# 70 years of Population Policy

## *History of the Human Reproduction Program of the World Health Organisation 1950-2020*

By

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# Table of Contents

# Glossary

## World Health Organization and its bodies:

**WHO - World Health Organization:** Created in 1948, its goal is to achieve the highest possible level of health for its member states. It defines health in its Constitution as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity."

**World Health Assembly (Health Assembly):** Meeting annually in Geneva, Switzerland, the Assembly is WHO's highest decision-making body. It determines the policies of the Organization, appoints the Director-General, oversees financial policies, and approves the proposed budget for the Organization's programs.

**Executive Board:** Composed of 34 members elected for three years based on their technical qualifications, the WHO Executive Board sets the agenda of the World Health Assembly and the resolutions to be considered. It then ensures the implementation of the resolutions and policies decided by the Assembly.

**Regional Committee:** WHO Member States are divided into 6 regions (Africa, Europe, the Americas, the Eastern Mediterranean, South-East Asia, and the Western Pacific), each with a regional committee headed by a regional director.

**ERC - *Ethics Review Committee*:** an ethics review committee, composed of 27 members appointed by the Director-General, it reviews all research projects involving human beings and supported financially or technically by WHO.

## SRH and HRP:

**HRP -** ***Human Reproduction Programme (UNDP/UNFPA/UNICEF/ WHO/World Bank Special Programme of Research, Development and Research Training in Human Reproduction):*** As a cosponsored programme, it has existed in this form since 1988. It is the main instrument of the United Nations system for research on human reproduction. During its 50 years of existence, it has changed its name several times.

**RHR -** ***Department of Reproductive Health and Research*****:** former WHO department that became the SRH in 2019 and to which the HRP was attached since its creation in 1998.

**SRH -** ***Department of Sexual and Reproductive Health and Research*****:** Department of Sexual and Reproductive Health and Research of WHO, to which the HRP belongs. SRH is in the UHC/Life Course division of WHO since the reorganization of the latter in 2019, when it replaces the HRP.

**PCC -** ***Policy and Coordination Committee*****:** The *Policy and Coordination Committee* is responsible for coordinating the interests and activities of the cooperating parties of the Special Programme. It ensures the preparation and implementation of the Programme by reviewing reports and recommendations from the standing committee, the WHO implementing agency, and the *Scientific and Technical Advisory Group* (STAG), whose membership it approves. These reports and recommendations cover, among other things, the plan of action, budget, funding, and status updates on the Programme's progress toward its goals. It replaced the *Policy and Coordination Advisory Committee* (PCAC), which served a similar function from 1986 to 1988, during the establishment of the HRP co-sponsorship.

**Standing committee:** Standing Committee whose members are representatives of the Cosponsoring agencies of the Special Programme who meet three times a year to review the status of the Special

Programme and make recommendations to the *Policy and Coordination Committee* (PCC).

**STAG - *Scientific and Technical Advisory Group*:** Since 1986, its mission has been to review the scientific and technical content, size and scope of the Special Programme, including the research areas and approaches to be adopted. It also reviews the action plans and budget provided by WHO and makes recommendations on the priorities of the Special Programme or on the need to discontinue the activity of a *Task Force*.

**RP2 - *Research Project Review Panel*:** The Panel for the review of research projects, responsible for ensuring compliance with scientific practices and the quality of HRP research in terms of ethics, technique and financial aspects. Since 1988, it has replaced the *Review Group* which existed since the beginning of the Programme.

**GAP - *Gender and Rights Advisory Panel*:** Advisory Panel created in 1996 under the name of *Gender Advisory Panel* to focus on issues related to gender inequality, sexual mutilation and violence, and rights related to sexual practice and orientation. In 2007, it became the *Gender and Rights Advisory Panel* without changing its acronym.

**Task forces:** Working groups, which by virtue of their focused work, aim to accelerate the development and critical evaluation of new agents affecting fertility. These groups are working on the general understanding of human reproduction as well as on the study of products and processes that can be used for contraception and abortion.

**Steering Committee:** Steering Committee to develop the strategies to be implemented in each *Task Force*.

**Research and Training Centres:** WHO Research and Training Centers aimed at generating momentum in human reproductive research and promoting research collaboration, supporting training, organizing scientific conferences, and serving as regional documentation centers.

**Clinical Research Centres:** Clinical research centers designed to facilitate the rapid clinical evaluation of new fertility regulators.

**PDRH -** ***Programme Development in Reproductive Health*****:** in charge of translating the results of the HRP into operational policies and actions, first within the RHR since 1998 and then within the SRH since 2019. The PDRH also works under the supervision of STAG.

**RHT -** ***Technical Support for Reproductive Health*****:** Technical Support for Reproductive Health, a former WHO department, merged with HRP in 1998.

