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# International Conference on Realising the Rights to Health and Development for All

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Melia Hotel, Hanoi, Vietnam | 26-29 October 2009

Final Report

June 2010

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## Acronyms

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AusAID	Australian Agency for International Development
AIDS	Acquired Immunodeficiency Syndrome
CBOs	Community Based Organisations
CRC	Convention on the Rights of the Child
HIV	Human Immunodeficiency Virus
IDUs	Intravenous Drug Users
MDGs	Millennium Development Goals
NEPAD	New Partnership for Africa's Development
MCH	Maternal and Child Health
NGOs	Non-governmental Organisations
PIHHR	Program on International Health and Human Rights, Harvard School of Public Health
PLHIV	People living with HIV
RBAs	Rights Based Approaches
TRIPS	Trade Related Intellectual Property Rights
UN	United Nations
UNFPA	United Nations Population Fund
USA	United States of America
USAID	United States Agency for International Development
WHO-CAM	World Health Organization Department of Child and Adolescent Health and Development

## Executive summary

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Co-hosted by The University of New South Wales' Initiative for Health and Human Rights and the Central Commission for Popularization and Education of the Communist Party of Vietnam, the International Conference on *'Realising the Rights to Health and Development for All'* was held in Hanoi, Vietnam, from 26–29 October 2009. This Conference aimed to further the understanding of the complex and powerful relationships between health, development and human rights as well as identify synergies between these three domains. It is expected that the impact of a combined approach will exceed the sum of the impact of policies and actions pertaining to each of these domains when implemented in isolation from the other two.

This Conference was made possible by the unwavering support from the Vietnamese leaders, The Atlantic Philanthropies, the United Nations (UN) Vietnam, the United States Agency for International Development (USAID) Health Policy Initiative, Task Order 1, the Australian Agency for International Development (AusAID) Vietnam and the Levi Strauss Foundation.

The Conference was the first international event in Vietnam to bring health, development and human rights to the centre of a very active debate. This debate was further enhanced by the fact that the Conference attracted over 300 delegates from Vietnam and abroad, representing 28 countries. The Conference participants included representatives from international and national non-governmental organisations, the UN, international agencies, government agencies, the private sector and academic institutions.

The themes of the Conference were HIV/AIDS and other current and emerging public health threats, maternal and child health (MCH), climate change and economic globalisation. These four themes chosen for the Conference exemplify major developmental concerns in Vietnam, the Asia-Pacific Region and most low- and middle-income countries. Each of the themes shaped the discourse and was addressed using the realisation of the rights to health and development as a cross-cutting theme, in addition to other important emerging themes, including vulnerability, participation and accountability.

This Final Report identifies the challenges to health and development in relation to the four main themes and provides international case studies that demonstrate these challenges from the broader perspective of the realisation of human rights. These themes provide practical examples of strategies and research that address the intersection between health, development and human rights. Considering all human rights—civil, political, economic, social and cultural—projects a vision of human progress centred on individuals and communities. Such approaches have a greater chance of success than isolated initiatives operating in separate silos and will create new opportunities to stimulate the growth and sharing of resources (human, institutional and financial) which will then be brought to bear on contemporary issues confronting human development. The Conference created a timely opportunity for participants to share their knowledge and experience working within and across disciplines and sectors, which resulted in an Agenda for Action (please refer to Section 4).

## 1. Background

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Whilst economic growth and medical advances have improved wellbeing for some, global income disparities are widening. Widespread health inequalities are being exacerbated by a multitude of factors such as HIV/AIDS, economic globalisation, conflicts, natural disasters, emerging epidemics, climate change and the mass movements of people through labour and other forms of migration as a consequence of economic pressure and natural disasters. These complex global challenges, which often have real consequences for the most vulnerable, are among many others, key issues for the new millennium. Increasingly, rights-based approaches (RBAs) to the mutually reinforcing interactions between health and development are being used to analyse and address these emerging issues guided by national laws and international treaties.

Despite the apparent intuitive connections between health, development and human rights, the bridging of these three fields is relatively new, uncharted and needing research. The International Conference on *'Realising the Rights to Health and Development for All'*, co-organised by the University of New South Wales' Initiative for Health and Human Rights and the Central Commission for Popularization and Education of the Communist Party of Vietnam, in Hanoi, Vietnam, from 26–29 October 2009, moved efforts in these areas one step further by reflecting on contemporary challenges to health, development and human rights—three essential pre-requisites of human dignity and wellbeing. The Conference sought to generate a deeper understanding of how these challenges, stemming from common roots and exacerbated by structural, social, economic, environmental and other contextual factors, disproportionately affect particular individuals, communities and nations. The Conference explored and provided insight into ways to enhance synergies across these three domains.

Further, the Conference queried the wisdom of responding to these challenges through fragmented initiatives competing for attention, commitment and resources. The complexity and severity of the issues at stake called for a reflection on how successful experiences could be shared and applied across professional disciplines, development sectors and institutional boundaries. Against the backdrop of a massive economic downturn, national and international resources invested in human development are unlikely to grow at the unprecedented pace observed in the past decade. The time has come to take stock of successes and failures experienced in different parts of the world so that synergies in action can emerge.

The decision to hold the Conference in Vietnam was motivated by its extraordinary economic growth in the last two decades, which has brought in its trail promising opportunities for further progress in health and development, together with risks of accentuated disparities across sub-populations and geographic areas (see Box 1). The health and development challenges which Vietnam is committed to address are common to many other low- and middle-income countries in the Asia-Pacific Region and elsewhere, and thus this Conference offers a unique opportunity to welcome delegates from the Region and around the world to discuss shared aspirations, goals and challenges.

### Box 1 – Health and Development in Vietnam

Within Vietnam there is evidence of rapid economic growth accompanied by poverty reduction and improvements in health indicators. Yet, at the same time, income disparities are widening and it is more difficult to reach the remaining pockets of poverty. Limited by resources and technical expertise, inequalities persist with the worst indicators being among ethnic minorities and those in remote rural areas.

In 2010, Vietnam is expected to become a middle-income country, which will lead to declining overseas development assistance; this challenge may exacerbate existing, geographic differentials in economic development, as well as social and gender inequality. Although the economic slowdown in Vietnam as a result of the global financial crisis has been less severe than expected, unemployment and under-employment have increased, particularly affecting women and the poor. This shift, coupled with the negative impacts of climate change on those who are least prepared for it, indicates a need for an increased focus on the most vulnerable populations.

The Conference created a timely opportunity for participants to share their knowledge and experience, which culminated in the development of the Agenda for Action (Section 4) for a RBA to health and development for all. The Conference generated high levels of interest from governments, non-governmental organisations (NGOs) and other civil society members, the United Nations (UN), donor agencies and foundations and academic institutions. Over 300 participants from a large number of countries and representing diverse disciplines attended.

The Conference was generously sponsored by The Atlantic Philanthropies, the United Nations (UN) Vietnam, the United States Agency for International Development (USAID) Health Policy Initiative - Task Order 1, Australian Agency for International Development (AusAID) Vietnam and the

Levi Strauss Foundation. The conceptualisation and initial development of the project was funded by the John Hirshman International Health and Population Studies Fund.

### 1.1 Rationale for the conference

The rationale underpinning the Conference was not merely conceptual and stemmed from the recognition that:

- Health—the highest attainable standard of physical, mental and social wellbeing—is a universal aspiration of human-kind. With health, there can be development and the fulfilment of all human rights. Without health, development and social progress remain stunted and their outcome unequally distributed across populations.
- In turn, human development, which encapsulates self-reliance, autonomy and dignity, supported by improved living standards, figures among the strongest determinants of health.
- Health and human rights are both processes of progress towards greater wellbeing and desirable outcomes. A human rights framework offers a structured and abundantly documented set of principles, norms and standards to which all countries around the world, including Vietnam, have subscribed through the ratification of at least one, but in most cases several, international human rights treaties. The core contents of these treaties are in many countries entrenched in national constitutions and domestic law.
- Bringing together health, development and human rights into an open debate to demonstrate how human rights could be incorporated into a wide array of public policies and practices is timely given the complex and interconnected global challenges facing humanity.

## 1.2 Conference aim, objectives and themes

The central aim of the Conference was to learn from public health, development and human rights principles, theories, methods and practices to advance the understanding on how best these three converging elements of human wellbeing could be incorporated into public policy and action in combination rather than independently from one another.

