

Opening Statement

01 NAJAT MAALLA M'JID, Special Rapporteur on the sale of children, child prostitution and child pornography, reading out a statement on behalf of Anand Grover, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health, said that the right of the child to health did not simply entail access to health care, it was about entitlements including a system of health protection with equality for every child at the best level possible. This imposed three levels of obligations on States, including: not to interfere with the enjoyment of the right, the obligation to ensure third parties would not interfere either, and the obligation to take the necessary steps to achieve this. National laws and policies were crucial and too often constituted barriers, such as restrictions in civil and administrative laws or criminal law, or limiting access to reproductive health services, goods or information, which may constitute a violation of the right to health.

National accountability mechanisms were central to ensuring human rights were delivered, such as complaint mechanisms and judicial remedies. All children should have access to these at the national and international levels. Children should also participate in health-related decision-making at all levels, from development to monitoring and evaluation, and should play an integral part of programmes to discharge the State's obligations. The degree to which a State allowed children to do this should be considered when assessing States' compliance.

02 A short video titled "Our Health, Our Right, Our Action", produced by Save the Children and World Vision, was screened.

Statements by the Moderator and the Panellists

RICHARD HORTON, Editor-in-Chief of The Lancet, and the Moderator of the Panel Discussion, said that the discussion would focus on questions concerning the right of the child to health and accountability mechanisms. This discussion could make a big difference, as the Human Rights Council was in the process of drafting a resolution on the right of the child to health. Turning to the panellists, Mr. Horton asked what did "accountability" mean and what did human rights have to do with accountability?

PAUL HUNT, Professor of Law, University of Essex, said that health and human rights issues could not be addressed by lawyers or health experts independently and that both needed to sit around the table. Explaining accountability called for a translation of the term "mainstreaming", which implied an arrangement to check whether human rights commitments were being fulfilled and often involved an independent body, such as a treaty body, a national human rights institution, or a court. Monitoring was immensely valuable and critically important, but monitoring was not accountability, it was only a precondition for accountability. In the context of the right of the child to health, accountability meant monitoring, using information and benchmarks gathered from different sources; reviewing this information and carefully assessing whether human rights commitments were being kept; and, where necessary, taking remedial action. Accountability in the context of the right of the child to health was critically important and required collaboration across legal, human rights, medical and other professions. Health and human rights must integrate this right

across the whole cycle of health policy and consideration was needed on how to make it practical and real.

RICHARD HORTON, Editor-in-Chief of The Lancet, and the Moderator of the Panel Discussion, said that the Committee on the Rights of the Child was responsible for monitoring compliance with the Convention and asked Maria Herzog, Committee Expert, how did the Committee ensure a strong impact on the national level. Mr. Horton also asked for recent examples of actions to strengthen the right of the child to health.

MARIA HERZOG, Member of the Committee on the Rights of the Child, said that the Committee's weakest point was the lack of a follow-up mechanism and the inability to monitor the national implementation of its conclusions and recommendations. The Convention addressed children's rights in a comprehensive manner and challenges to its implementation were well known. It was up to States to translate recommendations into plans, policies and programmes, and to ensure that adequate financing was made available. Donors should provide funding according to a child's rights-based approach and all personnel working in the health-sector should be knowledgeable about the human rights dimension of children's health. Key actors, including businesses and the media, needed to be involved and informed as they were crucial in preventing illnesses and ensuring the highest attainable access to health. Concerning recent examples of actions to strengthen the right of the child to health, Ms. Herzog said that the Committee had developed, or was in the process of developing, several general comments to serve as guidance for States on how to deliver on their obligations in this regard and these concerned adolescent health, violence against children, the right of the child to health, the right to play, the best interest of the child, and the responsibilities of businesses with regard to children's rights.

03 RICHARD HORTON, Editor-in-Chief of The Lancet, and the Moderator of the Panel Discussion, asked about the impact of violence against children and what accountability mechanisms were needed to ensure its prevention and elimination?