## HRP co-sponsors:

**UNFPA -** ***United Nations Fund for Population Activities*****:** Created in 1969, it is the lead UN agency for sexual and reproductive health issues.

**UNICEF -** ***United Nations International Children's Emergency Fund*****:** A United Nations agency, created in 1946, with headquarters in New York, USA. It is responsible for protecting the rights of children worldwide, meeting their basic needs and promoting their full development.

**World Bank:** International financial institution, created in 1945, designed to support investments in developing countries. It has two goals: to end extreme poverty and to promote shared prosperity in a sustainable manner.

**PNUD -** ***United Nations Development Programme:*** Programme created in 1966, in charge of reducing poverty and inequality and promoting human development in a comprehensive way.

## United Nations bodies and actions:

**United Nations General Assembly:** The deliberative, decision-making and representative body of the United Nations. Each of the 193 member states is represented.

**Economic and Social Council (ECOSOC):** A body responsible for coordination, dialogue and recommendations on economic, social and environmental issues, as well as the implementation of internationally agreed development goals. The Council oversees the work of specialized agencies in the economic, social and environmental fields. It is composed of 54 members elected for three-year terms and renewed by thirds.

**World Population Conference:** A series of five conferences, the last of which was held in 1994 in Cairo. These conferences adopted a Programme of Action calling for women's rights and reproductive health to be made a central issue in national and international economic and political development efforts, for access by all to comprehensive reproductive health care, including voluntary family planning, safe pregnancy and childbirth services, and for the prevention and treatment of sexually transmitted infections. It also argues that reproductive health and women's empowerment are interdependent and necessary for social progress.

# Preface

*By Giuseppe Benagiano, HRP director from 1993 to 1997.*

I consider it a privilege to have been chosen to present Louis-Marie Bonneau's work on the population policy of the World Health Organization (WHO) and the developments that took place in the second half of the twentieth century and the first decades of the twenty-first. This is because of my work with the Organization for over fifty years.

This is an important study, as it carefully reconstructs the evolution of the United Nations (UN) system's involvement in the field of human reproduction and its many ramifications. Above all, this thesis shows how, from the second half of the twentieth century onwards, the World Health Organization (WHO) - the agency that for seventy-five years has overseen global health - has evolved by changing the direction and priorities of its involvement in the field of human reproduction.

WHO has been involved in issues concerning human reproduction since the 1950s, but initially the climate among member states was very conservative; for example, when, in 1951 the Indian Government requested WHO's help in introducing the so-called 'rhythm' method of Natural Family Planning, the reaction of some member states was rather negative. When, in 1954, it was suggested that WHO should take part in the first UN World Population Conference in Rome, devoted to an exchange of scientific information on demographic variables, their determinants and consequences, some member states were so opposed that they threatened to leave the Organization.

In other words, at the time, it was almost inconceivable to link health to the demographic explosion. In this climate, it took more than 10 years before Dr. Marcolino Gomes Candau, then Director-General of the WHO, was able to state publicly that human reproductive problems represented a major public health issue.

However, once the ice was broken, as shown in detail in this book, progress was steady and rapid: in 1965, WHO created a *Human Reproduction Unit* with a mandate that included advising member states on family planning. This was a complete change from the attitudes of just 10 years ago. The Unit gradually evolved into the 'Expanded' (and later 'Special') Programme for Research, Development and Training in Human Reproduction (Human Reproduction Programme, HRP), officially created in 1972 with funding from a few northern European countries and the Ford Foundation, as this thesis outlines.

Initially, the Programme aimed to develop a variety of safe, acceptable and effective family planning methods for fertility regulation. This objective was achieved through task-oriented Working Groups. The HRP was also responsible for monitoring the long-term safety and efficacy of existing methods. This thesis details this research work from 1972 to the present day. It highlights the various techniques developed and tested: intrauterine devices, implantable hormonal devices, injectable contraceptives, sterilization, immunocontraception, the introduction of medical abortion, male hormonal contraceptives and behavioral studies on the acceptability of the techniques used.

Finally, the Programme was to create and support Institutions capable of working with WHO in the field of human reproduction; this was achieved through a network of Collaborating Centres in the six WHO Regions and the creation of four Research and Training Centres. This infrastructure has enabled the HRP to play a leading role in generating evidence of efficacy and safety, and in translating research data into action. It should be emphasized that, from the outset, the focus was on fertility regulation, but work was also carried out on infertility.

An important development took place in 1988, when the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA) and the World Bank joined WHO as official co-sponsors of the HRP. More recently, the United Nations Children's Fund (UNICEF) has also joined the Programme. This partnership has increased both the visibility and funding of the HRP. This thesis also

notes that a non-governmental organization, the International Planned Parenthood Federation (IPPF), has been a permanent member of the program's Coordinating Committee since 1977, alongside the program's co-sponsors.

