

***REPORT OF THE LEGAL ADVISOR
TO THE COMMITTEE OF EXPERTS ON
REPRODUCTIVE HEALTH
AT WORK***

including

RECOMMENDATIONS FROM THE LEGAL ADVISOR FOR IMPLEMENTATION
OF THE DECLARATION/
PLAN OF ACTION

"Medical and Ecological Problems of Workers' Reproductive Health"

(9-10 December 1998, Moscow) and the

**Informal International Consulting Meeting of the
Committee of Experts on Reproductive Health Protection
(11 December 1998, Moscow)**

Russian Academy of Medical Sciences, Moscow (RAMS)

**RAMS Institute of Occupational Health (WHO Collaborating Centre on Occupational Health) under auspices of
WHO, ICOH Scientific group on Reproductive hazards in the workplace, Ministry of Health of Russian
Federation.**

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This Report is dedicated to Jay and Emalyn Feitshans and would not have been possible without the efforts of Architect Charles Weiler, Haddonfield usa.

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January 30, 1999

Letter of Transmittal

To: Prof. Nicolai Izmerov M, Dr Sc.
Director, RAMS Institute of Occupational Health,
Moscow, Russia

Dear Professor Izmerov

Thank you for inviting me to your conference, "*Medical and Ecological Problems of Workers' Reproductive Health*" (9-10 December 1998, Moscow) and the Informal International Consulting Meeting of the Committee of Experts on Reproductive Health Protection (11 December 1998, Moscow) at the Russian Academy of Medical Sciences, Moscow (RAMS).

It was a delight to meet you and to work with you and your dedicated and talented staff. I was especially impressed by the high caliber of the research that was discussed at the conference, and the candor of the high-level scientists who have the courage to openly discuss and confront the current crisis in health care that has so hurt on reproductive health for all people. I share your view concerning the need to promote primary care and the delivery of health services as international human rights. Your staff has offered a rational and logical approach that you and your staff have offered to solving many of the health problems raised by the current crisis, as set forth in the **Plan of Action for the Declaration-Position Statement and Proposed Plan of Action for Period up to 2000 and in 21st Century on Workers' Reproductive Health Protection**, unanimously adopted by the Committee of Experts on Reproductive Health at Work.

Without question, your leadership role in this project and furthering the follow-up activities of our Committee of Experts on Reproductive Health demonstrates that you are a scientist of courage, principles and vision that will have an indelible imprint on posterity and the lives to be born in the 21st Century.

It is therefore with great enthusiasm that I transmit to you the conference report I have prepared for Dr. James Kesner, NIOSH, USA.

Congratulations again on an outstanding conference.

Looking forward to working with you very soon, All the best,

Ilise L. Feitshans

Prof. Ilise L. Feitshans JD and ScM
Author, BRINGING HEALTH TO WORK
Legal Advisor, Committee of Experts on Reproductive Health

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January 30, 1999

Letter of Transmittal

To: Olga V Sivochalova, MD, Dr Sc, Prof,
Head, Centre of Medical and Ecological Problems of Workers Reproductive
Health, RAMS Institute of Occupational Health,
Moscow, Russia

Dear Olga,

There are many words on these pages yet few can adequately express my gratitude and my admiration for your work .

Thank you for Co-ordinating the conference, ***"Medical and Ecological Problems of Workers' Reproductive Health"*** (9-10 December 1998, Moscow). You and your staff provided outstanding information to the international scientific community regarding the current crisis in reproductive health. Despite the current scarcity of financial resources to support the conference agenda, you and your staff conducted invaluable preparatory work, including the translation of complex documents, that made possible the successful Informal International Consulting Meeting of the Committee of Experts on Reproductive Health Protection (11 December 1998, Moscow) Russian Academy of Medical Sciences, Moscow (RAMS) as expressed in the **Declaration-Position Statement and Proposed Plan of Action for Period up to 2000 and in 21st Century on Workers' Reproductive Health Protection**.

Working with you is an honor and a joy, and I look forward to the developing progress towards achieving the conference goals when we re-convene in 1999. It is therefore an honor to transmit to you a copy of the conference REPORT FROM THE LEGAL ADVISOR to the COMMITTEE OF EXPERTS on REPRODUCTIVE HEALTH AT WORK, prepared at the request of Dr. James Kesner, NIOSH, USA.

Wishing you all the best to you and your staff and warm regards,

Sincerely yours,

Ilise

Prof. Ilise L. Feitshans JD and ScM
Author, BRINGING HEALTH TO WORK
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Letter of Transmittal
To: Dr. James Kesner
NIOSH
USA BY EMAIL

January 30, 1999

Dear Jim,

Thanks to your support, by providing seed funding for the attached conference Presentation and Report, at "*Medical and Ecological Problems of Workers' Reproductive Health*" (9-10 December 1998, Moscow) and the Informal International Consulting Meeting of the Committee of Experts on Reproductive Health Protection (11 December 1998, Moscow) I had the honor of assisting in the drafting of the attached Declaration about reproductive health in the workplace for the WHO/RAMS Committee of Experts on Reproductive Health at Work, Moscow, Russian Federation, December 1998.

As the attached documents demonstrate, our enthusiastic and dedicated Committee carefully prepared a Declaration of its views regarding the urgent need to reverse an alarming public health trend of diminished reproductive health (i.e. complications of pregnancy and fewer normal or healthy newborns and a declining birth rate in face of a rising death rate). It was the Committee's consensus, based on the data presented, that these public health problems have a disproportionate negative impact upon working women. Further, the Committee unanimously agreed that reproductive health in the workplace must be the subject of increased scientific inquiry and that implementation of existing preventive measures, which are not presently used to their full capability, must be part of a Plan of Action under international law. The data that formed the basis of their expert consensus is summarized in Part I of this report. The attached Plan of Action and its supporting memoranda in Part II of this report are the first phase of an ambitious project to draft an international convention that will educate national and international governments about these urgent issues. My recommendations, in my capacity as Legal Advisor to the WHO/RAMS Committee of Experts on Reproductive Health at Work are found in Part III. A short version of my paper, "IS THERE A Human Right to Reproductive Health?" as presented to the conference is found in Appendix I. Appendix II provides the full text of the **Declaration-Position Statement and Proposed Plan of Action for Period up to 2000 and in 21st Century on Workers' Reproductive Health Protection**, which Prof. Izmerov presented to WHO Geneva, Switzerland, in January, 1999. There is much work to be done, in the laboratories, in the field and in publicizing the views and the work of this Committee so that the goal of Reproductive Health for All may be realized.

Thank you again, for your support.

All the best,

Ilise

Prof. Ilise L. Feitshans JD and ScM
Author, BRINGING HEALTH TO WORK
Legal Advisor, Committee of Experts on Reproductive Health

REPORT OF THE LEGAL ADVISOR
TO THE COMMITTEE OF EXPERTS ON REPRODUCTIVE HEALTH AT WORK

including

RECOMMENDATIONS FROM THE LEGAL ADVISOR FOR
IMPLEMENTATION OF THE
DECLARATION/ PLAN OF ACTION

Recommendation 1. Announce the Declaration Before International Fora

Recommendation 2. Conduct Further Juridical Research to Harmonize National Laws and Fill The Gaps In International Laws Protecting Reproductive Health at Work

Recommendation 3. Reconvene the WHO/RAMS Committee of Experts on Reproductive Health at Work, to Propose and International Convention on Reproductive Health

These Recommendations are Discussed in Detail in this Report, Part III.

