



## **Human Rights Watch Submission On The Mercury Treaty**

***November 2012***

In 2013, governments around the world will adopt a global, legally binding treaty on mercury. Human Rights Watch welcomes this initiative and calls upon governments to make this a strong treaty that protects human rights, in particular the right to health. As the last round of negotiations approaches, this is a crucial moment to take action.

### **Human Rights Belong in the Mercury Treaty**

Current international treaties do not specifically mention mercury, but address environmental threats more generally. The mercury treaty negotiations present an important opportunity to strengthen and specify human rights protections in relation to mercury and its specific uses and health threats.

More broadly, the treaty presents an opportunity to integrate human rights into environmental law. Around the world, environmental degradation—including contamination from mercury—has resulted in the denial of the right to life, the right to health, the right to safe food and water, the right to information and free expression, and other rights. Recognizing international human rights in the treaty is critical in holding governments accountable.

- ➔ **Human Rights Watch calls upon governments to reference international human rights law in the preamble, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), and ILO Convention 182 on the Worst Forms of Child Labour.**
- ➔ **Human Rights Watch also calls upon governments to ensure that the treaty has a strong monitoring mechanism to achieve compliance.**

### **The Importance of Health Strategies in the Mercury Treaty**

Human Rights Watch welcomes the inclusion of health strategies and of specific prevention measures for children in the draft article on artisanal and small-scale gold mining.

In addition, Human Rights Watch supports the inclusion of a stand-alone article on health, in order to address all areas of mercury exposure. There are three important reasons for this:

**1. Governments must realize the right to the highest attainable standard of health.**

The right to the highest attainable standard of health is enshrined in international human rights law. In particular, under the ICESCR, which has 160 state parties, governments have the obligation to improve “all aspects of environmental and industrial hygiene.” This can include measures to avoid occupational accidents and diseases, and to prevent and reduce a population’s exposure to harmful substances such as harmful chemicals. While the full realization of the right to the highest attainable standard of health has to be achieved progressively, states face core obligations that must be met immediately, including access to an adequate supply of safe and potable water. Obligations of comparable priority include reproductive, maternal, and child health care, and access to information on the main health problems in the community. In addition, the CRC, which has 193 state parties, obliges governments to combat children’s disease, taking into account the “risks of environmental pollution.”

**2. Public health strategies are needed to achieve the goals of the treaty.**

Public health strategies must go hand in hand with environmental strategies. To leave public health measures out of the treaty would undermine the purpose of the treaty. Public health strategies will strengthen the stated objectives of the treaty by providing concrete measures to protect people from the harms of mercury exposure. In practical terms, the inclusion of public health strategies will ensure significant involvement from health facilities, health ministries, health experts and health agencies, including WHO, which will also bring additional actors and resources to the implementation of this treaty. Public health strategies must include specific child health strategies, as mercury is particularly harmful to children.

**3. Public health strategies on mercury are limited, vertical interventions.**

Public health strategies, including prevention and treatment strategies, can contribute to the realization of the health rights of populations exposed to or at risk of exposure to mercury. Prevention measures such as public awareness-raising, training for health workers, and data gathering, need to directly support other mercury prevention measures envisaged in the treaty. Testing and treatment will ensure that individuals with symptoms of mercury poisoning are provided with information and medical treatment. Addressing the human impacts of mercury cannot be obtained through environmental impact assessments and general bio-monitoring alone.

There has been some concern that a section on health strategies would open the door for broader health reform, but this is not proposed in article 20bis. It is about specific, targeted health strategies on mercury.

**➔ Human Rights Watch therefore calls upon governments to adopt a standalone article on health (article 20bis).**

**Below is proposed language for this article. It uses as basis the draft text of article 20bis, as introduced by the GRULAC region during INC4, and reproduced in brackets in the chair’s text on the text of October 11, 2012.**

## 20 bis. Health aspects

1. Each Party shall, within its capabilities:

(a) Establish and implement health research programmes to identify vulnerable populations and/or populations, with a specific focus on children, at risk from the exposure of mercury and its compounds;

(b) Develop and implement strategies and programmes to protect the above-mentioned identified populations from risk, which may include, inter alia, adopting health-based guidelines relating to the on preventing exposure of mercury and mercury compounds, setting targets for mercury exposure reduction, and ~~public and worker~~ education for the public and communities at risk about the health effects of mercury, routes of exposure, and measures to prevent exposure, with the participation of health and other involved sectors;

(c) Apply the programmes, recommendations and guidelines at national level to inform and communicate the risks, as well as to monitor, review and verify that risk prevention and mitigation measures are achieving the intended results, including, where appropriate and feasible, through the use of surveillance, data-gathering, and bio-monitoring;

(d) Implement labor laws, labor regulations, programmes, recommendations and guidelines on the prevention of occupational exposure to mercury, on workers' health and safety, and on child labor; relating to permitted uses where potential exposures are of concern;

(e) ~~Facilitate and assure~~ Ensure proper access to health care on mercury-related conditions, including testing and treatment, to for populations affected by the exposure to mercury or its compounds, including through the development of specific medical protocols on care for mercury-related conditions, and through health worker training about the health effects of mercury, routes of exposure, and measures to prevent exposure;

(f) Establish the scientific, technical and analytical capacity and strengthening of health professional capacity for the prevention, surveillance, laboratory and clinical diagnosis, monitoring and treatment of the exposure of mercury and its compounds.

2. The Conference of the Parties shall:

(a) ~~Adopt decisions,~~ Identify areas of cooperation with the World Health Organization, the International Labour Organization, UNICEF and other UN agencies, for the development of recommendations and guidelines for the implementation of the activities mentioned in the paragraph 1 supra. These recommendations and guidelines shall be prepared through a mutually agreed process by the Parties, ~~if necessary, with the assistance of international organizations, such as~~ and the World Health Organization, ~~or~~ the International Labour Organization, and other relevant UN agencies;

(b) Assure the flow of scientific, technical and financing resources under this Convention, in order to support the activities mentioned in paragraph 1 supra.