Another major development took place at the World Conference on Population and Development (ICPD) held in Cairo in 1994. For this occasion, HRP was tasked with defining a new socio-medical entity: Reproductive Health, which was subsequently transformed into Sexual and Reproductive Health and Rights. The HRP was then charged with informing the world's women and men of the existence of multiple human rights that protect them, including the right to life and health, the right to privacy, the right to reproductive and sexual education, and the prohibition of discrimination. A further development took place in 1998, when the HRP merged with WHO's Division of Reproductive Health Technical Support (RHT).

With great foresight, Dr. Alexander Kessler, the first head, and since then Director, of the HRP had declared that special programmes do not last forever: they are intended to solve "urgent but limited problems". In reality, the HRP has already survived half a century, celebrating fifty years of life in 2022. This has been made possible by a gradual evolution of its objectives and structures: it was for this reason that the new Department of Reproductive Health and Research (RHR) was set up to ensure a continuous dialogue between research and the process of knowledge exchange, advocacy and technical support for national programmes. The merger with RHT enabled HRP to further extend its work to the full range of reproductive health and sexual relations issues, including AIDS research. More recently, a new name has been established for the department, that of Sexual and Reproductive Health and Research (SRH).

Notably, the new department has moved into the field of pregnancy termination, developing an effective regimen for non-surgical abortion and demonstrating that primary care providers can safely administer

such a regimen, as well as undertaking manual vacuum aspiration for first-trimester abortions.

After the start of the new millennium, thanks to its advocacy activities, the HRP, in 2004, made a major contribution to the development and adoption of the Global Reproductive Health Strategy by the World Health Assembly. The RHR/HRP Department also played a role in the formulation of the 2004 revision of the ICPD goals and in the definition of the Millennium Development Goals for "reproductive health for all by 2015" in 2006.

The Special Programme therefore evolved gradually in the 2000s, just as Dr. Kessler had predicted. The new department now deals with sexually transmitted infections (including HIV/AIDS), family planning, infertility, unsafe abortion, sexual health, cervical cancer screening in developing countries, and sexual and reproductive rights.

New activities also include promoting international cooperation in the field of human reproduction, promoting inter-agency statements on the implications for public health, women's rights against female genital mutilation, and sex-specific selection. An important new activity has been the creation of guidelines and tools, such as the "Medical Eligibility Criteria for Contraceptive Use," the "Global Handbook for Family Planning Agents," the "Definition of Core Competencies in Primary Health Care," and the design of tools to operationalize a humane and women's rights-based approach to sexual and reproductive health programmes.

In conclusion, today, HRP/SRH supports and coordinates research on a global scale, synthesizes research findings through systematic literature reviews, builds research capacity in low-income countries and develops dissemination tools on how to effectively use the information that research is constantly uncovering.

All these developments and innovations are detailed in the book.

# Introduction

Until now, the literature on the *Human Reproduction Programme* (HRP) had been written by former members of the Programme, in particular former directors. Other articles existed but took a macro-analytical approach. The aim of this research was to take an outside look at the HRP, taking a more micro-analytical approach and contextualizing it as exhaustively as possible. The goal was to provide research with a synthesis based almost exclusively on primary sources, in order to gain the most accurate understanding of the institutional path leading to research on human reproduction at the WHO. These sources are mainly WHO and UN resolutions, WHO Director-General reports, and HRP reports. The aim was also to understand how this WHO programme and strategy for human reproduction fit into the broader UN vision. The goal was also to determine how influences and orientations, both in terms of research and societal vision, were organized and concretized within the HRP's actions. Finally, this research aimed to determine the impact of the HRP on contemporary scientific policies and recommendations concerning human reproduction. Indeed, understanding the genealogy of these policies and recommendations will enable us to better apprehend and question them today.

The UN's and WHO's analyses and strategies on population and human reproduction took decades to develop. It also took several years for their vision to be realized in the HRP as we know it today, which has undergone several structural and strategic evolutions over the course of its existence. As early as the 1950s, the UN was expressing concern about "demographic problems." This concern was primarily economic, as population growth was seen as impoverishing the population. As a specialized agency of the UN and considering that it was also degrading the population's state of health, the WHO therefore took an interest in this phenomenon. To meet this new challenge, it was decided in 1964 to increase scientific research of human reproduction. Thus, from an economic concern and a health concern, WHO defined

its strategy in resolution WHA18.49 and created the *Human Reproduction Unit* in 1965. WHO's aim was to regulate the population in order to improve the health situation. This vision was approved by the UN in 1966. The WHO took on four roles: an advisory role in the promotion of family planning, a coordinating role, a documentary and biomedical research role, and a training role.