Towards this aim, the Conference had four objectives:

1. To further the understanding of how realising the rights to health and development can be applied to contemporary health and development challenges;
2. To promote cross-sectoral collaboration on public health, development and human rights among decision makers, researchers, public officials from different sectors of government, NGOs, academia, industry and other national and international entities;
3. To stimulate research on the relationship between health, development and human rights with a focus on sustainable development in the 21st century; and
4. To propose practices, policies, strategies and research that can optimally respond to these challenges.

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***“This International Conference is an important opportunity to bring together scientific achievements and the learning experience of public health experts, social activists and government representatives from all over the world to raise awareness of global issues in order to realise the rights to health and development for all.”***

Prof Dr. Phung Huu Phu, Member of the Central Executive Committee of the Communist Party of Vietnam, Standing Vice-President of the Central Commission on Popularization and Education, Vietnam

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Situated within an overarching framework of the realisation of the rights to health and development, the four main topical themes chosen to shape the conference discussions exemplify major concerns in Vietnam, the Asia-Pacific Region and most low- and middle-income countries. They were:

1. HIV/AIDS and other current and emerging public health threats,
2. Maternal and child health (MCH),
3. Climate change, and
4. Economic globalisation.

The Conference showed that not only are there useful lessons to be drawn from *each* of these four themes but, perhaps more importantly, there are lessons to be learnt *across* them. The conference strove to transcend disciplinary boundaries in an attempt to recognise and better respond to compounding vulnerabilities. By breaking down disciplinary and institutional boundaries and collaborating across fields, it is possible to draw on each area's strengths so as to work more effectively through a holistic and coordinated response. In short, the focus of this Conference was not on the state of the art in any one topic or field, but an attempt to frame analysis, policy and action that seek to jointly address multiple issues through RBAs.

## 1.3 Structure of the conference

The Conference held 28 plenary presentations, 80 thematic concurrent session presentations and 22 poster presentations over the course of four days, including Opening and Closing Ceremonies and a social reception. The thematic oral sessions and poster presentations were all abstract-driven. In addition, five satellite sessions were hosted, which provided participants an open forum opportunity to discuss issues relevant to the Conference themes, including human rights implications in dealing with drug use; eliminating child mortality; health systems, development and human rights; how the law can support an effective and just response to HIV; and climate change impact mitigation, development and human rights. The variety of fora provided many useful opportunities for the cross-fertilisation of ideas drawing on experiences from a wide variety of settings.

All sessions including plenary and concurrent thematic oral presentation sessions were conducted in both English and Vietnamese using simultaneous interpretation. The Conference Schedule for the International Conference is shown in Annex I – Conference Schedule.

## 2. Summary of Conference Themes

This Report highlights some of the substantive content of, and conclusions that can be drawn from, the Conference presentations and debates. It consists of some remarks pertinent to each of the four health and development themes that anchored the debates, with attention to the applicability of lessons learned from applying RBAs to health and development, against other Conference cross-cutting themes, such as vulnerability, participation and accountability (see Box 2 on RBAs to development and health, which is more thoroughly explored in Section 3.1).

### Box 2 – Rights-Based Approaches to Development and Health

A rights-based approach to development is a “conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress” (UN, 2006).

Principles of an RBA to development include the following:

- interdependence of rights,
- equality,
- equity,
- non-discrimination,
- empowerment,
- participation, and
- accountability.

A RBA to health should include the substantive issues related to the right to the highest attainable standard of health as elucidated within General Comment 14 on the International Covenant on Economic Social and Cultural Rights, which elaborates on the interrelated and essential elements guiding its application, notably the following concepts:

- availability,
- accessibility,
- acceptability, and
- quality of health facilities, goods and services (UN, 2000).

#### Sources:

<http://www.ohchr.org/Documents/Publications/FAQen.pdf>

United Nations (2000). *The right to the highest attainable standard of health (General Comment No. 14)*. E/C.12/2000/4. Geneva: Economic and Social Council.

United Nations (2003). *United Nations Statement of Common Understanding of the Human Rights-based Approach to Development*. Adopted by the United Nations Development Group (UNDG) in 2003.

## 2.1 HIV/AIDS and other current and emerging public health threats

The *2008 Report on the global AIDS epidemic* confirms that the world is, at last, making some real progress in its response to HIV/AIDS. The report states that governments are now acting on their promises to scale up actions towards universal access to HIV prevention, treatment, care and support by 2010. At great human cost, precious lessons have been learned from the response to HIV; these were reiterated during the Conference and can shape future work in HIV and beyond. Among these are (1) concerted efforts, in many cases spearheaded by the most vulnerable communities and erected on the level of national and global priorities, can generate sound and proven public health policies, actions and the mobilisation of unprecedented resources; (2) laws, policies and practices anchored in human rights are more successful than when rights are violated or restricted; (3) discrimination remains one of the major obstacles to effective HIV prevention, care and treatment, but it can be reduced when communities that are most affected play a direct role in shaping laws, policies and programs and in implementing actions intended for their benefit and the protection of the population as a whole; (4) ill-conceived laws such as the criminalisation of behaviours perceived as fuelling the spread of HIV have no favourable impact on the course of the epidemics and, more importantly, can be counterproductive; and (5) crucially, the lessons learned from the human rights response remain largely confined to the world of HIV.

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***“The HIV response has a lot to teach us in terms of its evolution from a technocratic response to a response which now recognises the need to pay attention to economic, political and social contexts which fuel risk and vulnerability, promote resilience and strengthen social capital.”***

Dr. Mandeep Dhaliwal, Cluster Leader: Human Rights, Gender and Sexual Diversities, UNDP HIV/AIDS Practice

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To date, these lessons have insufficiently inspired or guided policies and programs elaborated to confront other contemporary threats to health and development. However, these lessons provide a valuable backdrop to addressing related threats and the Conference sought to highlight this broader applicability. Conference

presentations outlined in the box below demonstrate the advances made in the HIV response as a result of more progressive HIV interventions. Box 3 contains a positive example of point (3) above, demonstrating how the power of community advocacy in China can improve the wellbeing of People Living with HIV (PLHIV). The second example addresses point (4), highlighting where the harm reduction approach, as opposed to the criminalisation of drug use, has been recognised as an effective way to reduce HIV.

### Box 3 – HIV/AIDS in China

A Chinese representative of a grassroots organisation presenting at the Conference cites a case study in Gejiu City where methadone maintenance treatment is available to injecting drug users (IDUs), the majority of whom are HIV positive. Hospitalisation due to opportunistic infections is common; however, the local authorities do not allow the dispensation of methadone outside the clinic. As a result, many HIV positive patients suffer withdrawal in hospitals. A local grassroots organisation made this scenario a central point of their advocacy strategy. They implemented a successful plan to resolve the concerns of the government officials to allow patients much needed access to their treatment.

Another presenter at the Conference demonstrated a positive intervention on the China-Myanmar border where HIV prevalence among IDUs is high. As a marginalised population, their rights to health are often denied; however, comprehensive harm reduction services for IDUs on both sides of the border have yielded positive results: three years of consecutive surveys among the IDUs show that HIV prevalence has reduced.

It is important to note that whilst these positive responses to HIV indicate a shift in the Chinese government's approach to harm reduction and HIV, China still treats its drug users as law-offenders as opposed to individuals needing care, treatment and support. This approach can deprive drug users of their right to access to HIV information, education, counselling, treatment, care and support and impedes effective prevention and control of the HIV epidemic.

The pandemic influenza A(H1N1) virus of 2009, severe acute respiratory syndrome (SARS) and avian influenza A(H5N1) virus have raised the spectre of devastating global public health emergencies of a different sort. Viruses are spreading rapidly via both international travel and within national boundaries, taking their toll on populations living in low- and middle-income countries where equitable access to treatment and vaccines remain largely unavailable. The equitable access to pandemic flu vaccines was presented at the Conference as a key issue, as the A(H1N1) flu pandemic has further highlighted the fact that 90% of existing global manufacturing capacity for flu vaccines and antiretroviral drugs is located in Western Europe and the United States of America. Yet, to date, populations from low- and middle-income countries have not claimed their rights to equal access to life-saving technologies with the same vigour as those who fought for their entitlement to antiretroviral medicines to treat HIV infection. While the links between other current and emerging infectious diseases, human rights and development are not as advanced as those in the HIV world, the sharing of knowledge and lessons across these boundaries will add value to current and new approaches to policies, programs and practices.