MARTA SANTOS PAIS, Special Representative of the Secretary-General on violence against children, said that violence against children compromised all human rights. The importance of health professionals and institutions for children who were victims of violence should not be underestimated. Hospitals were usually the first port of call for children who had been victims of sexual violence and, therefore, it was important that they were prepared to offer immediate and sometimes urgent assistance to children who had suffered sexual abuse. Serious consideration should also be given to the sources of violence against children. Violence against children provoked depression, low self-esteem and was associated with eating and sleeping disorders, drug abuse, involvement in sex work, and early pregnancies. In addition, persons who had been subjected to abuse, as children, had a higher tendency to become offenders themselves later on. The large number of child domestic workers who were often victims of sexual exploitation and of teenagers who were exposed to sexually transmitted diseases through sexual abuse offered a sense of the magnitude of the problem. Every three seconds a girl below the age of 18 was getting married, usually in a forced marriage to a much older man. More data and evidence were needed, and funds should be invested in medical staff and ethical standards. Cooperating with and empowering young persons constituted an important part of the fight against child abuse.

RICHARD HORTON, Editor-in-Chief of The Lancet, and the Moderator of the Panel Discussion, asked what was the European Commission doing to ensure the progressive realization of the right of the child to health? How were human rights principles incorporated into the European Union's programmes?

ISABEL DE LA MATA, Principal Advisor with Special Interest in Public Health, Directorate-General Health and Consumers, European Commission, said that the European Union had social packages with relevant initiatives, including a working document on investing in health. The Commission also counted with a recommendation for States to develop specific strategies, such as increasing access to adequate resources and promoting affordable practices, to protect the rights of the child. It was important to concentrate on deprived populations by putting in place comprehensive policies to provide assistance to vulnerable groups. The Commission was also addressing issues, such as unhealthy life-styles and the situation of children with disabilities and mental health problems. The European Union had several financial instruments, including the Fund for European Aid for the Most Deprived and structural funds. Specific indicators on health issues, such as infant mortality and child mortality, had been designed to monitor progress, and Member States were given specific targets to achieve and measures to implement. During the economic crisis, the value of health had to be demonstrated even more and a case had to be made for investing in young persons. The European Union also had strategies in place to promote specific health programmes and activities, and to address social inequalities.

04 RICHARD HORTON, Editor-in-chief of The Lancet, and Moderator of the Panel Discussion asked what role could community accountability mechanisms play?

THOMAS CHANDY, Chief Executive Officer of Save the Children, India, said that the State was not solely responsible for accountability; and working together with civil society and the community was necessary in order to be effective. The framework for accountability should be based on filling the gaps related to information, inequality, and voice. At the ground-level, awareness needed to be raised, issues needed to be disaggregated, and the voice of the community and their leaders must be captured. Partnerships with the government, civil society and the community were needed to achieve accountability and it was important to work as a coalition, not as competitors. Children should also be given a voice in the discussion.

RICHARD HORTON, Editor-in-chief of The Lancet, and Moderator of the Panel Discussion, asked for an overview of the most relevant judicial decisions in Latin America and at the Inter-American Court, related to the right of the child to health? How could courts-enforced health rights improve health policies?

OSCAR PARRA, Senior Staff Attorney of the Inter-American Court, referred to a case in Argentina in which a child had been refused medication due to budget restrictions and the Supreme Court had ruled that the State must not interrupt ongoing treatment. Again, in Colombia, the Court said that a structural approach was needed to ensure thousands of displaced children could access the judiciary and established a dialogue to help obtain inputs for public policy from this group. A set of indicators had also been created so that the appropriate supervision could be completed. In 2008, the Colombian Court had considered the differences between two plans available for access to health, one for those who could pay and one for those who could not. The court concluded that the differences were unfair

and ordered that each side should enjoy equal benefits. In Argentina, in a case in which a child with a mental impairment had sought funding for rehabilitation, the Court ruled after two years that the case had taken so long that an inter-disciplinary team needed to be set up to assess the child.