Report To: Dr. James Kesner,
National Institute of Occupational Safety and Health (NIOSH)
USA

Copy to: Chairpersons of the Meeting:
Izmerov Nicolai F., MD, Dr Sc, Prof,
Director, RAMS Institute of Occupational Health,
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Sivochalova Olga V., MD, Dr Sc, Prof,
Head, Centre of Medical and Ecological Problems of Workers Reproductive
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I. Summary of the Conference *"Medical and Ecological Problems of Workers' Reproductive Health"*: Scientific Findings

A. Executive Summary:

The conference, *"Medical and Ecological Problems of Workers' Reproductive Health"* was held December 9-10 1998 in Moscow, Russia. In a satellite meeting December 11, 1998, the Committee of Experts on Reproductive Health at Work (COERHW) adopted "Declaration-Position Statement and Proposed Plan of Action for Period up to 2000 and in 21st Century on Workers' Reproductive Health Protection" which was unanimously adopted with instructions that it be sent before February 1, 1999 to WHO Director-General Dr. G.H Brundtland, so that it could be included in WHO's agenda on occupational health for all. The conference's book of abstracts, produced in coordination with WHO, included an introductory message on behalf of ICOH Scientific group on Reproductive hazards in the workplace signed by Prof. Irene Figa-Talamanca. In the Conference 87 specialists have participated from Belarus, Kazakhstan, Poland, Russia, Tadzhikistan, Ukraine and USA. During the conference 31 oral reports and 7 fixed communications were presented. The book of abstracts reflects 104 abstracts, in Russian and English.

According to the data presented at the conference, alarming changes in vital statistics regarding increased miscarriage, infertility, death from infectious diseases, pregnancy anemia and complications from pregnancy threaten to undermine the health of every pregnant worker and challenge the viability of humanity for all posterity. At the same time, in areas of ecological catastrophe, reported data indicate that the death rate has increased even as the birth rate declines. Thus, in many different nations for different reasons, reproductive health among all people has declined in recent years, with a demonstrated disproportionate adverse impact on the health of working women. Some of these dramatic increases in pregnancy-related illness cannot be understood in relation to the injury and illness experience of male workers, nor can they explained by simply claiming that increased illness that is found among women workers is a result of working women's significant "double burden".

The data presented at this conference are particularly disturbing because many of the adverse outcomes that were studied represent preventable harms that are linked to poor nutrition, the need for dietary supplements, a decline in primary care, or the negative effects of human intervention (as in cases of ecological disaster). Participating researchers offered methods of assessing the structure and degree of work-related disorders; noted that the issues raised by research examined at the conference transcends international borders in a manner that threatens to undermine international human rights to health; and offered an approach to integral evaluation of health risk categories based on simultaneous understanding of the physical and chemical work load in occupational environments within the greater ecological context of the territory in which the worker resides, so that the best possible risk assessment can be made and every available resource for risk management can be employed.

B. Call for Action From Prof. Izmerov

Recognizing the urgent need for improved primary care, protection of mothers, working parents and their children for the benefit of the family and the urgency attached to the problem of understanding the interaction between workplace exposures, environmental factors and preventing

worker exposures that jeopardize familial health and human reproductive health, the conference participants, Prof. Nikolai Izermov, Director of the Russian Academy of Medical Sciences (RAMS) Institute of Occupational Health (and Vice Chair of the Second Meeting of the WHO Collaborating Centres in Occupational Health and Signatory of the WHO Declaration, "Occupational Health for All", Beijing, 1994) called for meaningful international action: (1) not only to call attention to these problems, but (2) in order to implement preventive public health measures that will solve or reduce the resurgent threats to reproductive health that were discussed at the conference.

In response to his request, the participants of the conference therefore convened an Informal Meeting of the Committee of Experts on Reproductive Health at Work, (COERHW) which drafted a Declaration decrying the current plight; setting forth a Plan of Action: and urging Members of the COERHW to bring the matters raised in the Declaration to the attention of international and national governments throughout the world. The Declaration, calling upon the Director-General of WHO to use her good offices to foster further research and international co-operation in reproductive health in order to prevent and reduce hazards to reproductive health, was presented by Prof. Izmerov to WHO Geneva Switzerland in January, 1999. The ambitious Plan of Action also calls for the development of political and legal strategies to implement solutions to many of the reproductive health problems that the COERHW examined.

C. Support for International Co-operation from Prof. Figa-Talamanca, ICOH

In her introductory message to the conference on behalf of the International Commission on Occupational Health, (ICOH) Scientific Committee on the conference's subject, Prof. Irene Figa-Talamanca stated, "while most health indicators are now rapidly improving in most countries of the world, some reproductive health indicators have remained unchanged or have even deteriorated. This is true of infant and neonatal mortality in some Eastern European countries...in the incidence of infertility in some western countries, in the incidence of some congenital defects and childhood cancers....The difficulties of recent years have certainly placed a lot of strain on the working population, and have increased the risks of women and children. It is now time to examine the present situation, identify the priorities and to plan new approaches to prevention".

In her paper, "Some Research Priorities In the Area of Reproductive Health and Environmental and Occupational Factors", Figa-Talamanca further expressed concern that "considering the present and future dimensions of environmental contamination and manipulation", and while "Many more women in both western countries and the developing world are being employed in occupations previously reserved to men because [those jobs had previously been] considered more dangerous or unhealthy," the ICOH is particularly distressed about the high proportion of conceptuses lost prematurely, increases in childhood cancers in families of working women; and that some studies suggest that fertility and sperm quality are decreasing among certain populations. She recommended that scientists should further study the decline in overall reproductive health status, in order to: (1) investigate the possible differential susceptibility of men and women after exposure to chemical and physical agents in the work environment; (2) re-evaluate the effectiveness of existing ACGIH-TLV's with a view to setting special standards to protect reproductive health, and (3) further inquire about risk factors, with a view to communicating occupational exposure and environmental health risks to the scientific community and in turn to the workers involved. She pledged ICOH's support for

bringing the important and urgent problems of adverse reproductive outcomes from occupational factors to the attention of individual nations and the international community.

D. Differential Adverse Impact on Pregnant Workers, Even When Excluded by Law From the Most Dangerous Jobs

Two papers from Poland, produced in tandem, addressed the disproportionate adverse impact of reproductive health hazards in the workplace on the health of working women, (Janusz A Indulski, Zuzanna Szubert, "Medical Causes of Female Sickness Absence During Economic Transition in Poland") despite the strong Polish legislation prohibiting harmful occupational exposures during pregnancy, (Teresa Makowiec-Dabroska, "Health Protection of Pregnant Occupationally-Employed Women and Their Offspring In Light of the New Legal Regulation in Poland : Types of Work Prohibited to the Female Workers).

Szubert stated that changing socio-economic conditions exert a considerable influence on workers' health, reflected in sickness absenteeism. Szubert collected data concerning "medical causes of absence and the duration of work disability for individual workers employed in the STAR Motor Co., Poland 1989-94" by examining Lost time rate; stratification of sick workers by cause of absence; mean yearly duration of absence per worker and by comparing subgroups by age. The main variable examined was the reason for discharge: including quitting because of health problems such as long-term disability. Of 3215 female workers and 5373 male workers. Female sickness absence was approximately 33% higher than males (highest difference, 53% in 1994). The highest rate of increase in sickness absence was endocrine and metabolic disorders; until 1992 the complications of pregnancy and delivery accounted for the highest rate of sickness (26%) (low, 14% in 1994). Men suffered from respiratory diseases, but there was increased sickness absence from cardiovascular and nervous system diseases in both populations. Also, among female workers sickness was 49% higher on average than among males and 27% higher among females who quit. "The largest difference could be observed in the group with terminated work contracts: female sickness absence exceeded the male rate by as much as 59%... due mostly to a very high rate of absence from pregnancy complications". Thus, risks from occupational exposure appear to have presented different causes of absence in male and female working populations, and, more importantly, complications of pregnancy and endocrine disorders, which cannot occur among male workers, appear to represent a large percentage of female absenteeism. This suggests that women have different, if not "special" needs for reproductive health protection at work compared to their male counterparts in the same facility. Further, the increase in illness and the high rates of the illness experienced suggest that protective measures are urgently needed to alleviate these problems. This view is borne out in the work of the Committee of Experts on Reproductive Health at Work, (Part II of this Report).