## 2.2 Maternal and child health (MCH)

The Convention on the Rights of the Child (CRC) can serve as a holistic framework to address child health; however, more work is needed to translate its principles into international policies that support child health and survival into health law. Box 4 proposes a tool that can guide countries in integrating child rights into their strategic planning for children's health.

Although more remains to be done, child mortality has declined significantly in recent decades. Unfortunately, the same cannot be said of maternal mortality. Despite an upsurge in global interest, efforts underway globally to reduce maternal mortality still need to be vastly expanded.

### Box 4 – Developing Human Rights Tools to Improve Child Health and Survival

In collaboration with WHO's Department of Child and Adolescent Health and Development (WHO-CAH), the Program on International Health and Human Rights (PIHHR), Harvard School of Public Health, developed tools which identified those rights most relevant to child health and survival. Although further field testing is required, the Child Rights Situation Analysis Tool aims to guide countries in integrating child rights into their strategic planning for children's health by collecting and synthesising data on the legal and policy environment that may be impacting child health and survival efforts. The accompanying Child Rights Checklist aims to establish a consistent method of working from a child rights perspective.

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***“In the Asia-Pacific region alone approximately a quarter of a million women die annually of preventable and treatable complications in pregnancy and child birth.”***

Mr Allaster Cox, Australian Ambassador to Vietnam

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The aim should now be to eliminate maternal mortality, which would entail bringing its occurrence to the lowest possible level that can be attained once teenage pregnancy has been drastically curtailed. Applying proven prevention and care technologies and ensuring delivery by skilled personnel should become the norm and referral to quality emergency obstetric care facilities should be carried out when warranted. Determinants of maternal mortality which still require far more attention at policy and programming levels the world over include the lack of reproductive choice, poverty, gender and racial discrimination, low education and inadequate access to timely, quality services. All these invoke the lack of fulfilment of a broad array of human rights—in particular the right to health—resulting in the ultimate denial of the right to life. The need to eliminate maternal mortality with a combination of best practice interventions that address structural barriers to maternal health is critical (see Box 5).

### **Box 5 – Why We Reiterate Reproductive Justice to Achieve Health Rights of Women**

The need to integrate maternal health and sexual and reproductive health is central to eliminating maternal mortality. In the past, maternal health has been tackled in isolation, but it needs to be addressed as a holistic package that considers family planning, emergency obstetric care, safe access to pregnancy termination, training for traditional birth attendants and strengthening of health systems. In Peru, the Women’s Global Network for Reproductive Rights undertook a study on females in indigenous communities which concluded that a major barrier to eliminating maternal mortality lies in the difficulty of addressing the inter-connections of reproductive rights with poverty, literacy, culture and religion which are not always sympathetic with these rights. Women in vulnerable settings have a different level of understanding of, and perception about, their reproductive rights as influenced by their traditional practices, religious and/or cultural beliefs, illiteracy and poverty. As a result of these influences, they do not identify with the need to demand their reproductive rights or seek reproductive health services. Therefore, programs that address maternal mortality need to focus on vulnerable groups and give consideration to generality of the Millennium Development Goal (MDG) to reduce maternal mortality that fails to target those most vulnerable or incorporate indicators to reflect this vulnerability.

A RBA to maternal mortality elimination calls for a systematic assessment of how human rights can ensure safer motherhood. Such assessments should determine who is at high vulnerability of dying during pregnancy or delivery. A RBA can provide evidence of how the elimination of maternal mortality can be generated through a two-pronged approach: (1) the creation of community-based movements actively engaged in making pregnancy safer and empowered to do so, and (2) an expanded structural and systemic response enabling all women to fulfil their rights to health and life through greater availability, accessibility

and acceptability of quality ante- and post-natal services. These approaches are examples of the many useful lessons to be drawn from experiences of RBAs to HIV that can support the elimination of maternal mortality. In addition, there is a valuable opportunity to integrate HIV, maternal health and sexual and reproductive health interventions.

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***“Maternal mortality—an indicator of greatest inequality, violation of human rights and a development failure.”***

Dr. Saramma Mathai, Asia Regional Advisor on Maternal and Child Health, UNFPA

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## **2.3 Climate change**

Climate change has already impacted on health through increased global water stress, water borne diseases, diarrhoea and the wider spread of vector borne diseases such as malaria, dengue fever and yellow fever. It has begun to uproot communities from their land and created tensions as sources of livelihood and the social fabric of communities are threatened and undermined.

Recent publications have highlighted the immensely disproportionate impact of climate change on developing countries, including reduced growth and development, brought about to a large extent by the fact that these nations experience more disaster fatalities, lack information about exposure to climate change and have insufficient resources to appropriately adapt. The world’s most vulnerable populations—in particular those living on fragile or degraded lands—are those most likely to bear the brunt of climate change and the subsequent disasters. Furthermore, climate change impacts must be understood in terms of vulnerabilities of different social groups; for example, women in developing countries who do a larger share of farming and have less access to income-earning opportunities may be disproportionately affected. The Conference provided a forum to highlight positive examples that detail the value of a gendered action approach to climate change (Box 6).

### **Box 6 – Responding to climate change and enhancing social development in Vietnam**

Vietnam has a long tradition of dealing with natural disasters especially floods, typhoons, storm surges and droughts, which are all set to worsen as a result of climate change. As a consequence, the demands on the disaster management community will increase. It is essential that Vietnam frames its response to climate change by addressing the impacts on those who are vulnerable to the effects of major disasters, as well as those who will be vulnerable as a result of the additional stresses on health and livelihood resources and services as a result of climate change. As such, the Vietnamese government has scaled up 'community based disaster risk mitigation' within vulnerable communities. This response calls for the inclusion of women in disaster preparedness activities and focused attention on gender issues in areas such as agricultural extension and rural water supply systems. Applying a gender analysis, followed by gender-sensitive action, can contribute to ensuring that multiple goals are reached which improve resilience and gender equality.

The international community's strategy against climate change involves three imperatives: (1) mitigating against reducing greenhouse gases, (2) adaptation and disaster relief, and (3) protecting the human rights of those affected by global warming. Much work has already focused on the first imperative but adaptation to the consequences of climate change, including population displacement resulting from adverse climatic conditions, has not engaged sufficiently with the potential offered through systematic application of RBAs.

The devastating effect of climate change on the world's most marginalised groups is increasingly drawing attention to the value of the human rights framework in this context. Climate change threatens several universally recognised rights, including the rights to life, food, adequate housing, health and water. By failing to tackle climate change at home and engaging inadequately in international assistance and

cooperation with low- and middle-income countries, high-income countries are effectively violating the human rights of both their own people and those living in low- and middle-income countries. The world is now realising that ensuring people's basic rights to protection from the effects of climate change is equally pressing; the human dimension of climate change, rather than just its economic significance, must be addressed in any response.

### **2.4 Economic globalisation**

Globalisation can lift people out of poverty and support human rights by encouraging trade and improving country economies but equally trade can disadvantage the local industries of some countries, meaning that globalisation can further exacerbate impoverishment and threaten human rights. For those who are marginalised, economic globalisation can mean less job security, poorer working conditions, greater vulnerability to communicable diseases, less social cohesion and spiralling health care costs. On top of this, the population movements caused by labour flows around sites of economic development, unless accompanied by investment in health infrastructure, can deepen the impact of the HIV epidemic and other health hazards associated with unplanned and unattended large-scale population mobility. This was demonstrated in a presentation on mining sites in Papua New Guinea which are exacerbating HIV as a result of increased mobility and labour around development sites and the growth in sex work that accompanies the appearance of such sites.

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***“On the one side globalisation does indeed civilise, it does bring and provide the means by which people can be lifted out of poverty and have their human rights supported, but equally globalisation, as we have just seen so vividly in the last year, can have sharp edges which can do enormous damage to people's human rights, so it needs to be civilised.”***

Prof David Kinley, Chair in Human Rights Law, University of Sydney

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In the field of health, international economic growth has encouraged the development of technologies and biomedical progress, which have improved health, yet these advances have not been shared equally, and significant disparities exist both within and between countries. In many places, globalisation, coupled with the expansion of market economies, has seen a decline in traditional community-centred health care provision caused by factors such as unequal distribution of health services, user payments and unregulated private sector growth. Whilst economic growth can improve health conditions for populations in low- and middle-income countries, the economic downturn will undoubtedly have a negative effect on people's enjoyment of their rights, including their rights to health and development, since funding in these areas will certainly not be able to match growing demands in several sectors.