Discussion

05 United Nations Children's Fund said that today's discussion and the draft resolution put forward were extremely timely. Equity gaps and failures meant vulnerable children were left behind. Child and adolescent health were the foundations of any State and Russia was building modern medical facilities to increase access to and the level of medical care for pregnant women and children. African Union had initiated a programme to tackle child mortality at the operational level called CARMA and it believed that maternal infant health issues should be included in the post-2015 development agenda. Costa Rica said that education was vital in the area of health and this meant that children took ownership of their own rights, best practices and customs; prostitution constituted a fundamental challenge and deserved to be studied. Malaysia was committed to ensuring that no child was deprived of the right to health; measures had been taken to develop its medical services and almost full immunization against measles for one-year-olds had been achieved. Egypt said that families were instrumental in protecting children's rights; however, the report lacked concepts and notions grounded in international law and a clear reference to the devastating impact of foreign occupation on the right to health for children.

Chile believed that it was indispensable for the Council to tackle the universal right of children to enjoy the highest attainable level of health without discrimination as an urgent global priority. How could effective accountability mechanisms be implemented and strengthened? Holy See called for special attention to be given to the situation of children living with HIV/AIDS or HIV/TB infections, diagnostic tests were not commonly available in low-income countries. Indonesia counted with legislative and institutional measures for ensuring accountability in the area of children's right to health; how could monitoring be carried out in the absence of non-governmental machinery? Spain believed that priority should be given to the adoption of a human rights approach to the issue; and asked what were the best practices, so far, for improving the health conditions of the most vulnerable children, including irregular migrant children?

06 Algeria expressed concern about the inclusion of concepts lacking a legal foundation and which were not universally recognized. Cultural and historical backgrounds should be considered; for example, abortion and substance use were sometimes seen as an issue of access to services where a family-based approach should be used instead. Australia was committed to providing full services and this was not without challenges; targeted programmes for vulnerable groups were in place and development assistance would be offered to improve maternal health around the world. South African Human Rights Commission said that challenges in Africa were compounded by poverty and environmental threats. A report had been produced using Government data to plot the way forward for children's rights to health. Were there any practical recommendations for establishing indicators? Al Zubair Charity Foundation said that ongoing abuses of human rights in South Kordofan were being monitored with concern and displacement already constituted a violation of children's right of health. The 3,000 children who had fled were vulnerable to

recruitment by armed groups or sexual violence, as well as physical scars they may be left with.

08 RICHARD HORTON, Editor in Chief of The Lancet, and Moderator of the Panel, recalled that the African Union had made a reference to the Millennium Development Goals and the role of the rights of the child in this regard. The international community was moving into a post-2015 sustainable development era and many different concepts were being juggled to try to get it right. Mr. Horton asked Ms. Herzog how the international community could get it right in a central, practical, feasible and politically compelling way.

MARIA HERZOG, Member of the Committee on the Rights of the Child, said that if Member States trusted the rights-based approach and saw the Convention on the Rights of the Child as a universal tool and framework, there was no other way to go. Ms. Herzog reiterated the importance of a rights-based approach despite the difficulties faced. Opportunities for better implementation, accountability, and mainstreaming should be sought. Concerning family and community responsibility, from a rights-based approach, it was known from scientific evidence that children required affection from a young age and, whatever influence this had on the children, that the family's influence was paramount. It should be clearly stated that parents needed to be supported. Parenting had become much more demanding and they needed support, education should also be non-violent and rights-based.

RICHARD HORTON, Editor in Chief of The Lancet, and Moderator of the Panel, asked Mr. Hunt to elaborate on the question posed by Chile: how could the international community implement effective accountability mechanisms?

PAUL HUNT, Professor of Law, University of Essex, said that a mix of devices was needed for effective accountability. Parliaments had a critical role to play and, similarly, active national human rights institutions also had a critical role. Local health authorities had to be familiar with human rights, hospital boards also had to be alerted, and patient committees should use the human rights language in their work, among many others. Furthermore, all of these measures had to be underpinned by transparency and participation.

09 Maarij Foundation for Peace and Development said that health was the most important commodity and the enjoyment of the right to health for children must never be suspended or postponed. Peru added that health did not mean only absence of illnesses but a complete physical, mental and emotional well-being. Maldives said that the biggest obstacle to the enjoyment of the rights of children to health was the lack of accountability mechanisms. It was Governments which were ultimately accountable for ensuring the right to health for children, and Sierra Leone warned that this was often hard to ensure because of the difficulty in obtaining qualitative indicators.

