individuals, setting an evolving framework that would come to make public  
28  
29 health a human right.  
30  
31  
32  
33  
34  
35

### 36 Bibliography

#### 37 Archive Materials

38 United Nations (UN) Archive, New York, New York  
39 World Health Organization (WHO) Archive, Geneva, Switzerland  
40 United Nations (UN) Archive, Geneva, Switzerland  
41  
42  
43  
44

#### 45 Secondary Sources

46  
47  
48 Administrative Committee on Coordination 1966, 'Briefing For ECOSOC 41<sup>st</sup>  
49 Session: International Year for Human Rights', 29 June.  
50 Administrative Committee on Coordination 1974, *Annual Report of the*  
51 *Administrative Committee on Co-ordination 1973-74*, E/5488.  
52 Alston P. 1979, 'The United Nations' specialized agencies and implementation  
53 of the International Covenant on Economic, Social and Cultural Rights',  
54 *Columbia Journal of Transnational Law*, 18, 79-118.  
55 Beecher H. 1966, 'Ethics and Clinical Research,' *New England Journal of*  
56 *Medicine*, 274, 1354.  
57 Brockington F. 1958, *World Health*, New York: Penguin.  
58 Donnelly J. 1986, 'International human rights: A regime analysis,' *International*  
59 *Organization*, 40, 599-642.  
60



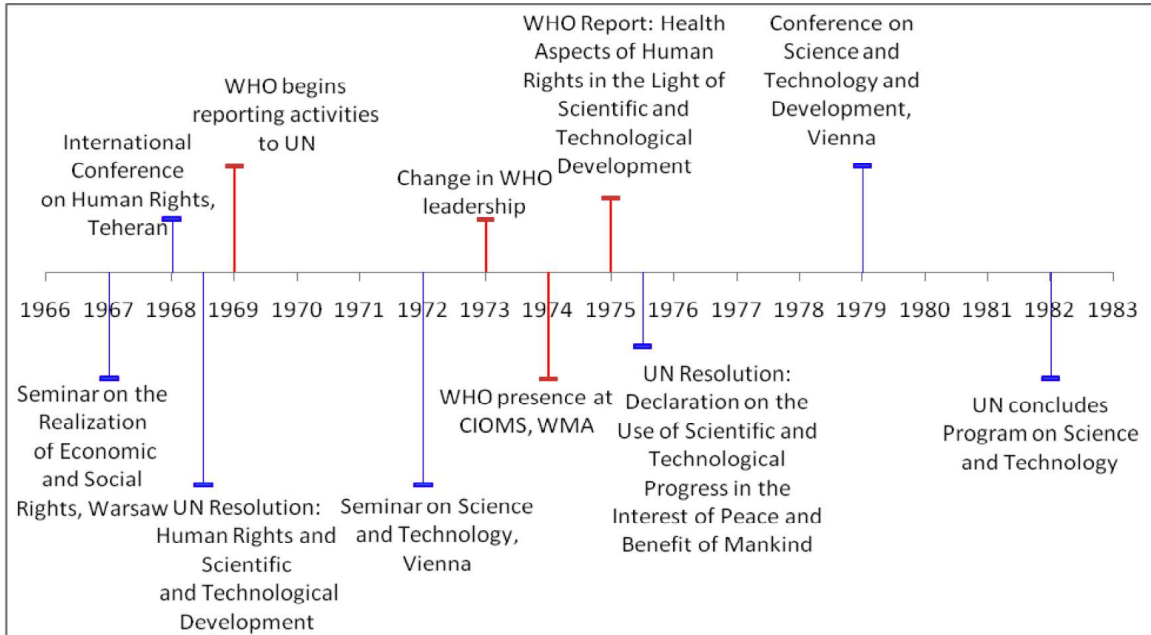
- 1  
2  
3 Donnelly J. 2003 *Universal Human Rights in Theory and Practice*, Ithaca, NY:  
4 Cornell University Press, 20-1.  
5  
6 Evang K. 1967, *Health of Mankind: Ciba Foundation*, London: Churchill, 205.  
7  
8 Farer T. 1990, 'Human Rights and Scientific Progress: A Western  
9 Perspective', in Weeramantry C. G. (ed) *Human Rights and Scientific and  
10 Technological Development*, Tokyo: United Nations Press, 81.  
11  
12 Gilpin R. 1968, *France in the Age of the Scientific State*, Princeton, NJ:  
13 Princeton University Press, 302-25.  
14  
15 Goodman N. M. 1952, *International Health Organizations and Their Work*,  
16 J&A Churchill: London.  
17  
18 Gostin L. O. 2008, *Public Health Law: Power, Duty, Restraint*, Berkeley:  
19 University of California Press.  
20  
21 Grodin M. and Annas G. 2007, 'Physicians and torture: lessons from the Nazi  
22 doctors', *International Review of the Red Cross*, 89, 635-54.  
23  
24 Hoole F. W. 1976, *Politics and Budgeting in the World Health Organization*,  
25 Bloomington, Indiana: Indiana University Press.  
26  
27 'International health or world health?' 1948, *Lancet*, 14 August, 260.  
28  
29 Lakin A. E. 2001, 'The World Health Organisation and the Right to Health',  
30 PhD dissertation, King's College.  
31  
32 Lee K. 2009, *The World Health Organization*, London: Routledge, 24.  
33  
34 Mahler H. 1973, 'Born to be healthy: A message from Dr. H. Mahler,  
35 Director-General of the World Health Organization', Reprinted in  
36 Secretary-General's 1973 progress report, A/9133.  
37  
38 Meier B. M. 2010, 'Global Health Governance and the Contentious Politics of  
39 Human Rights: Mainstreaming the Right to Health for Public Health  
40 Advancement', *Stanford Journal of International Law*, 46, 1-50.  
41  
42 Ogata S. 1990, 'Introduction: United Nations Approaches to Human Rights  
43 and Scientific and Technological Developments', in Weeramantry C. G.  
44 (ed), *Human Rights and Scientific and Technological Development*, Tokyo:  
45 United Nations University Press.  
46  
47 Parmet W. E. 2009, *Populations, Public Health, and the Law*, Washington,  
48 DC: Georgetown University Press.  
49  
50 Parrott B. 1983, *Politics and Technology in the Soviet Union*. Cambridge: MIT  
51 Press.  
52  
53 Pethybridge R. 1965, 'The influence of international politics on the activities of  
54 'non-political' specialized agencies—a case study', *Political Studies*, 13(2),  
55 247-51.  
56  
57 Quimby F. H. 1971, 'The politics of global health', Prepared for the  
58 Subcommittee on National Security Policy and Scientific Developments of  
59 the Committee on Foreign Affairs. House of Representatives, Washington,  
60 DC: US GPO.
- Sze S. 1945, 'Today's Global Frontiers in Public Health', *American Journal of  
Public Health*, 35, 96-8.
- Taylor A. L. 1992, 'Making the World Health Organization work: A legal  
framework for universal access to the conditions for health', *American  
Journal of Law and Medicine*, 18, 301-46.
- UN 1973, 'Human Rights and Scientific and Technological Developments',  
*The Impact of Scientific and Technological Developments on Economic,  
Social and Cultural Rights. Report of the Secretary General*, E/CN.4/1115.