Multinational corporations and international organisations now have increasing influence on people's health and wellbeing, while national governments are less inclined to make decisions that are not economically or politically expedient. For example, developing countries are too often exposed to litigation from multinational corporations for making regulatory decisions that might adversely affect the investor—but are beneficial for the rights of their own populations—reflecting the increased shift of power from the public to the private. Lawyers and other stakeholders have an important role to play in aiding developing countries to negotiate international investment agreements with foreign investors and companies. Applying RBAs to these negotiations will protect their human rights and the rights of the state to regulate their own countries. Capacity-building for legal agencies on applying RBAs may be required in order to facilitate these protections. Box 7 proposes a tool that is intended to help states incorporate the right to health when they enter into trade agreements.

### **Box 7 – Supporting states to create a legal and policy environment that promotes the realisation of the rights to health and development**

A Conference presentation on the 'Methodology for right to health impact assessment' was highlighted as a practical tool to support legal and policy development that reflects the international principles, norms and standards related to the right to health. While the tool is in the development stage, it aims to (i) create linkages between trade and rights, (ii) prioritise the health needs of the poor against private commercial interests and (iii) realise the rights to health and development through policy. The tool requires policy makers to explore the health impacts of intellectual property rights through the analytical lens of the right to health, and to reform trade agreements or policy to mitigate any negative impacts that result.

Of central importance is the increased need for solidarity between the governments of developing countries and civil society to protect the rights of their citizens to health and life in the face of unfair treatment from the developed world (Box 8).

### **Box 8 – Improving Access to HIV Treatment in Thailand**

In the area of HIV, Trade Related Aspects of Intellectual Property Rights (TRIPS)-Plus negotiations— designed to extend pharmaceutical patents and hinder continued production of generic drugs—will have a major impact on the affordability of second and third line antiretroviral drugs. Although this runs contrary to States' obligations to respect, protect and fulfil human rights, many developed countries, with pharmaceutical interests to protect, threaten to use retaliation against developing countries who try to use the original TRIPS flexibilities such as parallel importing or compulsory licensing. This occurred in Thailand in 2006–7 where compulsory licensing of second line drugs led a leading health care drug producing company to withdraw

10 drugs from Thailand and accuse the country of stealing their property, which endangered the lives of PLHIV. However, by placing PLHIV at the centre of reform efforts, civil society opposed patents through the national court system. AIDS activist NGOs, together with allied health officials and PLHIV leaders, brought together groups of PLHIV to form regional and national networks which became the most important component in an effective policy advocacy movement for access to medicines. They successfully pushed for generic production of antiretrovirals and other essential drugs and pressured the government to enact a bill for universal health insurance, which included access to second line antiretrovirals. The availability of generic drugs has improved access to antiretrovirals in Thailand, and the governments of other developing countries have now taken similar action. Due to a provision in the 2007 Constitution, any future HIV-related trade agreements are subject to public hearings and parliamentary approval.

## 3. Synergies and Overarching Issues

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Through well structured and evidence-based analytical presentations and abundant country examples, this Conference repeatedly underscored the inextricable linkages between health, development and human rights. Much of the world's disease burden can be linked to the conditions of impoverishment, such as poor sanitation and contaminated water, lack of education and access to health services, gender inequality and other forms of discrimination. The often prohibitive cost of health care means that illness can push entire families into poverty, even in advanced economies—and even if the most sophisticated medical facility is only next door.

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***“Examining and understanding the complex relationship between health, development and human rights is necessary to developing appropriate and effective responses.”***

Dr Jean-Marc Olivé, WHO Representative, Vietnam

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Global health cannot be secured without considering these complex relationships. With respect to bringing together rights, health and development, this Conference is a vital step in forging a path forward for global and national policies and initiatives that are responsive to community agendas. Some issues are highlighted below that illustrate these points and cut across the four thematic health and development issues around which much of this Conference revolved.

### 3.1 Rights-based approaches to development and health

A RBA to development is a “conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress” (UN, 2006)<sup>1</sup>. A RBA to development integrates international principles, norms and standards into plans, policies and processes. The principles include the interdependence of rights, equality, equity, non-discrimination, participation, empowerment and accountability. The norms and standards are those contained in a wealth of international treaties and declarations.

Applying a RBA to health constitutes systematic attention to the issues raised above; however, it is extended by bringing human rights into health-specific issues. A RBA to health should include the substantive issues related to the right to the highest attainable standard of health as elucidated within General

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<sup>1</sup> <http://www.ohchr.org/Documents/Publications/FAQen.pdf>

Comment 14 (GC14)<sup>2</sup>, which elaborates on the interrelated and essential elements guiding its application, notably the concepts of *availability*, *accessibility*, *acceptability* and *quality* of health structures, goods and services (UN, 2000:GC14). Conference participants noted that these key components of the right to health are particularly useful in the operational application of RBAs. For example, when considering use of health services, the notion of accessibility, encompassing various dimensions, can help highlight practical barriers that might need to be addressed. It draws attention to geographical accessibility (e.g. to primary health care services), financial accessibility (e.g. to life-saving medications), availability of specific services (e.g. opioid substitution therapies) and legal accessibility (e.g. the legal restrictions on abortion in many countries). All of these can be considered barriers to service utilisation, many of which disproportionately affect those already considered vulnerable, and as such warrant attention.

While human rights highlight the need for special measures to ensure that these principles are adequately addressed, the directions such measures should take vary by context. Due to their context-specific nature, one cannot prescribe how a RBA should be conducted in all instances. As such, there is no single RBA to health and development: Conference participants agreed that much of the value of RBAs lies in their diversity and that they can be made appropriate to every context (Research Symposium Report, 2010)<sup>3</sup>.

The previous paragraphs define the considerations necessary to implement effective RBAs in a health and development context whilst Box 9 recognises the challenges to monitoring and evaluating such an approach.

### Box 9 – Challenges to Monitoring and Evaluating RBAs

Challenges remain with regard to monitoring and evaluating RBAs such as the following:

A lack of clarity around human rights terminology highlights the need to think about it in specific linguistic and cultural contexts, and this applies particularly to the language used in monitoring and evaluation as these processes are intended to produce a statement on how, in what ways and to what extent human rights are fulfilled or violated.

Donor requirements rarely incorporate RBAs into their evaluation framework. A growing number of international development agencies uphold the value of human rights in their institutional statements but fall short of applying them in practice to their programming, monitoring and evaluation activities.

There is a need to move beyond the rhetoric of human rights and use RBAs as something more concrete, which requires clearly defined methods and strong, proven indicators. These indicators should be sensitive to human rights in their construction, data collection and in how they are analysed. This will promote a better understanding of how human rights are considered in health and development and what impact this has on policy and program outcomes.

The right to health draws attention to the *underlying determinants of health* such as “access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, and healthy occupational and environmental conditions” (UN, 2000: GC14). Attention is focused on such rights as non-discrimination, education, information and privacy, which can also help promote health-related interventions in other sectors such as education and housing. The interdependence and indivisibility of human rights underscore the need to engage a wide range of stakeholders, which in turn can promote collaboration between different sectors and levels of government, external partners and community members. These concepts all constituted major themes that emerged across a range of sessions at the

<sup>2</sup> [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.2000.4.En](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En)

<sup>3</sup> [http://www.ihhr.unsw.edu.au/conference/research\\_symposium.html](http://www.ihhr.unsw.edu.au/conference/research_symposium.html)

Conference; they are discussed in further detail as cross-cutting themes in the sections that follow.

### 3.2 Constructions of vulnerability

Two central questions posed to the Conference participants were (1) who, among the population, is particularly vulnerable to the issues flagged? and (2) who is vulnerable not only to one but to several of them? The nature of compounding vulnerabilities commands expanded responses that will benefit from focused efforts and activities intended to enhance community resilience and capacity.

The Conference recognised that community vulnerability was not a naturally acquired characteristic but was produced by systemic inequality, itself determined by history, discrimination and lack of participation as may be created or exacerbated by social and cultural factors—gender, ethnicity, economic status or behaviours such as drug use or sex work—which hamper access to information, services and support. The construct of vulnerability is not, therefore, determined by innate characteristics but rather by the denial of equal treatment by those whose task it is, both within and outside public services, to ensure that everyone can ‘realise their rights to health and development’.