This data raised substantial concern among the conferees in light of the special situation under Polish law discussed by Makowiec-Dabroska, where pregnant women are prohibited from employment that requires heavy physical labor, exposure to specified chemical agents such as suspected carcinogens and toxins, working in extreme hot or extreme cold environments, specified viruses, climbing and work in underground mines. The question whether "Special Protection" is synonymous with "exclusion" is a thorny question that has been litigated under USA laws and is not resolved under conflicting provisions of international conventions and treaties, (I.L. Feitshans, IS THERE a Human Right to Reproductive Health?). Many international human rights instruments,

including the International Convention on Populations and Development, Cairo, 1994; the Universal Declaration of Human Rights; the World Health Organization Constitution; and the International Covenant on Economic, Social and Cultural Rights support the principle that there is human right to reproductive health protections under international law. Yet, the scope of the right to reproductive health protection, and the meaning of “Special Protections” as used in certain international documents including the International Convention on Elimination of All Forms of Discrimination Against Women is undefined.

E. Concerns About Reproductive Health Following Ecological Catastrophe

In the area near Chernobyl (AA Milutin, H.I. Plugacheva and I.V. Veyalkin “Structural and Functional Changes of Immunoglobulin Molecule of Pregnant Working at the Potassium Production in Soligorsk, Minsk”) the aftermath of the Chernobyl disaster produced unexpected and dramatically increased incidence of sickness and psycho-social strain among the population of 184 thousand people (43 thousand children). Sickness leading to death, especially among children, and reproductive health problems such as infertility and spontaneous abortion in remarkably high numbers have decreased the overall population. The birth rate in the area has decreased by 37.4 % while the death rate in the same area has increased 29.9%.

According to these researchers, pollution in the provinces has increased the number of sterile marriages and spontaneous abortions. In addition, diseases of the blood and hemopoietic organs increased 9.4 times, due to anemia. These data of ecological catastrophe were complimented by studies from other Federations from the Former Soviet Union: (AG Lapko, RA Dudinsky AM Inskritskij and AA Milyutin, “Modification of Thyroid Function in Pregnancy, Living in Region Contaminated of Radionuclides”) where thyroid disorders were observed leaving open the question whether maternal hypothyrocinemia might have important implications for adequate fetal development and also (LB Kuanove, “Structure of Disorders of Nervous System Between the children Living in the Area of Ecological Catastrophe”) the situation in Kazakhstan, where the pollution of the Caspian Sea from DDT, hexachlorine, lead, cadmium and copper and contamination by radionucleids has resulted in the registration of 5000 children annually as invalids. The researcher notes, too that this number represents only 38.3% of the children who were revealed to have rough organic pathology such as harm to the central nervous system including oligophrenia, cerebral palsy, epilepsy and epileptic fits. In the latter study, the researcher concluded, “thereby, actions in the field of preventive maintenances of invalidity in children who live in the area of ecological catastrophe must be directed on protection of reproductive health of family and ensuring a careful medical checking”

Thus, the reproductive health issues in areas of ecological catastrophe have already been manifest in both, the declining reproductive capabilities and reproductive functional impairment of the working population, and have been expressed in the alarming rates of invalidity and disability among the few children who are born under these conditions. This has significant implications for the need to study child health in co-ordination with worker health, and the lessons from these catastrophes can be applied to underclass conditions in many nations.

F. Medical and Social Approach offered by Dr. Sivocholva

Taken together, the ecological and work environment factors that impact on reproductive health as discussed at this conference may also have interactions that are not presently understood. It was nonetheless the inescapable conclusion to the experts assembled at the conference that there is a crisis in reproductive health and possibly in the delivery of health care for women and children as well, which prompted the conferees to establish the Declaration and Plan of Action discussed in the next section of this report and reprinted in full in Appendix II. Taking into account the demographic changes and the economic situation of working women, researchers (O.V. Sivochalova, G.K. Radinova, E.I. Denisov and T.V. Morozova “Workers’ Reproductive Health: Methodological Issues, Medical and Social Decisions and Denisov, E.I and I.I. Beresin, “Conceptual Model for Structure and Degree of Work-Related Disorders of Reproductive Health Risk Analysis”) offered an approach to integral evaluation of health risk categories based on simultaneous understanding of the physical and chemical work load in occupational environments within the greater ecological context of the territory in which the worker resides, so that the best possible risk assessment can be made and every available resource for risk management can be employed.

Part II. Rapport of the Meeting of the WHO/RAMS Committee of Experts on Reproductive Health at Work

A. WHO Authority Over Occupational Health and Declaration Antecedents

Pursuant to WHO's "General Authority Mandating Action to Protect Worker Reproductive Health: Implications of the WHO Global Strategy for Health for All Plan of Action 1996-2001" (WHA Assembly May 19 1996, WHA 49.12, Reprinted in Vol 10 No.2, *International Journal of Occ Med and Env H*) pp 113-139 (1997), the Director-General of WHO has been requested to implement an Occupational Health for All strategy that embraces Occupational health care; small enterprises; migrant or informal sectors and women, as a part of the high risk groups with special needs. WHO's global strategy has been developed through a network of Collaborative Centres, that share "a common vision ... to mitigate the adverse effects of occupational hazards and to meet emerging problems". New data discussed at the Moscow conference clearly falls within both of these parameters. There was consensus among all the participants at the conference that the current trends in public health underscore the urgency of promoting understanding of these scientific issues in the international legal community.

Preserving any and every wage-earner's health and ability to enjoy reproductive health is essential to family life; to preserving the family; and protecting the next generation for posterity. Such health is tied to the prevention of impairments and the ability to participate in all life activities. Evidence presented during the conference presentations pointed unusually clearly to the unsatisfactory reproductive health status of certain working populations, especially the declining reproductive health of working women and of children living in areas known for their toxins in the groundwater, drinking water and from environmental pollution. These dangers have had a negative impact on the ability to reproduce and on the health and well-being of the children living in these areas. Inability to produce a new generation of healthy offspring threatens to undermine any efforts to achieve sustainable development, especially for countries with transitional economies. Members of the Committee also noted that many pregnant workers have been denied access to primary care in occupational health services or in the health care delivery systems of the different nations and this grave situation causes further deterioration of maternal and child health and the well-being of all society.

The Beijing Declaration, signed at the Second Meeting of the WHO Collaborative Centers on Occupational Health "Occupational Health for All" (1994) was designed to meet "the urgent need to develop occupational health at a time when rapid changes in working life are affecting both the health of workers and the health of the environment in all countries of the world". Attended by 27 countries, WHO, ILO, UNDP, and ICOH, the Declaration adopted a proposal for action and implementation of its target goals. In particular, Point 9 of the Declaration reaffirms each workers' "right to know the potential hazards in their risks in their work and workplace", including the development and use of "appropriate mechanisms ... in planning and decision-making concerning occupational health and other aspects of their own work. Workers should be empowered to improve working conditions by their own action, should be provided information and education, and should be given all the information, in order to produce an effective occupational health response through their participation"

Of particular relevance to the COERHW, the Beijing Declaration notes, without directly referencing reproductive health or the Special Needs of pregnant workers, "Workers with individual

susceptibilities, handicaps and the characteristics affecting their work capacity have a right to job adaptation that fits the work to the worker”. The implication of these provisions in Point 9 is quite clear: The Beijing Declaration provides mechanisms for the transmittal of risk information, including risk assessment, participation in decision-making, and the formulations of an appropriate response to dangers. While it is not stated whether these actions and responses are to be taken by individuals acting alone or collectively, and it is also unclear what would be the scope of the information dissemination, or whether all workers have equal needs for information, it is at no point stated or implied that workers who obtain health hazards information and proceed with their work are deemed to have assumed the risks or given their informed consent to accept workplace hazards and their consequences.

Point 9 therefore holds important ramifications for reproductive health protections and presents an important dilemma: reproductive health protections against hazards from occupational exposures are clearly consistent with the intention and purpose described within the “right to know” discussed in the Beijing Declaration, but are not specifically addressed using express language or suggested by any reference to “Special Protections” for maternal and child care or for pre-conceptual exposures among potential parents who constitute a peculiarly vulnerable population. Thus, reproductive health and the Special Needs of pregnant workers, fertile workers and related vulnerable features of sub-populations who may be occupationally- exposed to reproductive health hazards can be met within the terms of the Beijing Declaration, but they are not expressly protected by the plain meaning of the language. Conversely, although there is no specific mandate that employers provide reproductive health hazard information or related protections, there is nothing in the text to allow the inference that reproductive health protection is so extraordinary that it should be excluded from the “right to know”, although the scope of the information to be given to workers is unclear.