- 1  
2  
3 UN 1967, *United Nations Seminar on the Realization of Economic and Social*  
4 *Rights Contained in the Universal Declaration on Human Rights*, Warsaw,  
5 Poland, ST/TAO/HR/31, 15.  
6  
7 UN 1968(a), *Final Act of the International Conference on Human Rights*,  
8 *Teheran, 22 April to 13 May 1968*, 4, 30, 37, 42.  
9  
10 UN 1968(b), 'France: Draft Resolution', *International Conference on Human*  
11 *Rights, Second Committee*, April 30, A/Conf.32/C.L/L.16 and Corr. 1.  
12  
13 UN 1968(c), 'Report of the Secretary-General', *International Year for Human*  
14 *Rights: Measures and Activities Undertaken in Connexion with the*  
15 *International Year for Human Rights*, A/7195.  
16  
17 UN 1972, 'Seminar on Human Rights and Scientific and Technological  
18 Developments. Vienna, Austria. 19 June – 1 July 1972', New York: United  
19 Nations, ST/TAO/HR/45.  
20  
21 UN 1975, *On the balance which should be established between scientific and*  
22 *technological progress and the intellectual, spiritual, cultural, and moral*  
23 *advancement of humanity*, Geneva: United Nations, E/CN.4/1199 and  
24 Add.1.  
25  
26 UN Commission on Human Rights 1970, *Human rights and scientific and*  
27 *technological advancements*, E/CN.4/1028 and Adds. 1-4.  
28  
29 UN Commission on Human Rights 1971, 'Human Rights and Scientific and  
30 Technological Developments: Report of the Secretary-General', Res.  
31 10(XXVII) ¶4.  
32  
33 UN Committee on the International Year for Human Rights 1964, 'Statement  
34 by WHO Representative', 13 July.  
35  
36 UN ECOSOC 1946, Resolution 1/5.  
37  
38 UN ECOSOC Sub-Commission on Prevention of Discrimination and  
39 Protection of Minorities 1974, *The Individual's Duties to the Community*  
40 *and the Limitations on Human rights and freedoms Under Article 29 of the*  
41 *Universal Declaration of Human Rights*, Res. 9 (XXVII), 21 August.  
42  
43 UN General Assembly 1948(a), 'Preamble', *Universal Declaration of Human*  
44 *Rights*, Resolution 217A (III).  
45  
46 UN General Assembly 1948(b), *Charter*, Article 62(1-2).  
47  
48 UN General Assembly 1963, *Declaration of 1968 as International Year for*  
49 *Human Rights*, UN Resolution 1961 (XVIII), 12 December.  
50  
51 UN General Assembly 1966, *International Covenant on Economic, Social, and*  
52 *Cultural Rights*, Resolution 2200A (XXI).  
53  
54 UN General Assembly 1968, *Human Rights and Scientific and Technological*  
55 *Developments*, Resolution 2450 (XXIII) ¶1(d).  
56  
57 UN General Assembly 1970, 'Preliminary Memorandum by the World Health  
58 Organization', *Health Aspects of Human Rights and Scientific and*  
59 *Technological Developments*, 30 November, A/8055/Add.1, ¶¶ 13-14.  
60  
61 UN General Assembly 1972, Res. 3026B (XXVII). ¶ 3  
62  
63 UN General Assembly 1974, *Use of Scientific and Technological*  
64 *Developments in the Interests of Peace and Social Development*,  
65 Resolution 3150 (XXVIII), 21 January, A/RES/3150.  
66  
67 UN General Assembly 1975, *Declaration on the Use of Scientific and*  
68 *Technological Progress in the Interests of Peace and for the Benefit of*  
69 *Mankind*, Res. 3384 (XXX), 10 November.  
70  
71 UN General Assembly 1982, *Human Rights and Scientific and Technological*  
72 *Developments*, Resolution 36/56, 18 January, A/RES/36/56.

