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Health

Human Rights
Health in emergencies

• International human rights law

• International humanitarian law

• Refugee law
Why health and human rights?

• Need
• Obligation
• Opportunity
• Potential
What do we mean by human rights?

Norms, standards, and principles generated by governments:

- **WHO constitution 1946** (right to the enjoyment of the highest attainable standard of physical & mental health)
- **International human rights instruments & mechanisms** (e.g. CESCR, CRC, CEDAW, CERD)
- **Regional human rights instruments & mechanisms** (e.g. the European Convention on Human Rights, the European Social Charter)
- **National human rights instruments & mechanisms** (e.g. national constitutions, national human rights institutions)
Different levels of obligations:

- Treaties - binding on states parties
- Declarations - non-binding
- Policy documents - non-binding, e.g. consensual UN global conference action plans.
Key international human rights treaties

- International Convention on the Elimination of All Forms of Racial Discrimination (1963)

- International Covenant on Economic Social, & Cultural Rights (1966)

- International Covenant on Civil & Political Rights (1966)

- Convention on the Elimination of All Forms of Discrimination Against Women (1979)

Examples of the linkages between health and human rights

- Torture
- Slavery
- Violence against women & children
- Harmful traditional practices
- Violations resulting in ill-health
- Right to health
- Right to education
- Right to food & nutrition
- Freedom from discrimination
- Right to information
- Right to participation
- Freedom from discrimination
- Right to privacy

Health & human rights

Promotion or violation of human rights through health development

Reducing vulnerability to ill-health through human rights
“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.”

(Preamble to the WHO Constitution)
The right to the highest attainable standard of health

- WHO Constitution (1946)
  - International Covenant on Economic, Social and Cultural Rights (1966)

- Universal Declaration of Human Rights (1948)
  - International Covenant on Civil and Political Rights (1966)

- Declaration of Alma Ata (1978) and the World Health Declaration (1998)

- General Comment on the right to health (2000)

- Special Rapporteur on the right to health (2002)
"The right to health"

Underlying determinants

Health-care
The right to health:

- Availability
- Accessibility (non-discrimination; physical accessibility; & information accessibility)
- Affordability
- Acceptability
- Quality
Principle of progressive realization

• Obligation to move expeditiously and effectively

• Government incapacity vs. unwillingness

• Deliberate, concrete & targeted steps

• Use indicators and benchmarks
The right to health & The right to a fair trial
Freedom from discrimination:

“...in access to health care and the underlying determinants of health, as well as to means and entitlements for their procurement, on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status, (including HIV/AIDS), sexual orientation, civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to health”.

(General comment on the right to the highest attainable standard of health, article 12 ICESCR)
The right to participation:

“..the right of individuals and groups to participate in decision-making processes, which may affect their development, must be an integral component of any policy, programme or strategy developed to discharge governmental obligations under the right to health.”.

(General comment on the right to the highest attainable standard of health, article 12 ICESCR)
A human rights-based approach to health refers to the processes of:

- Using human rights as a framework for health development.

- Assessing and addressing the human rights implications of any health policy, programme or legislation.

- Making human rights an integral dimension of the design, implementation, monitoring and evaluation of health-related policies and programmes in all spheres, including political, economic and social.
Non-derogable human rights

- Torture
- Slavery
- Due process
- Freedom of thought, conscience & religion
Siracusa principles

• prescribed by law
• a legitimate objective
• strictly necessary
• no less intrusive & restrictive means available
• best available scientific evidence
• not drafted or imposed arbitrarily
International humanitarian law

• Aims to protect people who do not or are no longer taking part on hostilities

• Imposes duties to all parties to a conflict

• Strikes a balance between military necessity & humanitarian considerations
Common article 3: Protection for persons taking no active part in the fighting, or no longer taking part in the fighting

• violence to life & person

• taking of hostages

• humiliating and degrading treatment

• extrajudicial executions
International Criminal Court

- War crimes
- Crimes against humanity
- Genocide
WHAT ARE THE PRACTICAL IMPLICATIONS OF INTEGRATING HUMAN RIGHTS IN THE WORK OF WHO

- Human rights as a standard of assessment of health policy and practice
- Human rights as an analytical framework for contextualizing the broad determinants of health within and beyond the health sector
- Engaging with international and regional human rights systems
- Increased range of partners, scope of analysis and action in countries
- Powerful advocacy tool
Key challenges:

• Political
• Coherency
• Immaturity
• Interdisciplinary
• Capacity
• Value added
• Practical tools/guidance
Three core areas of work:

1. To advance health as a human right and other health-related rights
   - Advocacy
   - Input to the UN human rights system
   - Indicators

2. To develop and apply a human rights-based approach to health in WHO
   - Policy development
   - Research/knowledge base
   - Training

3. To support Member States in applying a human rights-based approach to health
   - Tools
   - Training
   - Country projects
Ways forward:

- Dialogue with Member States
- Articulate WHO’s role
- Build on WHO’s comparative advantage
- Forge partnerships
Value added?

- “Empowering” strategy for health (human dignity)
- International norms and standards / consistent guidance
- Health higher on the political agenda
- Accountability / monitoring mechanisms
- Increased scope of analysis and range of partners
- Tools and guidance to better address poverty & ill-health