against Albanian Kosovar women. Thus, the international community must adopt an entirely new standard. The public violence directed against Afghan women who do not conform to the Taliban's view of Islamic practices must be challenged.

Conclusion

The United Nations Development Program's 1994 *Human Development Report* describes "human security" as a necessary condition to peace. The report states: "The world can never be at peace unless people have security in their daily lives. The search for security in such a milieu lies in development, not in arms."[10(p1)]

As the majority of the displaced and refugee populations, women who are war victims hold a major stake in securing peace. Across the globe, women are among the first to engage in dialogue, to effect reconciliation, and to promote values aimed at creating a culture of justice and peace.

The health and human rights crisis in Afghanistan was brought about by the Cold War between superpowers and must now be analyzed in the context of that war. In this context, it is imperative that the gender apartheid policies and practices of the Taliban and the current level of violence against Afghan women be linked to the larger geopolitical decisions made at the start of this conflict. In particular, it must be fully recognized that the United States' support for the most radical elements of Islamic fundamentalism throughout the 1980s slowly brought about the destruction of the cultural framework that defined and maintained the time-honored role of Afghan women. For Afghanistan to be at peace, this role must be returned to Afghan women, and that is something only the United States and the world community have the power to do. □

Sima Wali, MA
Elizabeth Gould, BS
Paul Fitzgerald, BA

References

1. *Women in Afghanistan: A Human Rights Catastrophe.* New York, NY: Amnesty International; November 3, 1995.
2. *World Refugee Survey.* Washington, DC: US Committee for Refugees; 1995.
3. Cook RJ. *Women's Health and Human Rights.* Geneva, Switzerland: World Health Organization; 1994.
4. Wali S. Hunger among uprooted women and children. In: *Hunger 1993: Uprooted People. Third Annual Report on the State of World Hunger.* Washington, DC: Bread for the World Institute; 1992:54–59.
5. Rasekh Z, Bauer H, Manos M, Iacopino V. Women's health and human rights in Afghanistan. *JAMA.* 1998;280:449–455.
6. Gupta L. *Survey on Afghan Children.* New York, NY: United Nations Children's Fund (UNICEF); October 1997.
7. *Human Development Report 1996.* New York, NY: United Nations Development Program; 1996.
8. *Human Development Report 1995.* New York, NY: United Nations Development Program; 1995.
9. *Human Development Report 1990.* New York, NY: United Nations Development Program; 1990.
10. *Human Development Report 1994.* New York, NY: United Nations Development Program; 1994.
11. Mollica R. The trauma story: the psychiatric care of refugee survivors of violence and torture. In: Ochberg F, ed. *Post-Traumatic Therapy and Victims of Violence.* New York, NY: Brunner/Mazel; 1998:295–314.

Welfare Reform as a Human Rights Issue

The internationally recognized human right to health is grounded in a wide array of human rights instruments, one of the earliest being the Universal Declaration of Human Rights. According to the Declaration, "Everyone has the right to a standard of living adequate for the health and well-being of [her/him]self and of [her/his] family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond [her/his] control."[1]

It is telling that, from its inception, the human rights community conceived of the right to health as inextricably tied to the wide range of social and economic rights without which an adequate standard of living cannot be ensured. This approach is consistent with the fundamental concept of "indivisibility" of human rights. This principle recognizes that all human rights are linked and affect one another.

Not only have almost all nations agreed to be bound by the principles of the Universal Declaration of Human Rights, but the United States in particular was a primary architect of the document. Moreover, while in recent years it has been reluctant to ratify the International Covenant on Social, Economic, and Cultural Rights, the United States has indeed signed that treaty, thus obligating itself not to take any action that would violate the "spirit or purpose" of the treaty. The United States has also recognized the binding character of economic and social rights in many human rights instruments—such as the Platform for Action agreed upon at the Fourth World Conference on Women in Beijing—and made broad commitments to ensuring the right to health.

In this editorial, I focus on how welfare reform meets or fails to meet the standards set by these international human rights instruments, in light of the conclusions reached by Dr Paul Wise, Dr Wendy Chavkin, and Diana Romero in their accompanying article (p 1514). In particular, I touch on 4 human rights issues: (1) monitoring of the extent of realization or nonrealization of economic and social rights, particularly the right to health; (2) the prohibition on retrogression in the realization of economic and social rights; (3) the right to be free from gender discrimination; and (4) direct violations of economic and social rights, particularly rights to reproductive health.