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***“It is not possible to be effective in prevention, treatment, care or support if the rights of all human beings, regardless of which community they belong to, are not protected.”***

Ms Marina Mahathir, Member, International Steering Committee, Asia Pacific Leadership Forum on HIV and Development (APLF) / Malaysian Aids Council

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Within health, development and human rights, new obstacles to progress are emerging, creating new vulnerabilities and exacerbating resource needs. Understanding the risks and vulnerabilities

created and aggravated by HIV/AIDS and current and emerging public health threats such as MCH, climate change and economic globalisation and how to respond to them in a rights-based manner is critical to answering why certain groups of people are vulnerable and how better to address these vulnerabilities. Recognising that within each of these themes the groups considered ‘vulnerable’ might vary, questions relating to *what* inequities in health, development and human rights exist, *why* did they emerge, and *how* they can be responded to and mitigated against future exacerbation merit exploration. Irrespective of the issue being addressed, economic, policy and social responses must consider the diverse constructions of vulnerability and how these can be reversed to promote resilience and strengthen social capital (Box 10).

Ensuring more equitable health and development requires attention to the underlying factors that create and exacerbate people’s vulnerability to poverty at the household, community, national and international level. Issues such as poverty, ethnicity, gender inequality and membership in a stigmatised group, such as sex workers and IDUs, can engender vulnerability across multiple dimensions including economic development, health and HIV/AIDS. It is often those who are most vulnerable, and may be affected by multiple categories of vulnerability, who face the most barriers to accessing services and broader development opportunities and who have the least power to claim their rights. It is critical that all dimensions of the constructions of vulnerability be appropriately understood so as to ensure effective responses to them.

### **Box 10 – Constructions of Vulnerability in Different Contexts**

Constructs of vulnerability were present across a wide variety of Conference presentations and themes. Populations which received significant attention due to their increased vulnerability included poor women, IDUs, sex workers and HIV positive women. The following country-specific and broader issue-specific examples were presented at the Conference:

In the Philippines, neo-liberal globalisation principles are shaping national government policies, and as a result, health and other government services are becoming increasingly commercialised with implications for their financial accessibility. The impact of such policies is disproportionately felt by women due to poor access to services, which is attributable in part to their financial dependency on males and their lower status within the household.

Meanwhile, in Vietnam, there are still some people who perceive drug use as a 'social evil' and drug-users as ineligible to fully enjoy their citizens rights. This makes mandatory detention and forced treatment legitimate thus creating barriers to the scale up of harm reduction programs including opioid substitution therapy and the distribution of sterile injecting equipment.

More broadly, many presenters spoke on issues which transcend a wide range of countries. For example, there was considerable emphasis on regulatory frameworks that criminalise sex work and make women vulnerable to sexual coercion and violence, including trafficking and rape. In addition, food insecurity, stigma, discrimination and limited access to services for the prevention of mother to child transmission of HIV increase the vulnerability of women and children to HIV in many places.

In many low-income countries, those most vulnerable to the impacts of climate change are those least able to resist its impact, such as farmers who are dependent on regular rainfall,

people living in poverty whose nutritional status can be threatened by even minor increases in food prices, and people living in low-lying areas who are susceptible to floods. Women and girls from ethnic minorities are often among the most vulnerable to climate change as they know relatively little of preparedness and response measures, have the fewest assets to depend on in times of crisis, and often have the most responsibility for the provision of food and other basic necessities in the household.

The Conference concluded that governments, overseas development agencies and other stakeholders should place greater emphasis on the most vulnerable populations across all health and development challenges, and within major international health and development frameworks, such as the MDGs.

By necessity, legal and policy frameworks at the global level often pay insufficient attention to the specificity of local constructions of vulnerability. A Conference presentation on Nepal outlined the good intentions of the National Health Sector Program Plan to increase health coverage and raise the quality of essential health services which unfortunately included a flawed focus on poverty as opposed to using a clear definition of vulnerability in Nepal. It is, therefore, incumbent on national and local authorities to appropriately support those who are most vulnerable. Here, the Conference identified potential tensions between global frameworks focusing on outcomes, such as the MDGs and RBAs that also emphasise process. Are these complementary or contradictory? Can RBAs help to ensure that progress is sustained beyond the timeframe of current initiatives such as the MDGs by promoting appropriate interventions and community participation?

### 3.3 Legal and policy frameworks

An array of legal and policy documents exists in the fields of health, development and human rights at national and international levels. In some areas, these legal and policy frameworks have negative impacts, e.g. the criminalisation of certain behaviours such as sex work and sexual activity between men, and have been shown to hinder access to health services and to provide legal sanction for discrimination and social exclusion. While improvements in this area have recently been reported in the regulatory frameworks of Hong Kong, Fiji and India, retrogressive developments have been reported in Uganda and Rwanda.

#### Box 11 – Examples of Dissonance in Legal and Policy Frameworks

The Conference offered a unique forum to openly discuss the issue of dissonance across legal and policy frameworks. The following country-specific examples provide a general overview of the important issues raised.

In Malaysia, legal protection for the confidentiality of HIV test results, which is set out by the government, is not respected in some instances. A pre-marital HIV testing program run by the Islamic department, which is separate from the health sector, does not protect confidentiality. Evidence has shown that a lack of respect to privacy and confidentiality leads to discrimination, particularly of HIV positive women.

In Nepal, the National Health Sector Program Implementation Plan aims to increase coverage and raise the quality of essential health services with improved access for the poor. However, the provision of the right to health services which are free and essential has not been translated into law. As such, a gap remains in the legal specifications of financing and social security mechanisms to ensure that such services can be delivered free of charge.

In China, the government's new concept of 'community treatment' as a people-centred approach is welcomed, in theory; however, a lack of clarity around the meaning of 'community' has seen the expression co-opted. For example, a detention or supervisory centre adding 'community' to its name can carry out 'community drug treatment'. In this environment drug users have no freedom, as the administrative methods used in these centres are similar to those of China's compulsory detoxification centres. Thus, in certain areas, instead of increasing resources to drug users to obtain much needed support while living in their homes, the new law has effectively added additional years to the time that drug users spend in compulsory detention after a single positive urine test.

The dissonance across legal and policy frameworks has serious repercussions at the community level, often fostering a sense of distrust among affected communities and thus creating more obstacles to accessing and engaging vulnerable communities to effect positive change.

Consonance across the entire legal and policy framework is important—all national and sub-national laws and policies should be framed within international human rights, and no contradictions should exist between any domestic laws or policies. In some countries, contradictions in legal and policy frameworks require civil servants to determine their appropriate implementation, highlighting a tension between their potential roles as guardians of the law and agents of change.

In other areas, gaps in legal and policy frameworks have been reported in areas of mental health care and climate change. For example, questions related to climate change were raised at the Conference: What is the basis of the entitlement of a person who will be affected by climate change? Should they be encouraged to adapt or to move? It is clear that binding laws under a new treaty for enforcement at the local and international levels is essential if carbon dioxide emissions are to decrease as there

are currently no strong sanctions on agents who cause climate change. In this instance, litigation has an important role as a mobilisation tool, not only for compensation, but also for public notification. Despite the complexity of legal and policy frameworks concerning the effects of climate change, there is value in incorporating human rights considerations into them.

Country experiences, such as in Thailand (please refer to Box 8 shown in Section 2.4), have demonstrated the essential role of civil society to the development and change of legal and policy frameworks related to health and development; however, this is contingent upon political willingness and a commitment to the realisation of international human rights standards within governmental bodies and corporations. A case study in Vietnam provides an example of how political willingness amongst the few resulted in a policy change which was propelled by partnership with an external agent. Ministry of Health officials worked with the University of Wisconsin's International Pain Policy Fellowship Program to develop an Action Plan to make pain relief more available. This Action Plan culminated in new opioid prescribing regulations based on international standards, thereby reducing barriers to availability of opioids in palliative care and protecting the human right to health care of those suffering from life threatening diseases.

Legislators and policy makers need to listen to public opinion and be able to reflect the public interests, especially of the vulnerable. The work of a Vietnamese NGO demonstrates a gender-based approach to domestic violence which united victims who subsequently formed a community-based group that participated actively in the law and policy-making processes around domestic violence in Vietnam. The Conference provided an opportunity to document such powerful examples of civil society influencing national policies and laws. Key challenges remain in marshalling such activism to create change at the global level.