This subtle but important point: that the WHO global approach to Occupational Health for All does not exclude but also does not specifically require “Special Protections” (which are discussed in other international legal instruments, such as Article 11 of the International Convention on the Elimination of All Forms of Discrimination Against Women) was quite important to the work of the OCERHW. As noted above, Prof. Nikolai Izermov, Director of the Russian Academy of Medical Sciences (RAMS) Institute of Occupational Health served his nation as Vice Chair of the Second Meeting of the WHO Collaborating Centres in Occupational Health and Signatory of the WHO Declaration, “Occupational Health for All”, Beijing, 1994. Throughout the Moscow Conference and the COERHW deliberations towards a Declaration, Prof. Izmerov exhibited keen awareness of both the magnitude and the urgency of the scientific problems and the juridical gaps in analysis of workplace protections that impede the development of more coherent global strategies to protect reproductive health on an equal footing with other areas of occupational health concerns. Prof. Izmerov therefore successfully pointed out to conference participants that a Declaration about the remarkably strong international scientific consensus around these issues was appropriate. In order to reduce the effects of these harmful occupational and environmental exposures there was also needed a rudimentary Plan of Action that contemplated an admixture of both: further research (including juridical research to harmonize existing laws) and policy approaches.

For this reason, the *Informal International Consulting Meeting of Experts on Reproductive Health Protection* was held on 11 December 1998, organized by the Initiative group (Dr. O.Sivochalova, Dr. E.Denisov, Prof. I. Figa-Talamanca, Dr. T. Vergieva, and Prof. I.Feitshans, Legal Advisor, among the members). 21 specialists participated, including attendees from Belarus,

Kazakhstan, Poland, Russia, Tadzhikistan, USA as Attending experts and 4 specialists from Bulgaria, Canada, Italy and Ukraine as Ex Officio experts (contributing by fax and e-mail correspondence). The Committee of Experts on Reproductive Health at Work (COERHW), WHO Collaborative Centre, Russian Academy of Medical Sciences (RAMS) unanimously adopted the **Declaration-Position Statement and Proposed Plan of Action for Period up to 2000 and in 21st Century on Workers' Reproductive Health Protection**, (Appendix II of this report) The Declaration calls for further research concerning legal aspects of exposure to environmental or workplace toxins that harm reproductive health at work. The Declaration was presented to WHO in Geneva Switzerland by Dr. Izmerov, in January, 1999.

B. Summary of Declaration Text:

Recognizing the extensive body of international, national and European Council laws that attempt in part to protect reproductive health, the Declaration calls for a Plan of Action by the UN, several international governmental agencies, and national governments to provide primary care and to prohibit or reduce harmful occupational and environmental exposures. The PLAN OF ACTION in the Declaration calls for: research into the environmental and occupational factors affecting reproductive health; implementation of primary care; prohibition of highly-dangerous exposures for workers contemplating parenting; legal analysis of existing foreign and international laws to protect reproductive health; and a new international convention that will specifically address reproductive health in the workplace.

The Declaration incorporates by reference the United Nations law articulated in the International Convention on Populations and Development, Chapter VII, "Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and its functions and processes... reproductive health care is defined as the constellation of methods, techniques and services that contribute to reproductive health and well-being by preventing and solving reproductive health problems..." (Cairo, 1994).

The COERHW was aware too, that further juridical evidence exists that health protections and occupational health is a human right, as discussed in other international human rights documents, including the WHO Constitution and the UN Charter. Theoretically, support for the right to health, occupational health and reproductive health therefore is quite strong under existing international treaties, conventions and other multilateral instruments, as demonstrated in the paper "IS THERE A HUMAN RIGHT TO HEALTH?" (Appendix I of this report). However, no single document clearly codifies the right to reproductive health at work, nor does any document articulate a clear definition that can be applied to many cultures and by different governments at the national, international, regional or local level. Thus, even though many conventions provide the conceptual underpinnings for a rights-based analysis, and the emerging data points to a need to address these issues, no single comprehensive international instrument sets forth a coherent framework to address the issues of reproductive health at work. Nor does any instrument adequately ensure access to information and risk communication for all people who confront reproductive health hazards at work. The Committee was therefore sensitive to the need to fill the gaps in existing international and national laws regarding the role of workplace exposures in shaping reproductive health outcomes.

The COERHW therefore viewed codification of the best practices, including scientific criteria into risk communication as an appropriate subject for a subsequent international instrument (probably but not definitely an international convention on reproductive health at work) as the next step towards realization of the small steps towards progress that began with the Declaration. In their comments regarding future developments and the need to re-convene the COERHW in order to report new research findings, follow-up information about legal questions and to pursue the development of an international legal instrument in meeting in 1999 and 2000, Members of the Committee individually and collectively agreed that continuing the process begun at the Moscow Conference is an integral part of any or all efforts to improve conditions for pregnant workers, for all women workers and their mates, and for the next generation. They also re-affirmed their dedication to sharing their findings with colleagues and with each other, and to networking to publish and publicize the Declaration as a means of educating the scientific community, opinion leaders and the general public including worker populations about the conference's important scientific findings.

Consistent with the data expressed at the Conference and the sentiments evoke in response to the collective wisdom of the experts assembled, it was the Committee's view that such urgent legal issues of toxic exposures in the workplace have an important impact upon pregnant workers and womens' reproductive health. Vital issues of reproductive health in the workplace have a disproportionate adverse impact on the health of working women. The Members also asked the Legal Advisor to prepare additional information about jurisprudence on this topic, including a survey of the laws, regulations and treaties at the local, national and international level. Areas of particular concern for further standardization activity by COERHW include but are not limited to: availability of health services for pregnant workers on the national level of many nations; delivery of health care to pregnant workers in occupational health services settings, especially those provided by employers and those health service centers in rural areas where alternative health care delivery services are unavailable; minimum standards for reproductive health training among occupational physicians and occupational health nurses and their staff; efforts to provide meaningful implementation fro job security and paid leave of absence for maternity leave immediately before and immediately after the birth or adoption of a child consistent with ILO Conventions C 155 and C 168 Article 5(4)(h); and request that WHO to take steps to formalize chemical safety and to harmonize inconsistent technical terminology used in risk communication and "right to know" training materials; and to make an attempt to codify risk training and risk management criteria.

C. Areas for Further Consideration When COERHW Reconvenes

In addition to the Committee's unanimous consensus regarding the Declaration, there was a strong sentiment among the Members that simply articulating a Plan of Action would be inadequate to address the long-term implications of the urgent problems surrounding reproductive health and hazardous exposures at work. Although the Members agreed to limit their formal activity to a Declaration, thereby taking an incrementalist approach, there was widespread agreement that the Declaration was merely the first step in a long process, given the scientific data discussed above. Some of the issues that were discussed within the Committee but were not specifically addressed in the Declaration may become the subject of future deliberations, when the Committee reconvenes to report on the progress towards its goals and to discuss any proposed draft international convention.

One problem regarding future work concerns the inadequacy of the existing terminology, and the need for a better understanding of the definition of reproductive health at work. For example,

under the ICPD (Cairo 1994), a multi-page definition of “reproductive health” raises as many questions as it answers, by offering many possible interpretations under its broad umbrella. Some facets of that definition, too directly or implicitly conflict with the notion of protecting reproductive health from exposure to harm from a workplace. Thus, ICPD has important limits for the work of the COERHW because it cannot reach working conditions that harm or destroy reproductive health as effectively or as concisely as the drafters of ChVII might have desired.

Another juridical problem concerns the availability of services. There is a long heritage of WHO and other international governmental documents supporting this right. Much technical assistance has been given to underserved populations in developing nations, pursuant to requirements for delivery of health care and health services under international treaties and conventions. There was strong consensus among Members of the Committee that the data demonstrating alarming and urgent diminution health status was a consequence, in part, of reductions in available primary care and health care services. There was universal concern that loss of vital health services in weak or fragile health care infrastructures of other nations could have profound implications on reproductive health status worldwide, (including capitalist industrialized economies such as the USA, where health care is available but is not provided by the government as an essential right of all people under law). Furthermore, the prevalence of health insurance problems in the USA among people who cannot afford adequate health care means that people in the USA are at risk of confronting a similar crisis in reproductive health among underclass groups or among working class populations in toxic waste environs, (i.e Toms River NJ). Thus the implications of this data are international in scope, not limited to a region, nation or cluster of nations and need to be shared. The lessons learned from this data need to be codified into international norms and legal principles that can prevent similar patterns of decay in the public health infrastructure and the populations’s reproductive health, which has already begun to erode reproductive health across the world.