- 1  
2  
3 UN Office of Public Information 1967, *International Year for Human Rights*  
4 *Newsletter*, 1, 1-38.  
5  
6 World Health Assembly 1970, *Co-ordination with the United Nations, the*  
7 *Specialized Agencies and the International Atomic Energy Agency.*  
8 *Programme Matters. Human Rights.*, Resolution WHA23.41, 21 May,  
9 A23/VR/15.  
10 WHO 1948, *Constitution of the World Health Organization*, Geneva: World  
11 Health Organization.  
12 WHO 1968, 'Report Submitted by the World Health Organization',  
13 *International Conference on Human Rights*, 24 January, A/CONF.32/8.  
14 WHO 1974, 'Proceedings of a Round Table Conference Organized by CIOMS  
15 with the Assistance of Unesco and WHO. WHO Headquarters, Geneva,  
16 14, 15, and 16 November 1973', *Protection of Human Rights in the Light of*  
17 *Scientific and Technological Progress in Biology and Medicine*, Geneva:  
18 WHO.  
19 WHO 1976, 'Health aspects of human rights', *WHO Chronicle*, 30(9), 347-  
20 359.  
21 WHO 1978, *Primary Health Care: Report of the International Conference of*  
22 *Primary Health Care Alma-Ata, USSR, September 6-12 1978*, Geneva:  
23 World Health Organization  
24 World Health Organization Executive Board 1972, EB49/20.  
25 World Health Organization Executive Board 1975, *Health Aspects of Human*  
26 *Rights in the Light of Scientific and Technological Developments*, 31  
27 January, Geneva, World Health Organization, EB55.R65.  
28 World Medical Association 1973, 'Statement on the Use of Computer in  
29 Medicine,' *27<sup>th</sup> World Medical Assembly*, 19 October.  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60

Figure 1 – WHO’s Evolving Participation in the UN’s Programme on Human Rights and Scientific and Technological Developments



Peer Review