Monitoring of Rights

Wise et al. recognize the relationship—or, in human rights parlance, "the indivisibility"—between an adequate standard of living and health, as does the Universal Declaration of Human Rights. From neither a public health perspective nor a human rights perspective can the right to health be "decoupled" from the provision or lack thereof of basic social protection and social security so long as an individual's standard

Editor's Note. See related article by Wise et al. (p 1514) in this issue.

of living is affected. The article raises the question, however, of how we would know to what extent the significant diminishment of social services and support represented by the Personal Responsibility Work Opportunity and Reconciliation Act affects health status. This is also a human rights question.

The Committee on Social, Economic, and Cultural Rights, which is the United Nations organ charged with overseeing enforcement of the International Covenant on Social, Economic, and Cultural Rights, has issued a general comment indicating that the state obligation "to monitor the extent of the realization, or more especially of the nonrealization, of economic, social and cultural rights . . . [is] not in any way eliminated as a result of resource constraints."[2] This reflects the primacy of the obligation to monitor, because true resource constraints are generally considered a justifiable basis for delay in the complete fulfillment of social and economic rights. Thus, if, as Wise et al. state, "the ability to detect associations [between welfare policies and reproductive health] will be limited by . . . the availability of relevant data," then the United States has failed in its obligation.

Wise et al. also point to 2 issues that are relevant in assessing whether the monitoring is adequate. One is the need to look beyond "broad demographic or epidemiologic trends and examine the consequences for specific subgroups." This need for disaggregated data as a fundamental part of adequate monitoring is reflected across the board in human rights instruments. For example, in the Beijing Platform for Action, governments agreed to "[t]rain researchers and introduce systems that allow for the use of data collected, analysed and disaggregated by, among other factors, sex and age, and other established demographic criteria and socio-economic variables, in policy-making, [and] as appropriate, planning, monitoring and evaluation."[3(¶109)] In particular, the authors point out that welfare reform may affect population subgroups, including women with substance abuse problems, mental health problems, limited education and employment skills, language barriers, and chronically ill children, differently and more substantially.

The article also presents and reinforces the underlying reasons for the unequivocal nature of this legal principle. As the authors note, critics of welfare reform have argued that the lack of monitoring or follow-up regarding women who have been cut off from assistance may conceal those who are already experiencing worse poverty. Thus, retrogression in the fulfillment of economic and social rights may become invisible, and consequently it becomes impossible to develop enforcement mechanisms in response. Similarly, without adequate monitoring the state is able, intentionally or unintentionally, to obscure underlying factors representing multiple human rights concerns.

For example, the study referred to in the greater Philadelphia area demonstrates that those who might be cut off as a result of "lack of compliance with work requirements" may in fact end up being penalized for their or their children's health problems. This information substantially changes the nature of the human rights analysis, because it reveals the compound and grave nature of the state's violations, if indeed these types of individuals are cut off and thereby suffer further health and other consequences.

Monitoring the extent of realization or nonrealization of economic and social rights, particularly the right to reproductive health, is a core component of US human rights obligations. Thus, if the United States has failed to monitor the impact of welfare reform on reproductive health in a systematic, comprehensive, and adequate manner, as the article implies, it is falling short in this critical aspect of human rights enforcement.

Prohibition on Retrogression

The right to health, including reproductive health, has civil, political, economic, social, and cultural aspects. For example, as a general matter, the right to refuse medical treatment is a civil and political right, while the right to receive medical services is an economic and social right. As noted earlier, these aspects of human rights are considered indivisible; however, standards of enforcement for civil–political rights and economic, social, and cultural rights differ. States are obligated to "progressively implement" economic and social rights. This simply means that states must undertake steps, over time, to ensure the realization of such rights. A necessary corollary to this principle is that states are prohibited from regression or "retrogression" in the area of realization of these rights.

The recent changes in the welfare reform law represent such a retrogression, in that formerly available social services, security, and protection have been officially diminished or eliminated. Moreover, the data cited by Wise et al. regarding the dramatic decline in Medicaid enrollment, the increase in the uninsured population, and the decrease in food stamp participation, coupled with an increase in the need for emergency food assistance, all indicate that even formally available services have been, in practice, substantially scaled back. This constitutes further retrogression.