In 1970, several organizations met in Geneva to discuss the creation of a worldwide research programme on human reproduction within the framework of the *Human Reproduction Unit*. Following a feasibility study strongly supported by the Ford Foundation, a draft programme was drawn up in 1971. The programme was then built around an action plan that saw the creation of at least four major *Research and Training Centres*. The plan also envisaged a model of cooperation with clinical centers to "facilitate the rapid clinical evaluation of new fertility regulating agents." The creation of *Task Forces* was then an important component of the imagined Programme. Their role was to conduct research projects and increase collaboration in research and development in the field of fertility regulation. The aim was to provide a flexible mechanism through the formation of groups which, through their focused work, would aim to "accelerate the development and critical evaluation of new agents affecting fertility." Thus, as early as 1971, the *new Expanded Programme for Research, Development and Training in Human Reproduction* (HRP) was directed by an *Advisory Group* charged with advising WHO on research policy, strategies and priorities, as well as resource allocation.

The Programme was conceived from a demographic angle, but from a practical point of view, it became part of the WHO's role as coordinator of biomedical research with resolution WHA25.60 of 1972. According to various Programme Directors, this 1972 resolution formally established the HRP. Between 1970 and 1973, contributors to the Programme included Sweden, Canada, Denmark, and the Ford Foundation.

In 1977, the Expanded Programme became the Special Programme, and in 1986 a transformation of its structure began. The *Advisory Group* became the *Policy and Coordination Advisory Committee* (PCAC). This committee comprised the twelve main contributing countries; twelve members were elected by the regional committees, three members elected by the PCAC (who could represent NGOs), as well as UNFPA, the World Bank and IPPF as permanent members. The programme also added the *Scientific and Technical Advisory Group* (STAG) to its supervisory bodies.

In 1987, UNDP, UNFPA, WHO and the World Bank decided to co-sponsor the Programme in order to secure substantial, stable funding. Since 1988, this new form of the Programme has remained essentially the same. The PCAC became the PCC (*Policy and Coordination Committee*) and the new structure was administered by a *Standing Committee*, whose members are representatives of the co-sponsoring institutions. The Health Assembly approved the new structure in resolution WHA41.9. In 1996, the *Gender Advisory Panel* (GAP) was also set up, to give particular attention to issues relating to gender inequality, genital mutilation, sexual violence, and rights linked to sexual practice and orientation.

In 1998, HRP merged with the *Division of Technical Support for Reproductive Health* (RHT) to form the *Department of Reproductive Health and Research* (RHR). RHR comprised HRP on the one hand, and the *Programme Development in Reproductive Health* (PDRH) on the other. The HRP remained a research and training programme with no operational activities. The PDRH's mission thus became the implementation of the HRP's results into operational policies and actions within the RHR. In December 2012, UNICEF became a new co-sponsor of the HRP and UNAIDS became a new permanent member of the PCC, joining IPPF in this capacity. Finally, as part of a wider WHO reform, the RHR was placed under the responsibility of the WHO Division of *UHC/Life Course* and became the *Department of Sexual and Reproductive Health and Research* (SRH) in 2019.

**Scientific orientation of the programme**

The programme's activities have enabled it to be at the forefront of research into human reproduction and family planning, notably through the collaboration of *Task Forces*, *Clinical Research Centres, and Research* and *Training Centres*. Research has focused on the safety and efficacy of fertility regulation methods, the behavioral and social determinants of fertility regulation, fertility regulation vaccines, male fertility regulation methods, natural fertility regulation methods, and infertility prevention and management.

All aspects of human reproduction were studied to determine how new contraceptives and abortifacients could be developed. It was soon established that male contraception was the most difficult to implement. Without completely abandoning this aspect, the programme concentrated on female contraception. This involved, for example, interfering with the transport of the ovum by non-surgical chemical means, creating anti-pregnancy or anti-sperm vaccines, developing new generations of contraceptive pills with fewer side-effects, or implanting intra-uterine devices (IUDs). To give an example of whose influence is clearly visible today, one line of research was the development of "emergency contraception," i.e., the "morning-after pill." Other research focused on prostaglandins, with the aim of developing safe and effective methods of second-trimester abortion. Still, other research integrated sociological and psychological aspects, notably on the after-effects of abortions or on their acceptability, as well as on the acceptability of contraception and sterilization.

The HRP's research network also enabled it to conduct large-scale clinical trials for its work. At the same time, the HRP disseminated guides and guidelines on family planning, including female sterilization and natural methods. Today, it is clear that the HRP's role was fundamental in the development of the most commonly used methods of contraception and abortion. In the space of 50 years, a subject which was almost taboo in many countries, and for which methods were still very limited, has become a field of research in its

own right; and birth control with the declared aim of limiting the number of births has become an acceptable and even highlighted subject.

