THE RIGHT TO HEALTH OF THE BURNT PATIENT AND FIRE VICTIM*

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This paper is dedicated to the Prague Burn Centre as a tribute to its 50 years of remarkable scientific and humanitarian achievements, and to its Director, Professor Radana Königová, who has elevated this Czech institution to the heights of the select international centres of excellence in burn science.

SUMMARY. Health is a human right and remains inalienable under all circumstances, including burns and fire disasters. Unfortunately this right tends to become blurred and vulnerable particularly when the person himself, the patient, becomes vulnerable under sickness, thermal injury or other disaster situation. Even under the most efficient and well-meaning care the burn patient, especially the burnt child, feels diminished and dependent, and his rights tend to be overlooked, if not down-trodden. Formal instruments and international conventions, including medical Oaths and Declarations underpin the right to health of the burn victim and provide burn surgeons and health professionals with guidance and support for more efficient and more humanitarian care.

However magnanimous disaster workers may be in their intentions, and however genuine their action towards victims of disasters – any kind of disaster, any burn victim, we must humbly admit that more often than not disaster victims fall by the wayside in many ways. And in the rush and heat of the emergency, perhaps unwittingly and to a certain extent understandably, we concentrate more on their needs, and less on their rights. Yet disaster victims do have rights, the same rights that they have outside of a disaster situation or fire catastrophe.

The immediate preoccupations during an emergency may explain or excuse some organizational or interventional shortcomings, but they can in no way explain, excuse or allow breaches of the rights of victims or of humanitarian law.

Man, and this of course refers to all humanity, has inherent and inalienable rights in many fields of human endeavour, and indeed the Universal Declaration of Human Rights covers 30 separate articles or fields of rights that are unbreachable.

In the context of our preoccupations, I shall consider primarily man’s right to health, and particularly those rights that may be implicated in disasters and such situations as burns, fires or conflicts.

I propose to construct my statement on five basic instruments: the Universal Declaration of Human Rights, the Constitution of the World Health Organization, the United Nations Declaration of the Rights of the Child, the Red Cross Conventions, and the mission of the International Association for Humanitarian Medicine Brock Chisholm.

The establishment of the United Nations in 1945 was a momentous event not only in global geopolitics but also in international health. The San Francisco Conference, where the UN Charter was signed, considered it wise that a universal health organization be set up. The ensuing International Health Conference approved the establishment of a new body, which began life on 7 April 1948 under the name of World Health Organization and under the directorship of Dr Brock Chisholm. The basic principle behind the constitution of WHO was the then totally new – not to say controversial – concept of man’s right to health.

The instruments

• I. Although, chronologically, the Universal Declaration of Human Rights was in fact signed after the ratification of the WHO Constitution, I shall take it up first.

Of the 30 articles that the Declaration contains, Art. 25

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* Keynote address delivered at Charles University, commemorating the 50th Anniversary of the Prague Burn Centre, September 2003.
is particularly concerned with the right to health. It states:

A) 1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

B) A more general yet essential precept is Article 3, which states that “Everyone has the right to life, liberty and security of person”. Rights that are certainly undermined, and in certain disasters such as wars or fires, are definitely disregarded, dismissed or trampled.

C) Another article (Art. 5) pinpoints the total unacceptability of torture, inflicting burns, a vile, man-conceived disaster, still the tool of many a dictator in this enlighened 21st century! It constitutes a crime against humanity. It is a definite breach of one’s health rights, human rights.

D) Human displacements and rights of asylum are dealt with in Articles 13 and 14, while of course these humanitarian moves due to catastrophes are addressed in greater detail in relevant Conventions (1967 Protocol on Refugees).

These human tragedies are disasters in themselves, whether caused by fire, by war, internal conflict, catastrophic floods, earthquake, a dam burst or famine. Health is one of the first things to suffer in these situations, yet the right to health remains inalienable, whatever the situation. How much does the disaster response community do to ensure and to preserve these rights? It must do everything in its power.

• II. And this brings us to health, per se, to the World Health Organization.

WHO defines Health as “…a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity”.

When we decorticate this epoch-making definition, we see that it has significant implications on the relationship between health and disaster.

By the mere fact of its occurrence, a disaster or major emergency or burn affects and destabilizes the “mental and social well-being” – and therefore the health – of the victim, even if there has not been particular injury, or burn stress, anguish and unwellness, even in the “absence of disease or infirmity”, to take up WHO’s definition. A disaster, therefore, encroaches upon the health right of the victim. The corollary is that, beside the many reasons why society has to help the victims of a disaster, another main reason is the necessity to ensure their fundamental right, the right to health.

Eight months before the Universal Declaration was signed, the WHO Constitution had already injected new dimensions of social thinking, let alone new, bold concepts of health, as is evident from the definition just given.