Although a supportive legal and policy environment is essential, it is insufficient to ensure health and development. Implementation of these laws and

policies is required to move from theory to reality. For example, South Africa has made great progress in becoming a democratic state, including a new progressive constitution and a legal framework for rights. Despite these civil and political advances, the health sector has seen few improvements due to a weak health system, serious shortcomings in implementation and the inequitable distribution of health-related human resources and financing.

To address the legal and policy framework, a strategy is required that would consist of the following:

- Maximising the utility of existing legal and policy documents, which are sensitive to rights concerns including international and national human rights and policy documents;
- Working towards reforms of bad laws or the institution of new legislation where required, including improving policy coherence within governments (e.g. coherence between laws in different sectors such as HIV and drug control); and
- Increasing the capacity of state actors in all sectors of government, as well as non-state actors to perform their duties and deliver services in accordance with rights-based policies, laws and practices.

It is clear that global action is needed to tackle global health and global injustice, which will only be secured by mobilising the joint efforts and resources of society as a whole. At the international level, creating huge institutions to deal with global issues is necessary, but their policies need to be built on the people's voices to ensure that international legal institutions and global policies protect the people's rights, rather than the interests of international donors, multinational corporations or developed countries.

Experiences across countries indicate that legal and policy frameworks linking human rights, health and development are deeply influenced by cultural, socio-economic and political factors. A RBA emphasises the utility of human rights implementation as a means to accomplishing health and development outcomes that have been internationally agreed upon. While

human rights are universal to all cultures and levels of development, the respect for particularities, such as cultural, political and socio-economic characteristics, are inevitably necessary in order to better incorporate them in law and to more effectively guarantee their practical implementation.

### 3.4 Community engagement and participation

The empowered participation of communities is critical. Such participation will ground strategic approaches in a greater understanding of community vulnerabilities and resilience, which can, in turn, maximise the use of human and financial resources. A central challenge remains around how to engage communities to be active participants in the issues that affect them. Communities should be able to choose their priorities, empower themselves and be heard by local, national and global leaders who need to think locally and act globally. One example of community self-empowerment presented at the Conference was demonstrated in the formation of Reproductive Health Rights Clubs that proved an effective vehicle in disseminating awareness on sexual and reproductive health issues in remote areas in Pakistan, a country where sexual and reproductive health issues are often considered taboo. Following early success, the number of these clubs expanded thanks to the support of religious leaders and locally elected female representatives.

Across all thematic areas, the need for local knowledge and participation of the community to develop appropriate solutions has been emphasised; yet securing the engagement of civil society groups in topical areas where they are not well organised, such as maternal mortality and climate change, continues to be a challenge. These sectors can usefully learn from the success of community organisations in HIV/AIDS where the greater involvement of PLHIVA is a fundamental cornerstone of effective responses (refer to Box 8, Section 2.4). In a direct response to the challenge of engaging the meaningful participation of communities, the *UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable*

*standard of physical and mental health* presented further steps at the Conference to strengthen opportunities for civil society engagement (Box 12).

#### Box 12 – Building Opportunities for Civil Society Engagement

Increasing participation of affected communities constitutes an important component of the work of the UN Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health (Right to Health). The mandate of the UN Special Rapporteur on the Right to Health provides a mechanism through which civil society organisations can participate in priority setting, monitoring and in the establishment and implementation of accountability mechanisms critical to the realisation of the right to health. In turn, the mandate provides a mechanism through which the capacity of civil society to engage in relevant processes can be built.

Whilst civil society engagement is largely considered to have a positive effect on the realisation of human rights, it can also be counterproductive. For example, some social movements may campaign to imprison and therefore reduce the rights of individuals in society considered to be criminals such as IDUs and sex workers. As politicians and donors are influenced by the voting public, it is important to recognise that in some instances, such as with regard to sex work and drug use, there is a critical need to change public opinion. The Internet is a powerful tool with unprecedented global reach which can influence public opinion. During the Conference, the importance of the Internet as a resource with immense potential to improve people's awareness of their rights was reiterated.

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***“One of the effects of globalisation and increased access to the internet is that people in developing countries are accessing information to enable them to realise their rights and learn from social movements.”***

Mr Jon Ungphakorn, Founder, National Aids Alliance, Thailand / AIDS Access Foundation

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While restrictions on the media have often hampered social movements, access to the Internet can provide people an opportunity to learn from social movements in other countries and effectively demand their rights. Yet, in addition to its potential as a constructive tool for community engagement and social mobilisation to further health and development outcomes, the Conference also highlighted that the media and the Internet constitute powerful forces which can also be used for misinformation such as by the perpetuation of negative stereotypes. For example, one Conference presentation highlighted the negative effects of Australian media coverage of cases where individuals have been prosecuted under criminal laws for the transmission of HIV. In this case, the media representation of those living with HIV impacted negatively on an already marginalised group, illustrating that not all public discourse is helpful. By educating the media, health and development education can be promulgated accurately (Box 13).

### **Box 13 – Tobacco Use, Mass Media and Human Rights in Vietnam**

Failure to garner widespread support around certain issues such as climate change, tobacco control, mental health and water and sanitation can be partly attributed to the poor understanding of the scale of these problems and their relevance to people's everyday lives. News media provides a potentially vital channel through which the visibility of issues can be raised, education on topics is made available and support for action is organised. Mass media is always looking for issues that are 'contemporary' and that will draw interest.

In September 2009, a 'media awareness summit' took place in Vietnam with the aim of building knowledge and skill sets for tobacco control advocacy through the media. The primary objective was to inform an advocacy campaign, designed to highlight the health risks associated with smoking, and their human rights implications. The 'media awareness summit' intended to give the topic of tobacco control significant media resonance by highlighting the human right to

health information that is accurate and relevant, as well as the right to a healthy environment and the right to work. By connecting the two disciplines of human rights and tobacco control a powerful message was constructed.

Fostering participation must begin with education, which is the key to ensuring individuals understand their rights. Advocacy by civil society groups and others representing rights-holders to hold governments and other stakeholders accountable is equally important. Education on rights, coupled with advocacy, can ensure that change not only occurs at the legal and policy level, but also permeates into wider attitudinal and behaviour changes across the community.

Two approaches were suggested for overcoming barriers to behaviour change: (i) efforts to improve 'health and development literacy' so as to ensure that civil society is informed on the relevant issues and (ii) work to ensure that supportive legislation is in place and enacted to better support the creation and operation of NGOs run by locals to promote health, development and human rights. An example of innovative work in this area was presented during the Conference. In Indonesia, a community legal aid group is training paralegals from different community groups (e.g. drug users) to provide self-reliant legal aid such as legal and human rights education for other community members. The project's *starting point* was recognising the potential resource of members of the public who could serve as paralegals, rather than focusing on all of the overwhelming needs of the community.

Responses to climate change and HIV prevention, among other issues, are only as effective as the collective change in behaviour they can engender: education is a crucial first step as knowledge can change attitudes, but the greater challenge is to translate this into sustained large-scale behaviour change.

### 3.5 Accountability

Clear accountability mechanisms are required for nations and institutions in addressing health, development and human rights issues and applying covenants and conventions to which they are signatories. Existing approaches include international human rights reporting mechanisms, naming and shaming (but with due attention to the potential for this to fail) and constructive dialogue (constituting a RBA that seeks to empower rights-holders to demand their rights while simultaneously working with duty-bearers to understand and fulfil their obligations), and public action (social mobilisation) to exert pressure on governments. Civil society movements play a critical role in holding their governments (and other actors) accountable but are dependent on the existence of a democratic space for their operation and the existence of accountability mechanisms through which they can operate (Box 14). Where such mechanisms are available, civil society can work to keep pertinent issues such as health on national agendas but, ultimately, leadership for the fulfilment of human rights obligations rests with the government.

#### Box 14 – Community Action for Accountability

Some countries, such as Guatemala, still experience deep social exclusion and inequity amongst the rural indigenous population. In response to these challenges, community coalitions in Guatemala composed of community-based organisations (CBOs), NGOs and local researchers were established to (1) assess whether the public health system was delivering essential services needed to guarantee the right to health, (2) document the negative impact of non-delivery of public services on the survival of rural indigenous families, and (3) develop a system to monitor progressive realisation of the right to health at both municipal and national level. A participatory action-research design was used and subsequent data analysis was based on the UN framework of availability, accessibility, acceptability and quality. The indicators, variables and data collection tools are now being used

by CBOs for continuous monitoring. The CBOs are capable of assessing and monitoring the right to health in their own municipalities, and have already highlighted low rates of availability of essential drugs, medical equipment and supplies. Establishing a civil society coalition to monitor government responses is an essential step towards accountability. Other municipalities have initiated data collection for the assessment, thereby further expanding the approach developed by the coalition.