According to a 2013 evaluation report,[1] HRP is seen as the "unique global resource that generates the research findings, synthesizes the evidence and develops the products to support policy formulation and programme strengthening to improve SRH."[2] The Programme also benefits from the image of the WHO, which, according to the report, is perceived worldwide as "inclusive and neutral," as well as a universally recognized authority in its field. This image ensures the HRP's credibility with member states and increases the impact of the documents it publishes.[3] According to a report from another 2019[4] evaluation, "as a programme cosponsored by four UN agencies and the World Bank, HRP fills a unique and critical role as a global authority for evidence on issues of human reproduction, sexual health, and sexual rights. HRP is embedded in WHO, which provides it with a close link to the authority that defines global norms and standards in the health sector and supports countries in their application. While the co-sponsorship and distinct funding model provides a greater degree of freedom from political influence in the pursuit of evidence. The work of HRP focuses on priority issues of sexual and reproductive health and rights in low- and middle-income countries. Among its scope of activities, HRP was particularly well placed to synthesize and build consensus around existing evidence, including global data and indicators. This is an area of work in which HRP has an undisputed leadership role. As a research agency, HRP maintains an essential role

[1] World Health Organization [WHO], *External Evaluation 2008-2012: Advancing Sexual and Reproductive Health: Executive Summary*, (2013), https://apps.who.int/iris/handle/10665/85332 [hereinafter *External Evaluation 2008-2012*].
[2] *Id.* at 9.
[3] *Id.* at 8-9.
[4] World Health Organization [WHO], *External Evaluation of the UNDP-UNFPA-UNICEF-WHO-World Bank Special Programme of Research, Development and Research Training in Human Reproduction (HRP) 2013-2017*, (2019), https://cdn.who.int/media/docs/default-source/hrp/hrp-evaluation-report-vol-1.pdf?sfvrsn=140faddc_6&download=true [hereinafter *HRP 2013-2017*].

in niche areas such as the prevention of unsafe abortion and the promotion of sexual rights where there are few global players." [5]

## The philosophical orientation of the programme

The Programme has originated in the demographic concerns of the United Nations in the 1950s, in the face of the increase in the earth's population. In a logical extension, G. Benagiano and E. Diczfalusy, two former HRP leaders, published an article in 1995 in which they placed the HRP in a filiation beginning with Condorcet, then Malthus and ending with Margaret Sanger:[6]

> It is therefore increasingly being realised today that the global ecosystem imposes limits on the number of people the world can sustain. A Chinese proverb says: "Do not think that you are on the wrong path, simply because you have not gone far enough". Malthus was not wrong… In retrospect, it is clear that Malthus was a brilliant thinker and philosopher. However, he is not the "father" of family planning; the idea of fertility regulation was simply unacceptable to his conventional Christian philosophy. The intellectual father of family planning was the Marquis de Condorcet. Bertrand Russell points out that Condorcet originated Malthus's theory of population, which, however, did not have for him the gloomy consequences that it had for Malthus, because he coupled it with the necessity of active birth control Malthus's father was a disciple of Condorcet, and it was in this way that Malthus came to know the theory. Interestingly, Condorcet, like the somewhat later Charles Fourier, was also a pioneer in advocating equality for women. William Faulkner says that "the past is never dead; it is not even past…". If Condorcet is the "father" of family planning with its demographic rationale, the "mother" must be Margaret Sanger. She opened her family

[5] *Id.* at VI.

[6] Giuseppe Benagiano & Egon Diczfalusy, *Research on Human Reproduction and the United Nations*, 85 S. AFR. MED. J. 370, 371-73 (1995).

> planning clinic in Brooklyn, New York, on October 16, 1916. It instantly became very popular until, after 11 days, the police department closed it down and Mrs. Sanger was sentenced by a New York court and imprisoned for "obscenity". Mrs. Sanger can therefore be considered the "mother" of practical family planning with its human rights and reproductive health rationale.

Today, the HRP's aim is to meet the contraceptive and family planning information needs of 225 to 270 million women living in developing countries. These needs are not being met because of "fear or experience of side-effects; limited access and choice; cultural or religious opposition; and poor quality of available services." Access to these services would then be "crucial for securing the well-being and autonomy of women, while supporting the health and development of communities."[7] So for the HRP, "Ensuring access to preferred contraceptive methods for women and couples is essential to securing their well-being and autonomy, while supporting the health and development of communities."[8] This project goes hand in hand with an idealistic vision, reflected in statements made by the Programme Director in 2004, for example, that "there is an urgent need now to recognize the key role of reproductive health in underpinning sustainable development, and to increase our efforts, not only to build the evidence base for effective action, but also to put into practice what we already know. Only in this way can we move towards our ideal world."[9] Or in 2008: "On the eve of my departure from WHO, I am reminded of the words of Benjamin Mays, "It isn't a disgrace not to reach the stars, but it is a disgrace to have no stars to reach for." Let us make sure the sexual and reproductive health and well-being of our

