

This section looks back to some ground-breaking written contributions to public health, reproducing them in their original form and adding a commentary on their significance from a modern-day perspective. To complement the theme of this month's *Bulletin*, Frank Grad comments on the Preamble to the Constitution of the World Health Organization (1). The Constitution was presented at the International Health Conference in New York on 22 July 1946 and signed by the "duly authorized" representatives of the governments participating. The original version of the document, including the ornate and sometimes hesitant signatures, can be seen at <http://www.who.int/library/historical/access/who/index.en.shtml>

# The Preamble of the Constitution of the World Health Organization

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In February 1946 the Economic and Social Council of the United Nations established a Technical Preparatory Committee of Experts to prepare an agenda for the International Health Conference in New York, to be held from 19 to 22 July 1946. The agenda included the preparation of a constitution for a World Health Organization (WHO) (2). The Conference eventually approved the WHO Constitution on 22 July, and designated an Interim Commission to carry out essential public health activities until the new organization was established.

The Interim Commission was to discharge the functions and duties of the Office Internationale d'Hygiène Publique, as well as those of the Health Organization that had been part of the Economic and Social Council of the defunct League of Nations. Though much of the work of the League's Health Organization was continued, and its major contributions recognized, the Constitution of WHO owes little to the League of Nations Covenant. Article XXIII of this Covenant contains a list of beneficial provisions, and only in its last subdivision, as an afterthought, one on how members of the League "(f) would endeavor to take steps in matters of international concern for the prevention and control of disease." (3).

The Constitution approved by the International Health Conference has shown itself to be robust during the 54 years since it came into effect. Nowhere is its strength more clearly seen than in its Preamble. This part of a legal constitutional document has an important function: it states the principles on which the document is based, and implicitly asserts a claim to jurisdiction which may then be spelt out in the document itself.

Unlike the mixture of subjects enumerated in the Conventions of the League of Nations, the Preamble of the WHO Constitution is a masterfully coherent statement, claiming as its own the full area of contemporary international public health.

In the same spirit as the Charter of the United Nations, the Preamble asserts that the principles it states are basic to the happiness, harmonious relations and security of all peoples,

thus expressing a modern set of universal aspirations. Health, it says, is an essential condition for their attainment, and the highest possible attainment of health is a fundamental right of every human being without distinction of any kind.

The preamble defines health positively, as complete physical, mental and social well-being, not merely negatively as the absence of disease or infirmity.

The concept of public health is contemporary, but in its phrasing the Preamble echoes the rhetorical cadences of the Age of Reason in the last part of the 18th century. In this view certain rights — such as those to health, or to life, liberty and the pursuit of happiness — cannot be granted or denied by any government because they are fundamental, inalienable human rights, which all of us, being human, already have. 1948, the year that WHO came into existence after 26 Member States had ratified its Constitution, is also the year that the United Nations General Assembly adopted and proclaimed the Universal Declaration of Human Rights (4).

The Preamble goes on to analyse the obligation of nations to contribute to the health of their people. This obligation is not imposed from the outside, but follows from the fundamental right of every human being, and therefore of humanity as a whole.

From the fundamental right to health of every human being, the Preamble moves to the health of all peoples, observing that this is fundamental to their attainment of peace and security, and depends on the fullest cooperation of individuals and states. The connection between health, peace and security is self-evident when diseases coupled with poverty and other social ills destabilize governments and societies. The Preamble notes that the achievement of any state in the promotion and protection of health is of value to all.

It follows that unequal development in the promotion of health in different countries, and particularly in the control of disease, is a common danger. This is well demonstrated not only by past epidemics but currently by the pervasive threat of

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HIV/AIDS which has not been successfully contained in any one jurisdiction, and which has also destabilized several nations. The promotion of health and the prevention of disease require the continuous application of scientific and medical studies in its service, a major activity of WHO, which has resulted in the eradication of smallpox, and other impressive achievements. The accomplishments as well as the tasks ahead of WHO are well documented in the World Health Report of 1998 (5).

Turning to the conditions for the advancement of health, the Preamble stresses the basic importance of the healthy development of the child, noting that it is essential to a child's development to live harmoniously in an ever-changing environment. The Report of 1998 also provides disturbing data on childhood HIV which threatens the reversal of years of advances.