Although genetic counseling and the Russian Duma’s legislative activity surrounding a new bioethics law was discussed briefly at the conference, little attention was given to the implications of gene manipulations and genetic testing at the workplace in relation to reproductive health. Will the new technologies be readily available? And, if so , what will their effect be on worker health status: will they give rise to better information, better testing and more information becoming available in the workplace, or will the presence of complex genetic information be jealously guarded and thereby further impede the flow of information to pregnant workers, their families and the scientific community, with a concomitant decline in already-weak indicators of workers’ reproductive health? There was consensus that even when genetic testing is not widely applied, information about available genetic testing and its implications for pregnant workers and for public health databases (such as registries and large-scale testing) and the transmission of information to pregnant workers through genetic counseling (however that may be defined) could have a revolutionary impact on the science and practice of reproductive health protection in the next generation. Implications of genetic technologies also may change the nature of the workforce: problems that were once major adverse reproductive health outcomes may be “cured” while new genetic problems, from workplace mutations, or naturally occurring deletions and translocations of genetic material may be discovered. How will these changes impact societal notions of reproductive health? And, what will be the impact of these changed concepts on the underlying relationship of employer responsibility and worker right to protection in areas of occupational health? These issues must be considered in further deliberations in great detail.

Due to time constraints and the preliminary nature of the Declaration itself, many subjects were

raised and tabled for future deliberations, including: mechanisms for risk communication to workers; the scope of the right to know information about reproductive health hazards in the workplace; minimum and maximum standards of protection; how to address the special needs of pregnant workers and workers with young children. Left unsettled, also were the questions about the “Right to refuse” hazardous work for all workers and whether there are reproductive health hazards that are so problematic and dangerous that exclusion would be advised or required for workers contemplating childbearing, for pregnant women or other sub-populations such as young children in those industries where dangerous substances may have a long half-life that could render them functionally impaired. Questions regarding smoking and alcohol use were also put aside, because of the difficulties when teasing apart personal liability, risk, and synergy with workplace toxins. These issues may be addressed during future meetings.

III. RECOMMENDATIONS FROM THE LEGAL ADVISOR FOR IMPLEMENTATION OF THE DECLARATION/ PLAN OF ACTION

Recommendation 1. Announce the Declaration Before International Fora
Immediate Action:

As a result of the December 11 1998 meeting, the COERHW instructed Prof. Izmerov to send this Declaration to WHO Director-General Dr. G.H Brundtland to be included into WHO's agenda, and for further action in towards development of an international legal instrument or convention on this subject.

Participants offered to publicize the Declaration before academic journals, UN offices including WHO, ILO, UNDP, UNEP and others, and before national legislatures. Submission of work was invited to the RAMS journal, and consent was given for publication.

Recommendation 2. Conduct Further Juridical Research to Harmonize National Laws and Fill The Gaps In International Laws Protecting Reproductive Health at Work

Long Term Action: harmonizing international and state laws and analyzing the jurisprudence of pregnancy and of related health laws and laws governing the delivery of primary care at local, national regional and international levels Conduct studies regarding the scope and content of international and national and regional and local legal statutes, case law and principles that may be relevant to the protection of reproductive health at work. The results of this research will be immediately applied to prepare a draft for a proposed international instrument that will improve upon the text of the Declaration and that will also address topics that could not be addressed in the first round of meetings. **The Committee of Experts strongly urges the development of an international instrument** (Such as an ILO Convention, WHO Recommendation, ISO Standard, treaty or other multilateral document) that will directly address these problems.

Recommendation 3. Reconvene the WHO/RAMS Committee of Experts on Reproductive Health at Work, to Propose an International Convention on Reproductive Health

Consistent with the sentiment of the Committee that a Declaration is merely the starting point for needed action, and that on-going contact regarding progress towards achieving Reconvene the Committee of Experts is crucial to furthering scientific understanding of these urgent problems, there should be an international meeting in 1999 and in 2000 to follow-up this COERHW work. To do so, requires that COERHW further globalize the scope of its Membership to embrace many other disciplines, broaden the base of support among disciplines already represented, and initiate a campaign for awareness of reproductive health issues. This endeavor should be combined with a strong legislative awareness effort that will educate legislators, bioethicists, international government, communities, regulators, scientists and the general public.

APPENDIX I: Legal Advisor's Report to the Conference, Presentation Entitled,
"IS THERE A HUMAN RIGHT TO REPRODUCTIVE HEALTH?", Summarizing
leading International Human Rights Instruments (Abridged from 22 pages)
**Prepared For the WHO Collaborating Centre's Committee of Experts on Reproductive Health,
Russian Academy of Medical Sciences (RAMS)
Presented December 10, 1998 at RAMS, Moscow, Russian Federation**

Abstract/ Also available in Russian translation

" IS THERE A Human Right to Reproductive Health?"

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Prepared for the Conference:

"Medical and Ecological Problems of Workers: Reproductive Health"

Scientific Council, Reproductive health of Workers, (RAMS)

Institute of Occupational Health, WHO Collaborating Centre in Occupational Health, Russian Federation

ABSTRACT:

Emerging scientific data suggests that there is an increase in the incidence of occupational and environmental cancers. This problem, combined with greater understanding of the need for improved prenatal care, and the prospect of genetic testing to uncover greater understanding of many reproductive health problems has an impact on prevention strategies that will ensure worker health and the quality of life in general and reproductive health in the workplace in particular.

This paper explores several international human rights documents such as: the UN Charter; the Universal Declaration of Human Rights (UDHR); the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Discrimination Against Women; Platform for Action and the Beijing Declaration on the Rights of Women; the Beijing Declaration on Occupational Health for All; the WHO Health for All 2000 Programme implementing WHO's Constitution; the Alma Ata Declaration on Primary Care; the International Convention on the Rights of the Child; the Rio Conference on Environment and Development; and the Cairo Conference on Population and Development. The paper also reviews ILO conventions and internal procedures that protect and promote reproductive health. These international human right instruments demonstrate that there is a codified set of international legal principles that govern the universal need to protect reproductive health. ILO's pivotal role for airing disputes and correcting problems at an international level through its Committees of Experts are also discussed in this context. Various applications of these universal theories as implemented by Canada, Europe and the USA are also described.

This paper concludes that there is a vast and vibrant corpus of international human rights laws protecting reproductive health rights. Therefore, a legal justification exists to support national, employer-based or international collaborative efforts that research, treat and cure reproductive health problems from occupational exposures to harms.

Appendix I: PAPER “ IS THERE A *Human Right to Reproductive Health?*”

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Presentation available on Videotape Paper Prepared for the Conference:

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Scientific Council, Reproductive Health of Workers, (RAMS)

Institute of Occupational Health,

WHO Collaborating Centre in Occupational Health, Russian Federation

December, 1998

I. Introduction: Is there a Human Right to Health?

"The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being.... The achievement of any State in the promotion and protection of health is of value to all". *World Health Organization Constitution 1948.*

The sound of freedom that resonates from civil and political rights rings hollow to a newborn who has low birth weight, because the baby's mother had no access to clean facilities, good nutrition and adequate prenatal care. And, what good are political and civil rights to a different baby, who has lost a parent due to an occupational accident, or whose parents are debilitated by occupational disease, or to the baby who may suffer personal injury due to the effects of a parent's workplace exposure to mutagens? It would be difficult to argue that freedom from these harms is not every child's birthright too, regardless of the restrictions upon an individual's political rights that may be inherent in a given political situation. Unhealthy working conditions therefore pose a universal threat to the fundamental human rights of life and security of person and to found a family.