The program of action adopted at the International Conference on Population and Development, to which the United States committed itself, recognizes "the right of access to appropriate health care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant."[4] To the extent that these welfare reform policies will affect access to appropriate reproductive health care services, they clearly constitute an unacceptable retrogression. Any subsequent negative trend regarding pregnancy outcomes would constitute a valid indicator of human rights violations.

Moreover, such trends are particularly troubling in light of the US commitments made at world conferences such as the International Conference on Population and Development in Cairo, where the United States committed to taking action in support of families. Examples of appropriate actions in Cairo's program of action include providing "health insurance and social security, . . . part-time jobs, paid parental leave, paid maternity leave, flexible work schedules, and reproductive and child health services."[5] The steps taken by the United States are directly contrary to both the spirit and the letter of its international commitments.

Gender Discrimination

As the Beijing Platform for Action noted, "In too many countries, social welfare systems do not take sufficient account of the specific conditions of women living in poverty, and there is a tendency to scale back the services provided by such systems."[3(¶52)] Thus, the platform recognizes that (1) there is an international problem regarding the fulfillment of women's economic and social rights, and (2) when services are scaled back, women are disproportionately affected. The United States does not appear to be an exception. As noted by Wise et al., women and children are likely to be primarily affected, because they are the main beneficiaries. Such a clear gender impact provides a strong basis to argue that the legislation—if it results in negative effects—constitutes gender discrimination. In itself, the decline in access to reproductive health services for women provides a basis to claim gender discrimination. Consequently, further documentation in regard to the specific impact on women and their health is an important piece of the human rights analysis.

Direct Violations of Rights

A government may directly violate (as opposed to fail to fulfill) human rights as a matter of both policy and practice. Wise et al. note that the welfare reform legislation was intended to target specific reproductive health behaviors, including childbearing. International human rights instruments have repeatedly reaffirmed the following principle: "Reproductive rights . . . [include the basic right of all couples] to make decisions concerning reproduction free of discrimination, coercion and violence . . . and to decide freely and responsibly the number, spacing and timing of their children."[3(¶94,95)]

To the extent that the legislation, as a matter of policy, is an attempt to coerce couples into forgoing childbirth, it can represent a direct violation of the human right to reproductive choice. Similarly, the family cap, which discriminates between mothers and children receiving benefits at the time of the pregnancy and mothers and children not receiving benefits, interferes with a couple's ability to make decisions concerning reproduction free of discrimination. Because families are penalized for their choices, both the coercive and discriminatory elements remain.

Wise et al. also note that, as a matter of practice, many localities are using diversion tactics to purposefully deprive families of government benefits and, thus, their economic and social rights. All such diversion tactics, whether in terms of food stamps, Temporary Assistance for Needy Families, or Medicaid, constitute direct violations of human rights and potentially affect reproductive rights in particular. Clearly, arbitrary denial of Medicaid coverage or services is the most direct violation in the reproductive rights arena because it represents a direct impediment to accessing reproductive health services. As noted by Wise et al., in the most dramatic cases denial of services has resulted in a violation of the right to life, the most fundamental of civil–political rights. Such severe consequences chillingly illustrate the indivisibility of all human rights and the need to protect them equally. □

Cathy Albisa, JD
International Women's Human Rights Law Clinic
City University of New York Law School
New York, NY

References

1. *Universal Declaration of Human Rights,* GA res 217 A(iii), UN Doc A/810, art 25(1) (1948).
2. *General Comment No. 3*, UN Committee on Social, Economic, and Cultural Rights, UN Doc E/1991/23/Annex III (1990).
3. *Report of the Fourth World Conference on Women*, UN Fourth World Conf on Women, Beijing Platform for Action at 109, UN Doc A/CONF.177/20 (1995).
4. *Report of the International Conference on Population and Development*, UN International Conference on Population and Development, Basis for Action 7.2, UN Doc A/CONF.171/13 (1994).
5. *Report of the International Conference on Population and Development,* UN International Conference on Population and Development, Action 5.3, UN Doc A/CONF.171/13 (1994).