For the fullest attainment of health, the benefits of medical, psychological, and related knowledge must be extended to all peoples. This principle serves as a reminder that the availability of essential knowledge and medicines must not be stopped at any national border, and that such interference must not be tolerated for any political or economic reasons.

Recognizing the difficulty of the task ahead, the Preamble notes that the need for informed opinion and active cooperation on the part of the public are essential for the improvement of the health of the people. This part of the Preamble seems to have been composed with prescience of WHO's current anti-tobacco efforts, in which public information and education are needed to overcome a major worldwide public health threat.

The Preamble acknowledges another precondition for accomplishing WHO's task: the responsibility of governments for the health of their people can be met only by the provision of adequate health and social measures. This means that not only government action but also social and economic measures are needed if the responsibility of states for the health of their people is to be fulfilled. The mention of this suggests awareness of the need for flexibility in the development of health policies.

Such a step towards adequate health and social measures was taken at the 1978 joint WHO and UNICEF International Conference at Alma-Ata which adopted a Declaration on Primary Health Care as a key to achieving "Health for All by the Year 2000" (6). Attended by 134 governments, it agreed that the health status of hundreds of millions of people in the world was unacceptable. Affirming the principles of the Preamble to WHO's Constitution, it sought to achieve a more equitable distribution of health resources so as to attain a level of health for the people of the world to live "socially and economically productive lives". The vision was not achieved but health for all remains a sound target. It includes adequate availability of primary health care professionals, the distribution of health services through insurance, and national policies to meet the need at the community level for primary health care.

The conclusion of the Preamble requires the acceptance of its principles by the member states. It asserts that this is needed for cooperation among countries to promote and protect the health of not only their own people but of all peoples. The Preamble also implies WHO's obligation to advance intergovernmental cooperation and international initiatives for the health of all the peoples whose governments subscribe to its constitution. The member states thus agree not only to advance the health of their own people but to support WHO's cooperative initiatives to advance the health of all the people in the world. Because health is understood to be a fundamental human right, it may well be judged to overcome narrow constraints of nationality and sovereignty and to argue for an even more active WHO role in the future. The Contracting Parties agreed to the Constitution, and to establish the World Health Organization as a specialized agency, within the terms of Article 57 of the Charter of the United Nations. ■

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## References

1. *Constitution of the World Health Organization*. Geneva: World Health Organization; 1948.
2. *The first ten years of the World Health Organization*. Geneva: World Health Organization; 1958.
3. Wilson F. *The origins of the League Covenant — a documentary history of its drafting in minutes of the Commission of the League of Nations*. London: Hogarth Press; 1928.
4. Grad FP, Levy Feishans IE. Article 12: right to health. In: Hanum H, Fisher D, editors. *US ratification of the international covenants of human rights*. Irvington-on-Hudson: American Society of International Law; 1993; p. 206-35.
5. *World Health Report 1998 — life in the 21st century: a vision for all*. Geneva: World Health Organization; 1998.
6. *From Alma-Ata to the year 2000: reflections at the midpoint*. Geneva: World Health Organization; 1998.

**CONSTITUTION**  
**OF THE**  
**WORLD HEALTH**  
**ORGANIZATION**



*Signed at the*  
**INTERNATIONAL HEALTH CONFERENCE**  
*New York*  
**22 JULY 1946**

## CONSTITUTION OF THE WORLD HEALTH ORGANIZATION

THE STATES parties to this Constitution declare, in conformity with the Charter of the United Nations, that the following principles are basic to the happiness, harmonious relations and security of all peoples :

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

The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.

The health of all peoples is fundamental to the attainment of peace and security and is dependent upon the fullest co-operation of individuals and States.

The achievement of any State in the promotion and protection of health is of value to all.

Unequal development in different countries in the promotion of health and control of disease, especially communicable disease, is a common danger.

Healthy development of the child is of basic importance ; the ability to live harmoniously in a changing total environment is essential to such development.

The extension to all peoples of the benefits of medical, psychological and related knowledge is essential to the fullest attainment of health.

Informed opinion and active co-operation on the part of the public are of the utmost importance in the improvement of the health of the people.

Governments have a responsibility for the health of their peoples which can be fulfilled only by the provision of adequate health and social measures.

ACCEPTING THESE PRINCIPLES, and for the purpose of co-operation among themselves and with others to promote and protect the health of all peoples, the Contracting Parties agree to the present Constitution and hereby establish the World Health Organization as a specialized agency within the terms of Article 57 of the Charter of the United Nations.