### 3.6 Evidence, priority setting, and the politics of aid

#### Evidence

The need for rigorous evaluation across all thematic areas was highlighted as being critical to ensuring the implementation of appropriate and effective interventions and to create an evidence base for sound policies and programs in the future. The need to gather reliable evidence from successful approaches to health and development is demonstrated by the lack of models that show the impact of climate change on a local scale—an uncertainty that is being exploited to avoid action. This situation is further exacerbated by the fact that climate change is a global issue which requires a global solution and joint responsibility of all countries and the international community. The reluctance of many countries to engage in meaningful discussions at the United Nations Climate Change Conference in Copenhagen in December 2009 is evidence of the difficulty of coordinating such a response.

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***“At this point we would all agree that what we want are perfect indicators with which to measure human rights. They need to be simple, they need to be valid, there can’t be too many of them and they have to be easy to collect.”***

A/Prof Sofia Gruskin, Director of the Program on International Health and Human Rights, Harvard School of Public Health

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While the challenges in monitoring and evaluating RBAs were noted (Box 9), this has been dismissed as an insufficient reason for not carrying out evaluations

in this field where evidence of policy and program effectiveness is essential. Innovative approaches to the analysis of existing health and development indicators can significantly improve our understanding of how RBAs contribute to the achievement of health and development goals. It may be, in fact, that considerable evidence of the effectiveness of RBAs already exists within the fields of health and development (e.g. non-discrimination leads to better access to services, which in turn leads to better health), but that it has not yet been presented in human rights language and as such does not adequately demonstrate the point to sceptics.

### Priority Setting

The politicisation of priority setting within countries means that, even in the face of overwhelming evidence, non-acceptance of scientifically sound interventions can and does persist. Taking harm reduction as just one example, there is substantial evidence to support the effectiveness, safety and cost effectiveness of this approach, yet its uptake as a strategy for addressing drug use-related HIV has remained slow due to the fact that many countries criminalise drug use and consider drug use a criminal problem as opposed to a health problem (Box 15). This has serious implications in countries like Iran where drug users in the community were reported to be 13 times more likely to be HIV positive if they admitted having used drugs in prison where there were no harm reduction services. In Malaysia, recent work has demonstrated the success of methadone maintenance therapy within prisons, yet the availability of harm reduction services remains severely limited due to legal constraints. It seems that even when governments are committed to action on paper, reluctance persists in many places to implement such initiatives.

#### Box 15 – The politics of harm reduction

Since 2000, Australia has implemented a comprehensive harm reduction program and has found that, taking into account cost savings in health care as well as productivity gains, for every dollar spent since then there has been a return of AU\$27 from this intervention. Despite such strong

evidence, many countries do not implement harm reduction strategies due to zero tolerance on drug use that is often reinforced by public opinion, which further justifies governance inaction. This has been detrimental to the prevention of HIV in some settings such as among prison populations where HIV rates can be high, especially in countries where people are imprisoned for injecting drug use. Ensuring the provision of harm reduction services in prisons is critical as the very high rates of needle sharing within prisons increases the spread of HIV/AIDS.

The challenge is to ensure that coordination and harmonisation of objectives and priority-setting meets basic health needs globally. In some instances, attention to health-related rights in government policies has been subordinated to more immediate economic concerns such as income and employment. Efficient and effective expenditure is seen as critical to maximising achievements with the limited resources available. Despite the fact human rights principles can inform priority-setting, they are often overlooked. Consideration of human rights in development priorities would emphasise community participation in the design and delivery of health services, promote the need for a fully resourced strategic framework designed to promote equality in service delivery, and incorporate mechanisms of accountability to monitor the progressive realisation of the rights to health and development as well as other related rights.

### Politics of Aid

The political nature of aid cannot be ignored. During the Conference a number of issues were raised, including the need for increased attention to governance and the politically expedient but short-sighted focus on short-term gains. It is important to find ways to ensure that aid does not have the economic development of the donor state as its first priority, as they have a strong influence in resource-limited settings. Concerns regarding governance, especially in sub-Saharan Africa, have led to an insistence on aid conditionalities which can be detrimental to those countries who need aid the most. The increased focus on good governance as

a prerequisite for receiving aid is a requirement for most multilateral and bilateral donor policies but it comes with its own conditionalities due to the fact that the criteria used to measure good governance vary enormously and tend to reflect the political preference of the donor agency. Through conditionalities, donor countries have imposed their priorities on recipient countries, resulting in negative impacts on health and development on some occasions; these impacts were demonstrated in the structural adjustment era of the 1980s. In many places, overseas development assistance for health is driving a medical agenda and detracting attention from the underlying social and economic causes of the health issues. Within the field of sexual and reproductive health, politically sensitive topics such as sexuality and safe abortion have been sidelined at the expense of the health and rights of women, men and young people.

Furthermore, the insistence of donor nations on short-term timeframes for the expenditure of most overseas development assistance promotes a focus on assumed easy gains, resulting in little attention and few resources being allotted to the deep-rooted social and cultural issues underlying many health and development problems. It is important to note, however, that a tension remains to be explored between the emphasis on good governance calling for performance standards of accountability, which a rights framework supports, and opposition to conditionality. Opportunities exist to increase aid harmonisation among donor states and institutions, such as the 2005 Paris Declaration on Aid Effectiveness and the 2008 Accra Agenda for Action<sup>4</sup>, and to maximise possibilities for private sector organisations to make a profit while simultaneously providing an aid dividend, such as the New Partnership for Africa's Development (NEPAD) Business Forum<sup>5</sup>.

### 3.7 Inter-sectoral partnerships: breaking down disciplinary boundaries

Human rights, health and development have all been compartmentalised: responsibility for each has lain with different authorities, with detrimental impacts on synergies across these areas. To date, each discipline has been largely addressed independently, with each competing for resources and different target beneficiaries, government structures, sources of funding and monitoring mechanisms. Focused, stand alone responses have their place but amplification of the synergies between health, development and human rights will result in overall benefits greater than the sum of their parts. This has been proven in some of the examples given within the boxes of this report, which demonstrate the value of applying the human rights framework in health and development interventions.

The interdependence of issues such as food shortage, climate change and HIV has been demonstrated at the Conference through the interdependence of health and development, but little attention has been accorded to the creation of synergies between responses to these global challenges. Similarly, attention to certain populations has fallen beyond the remit of those responsible for health, human rights or development, leading to their marginalisation in national responses and lack of services at the local level. Bringing down barriers both within and across countries around ongoing emerging threats to human wellbeing and prosperity and creating a broader vision of how multiple challenges, especially for vulnerable populations, can be responded to in a combined way and will provide mutual benefits for all involved.

For example, the negative health effects of climate change are increasingly clear. The fact that these effects are disproportionately felt by vulnerable groups indicates an imperative for incorporating social justice and human rights into the response to climate change. Mitigation against climate change must include, amongst other things, avoiding deforestation, ensuring sustainable agriculture, promoting food and water

4 <http://www.oecd.org/dataoecd/11/41/34428351.pdf>

5 [www.nepadbusinessfoundation.org](http://www.nepadbusinessfoundation.org)

security and disaster preparedness planning. These are all goals towards which health and development advocates and policy makers have been working for years. Yet these advocates and policy makers have rarely been involved in developing environmental policy. Climate change merely adds an additional sense of urgency to the need to recognise synergies across these issues.

Through engagement with the connections between health, development and human rights, lessons can be drawn from the thematic areas of the Conference and synergies can be maximised. While a human rights-based strategy for HIV might be relatively clearly defined, what does such a human rights strategy for climate change look like and how can we learn from HIV to inform it? The Conference queried whether interventions that have not considered the characteristics of the RBA to HIV, such as participation and accountability, have had a marked impact, and how this might also translate to other themes.