II. Overview of International Legal Instruments: The UN Charter and Beyond

A. WHO Definition of “health”

The most widely accepted definition of health in the international corpus of human rights is articulated in the preamble of the **World Health Organization (WHO)**. Its Constitution has a two-page definition of health, which has been widely copied in literally hundred of international conventions, treaties and multilateral agreements, beginning with the terms:

“Health is a state of complete physical, mental and social well-being and not merely the absence of disease and infirmity”.

This remarkably broad definition of health as an ideal and as a succinct statement of the human condition bespeaks the basic human need for health. For this reason, it has been the undisputed benchmark of many practical standards as well as a host of national health laws. This definition is so encompassing, however, that it has been criticized as making virtually any human endeavor a matter of health jurisdiction--- and therefore the definition itself, although widely accepted has not been implemented without controversy.

B. Health Protections Under The UN Charter "better standards of life, including the promotion of human rights protections, in **Article 13**.

C. Health Protections Under the Universal Declaration of Human Rights(UDHR)

There is little literature to provide an interpretation of the term, "**Security of the Person**" as discussed in UDHR Article 3, but term appears to provide juridical protection for the right to life. Also in the UDHR, references to issues surrounding security of person, quality of conditions of work and quality of life allow for an inference that occupational safety and health protections fall in UDHR's rubric. For example, Articles 23 and 25 concerning the right to work in "favourable conditions of work" are not actually defined. Similarly, **Article 25** urges the achievement of an "adequate standard of living" and social services, "**in the event of disability**".

D. International Covenant on Economic, Social and Cultural Rights

1. Article 7 of the International Covenant on Economic, Social and Cultural Rights

Article 7 provides greater insight to the meaning of the right to Just and Favorable conditions of work. "**Favorable conditions of work**" includes terms of remuneration; as well as "Safe and healthy working conditions

2. Promotion of Industrial Hygiene Under Article 12

to protection for "industrial hygiene" and protections against "occupational disease". Further, Article 12's discussion regarding improved "industrial hygiene" is consistent with Article 7(b) of the ICESCR, regarding

Article 12 reads: "The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

*2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: ...
(b) The improvement of all aspects of environmental and industrial hygiene;
& The prevention, treatment and control of epidemic, endemic, occupational and other diseases;"*

Significantly, **Article 12** also pays direct attention to the impact of occupational disease on health, thereby accepting and giving validity to a sometimes controversial area of occupational medicine as worthy of human rights protection

E. International Convention on the Elimination of All Forms of Discrimination Against Women

The Convention on the Elimination of All Forms of Discrimination Against Women , Part III Article 11(a) states that State Parties undertake to ensure the equality of men and women regarding: "*The right to work as an inalienable right of ALL human beings*" and *Article 11.1(f) states: "The right of protection of health and to safety in working conditions, including the safeguarding of the function of reproduction"*.

Rights to Family and Parental Leave Article 11.(2) a prohibits "sanctions, dismissal on the grounds of maternity leave" a subject of profound contemporary and historical conflict and violation of international human rights, under many legal systems of UN Member States. For pregnant women and other people who work, these important issues remain unresolved in the jurisprudence of pregnancy. Thus, Article 11(2) is unquestionably geared to overturning generations of ingrained

institutional sexism under law, which were an outgrowth of mistaken values regarding women's presumed infirmity during pregnancy or while raising a family, yet the precepts in these articles lack any guidelines for effective implementation. This concern is also expressed in the International Labour Office Convention, Number 156 (ILO. C.156) "Convention Concerning the Equal Opportunities and Equal Treatment for Men and Women Workers: Workers With Family Responsibilities", (1981). Which clearly states in **Article 8**, "*Family responsibilities shall not, as such, constitute a valid reason for termination of employment*", with particular reference in **Article 13** to "*dependent child*" and other member of the immediate family who clearly needs care or support.

2. Role of "Special Protections": "Protective ReAssignment" or Prohibiting Exclusion?

Although the convention states, "The right to work as an inalienable right of all human beings" and **Article 11.1. (f)** states: "The right of protection of health and to safety in working conditions, including the safeguarding of the function of reproduction" implementation of these provisions▲▲▲ a key component of sustainable development, is open to a variety of interpretations.

The plain language in **Article 11.(2)** overturns generations of institutional sexism under law, which were an outgrowth of mistaken values regarding women's presumed infirmity during pregnancy or while raising a family. Yet these articles lack any guidelines for effective implementation. For example, they lack any requirement to prevent, detect, report or correct reproductive health hazards in the workplace even though Article 11.2 Subpart d. endeavors "To provide special protection to women during pregnancy in types of work proved to be harmful to them" Many facets of this provision are unclear: what is meant by special protection; are effects limited to maternal harm during pregnancy? Presumably not. If so, issues of Fetal Protection are implicated by this provision but could as easily be approved as denied, depending upon the evidence presented. It is unclear from this Convention, however, what is the standard of proof to make "special protection" necessary or acceptable and what is the scope of an acceptable protective mechanism▲▲▲ or conversely, when does such "special protection" cross the line to encourage systemic discrimination, in violation of international human rights to health?

Article 11.3 states: "Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary." Methods for oversight and appropriate risk assessment also need to be spelled out, in order to ensure that improper exclusionary policies, such as forced sterilizations to retain or obtain employment will be viewed as constituting gross violations of international human rights.

F. Platform for Action and the Beijing Declaration on the Rights of Women

[Actions 89 through 123.] This represents about 15% of the agenda for Strategic objectives and Action for Implementation paragraphs in the final document, and implicitly reflects a new, strong and potentially enforceable international priority for issues concerning occupational health. Action 100 states:

"Occupational health issues are also growing in importance, as a large number of women work in low-paid jobs in either the formal or informal labour market under tedious and unhealthy conditions and the number is rising"

G. Alma Ata Declaration on Primary Care

The document represents the first articulation of WHO's programme for "Health for All 2000" under the auspices of this declaration.

H. Beijing Declaration on Occupational Health for All

Adopted in 1996, this Declaration amplifies the terms of the WHO HFA2000 Plan for Action by specifically addressing occupational health for the very first time. The terms of the Declaration, although vague, make strong reference to the existing underlying human rights laws, such as the WHO Constitution, and offer the first insight to the remarkably broad scope of occupational health and the work of occupational physicians.

I. International Convention on the Rights of the Child

Despite its bold attempt to amplify the right to health as articulated by WHO and its ability to describe the need for education, food and other basic human needs that are intrinsic to sustainable development, there is little reference to the natural beginnings of life or the onset of life at a point in time where an entity attains human rights. Thus, there is a reference to the unborn in the preamble of the document, but no clear definition of the term "child" in such a manner that clarifies whether a "child" includes people at the time of birth, conception, or some scientific point of reference before. This raises many questions for the implementation of health programming and human rights to health protections.

J. Cairo: International Convention on Population and Development (ICPD).

The International Convention on Population and Development (ICPD) raises for the first time in the history of international human rights to health the notion that "reproductive health" embraces "reproductive health". Several references to protection of "reproductive health" exist throughout this impressive document. In particular, Chapter VII, regarding reproductive health, offers a definition that is several pages long which begins recalling the WHO Constitution by stating *"Reproductive Health is a state of complete physical, mental and social well-being and not merely the absence of disease and infirmity"*

This language is followed by a broad mandate for health professionals to research and provide prevention strategies for the problems of adolescent sexuality, occupational exposure to reproductive health hazards in the workplace; HIV/AIDS prevention and the elimination of sexually transmissible diseases; maternal and child health; family planning and a wide range of other topics concerning human development.

Curiously, ICPD does not address the issue of whose reproductive health is involved: at what point in development does a mass of human genetic material in cells become individual human life, vested with the right to reproductive health? Is this determination made by live birth? Conception? How does this rights analysis apply to the unborn in need of prenatal care? Or, in the alternative, do such rights exist in any mass of human genetic material, including frozen embryos, frozen eggs and donor sperm? In the century ahead, the international law of human right to health will be compelled to grapple with and resolve some of these important issues.