Speakers drew the attention of the Council to the situation of vulnerable children: International Labour Organization spoke about 150 million children involved in hazardous work and worst forms of child labour today; Cuba and Consortium for Street Children spoke about 300 million children living or working in the street and said that challenges present in the wider society were exacerbated in street situations causing stigmatization and discrimination for those children; Joint United Nations Programme on HIV/AIDS drew attention to the situation of children living with HIV/AIDS who suffered from discrimination and only 28 per cent of whom had access to treatment; and Human Rights Advocates said

that child hunger and malnutrition was responsible for one third of child deaths, which particularly affected those in marginalized communities.

In terms of national efforts to fulfil the right of the child to health, Romania was providing mental health services to children living in difficult situations, including Roma. Belgium shared good practices arising from its national experiences, such as the presence of Ombudsmen in hospitals and the protection enjoyed by minors in the health care system. Bulgaria guaranteed free health care to all its citizens and residents, and priority was given to pregnant mothers and children. China constantly set itself new targets to reach such as reducing infant and maternal mortality, reducing low birth weight and reducing disabilities.

Brazil asked panellists how they saw the cooperation on ensuring the attainment of the highest possible standards of health in the context of the integration of human rights in the post-2015 development agenda and South Africa noted that the important issue of health related challenges resulting from activities from transnational corporations and toxic waste dumping was absent from the report.

10 RICHARD HORTON, Editor in Chief of the Lancet and Moderator of the Panel, turning to Mr. Hunt, said that all the international agencies were doing very good work but not necessarily in a joined up way. How could dialogue between agencies improve to ensure that the right to health was implemented?

PAUL HUNT, Human Rights Advisor of the World Health Organization Assistant Director-General for Family, Women and Children's Health, said that they should work together on specific projects in a collaborative spirit at the request of intergovernmental bodies such as this one. It was also more of a political issue. Governing boards had to systematically consider the right to health and give the space to officials in the agencies to engage in the matter.

RICHARD HORTON, Editor in Chief of the Lancet and Moderator of the Panel, said that no reviewing or remedying could be done if there was no adequate information. How could this gap be fixed?

MARIA HERCZOG, Member of the Committee on the Rights of the Child, said that when resources were limited, their allocation was important. She had been involved in the indicator 'business' for many years and it was not as easy as it looked to make good indicators that could properly describe the situation and make the comparative analysis possible. However, there were an excellent set of indicators for the implementation of children's rights in their early years.

RICHARD HORTON, Editor in Chief of the Lancet and Moderator of the Panel, said it was difficult not to talk about the right to health of women when talking about children. There were issues for empowerment to solve as well were there not?

MARTA SANTOS PAIS, Representative of the Secretary-General on violence against children, said that in the same way that they needed to bring agencies together, women's right organizations should be brought together with those of children, so they did not miss out on capitalizing on what worked best. That opportunity should not be missed. A woman also meant a young woman and adolescent women and that should not be forgotten.

RICHARD HORTON, Editor in Chief of the Lancet and Moderator of the Panel, said that the importance of mental health had been pointed out. There was no health without mental health. In terms of her work, how was it ensured that mental health was a central theme with regards to children's health?

ISABEL DE LA MATA, Principal Advisor with Special Interest in Public Health, Directorate-General Health and Consumers, European Commission, said mental health was part of the European Union's health strategy. It had long ago decided that it would also address mental health and children and adolescents were one of the focus populations.

11 RICHARD HORTON, Editor-in-Chief of The Lancet, and the Moderator of the Panel Discussion, asked how to bring children living in the street under the umbrella of concern and action on the health of children.

THOMAS CHANDY, Chief Executive Officer of Save the Children, India, said that rapid urbanization in Asia and Africa had as a consequence caused a growing number of children to live on the street. Governments would have to look into specific issues of protection and health in order to establish appropriate care systems for such children.

RICHARD HORTON, Editor-in-Chief of The Lancet, and the Moderator of the Panel Discussion, asked how the justice system could be used to protect children from worst forms of labour.

OSCAR PARRA, Senior Staff Attorney of the Inter-American Court, said that in Latin America stress was placed on the specific problem of child labour and elimination of this practice was a priority objective for States in the region. Not much progress had been made in drafting specific laws, and direct and indirect programmes for judicial assistance in this regard were needed.