In order to overcome the tendency to work in silos, opportunities have been highlighted to forge additional partnerships that are inter-sectoral in nature, encompassing many components of health, development and human rights. The Conference was successful in promoting partnerships around common themes, demonstrated in the 'synergies and overarching issues' section of this report, which have emerged across topics as wide-ranging as access to drugs within prison settings and climate change. These themes can usefully inform work in each of these fields in moving forward. Opportunities have been highlighted for using scientific evidence and community experiences to influence the continually evolving processes of policy making and implementation such as by allowing community groups to form legitimate associations that can represent the interests of marginalised groups across a range of issues. The interdependence of different components of health and development highlight the need for an approach that seeks to tackle their underlying determinants through partnerships across disciplines and sectors. For example, programs targeting diseases such as diabetes need to focus on non-health care aspects (e.g. education, supportive environment, non-discrimination) as well as health care aspects (e.g. access and availability of insulin).

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***“Disease is spreading across borders; it is therefore necessary to mobilise all sectors within countries and cooperate closely with international organisations in order to control disease.”***

Dr Nguyen Quoc Trieu, Minister of Public Health, Vietnam

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Inter-sectoral dialogue is essential for improving services and outcomes and should include government ministries, civil society, multinational institutions and UN bodies in an attempt to address a range of underlying determinants of health and development. It is critical that donors are engaged in these discussions so as to ensure consonance between the needs of recipient countries and what donors are willing to provide to facilitate a multi-sectoral response (Box 16).

**Box 16 – Working together on an unprecedented scale: A Global Plan for Justice**

Given the scale of the inter-related crises we are currently facing, there is an unprecedented need for bold and innovative action. One such plan that was proposed was a 'global plan for justice' to redress health inequalities. Based on a partnership between governments, corporations, philanthropists and civil society, states would contribute a proportion of their gross domestic product based on their ability to pay, and interventions would focus on three main areas: essential vaccines and medications, basic survival needs, and mitigation of the health impacts of climate change. Without the need for hi-tech interventions, much morbidity could be avoided through unprecedented collaboration for mass intervention of low-cost initiatives, ensuring that need, rather than wealth, would determine the direction of resources. The details of any such plan remain open for discussion, but the need for such ambitious approaches is uncontested. Issues must be recast in more comprehensive ways that create interdisciplinary bridges and effectively encompass notions of governance and accountability.

A focus on upstream determinants of health and development such as poverty and gender inequality is essential to effecting downstream change and improving outcomes in health and development, and highlights the artificiality of strict disciplinary divides. Resurgence of the primary health care model is often promoted in the context of moving away from vertical health programs to the provision of a broad package of health services: when primary health care services were introduced for the Maori in New Zealand, life expectancy increased by about 12 years from the 1940s to the 1960s. Attention needs to be drawn once again to General Comment 14 of the International Covenant on Economic, Social and Cultural Rights, which highlights governments' responsibility for addressing the structural determinants of health.

Despite the need to approach health, development and human rights more broadly, there is limited funding available; strong competition for funds and specifically targeted agendas of funding sources often constrain or pre-empt combined approaches in country-based programs, whether at the national or community level. For example, it could be argued that the injection of funds into HIV has reduced the amount of resources available for areas such as MCH, whose efforts to date have not been well integrated with HIV efforts. The challenge is how to create an opportunity for synergy between not only HIV and MCH but health and development efforts more broadly to maximise the leverage potential of all resources and ensure efficient and equitable approaches. It is likely that this challenge will be exacerbated by the current global economic downturn as increases in commodity prices are already being experienced, resulting in the inability of insurance schemes to cover all components of care, which will likely affect out-of-pocket expenditures on health.

## 4. An Agenda for Action

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This Conference served to highlight many areas where gaps in knowledge remain but also provided examples of promising practices for moving forward a collaborative agenda in addressing health, development and human rights. This section proposes an agenda for action based on lessons learned to date and an understanding of the need for bold action in order to ensure that this momentum continues. In terms of learning across disciplines, it is clear that more attention has been given to RBAs to HIV than to other areas, and that the findings in the HIV field, such as the importance of community participation and attention to the legal and policy environment, serve as useful lessons for work in other fields.

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***“Are the nations of the world willing to carry over the lessons learned at great human and financial cost over the past three decades from the response to HIV to the broader agenda of health and human development?”***

Hon Justice Michael Kirby, Former Justice, High Court, Australia

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Various challenges have been highlighted that will require particular attention, such as how we might depoliticise strategies for health, development and human rights, how to make the best use of existing evidence to inform policy and practice, and how to resolve tensions between global and many donor initiatives that focus on outcomes and RBAs that also require attention to processes.

Despite these difficulties, opportunities abound and it is incumbent on the health, development and human rights communities to embrace the challenges and overcome them. Practical proposals for moving forward include the following:

- a) Promoting RBAs as a means of improving the processes and sustainability of interventions to fulfil the MDGs;
- b) Maximising the potential of new media as important communications tools;
- c) Improving ‘health and development literacy’ so as to ensure that civil society and governments are well informed on all relevant issues;
- d) Working to ensure that supportive legislation is in place and enacted to better support the creation and operation of NGOs run by locals to promote health, development and human rights;
- e) Promoting inter-sectoral dialogue that includes government ministries, civil society, multinational institutions and UN bodies, and donor institutions in an attempt to address a range of underlying determinants of health and development;
- f) Working to ensure consonance across the entire legal and policy framework at the national level;

- g)** Working to ensure that laws contain accurate translations of human rights that enable rights-holders to hold duty-bearers accountable and clarify that responsibility for implementing RBAs lies within a range of institutions, and not just the state; and
- h)** Increasing solidarity between developing country governments to protect human rights in the face of unfair treatment from developed countries. Civil society and human rights lawyers may also have a critical role to play in ensuring the appropriateness of international agreements but, in some places, capacity building may be required for this to be feasible.

A half-day Research Symposium followed the Conference and made the first steps towards a combined health, development and human rights research agenda. The agenda was developed by sharing ideas, probing facts, presenting the evidence and thinking creatively. The outcomes of this important forum can be found in the Research Symposium Report<sup>6</sup>. Further work is needed to continue this work in order to advance the public health and human development agenda to respond more effectively and efficiently to our current global challenges.

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<sup>6</sup> [http://www.ihr.unsw.edu.au/conference/research\\_symposium.html](http://www.ihr.unsw.edu.au/conference/research_symposium.html)

## 5. Conclusion

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***“We, as health practitioners, will no longer respond to health challenges without considering their implications on development and on human rights.***

***We, as development practitioners, will not ignore health or human rights as prerequisites for and as desirable outcomes of human development.***

***We, as human rights practitioners, will frame more effectively health and development agendas around human rights norms and standards and propagate this vision in ways that stimulate community empowerment and political commitment.***

***We, as health, development and human rights practitioners, commit to sustaining and deepening our commitment to and understanding of human rights, health and development for all. Together, because it is a commitment we all share!”***

Prof. Daniel Tarantola, Chair, Initiative for Health and Human Rights, The University of New South Wales and Co-Chair of the Directing Committee for the International Conference on Realising the Rights to Health and Development for All

This Report is an attempt to highlight some of the conclusions that can be drawn from the Conference presentations and debates. Highlighting the interdependence and indivisibility of all human rights, we have seen that breaking down thematic boundaries to jointly consider these issues allows us to move beyond existing paradigms of health and development and develop approaches based on synergies that have, to date, not been fully explored. The key elements of RBAs permeated the discussions across all thematic areas, highlighting the value of such guiding principles to ensuring appropriate and effective responses across the entire spectrum of health and development.

This Conference is one modest step towards stimulating more work on, and consideration of, strategic approaches in the areas of health and development. Stemming from a greater understanding of community vulnerability and resilience, this will help bring down the barriers that have been erected globally and within countries between each field of work. By examining obstacles to health and development through a human rights lens, we hope to spark a new movement which will recognise and build on the aspirations and capacities of individuals and communities and enhance their ability to meet the challenges ahead.

Ongoing global development issues, lack of access to basic health services and climate change bring huge challenges to the world; therefore, seeking priorities for public health and global justice is an urgent requirement. The responsibility now lies with all of us to use the information that has been gathered as a result of the International Conference and to rise to the challenge of addressing these issues by building bridges and maximising synergies.

Unprecedented cooperation and collaboration are needed to address the complex and powerful relationships between health, development and human rights and to develop practical policies, strategies and research to respond to these challenges. In this regard, the concluding remark on the left of this page by one of the Conference co-Chairs during the Conference closing session projects a vision of the way forward.