III. The Role of the International Labour Office (ILO) Geneva Switzerland

Among many other handy publications, the ILO publishes the UN/ILO ENCYCLOPAEDIA OF OCCUPATIONAL HEALTH AND SAFETY and international comparisons of wage and hour statistics and employment data. The ILO Constitution states, "the protection of the worker against sickness disease and injury arising out of his (sic) employment" as a precondition to "Universal and lasting peace". Therefore, improvement of the conditions of living and work is a fundamental component of ILO Conventions and Recommendations. ILO has also fostered the creation of consistent standards for those safety problems which cannot be covered by conventions' provisions

without broaching ILO jurisdiction over sovereign nations. ILO Convention concerns C. 155: Convention Concerning Occupational Safety and health and the Working Environment and Its Antecedents

IV. Conclusions: The Need to Implement Existing International Standards

Without question, there is a vast and vibrant corpus of international human rights laws protecting reproductive health rights. Therefore, a legal justification exists to support national, employer-based or international collaborative efforts that research, treat and cure reproductive health problems. **Do we need “more” law? Are there gaps in existing rules** or the international consensus of principles called “norms” that compel us to study and codify even further the rules protecting health and governing the protection of health in the workplace, as a part of international law and commercial relations?

Yes and No. From a legal perspective, there must be two answers to this question. *First, there is no shortage of existing laws protecting health*, occupational health, women’s health and reproductive health when one examines carefully the existing theoretical framework for establishing human rights principles under law. Yet, that is merely the beginning of human rights law endeavors. **Second, following codification of existing law, there must implementation of these principles, if there is ever to be meaningful use of these codifications, by translating them into a coherent set of practices, unified by a coherent compliance network that specifically addresses occupational exposures that impact reproductive health.** The first half century of UN activity is celebrated so joyously and internationally in this year of the 50th Anniversary of the UDHR. This era began by bringing codification of international human rights norms regarding the right to health into the positivist, plain language of several key international human rights instruments. Thus, international laws provide an impressive corpus of established norms assuring a "better quality of life"; defining "health"; protecting the right to life and security of person; and linking improved working conditions to the realization of world peace. These important concepts found in international human rights instruments are bottomed upon the philosophy that work-related illnesses are an avoidable aspect of industrialization and also reflect an unarticulated international consensus that people should not be killed or seriously injured for their work. This codification process clearly embraces and includes the right to reproductive health for people who work, even if they work within reproductive technologies as a part of the development of an individual human being who may never be legally recognized as their child by any nation, so long as the risks involved threaten to present adverse reproductive outcomes.

Consequently, the human rights activities of the first half century have reached a crossroads: the field needs mechanisms for implementation and monitoring of human rights to health in order to operationalize these universal norms. Implementing such approaches may range from the use of health statistics, to the grand design of requiring reporting on occupational safety and health compliance activities before UN Specialized agencies, NGOs or international committees, commissions and tribunals. NGO's could play a vital role as a conduit to facilitate reporting and dissemination of health information. Thus, international laws provide an impressive corpus of established norms defining "health"; protecting the right to life and security of person; and linking improved working conditions to the realization of world peace. Implementing such approaches is the work that remains to be done. The question for the next century will concern even-handed application of appropriate protections when interpreting these legal terms. Toxicologists and other health professionals must lay the groundwork for sound and fair occupational safety and health regulations, that will ultimately grapple

these most sophisticated and unanswered questions, both independently and as part of the greater human rights travail to achieve "Health for All".

**DECLARATION-POSITION STATEMENT
AND PROPOSED PLAN OF ACTION
FOR PERIOD UP TO 2000 AND IN 21st CENTURY: ON
WORKERS' REPRODUCTIVE HEALTH PROTECTION**

(Adopted by the *International Conference _ Medical and Ecological Problems of Workers ↓ Reproductive Health*, 9-10 December 1998, Moscow, and refined by the *Informal International Consulting Meeting of Experts on Reproductive Health Protection*, 11th December 1998, Moscow, Russian Federation)

To insure optimum reproductive health protection worldwide, the Members of the International conference and Informal meeting of experts believe that there is an urgent need for elaboration of international consensus statements as well as the Plan of Action.

BACKGROUND INFORMATION:

As satellite venture to the Conference on 11 December 1998 the Informal International Consulting Meeting of Experts on Reproductive Health Protection was held organized by the Initiative group (Dr. O.Sivochalova, Dr. E.Denisov, Prof. I. Figa-Talamanca, Dr. T.Vergieva, and Prof. I. Feitshans as Member and Legal Advisor). In the Consulting Meeting 21 specialists have participated from Belarus, Kazakhstan, Poland, Russia, Tadzhikistan, USA as Attending experts and 4 specialists from Bulgaria, Canada, Italy and Ukraine as Ex Officio experts (contributing by fax and e-mail correspondence). Chairpersons of the Meeting were Prof N. Izmerov, Director of the RAMS Institute of occupational health and Dr. O.Sivochalova, Head of the Centre of Medical and Ecological Problems of Workers, Reproductive Health of this Institute .Declaration-Position Statement and Proposed Plan of Action for Period up to 2000 and in 21st Century on Workers' Reproductive Health Protection have been unanimously adopted by the Committee of Experts.

INTRODUCTION

As recently called for by His Excellence, Mr. Kofi Annan, Secretary-General of the United Nations, the International Organizations, such as the ILO and the WHO and the national governments throughout the world should give occupational health and safety higher priority of their agendas. This would be necessary to respond effectively to the health and safety needs of working people and thereby promoting the overall socioeconomic development and well-being of countries and people.

Dr. Gro Harlem Brundtland, Director-General Elect of the World Health Organization in her speech to the Fifty-first World Health Assembly (Geneva, 13 May 1998) emphasized: ½WHO can and must change. It must become more effective, more accountable, more transparent and more receptive to a changing world.

Recognizing the urgent need for improved primary care, protection of mothers, working parents and their children for the benefit of the family and the urgency attached to the problem of understanding the interaction between workplace exposures, environmental factors and preventing worker exposures that jeopardize familial health and human reproductive health, the Committee of Experts hereby calls upon the Director-General of WHO to use her good offices to foster further understanding, research and international co-operation in the following areas to prevent and reduce known or expected hazards

to reproductive health AND

RECOGNIZING THAT many conventions that suggest there is an international need and obligation to address these issues, but no single comprehensive international instrument about reproductive health in the workplace addresses these issues directly nor does any such instrument adequately ensure access to information and risk communication for all people who confront reproductive health hazards at work;

The following proposals are based on updated principles and practices and should be considered as background for better reproductive health protection for every worker.

2. GENERAL STATEMENTS

According to the UN definition, “Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and its functions and processes... reproductive health care is defined as the constellation of methods, techniques and services that contribute to reproductive health and well-being by preventing and solving reproductive health problems...” (Cairo, 1994).

The Committee of Experts,

HAVING REGARD TO THE Aims and Principles of United Nations Charter, Universal Declaration of Human Rights, International Convention on the Elimination of All Forms of Discrimination Against Women, International Convention on Child Rights, UN Conference on Environment and Development (Rio De Janeiro, 1992), on Population and Development (Cairo, 1994), on Women (Beijing, 1995), WHO Constitution, Alma Ata Declaration (1978) and “Health for All 2000”, WHO Global Strategy for Occupational Health for All (1996), WHO revised policy document “Health for All in the 21st Century” (to be issued later), ILO Conventions and Recommendations on women workers, specifically but not limited to: C.103 “Convention Concerning Maternity Protection” (1952), C.165 “Convention Concerning Employment Protection and Protection Against Unemployment”; C. 156 “Convention Concerning Equal Opportunities and Equal Treatment for Men and Women: Workers With Family Responsibilities”, and C. 155 “Convention Concerning Occupational Safety and Health”, Related regional and national directives and recommendations namely Council Directive 92/85/§♦§♦!♦ on safety and health of pregnant workers and

RECOGNIZING First that preserving any and every wage-earner's health and ability to enjoy reproductive health is essential to family life; to preserving the family; and protecting the next generation for posterity and

RECALLING the WHO view that health is tied to the prevention of impairments and the ability to participate in all life activities, and that the WHO should endorse a Plan of Action in this Declaration to address this urgent problem the Committee of Experts hereby

FINDS AND DECLARES:

At present experts in many countries express serious anxiety about unsatisfactory health status of population especially of reproductive health as well as of children's health due to influence of hazardous occupational and environmental factors (physical, chemical, biological agents, physic loads

and nervous stresses). In some countries on the background of social and economical problems a critical situation in population reproduction have formed which threatens their sustainable development, especially for countries with transitional economies. Many pregnant workers have been denied access to primary care in occupational health services or in the health care delivery systems of the different nations and this grave situation causes further deterioration of maternal and child health and the well-being of all society.