Its preamble states that “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being…” and that governments are responsible for the health of their peoples.

It further enounces the principle that health is a matter of international politics, since “the health of all people is fundamental to the attainment of peace and security…”. It has since defined health as a bridge to peace.

Article I clearly points out the objective of WHO. This “…shall be the attainment by all people of the highest possible level of health”. A principle that has been expanded into the doctrine of ‘Health for All’, a fundamental approach to which I shall come a little later.

One can easily grasp the vastness and depth of these ideals and their implications on the provision of and access to health services everywhere, for everyone, under all circumstances, including disasters.

• III. Health rights begin early in life. The UN Declaration of the Rights of the Child, signed in November 1959, proclaims the following Principles:

4. The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health: to this special end every child shall have the right to adequate nutrition, housing, recreation and medical services.

8. The child shall have the right to assistance in catastrophes.

It is prohibited to recruit a child as soldier. And we disaster workers will have to get used to including the new kinds of war among our concerns and catalogues of disasters. And, of course, we burn surgeons know how particularly a burnt child is vulnerable.

As in many other instruments, the child is also protected in the Universal Declaration on the Eradication of Hunger and Malnutrition. Endorsed in December 1974, it proclaims that “Every child has the inalienable right to be free from hunger and malnutrition”. Here again, we know how serious the nutritional problems of the burnt child can be.

• IV. The International Red Cross has specific principles for the protection of health.

The Geneva Conventions of 12 August, 1949 clearly protect the health and integrity of civilian populations, children and non-combatants as of right, and the Additional Protocols of 1977 ensure that, even in war and combat conditions, medical personnel are protected without discrimination, so that they can perform their duties to uphold health.

Of course, chemical and biological weapons are absolutely forbidden.

• V. The International Association for Humanitarian...
continues the spirit of the Dr Brock Chisholm Memorial Trust, founded in 1984 to perpetuate the ideals, legacy and action of the first Director-General of WHO. On first thought, all medicine, it may be argued, is humanitarian, but let me define Humanitarian Medicine as I see it:

While all medical intervention to reduce a person’s sickness and suffering is in essence humanitarian, Humanitarian Medicine goes beyond the usual therapeutic act and promotes, provides, teaches, supports and delivers peoples’ health as a human right, in conformity with the ethics of Hippocratic teaching, the principles of the World Health Organization, the Charter of the United Nations, the Universal Declaration of Human Rights, the Red Cross Conventions and other convenants and practices that ensure the most humane and best possible level of care, without any discrimination or consideration of material gain.*

• Here then are five primordial instruments that proclaim health as a human right, an inalienable right under all circumstances.

Naturally these rights must be guaranteed and provided in practice, and at present the universally accepted strategy to ensure health for all is through the national and international efforts in support of essential care available to all. Available in normal times as in disaster situations.

Health for All

‘Health for All’ is in fact the name of the long-term thrust pioneered by WHO and supported by all countries as a realizable social goal and human right.

If health is a human right, and human rights are for all humans – and indeed they are – then health too must be for all. And that is just what the WHO strategy is about. In 1977, the World Health Assembly, drawing attention to the vast health inequalities that exist throughout the world and to the inequitable distribution of resources to deal with this human tragedy, decided that the main social target of WHO for the coming decades would be the attainment by all citizens of the world of a level of health that would permit them to lead a socially productive life. That is the pragmatic and at once humanitarian concept of ‘Health for All’.

The fundamental principle on which the programme and the strategy are based is that a country shall develop its own health policies is the light of its own particular health problems, its social situation, political mechanisms and economic possibilities, within a structured programme of sustainable development. The United Nations and the World Bank have espoused the cause, and countries actively promote it.

There is no question, however, of creating a pseudo-nirvana where all disease will have been abolished. Yet several things are clearly attainable: preventable illness should and can be prevented; there should and can be early diagnosis, treatment and rehabilitation for treatable conditions; there should and can be better continuing management for non-treatable diseases; and increasing regard must be paid not only to the length of life, but also to the quality of life. The fundamental right of man demands this, and it demands it no less in the squalid and chaotic conditions of a disaster or painful circumstances of a fire.

I am an international health official, a disaster worker and a WHO man. I am therefore proud that the fundamental principles I have been discussing have not remained just a static set of rules but a dynamic process, keeping up with the times, improving the times, and pointing to a more just future. These are also the principles that have guided the Prague Burn Centre at Charles University.

Thus, from a right we have advanced to better access to health, to tangible Equity in Health, and a bridge for peace.

Health is a human right. The enjoyment of happiness is a human right. War or Disaster is the negation of health and happiness. WHO has declared that “Peace is the most significant factor for the attainment of Health for All”. That brings our work to a beautiful circle:

Health > human rights > security > peace > health.

*It is significant that IAHM counts many burn experts among its founders and Board of Regents.
REFERENCES