[7] World Health Organization [WHO], *HRP Annual Report 2016*, at 4 (2017), https://apps.who.int/iris/handle/10665/255768 [hereinafter *Annual Report 2016*].
[8]World Health Organization [WHO], *HRP Annual Report 2020*, at 8 (2021), https://apps.who.int/iris/handle/10665/346657 [hereinafter *HRP Annual Report 2020*].
[9] World Health Organization [WHO], *Research on Reproductive Health at WHO: Pushing the Frontiers of Knowledge: Biennial Report 2002-2003*, at 7-8 (2004), https://apps.who.int/iris/handle/10665/42997 [hereinafter *Biennial Report 2002-2003*].

fellow human beings, wherever they live, is one of the stars in our lives."[10]

These scientific and philosophical orientations have had a major impact on the world's population right up to the present day. Scientific research can have major societal implications and is therefore never neutral in itself. Such is the case with research into human reproduction. It would seem that the fear, fueled by scientific discourse, of a global crisis linked to a demographic explosion has conditioned the policies of many of the world's countries. This raises the question of the relationship between science and politics, particularly when the latter is confronted with its own fears, especially in times of crisis. This question is all the more pressing when, without disputing the robustness of the scientific results and method, it becomes apparent that the research agenda is influenced by a limited number of states and private players, who are the main funders and administrators of the Programme. Faced with the fear of a crisis linked to a demographic explosion, it was decided to focus scientific research on fertility control by developing contraceptive and family planning methods. Forty years later, it's time to assess and critique the results.

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[10] World Health Organization [WHO], *Sexual and Reproductive Health: Research and Action in Support of the Millennium Development Goals, Biennial Report 2006-2007*, at 1-3 (2008), https://apps.who.int/iris/handle/10665/43916 [hereinafter *Biennial Report 2006-2007*].

# Institutional context: WHO structure and link with the UN

WHO is a specialized agency of the United Nations whose Constitution was approved on July 22, 1946, at the end of the International Health Conference. WHO began its activity on April 7, 1948. Like all UN specialized agencies, the relationship is established individually, and the agency is legally independent. Within the UN, its action is coordinated with other agencies and services by the Economic and Social Council. This Council is the body responsible for coordination, dialogue, and recommendations on economic, social and environmental issues; as well as in the implementation of internationally agreed development goals. The Council oversees the work of the specialized agencies in the economic, social and environmental fields. The WHO and the UN share information, data and administrative and technical resources. Through their cooperation, they ensure the avoidance duplication of research and projects.

The governance of WHO is divided into three entities: the World Health Assembly, the Executive Board, and the Director-General. Meeting annually in Geneva, Switzerland, the Health Assembly is WHO's highest decision-making body. It determines the policies of the Organization, appoints the Director-General, oversees financial policies and approves the proposed budget for the Organization's programs. The WHO Executive Board, composed of 34 members elected for three-year terms and on the basis of their technical qualifications, sets the agenda for the World Health Assembly and the resolutions to be considered there. It then ensures the implementation of the resolutions and policies decided by the Health Assembly. Elected for a five-year term, renewable once, the Director-General directs the administration of the Organization.

WHO's budget is determined on the one hand by fixed contributions from member states and on the other hand by voluntary contributions from state and non-state actors. For the period 2021-2022, the United States is the largest contributor (US$ 1,122.7 million - 16% of funding), followed by the Bill and Melinda Gates Foundation (US$ 800.6 million - 12.7% of funding).

To achieve its mission, WHO forms a large number of partnerships and networks to support research coordination, provide financial support to countries in need, and create a common working space for different health actors, whether private investors, public administrations, NGOs, foundations or academic institutions. WHO also directly administers inter-agency programs (e.g. UNAIDS), secretariats for the follow-up of international conventions involving the Organization, and co-sponsored programmes (*Special Programme on Research and Training in Tropical Diseases* - TDR, S*pecial Programme of Research, Development and Research Training in Human Reproduction* - HRP, *Global Polio Eradication Initiative* - GPEI). In accordance with the resolutions of the various conferences on population, and expressing for the United Nations the concern of the States for the demographic question, the WHO leads with the HRP a joint Programme with the UNDP, the UNFP, the UNICEF, and the World Bank. This programme seeks to support research and to push the States and the scientific and medical communities in the fields of sexual and reproductive health. The Programme focuses much of its research on birth control, including the development of contraceptives and abortifacients. It also focuses research on the health and sociological consequences of their use.