The International Conference on Population and Development (Cairo, 1994) and the Fourth World Conference on Women (Beijing, 1995) have together focused on the need for all countries to examine policies and practices related to broader health concerns, bringing in both a human rights and a gender perspective. According to modern approach adopted ILO and WHO reproductive health of both genders (men and women) should be protected and promoted as part of general health. Women in some periods of reproductive life (women of fertile age, pregnant, recently delivered and breast-feeding) as well as children and adolescents should be considered as vulnerable groups i.e. high risk groups and need supplementary protection.

In fundamental medical sciences by mutual efforts of professional community the concept of reproductive health is emerging as topic of the highest medical and social priority. The Meeting of Experts was an extension of other actions in the field namely Expert meeting "Women at work", 10-12 November 1997, Helsinki, Finland where it was suggested to develop an International legal document on the health protection of women at work, including pregnant women.

3 . ISSUES

3.1. Priorities in research and for primary health care system and occupational safety and health service

Notwithstanding the progress in maternal and child health and in reproductive pathologies, some problems persist, and are even in the increase. A high proportion of conceptuses is lost prematurely, manifested as sub-fecundity and infertility, the rate of spontaneous abortion seems unchanged, congenital defects are a continuous problem, while childhood cancers are increasing. According to some, but not all studies, fertility and sperm quality are decreasing.

Although research efforts have considerably increased in this area in recent years, there are still many open questions. Some examples are the following:

- Is there a differential susceptibility of the female versus the male organism to exposures of chemical and physical agents in the work environment,
- How justifiable are differential standards and limits of exposure for the two genders, are present day work exposure limits sufficiently low to protect the reproductive health of men and women,
- Is there a true reduction in human fertility (and sperm quality), in the industrialized countries, and what may be the risk factors involved,
- How do factors previously neglected such as stress, shift work, work with new technologies, affect reproductive health,
- Are the known reproductive risks under control, and how can this be accomplished ?

Particular attention must be paid to the health of working women, a subject that has been neglected in both developed and developing countries. To fill this gap, it is important that the following steps be undertaken by governments and international organizations:

- Studies in the production sectors which employ predominantly female workers. These include both paid and unpaid (invisible) work in agriculture, in domestic labor, in garment, textile and food industry, in the health care sector.
- Identify reproductive risks for both men and women in these settings, and prevent exposures of those

more vulnerable.

-Take account in studies of the double load of women workers, and of family and other stresses.

- Most reproductive hazards are dangerous to both males and females. Research should examine both. Selective overprotection of women may compromise employment opportunities of women, condemning them to poverty.

-Document the many forms of exploitation and illicit labor in developing countries, especially among adolescent girls and child laborers. These phenomena, although macroscopic are not sufficiently documented, and are often tolerated by local authorities.

-Document the deprivation and reproductive risks of migrant workers, who seek employment and survival in western countries. For them too, documentation and intervention programs are deplorably scarce.

3.2. Considerations for the need of specific approach in studying reproductive health at work

A number of chemicals are with a short half-life in the organism and a certain endpoint (as for example a birth defect) might arise only after exposure in the respective sensitive period of gestation, the necessity of studying a range of endpoints including sensitive ones and subtle changes as minor birth defects and postnatal functional deficits.

Investigation directed to reveal dose-effect and dose-response relationship for proven and/or suspected reproductive and developmental hazards.

Examination of additional and eventually new endpoints for reproductive toxicity.

Studies on contribution of combined exposures.

Exploration of potential reproductive hazards of new technologies, for newly introduced occupational chemicals and other agents as well as in branches of industry which have not been considered yet.

Development of study protocols and statistical approach to deal with the problem of small numbers of employees in specific occupational settings and being exposed to specific hazards.

Implementation of models for monitoring reproductive health of workers and subsequent use of these data for epidemiological studies. Further refinement of the protocols with inclusion of individual exposure data relevant for the respective endpoint period in case-control studies nested in a follow-up cohort.

Encouraging occupational health services in reporting eventual clusters of mis-events in reproductive health and with the help of other specialists organizing at spot of follow-up studies.

3.3 Proposed Action to fill the gaps in existing international and state laws Regarding the role of workplace exposures in shaping reproductive health outcomes:.

The Committee of Experts Notes that there are many conventions that suggest there is an international need and obligation to address these issues, but

No single comprehensive international instrument about reproductive health in the workplace addresses these issues directly nor does any such instrument adequately ensure access to information and risk communication for all people who confront reproductive health hazards at work

An initial survey of international laws demonstrates that many of the treaties and conventions and international human rights instruments that provide jurisdiction for the protection of reproductive health are important but inadequate; they form only a patchwork of indirect efforts to protect people from reproductive health hazards in their workplace.

Further international legal research is needed in this area, comparing and harmonizing local, national and international laws and codes of practices from corporations regarding reproductive health hazards from occupational exposures.

In addition to further legal research harmonizing international and state laws and analyzing the jurisprudence of pregnancy and of related health laws and laws governing the delivery of primary care at local, national regional and international levels,

The Committee of Experts strongly urges the development of an international instrument (Such as an ILO Convention, WHO Recommendation, ISO Standard, treaty or other multilateral document) that will directly address these problems,

Combined with a strong legislative awareness effort that will educate legislators, members of the international governmental community, regulators, scientists and the general public regarding the urgency and the visible means of preventing foreseeable reproductive health hazards in the workplace and preventing their adverse consequences.

4. PROPOSED PLAN OF ACTION

4.1. Request for Urgent Priority to this matter from the Director-General of the WHO and of the ILO and related International Organizations.

4.2. Implementation of international consensus statements on reproductive health protection (UN Task Force on Reproductive Health, WHO, ICOH, ILO, Council of Europe's CDEG etc).

4.3. Development of agreed terminology on reproductive hazards and reproductive health risks as well as standard definitions for describing and monitoring legislation, policies, services provision and use and reproductive health outcomes (UN Task Force on Reproductive Health, WHO, ICOH, ILO, Council of Europe's CDEG, WHO Collaborating centers on Occupational Health) for the purposes of the implementation of an enabling International Instrument.

4.4. Elaboration of the Guide (or Code of practice) "Risk assessment and risk management for pregnant female workers and health monitoring" (WHO, ILO, ICOH,).

4.5. International Co-ordination of efforts and exchange of experience gained between National centers on reproductive health protection of WHO Collaborating centers on Occupational Health (coordinating meeting with participation of WHO and ILO) and methodological support of the WHO Safe Motherhood Campaign up to 2000 (WHO Collaborating centers on Occupational Health) regarding risk assessment, management and communication, research regarding the interaction of occupational exposures and environmental factors, and related matters of reproductive health of workers.

4.6. Preparation of an International Instrument (e.g. ILO Convention supplemented by WHO/ILO-Joint Committee activity or the specialized branches of WHO; or criteria such other documentation as appropriate) on safe motherhood, reproductive health protection for mothers, fathers, and the next generation whose reproductive health may be impaired by the harms we study today, but who will not experience the effects of those harms until they also reach reproductive age; and health promotion of female workers (ad-hoc group).

RECOMMENDATION

Therefore the Committee of Experts on Reproductive Health in the Workplace Meeting in Moscow December 11, 1998 hereby Declares and recommends that definitions of occupational health, reproductive health and environmental health impacting on the vitality of the family and the

next generation include but are not limited to the effects of dangerous or potentially dangerous exposures to adults in any workplace and shall be considered as a fundamental component of assessing each individual's health status and well-being .

Therefore this Committee further Recommends that there shall be an international meeting to follow-up this meeting on regular basis, under the auspices of WHO and related international governmental organizations, and that the results of such meetings shall be the production and adoption of an International Instrument for the protection of reproductive health of people at work.

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