

The Human Right to Health and Women's Reproductive Health Policy

Advocates for reproductive health care in the United States can find strong support for their work in the principles underlying the human right to health. This fact sheet provides an overview of the right to health as international authorities have interpreted and applied it in the context of women's reproductive health policy.

What is the Right to Health?

The human right to health has been recognized by the United Nations (UN) Commission on Human Rights, is a clear part of several UN human rights treaties, and is incorporated in agreements from intergovernmental world conferences, particularly the 1994 International Conference on Population and Development (ICPD). The right to health and its interpretation also stems from the work of international experts such as the UN committees that oversee the Covenant on Economic, Social and Cultural Rights (CESCR) and the Convention on the Elimination of Discrimination Against Women (CEDAW) and the UN Special Rapporteur on the Right to Health. While not all of the standards underlying the human right to health are legally binding in the United States, they provide a useful conceptual framework and a shared language for advocates and policymakers both inside and outside the United States. The right to health is shorthand for the **human right to the highest attainable standard of health** and encompasses both health care and other determinants on which health depends, such as access to water and food, freedom from violence, and a healthy environment.

The Right to Health and Reproductive Health Policy

Reproductive health is an integral element of the human right to health. ICPD provides guidance for understanding reproductive rights. Countries, including the United States, who attended the 1994 conference recognized the “basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so.”

The Government's Role

At the core of all human rights are the principles of **equality** and **human dignity**. All human beings enjoy human rights — including the right to health — equally. Governments have a duty to respect human rights which means ensuring equal access to health services or the underlying determinants of health. Governments have a duty to protect human rights, which means governments must prevent third parties from violating the right to health. Governments must also fulfill the right to health by taking steps toward providing health-care services for all and should not remove existing services. Governments must respect,

protect and fulfill the right to health without discrimination on grounds such as race, sex, national origin, language ability, disability and sexual orientation.

Availability, Accessibility, Acceptability and Quality: A tool for analyzing policy

The analytical framework underlying the right to health requires that health services, goods, facilities and the underlying determinants of health be **available, accessible, acceptable and of good quality**, equally to everyone. This framework was developed in 2000 by the CESCR Committee and provides standards to help governments and organizations assess health policies, including policies that impact women's reproductive health:

- Reproductive health facilities, goods and services, including trained medical professionals, medicines, and underlying determinants of health, must be adequately available to all women within a country. Policies that result in fewer abortion providers, such as onerous facilities requirements, curtail the right to health for women. Also, where providers are allowed to refuse to provide contraception or abortion, effectively making these services unavailable to certain women, a woman's right to health is violated. According to the CEDAW Committee, in such places, policies must be in place to ensure that women are referred to alternative providers willing and able to provide contraceptive and abortion services.
- The same facilities, information, goods and services must be **accessible** to everyone without discrimination. Accessibility must be a reality in law and in fact, particularly for the most marginalized groups. For example, comprehensive reproductive health services must be accessible to everyone, regardless of socioeconomic status, race, national origin, language ability, immigration status or sexual orientation and gender identity. Services must also be physically accessible for everyone, with a focus on vulnerable groups such as older women, women in prison or detention, women with disabilities and women who live in rural areas.

Economic accessibility is an essential component of the right to health. Reproductive health services such as contraception, prenatal care and abortion must be affordable to all. Policies such as the Hyde Amendment, which bans abortion funding, disproportionately affect particular groups of people, such as poor women of color, who are unable to afford certain reproductive health services. Therefore, their right to health is violated. The government also does not fulfill the right to health in situations where poor women lack health insurance, and health care is, in effect, inaccessible.

Information on reproductive health issues must also be accessible to all. Policies that restrict information on condoms for adolescents, for example, violate the right to health.

- Reproductive health services must be acceptable to all women, particularly those who are outside the dominant culture. Policies must ensure that reproductive health services are culturally competent and acceptable according to the needs and perspectives of particular communities. To fulfill the right to health of immigrant communities in the United States, policies must ensure that the health-care workforce is culturally competent and able to work in a language that women they serve can understand. Policies must also ensure that reproductive health services are confidential.
- Health facilities, goods and services must be of **good quality** and based on evidence where it is available. To generate appropriate evidence to improve quality, research on health care must better include women, children and people of color. One example of poor quality is the funding of pregnancy prevention programs that are limited to abstinence-until-marriage messages despite evidence that such programs fail to achieve their objectives.

Participation

The right to health requires that health policies and programs be participatory. The voices of people affected by health policies and programs must be taken into account through political and policymaking processes. Because poor women, immigrant women and women of color are disproportionately affected by U.S. public policy on reproductive health programs and services, their input in policy matters is particularly important to upholding the right to health.

Reproductive health is widely recognized as an inseparable part of the human right to health. As applied to reproductive health, the general right to health framework provides useful standards for developing reproductive health policy that is inclusive, participatory and meets the needs of all women. The use of human right to health principles unites reproductive health advocates with other movements seeking to promote the human rights of all people.

Resources

- The Rights to Sexual and Reproductive Health.* Paul Hunt and Judith Bueno de Mesquita, University of Essex Human Rights Centre (2007)
- "The right of everyone to the enjoyment of the highest attainable standard of physical and mental health." *Report of the Special Rapporteur,* Paul Hunt, Commission on Human Rights, (2004)
- Our right to the highest attainable standard of health.* University of Essex Human Rights Centre and the International Federation of Health and Human Rights Organizations (2006)
- The Right to the Highest Attainable Standard of Health, General Comment.* Committee on Economic, Social and Cultural Rights 14 (2000)
- General Recommendation 24: Women and Health.* Committee on the Elimination of Discrimination Against Women (2003)
- International Conference on Population and Development Plan of Action (1994)
- Platform for Action of the Fourth World Conference on Women (1995)

NESRI NATIONAL ECONOMIC & SOCIAL RIGHTS INITIATIVE



NHeLP
NATIONAL HEALTH LAW PROGRAM



Ipas Protecting women's health
Advancing women's reproductive rights

P.O. Box 5027 • Chapel Hill, NC 27514 USA
1.919.967.7052 • ipas@ipas.org
www.ipas.org

Contact: Patty Skuster, Policy Associate, Ipas
skusterp@ipas.org

© 2009 Ipas.