# PART ONE

## "Population problems": a concern of the UN and WHO since the 1950s

# Chapter 1
# WHO's role in the United Nations system

"WHO is the directing and coordinating authority for health within the United Nations system."[11] Its Constitution[12] was adopted by the representatives of 61 States at the International Health Conference held in New York from June 19 to July 22, 1946. According to article 1 of the constitution, "the objective of the World Health Organization […] shall be the attainment by all peoples of the highest possible level of health". To this end, WHO acts as a directing and coordinating authority in the field of health, establishes collaborations with other international, governmental or non-governmental organizations that it deems relevant, and has the role of stimulating and guiding research in the field of health (art. 2). Article 2.l. states that in order to achieve its purpose, the Organization shall seek "to promote maternal and child health and welfare and to foster the ability to live harmoniously in a changing total environment."

## Structure and functioning of WHO

According to Article 9 of its Constitution, the functioning of the Organization is carried out by the World Health Assembly (Health Assembly), the Executive Board, and the Secretariat. The Health Assembly is composed of delegates representing the Member States (Article 10). Article 18 defines the functions of the Health Assembly. In particular, it is responsible for determining the policy of the Organization, appointing the Director-General, considering and approving the reports and activities of the Board and the Director-General; considering recommendations relating to health from the

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[11] *World Health Organization*, UNITED NATIONS, https://www.un.org/youthenvoy/2013/09/who-world-health-organisation/ (last visited July 5, 2023).

[12] WHO, *Constitution of the World Health Organization*, *in* BASIC DOCUMENTS (49th ed., 2020), https://apps.who.int/gb/bd/pdf_files/BD_49th-en.pdf#page=6.

General Assembly of the United Nations and the Economic and Social Council; and encouraging or directing all research work in the field of health by using the staff of the Organization or establishing its own institutions.

The Director-General is appointed by the Health Assembly on the proposal of the Board under whose authority he is placed. He is the chief technical and administrative officer of the Organization (Article 31). He appoints the staff of the Secretariat in accordance with the Staff Rules (Article 35). In the performance of their duties, the Director-General and the staff shall not seek or receive instructions from any government or from any authority external to the Organization (Article 37). The technical and administrative staff of the Organization shall enjoy such privileges and immunities as are necessary for the free exercise of their functions in connection with the Organization (Article 67).

## A focus on "population problems" from the beginning

As early as 1950, a resolution of the Third World Health Assembly[13] invited the WHO Director-General to collaborate on a broad basis with the United Nations and the specialized agencies in all matters relating to "population problems."[14]

In August 1951, the WHO Regional Committee for South-East Asia published a document entitled "*Population Problems.*" The Director-General drew the Members of the executive board's attention to this

[13] World Health Organization [WHO], Res. WHA3.7, *On Population Problems,* (May 19, 1950), *in* 3d World Health Assembly Geneva, Part I: Resolutions and Decisions, at 17 (1950) , https://apps.who.int/iris/bitstream/handle/10665/86205/WHA3.7_eng.pdf?sequence=1&isAllowed=y.

[14] WHO, *Resolution on Population Problems*, 5th Sess. Geneva, pt. 1 at. 9 (1950), https://apps.who.int/iris/handle/10665/85604.

document in November of that year.[15] It reported that on the recommendation of the UN Commission on Population and Development, a survey was conducted in India on "Inter-relationship between economic, social and population changes."[16] One purpose of the survey was to determine the awareness of various demographic groups of artificial birth control methods.[17] This region of the world received particular attention at the time, since half of the total world population growth was taking place in Asia. The paper went on to note that while before the eighteenth century, the death rate had been the major factor governing population growth, medical and technological advances had caused it to fall. Nuptiality and fertility were then considered factors to be taken into account to govern the demographic growth.[18] For the WHO Regional Committee for South-East Asia, the issue of family limitation was of great interest in India, particularly in terms of convincing the population that limiting births would be of economic and social benefit. The Indian Sub-Committee on Population and Family Planning recommended to the *Indian Planning Commission* that the State provide the necessary means for sterilization, or to advise on the application of contraceptive methods. In the same vein, the Ministry of Health of the Government of India had also requested WHO assistance for a pilot family planning experiment (known as "rhythmic control").[19]

According to an article[20] published by Giuseppe Benagiano (director of the HRP from 1993 to 1997), the WHO became interested in human reproduction after this request for technical assistance from the Indian

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[15] WHO, *SEA/RC4/14 – Population Problems*, Reg'l Comm. for S.E. Asia, New Delhi (Aug. 17, 1951), https://apps.who.int/iris/bitstream/handle/10665/128144/EB9_16_eng.pdf?sequence=1&isAllowed=y.

[16] *Id.* at 3.

[17] *Id.* at 4.

