

# **United Nations High Commissioner for Human Rights**



## **Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health**

### **Study on Access to Medicines and the Right to Health**

#### **OVERVIEW**

In its resolution 17/14, the Human Rights Council mandated the Special Rapporteur to prepare a study on existing challenges with regard to access to medicines in the context of the right to health, ways to overcome them and good practices. In preparation of the study, the Special Rapporteur is undertaking consultations with States Members of the United Nations, United Nations agencies and programmes, international and non-governmental organizations, and relevant stakeholders, with a view to harvesting relevant comments, insights and experiences, which will collectively inform the forthcoming report of the Special Rapporteur.

#### **RATIONALE**

Access to medicines is a fundamental element in achieving the full realization of the right to health. However, almost two billion people lack access to essential medicines and for millions of people throughout the world, the full realization of the right to health, including through access to medicines that are safe, effective, affordable and of good quality, and to health-care facilities, goods and services, still remains a distant goal. Improving access to existing medicines could save ten million lives each year.

Mandated by the Human Rights Council and aimed at promote access to medicines for all, without discrimination, the Special Rapporteur is undertaking the study on access to medicines and the right to health, in particular focusing on current challenges, ways to overcome them and good practices in improving access to medicines for all. Throughout the preparation of the study, the Special Rapporteur attaches great value to engaging in a wide range of consultations with all stakeholders, including Governments, UN agencies, pharmaceutical companies, civil society and community organizations, in tackling the lack of access to essential medicines.

#### **SCOPE**

In this context, the study on access to medicines and the right to health will explore existing challenges to access to medicines in the context of the right to health, ways to overcome them

and good practices to promote access to medicines that are affordable, safe, effective and of good quality. The Special Rapporteur will also consider such substantive issues as pricing, procurement, distribution, rational use and domestic production of medicines, as well as cross-cutting matters of transparency and participation.

## **PARTICIPANTS AND TIMELINE**

The study will be informed by the information received a wide range of stakeholders, including States, UN agencies, pharmaceutical companies, civil society and community groups. In this context, the Special Rapporteur already invited Governments to submit related information through a questionnaire (with the closing date for all submissions on Friday, 14 September 2012), which is available on the website of the Office of the High Commissioner for Human Rights: <http://www.ohchr.org/EN/Issues/health/pages/accesstomedicines.aspx>

The questionnaires for pharmaceutical companies and civil society will be issued on the same webpage in due course.

In addition to questionnaires, the Special Rapporteur will undertake working visits to some countries throughout the months of August to December 2012.

The Special Rapporteur will present the study on access to medicines and the right to health to the Human Rights Council at its twentieth session in June 2013.

## **PREVIOUS WORK ON ACCESS TO MEDICINES**

The following reports in the field of access to medicines and the right to health have been submitted under the mandate:

- Report to the Human Rights Council, March 2011. A/HRC/17/43 (Main focus: report on expert consultation on access to medicines)
- Report to the General Assembly, August 2010. A/65/255 (Main focus: the right to health and international drug control, compulsory treatment for drug dependence and access to controlled medicines)
- Report to the Human Rights Council, March 2009. A/HRC/11/12 (Main focus: right to health in the context of access to medicines and intellectual property rights)
- Report to the General Assembly, August 2008, A/63/263 (Main focus: accountability mechanisms and human rights responsibilities of pharmaceutical companies in relation to access to medicines)
- Report to the Commission on Human Rights, February 2003. E/CN.4/2003/58 (Main focus: Definition of the human right to health)

For a full list of reports of the mandate of the Special Rapporteur, as well as further information on the mandate, please visit the following website of the Office of the High Commissioner for Human Rights.

<http://www.ohchr.org/EN/Issues/Health/Pages/AnnualReports.aspx>

## **Overview of the Mandate of the Special Rapporteur**

### **The Special Rapporteur on the right to health**

The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health ('right to health'), Mr Anand Grover, is a practising lawyer in the Bombay and Delhi High Courts and the Supreme Court of India, as well as Director of the Lawyers Collective, HIV/AIDS Unit in India. He was appointed Senior Counsel in India in August 2011. Mr. Grover assumed his functions as the Special Rapporteur on the right to health on 1 August 2008, and his mandate was for a further period of three years by the Human Rights Council in October 2010.

### **The right to health**

The right to health is reflected in various international and regional human rights instruments, including the Universal Declaration of Human Rights (Art.25(1)), the International Covenant on Economic, Social and Cultural Rights (Art.12), the International Convention on the Elimination of All Forms of Racial Discrimination (Art.5(e.iv)), the Convention on the Elimination of All Forms of Discrimination against Women (Art.12), the Convention on the Rights of the Child (Art.24), the Convention on the Rights of Persons with Disabilities, the African Charter on Human and Peoples' Rights (Art.16), the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Art. 10) and European Social Charter (Art.11).

The right to health is an inclusive right, extending not only to timely and appropriate health care, but also to the underlying determinants of health, such as access to safe and portable water and adequate sanitation, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health.

In 2002, the Commission on Human Rights, the then principal political body dealing specifically with human rights in the United Nations system, decided to appoint, for a period of three years, a Special Rapporteur to focus on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

Following the replacement of the Commission by the Human Rights Council, the Council adopted decision 1/102, which extended all mandates of the former Commission, including that of the Special Rapporteur. In June 2008, the Council appointed Mr. Anand Grover as Special Rapporteur on the right to health.

Pursuant to its resolution 6/29, the Human Rights Council reiterated that the mandate of the Special Rapporteur includes the following:

- (a) Gather, request, receive and exchange information from all relevant sources, including Government, intergovernmental and non-governmental organizations, on the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, as well as policies designed to achieve the health-related Millennium Development Goals;

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

(c) Report on the status, throughout the world, of the realization of the right to health and on developments relating to this right, including on laws, policies and good practices most beneficial to its enjoyment and obstacles encountered domestically and internationally to its implementation;

(d) Make recommendations on appropriate measures that promote and protect the realization of the right to health, with a view to supporting States' efforts to enhance public health; and

(e) Submit an annual report to the Human Rights Council and an interim report to the General Assembly on its activities, findings, conclusions and recommendations.

By its resolution 15/22, in October 2010, the Council extended the mandate of the Special Rapporteur on the right to health for a further period of three years.