[18] *Id.* at 5.

[19] *Id.* at 11-12.

[20] Giuseppe Benagiano et al., *The Special Programme of Research in Human Reproduction : Forty Years of Activities to Achieve Reproductive Health for All*, 74 GYNECOLOGIC & OBSTETRIC INVESTIGATION 190, 191 (2012).

government on natural family planning (NFP) methods. In 1952, an Executive Council document on a "*Pilot study on the voluntary limitation of families in India*" was published.[21] He recalls that this request from the Indian government was subject to the condition that the experiments be "restricted to the use of the "safe period" only and without the use of mechanical contrivances." Dr. Abraham Stone, vice president of the *Planned Parenthood Association*, was hired by WHO to conduct this preliminary survey in India. These pilot family planning studies, conducted in collaboration with the *Division of Population Studies*, and with the assistance of two WHO field officers, were completed in 1954 and a report was submitted to the Indian government.[22] An article in the quarterly review of the *Institut national d'études démographique* of 1955 gives an account of it.[23]

In support of its argument, the 1951 document of the WHO Regional Committee for Southeast Asia[24] recommends to Southeast Asian governments interested in the issue of population control the findings of a 1948 report entitled "*Public Health and Demography in the Far East*" by Dr. M.C. Balfour and his colleagues at the Rockefeller Foundation. According to this report, "the level of fertility […] is a product of the total culture, including its most deeply laid and intimate aspects which are slow to change. Profound changes in fertility will probably await profound changes in the culture and economy."[25] In general, Dr. M.C. Balfour advocated reducing fertility in marriage and he did not hesitate to propose the most radical methods: "There are some possibilities in

[21] WHO Executive Board, EB9/96, *Pilot Study on the Voluntary Limitation of Families in India*, (January 28, 1952), https://apps.who.int/iris/handle/10665/128229.
[22] WHO Reg'l Office S.E. Asia, SEA/RC7/2, *Population Studies*, at 55 (1954) https://apps.who.int/iris/handle/10665/130998.
[23] Q. Rev. Nat'l Inst. for Demographic Stud., *Survey on the Possibility of Disseminating the Ogino Method in India*, 10 POPULATION 361-65 (1955) https://www.persee.fr/doc/pop_0032-4663_1955_num_10_2_4364.
[24] WHO Reg'l Comm. for S.E. Asia, SEA/RC4/14, *Population Problems*, (1951), https://apps.who.int/iris/bitstream/handle/10665/128144/EB9_16_eng.pdf?sequence=1&isAllowed=y.
[25] *Id.* at 6.

sterilization where medical facilities are available. We think, however, that main reliance must be placed on contraception."[26]

Finally, also in this 1951 document, the WHO Regional Committee for South-East Asia, referring to resolution WHA3.7 of 1950, also states the position of the Executive Board, which emphasized the need for WHO to take concrete action on population problems and to provide advice on the medical problems posed by population limitation.[27] This position led to a resolution adopted by the same Council which, noting the collaboration established between the World Health Organization and the United Nations on population problems, invited the Director-General to study these problems in conjunction with the United Nations Population Commission, with a goal to define the functions of the two organizations.[28]

[26] *Id*. at 8.
[27] *Id*. at 9-10.
[28] *Id*. at 10.

# Chapter 2
# Economic problems or better global health: the beginnings of human reproduction research (1954-1966)

## Between economic and demographic problems: a concern of the UN

In 1954, the first World Population Conference was held in Rome.[29] The aim of this conference was to gather scientific information on demographic variables, their determinants, and their consequences.[30] Different meetings dealt with different demographic aspects of economic and social development: "Population in relation to the development of non-biological resource; Population in relation to the development of agriculture; Population in relation to capital formation, investment and employment; Demographic aspects of economic and social development." [31] In the opinion of Egon Diczfalusy (a collaborator with Alexander Kessler, the first director of the HRP, and a senior consultant to the HRP from 1984 to 1996) in a 1985 article[32], the immediate impact of this conference was little or nonexistent on policy makers.

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[29] World Population Conf., *Proceedings of the World Population Conference*, U.N. Doc. E/CONF 13/412, meetings 20, 22, 24, and 26 (1955), https://documents-dds-ny.un.org/doc/UNDOC/GEN/NL5/502/64/PDF/NL550264.pdf?OpenElement.

[30] CONFERENCES | POPULATION, UN, https://www.un.org/fr/conferences/population/index (last visited July 5, 2023).

[31] E/CONF 13/412, Preface

[32] E. Diczfalusy, *World Health Organization Special Programme of Research, Development and Research Training in Human Reproduction. An international response to a global concern*, CONTRACEPTION 323, 324 (Oct. 1985) https://www.sciencedirect.com/science/article/abs/pii/0010782485900368.