



A HUMAN RIGHTS-BASED APPROACH TO HEALTH

Why a human rights-based approach?

A human rights-based approach (HRBA) aims to support better and more sustainable development outcomes by analyzing and addressing the inequalities, discriminatory practices (de jure and de facto) and unjust power relations which are often at the heart of development problems.

Under a human rights-based approach, development efforts are anchored in a system of rights and corresponding State obligations established by international law. Civil, cultural, economic, political and social rights provide a guiding framework for development plans, policies and processes. A HRBA also appreciates the importance of capacity development.

Policy commitments to mainstreaming human rights in development

The UN Programme of Reform (1997) sets out human rights as a cross-cutting issue in all UN activities and urges its mainstreaming across the UN system.

At the **2005 World Summit**, UN Member States unanimously resolved to integrate human rights into their national policies and gave explicit support for the integration of human rights within the UN system.

The Accra Agenda for Action (2008), which aimed to accelerate and deepen implementation of the Paris Declaration on Aid Effectiveness, commits developing countries and donors to "ensure that their respective development policies and programmes are designed and implemented in ways consistent with their agreed international commitments on gender equality, human rights, disability and environmental sustainability."

A UN common understanding of a human rights-based approach

Human rights-based approaches have been advanced by a broad range of stakeholders. Recognizing the need for coherence of approaches in the context of UN inter-agency collaboration, the UN Common Understanding on a Human Rights-based Approach was agreed upon in 2003.

The UN common understanding has served as a reference point and guiding framework for many other partners, including governments, bilateral agencies and non-governmental organisations.

The UN Common Understanding on a Human Rights-based Approach

GOAL

GOAL: All programmes of development cooperation, policies and technical assistance should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.

PROCESS

PROCESS: Human rights standards and principles guide all development cooperation and programming in all sectors and phases of the programming process.

OUTCOME

OUTCOME: Development cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights

A human rights-based approach is one of the key programming principles guiding UN common country programmes, and has been integrated into the Guidelines for UN Country Teams on Preparing a Common Country Assessment (CCA) and United Nations Development Assistance Framework (UNDAF). Nevertheless, stakeholders are increasingly calling for sector and issue specific guidance on the practical application of a human rights-based approach.

Key elements of a HRBA to health

A human rights-based approach to health specifically aims at realizing the right to health and other health-related human rights. Health policy making and programming are to be guided by human rights standards and principles and aim at developing capacity of duty bearers to meet their obligations and empowering rights-holders to effectively claim their health rights.

Elimination of all forms of discrimination is at the core of a HRBA. Gender mainstreaming is a key

strategy to achieving gender equality and eliminating all forms of discrimination on the basis of sex.

Policy commitments to promote health-related human rights

The WHO Eleventh General Programme of Work (2006-2015) provides a global health agenda for WHO's Member States, its Secretariat and the international community. It highlights seven priority areas for the international community, including promoting universal coverage, gender equality, and health-related human rights.

The integration of a human rights-based approach is specifically addressed in Strategic Objective 7 of the **WHO Medium-Term Strategic Plan (MTSP) 2008-2013**.

The strategic agenda for WHO cooperation, as reflected in the **WHO Country Cooperation Strategy**, should incorporate the human rights-based approach to development and the commitment to gender equality adopted by the United Nations system (2008 CCS e-guide).

Building on the UN Common Understanding on a Human Rights-based Approach, the below sections identify core aspects of the HRBA elements: goal, process and outcome.

GOAL

All programmes, policies and technical assistance should further the realization of human rights

A HRBA emphasizes that the ultimate goal of all health policies, strategies and programmes is to further advance the realization of the right to health and other health-related human rights as laid down in national and international human rights legislation. Human rights standards provide guidance in defining the precise elements of a health objective.

If the right to health and other health-related human rights are to be fully realized, policies and plans need to systematically integrate and further these rights.

The right to health is recognized in several core international and regional human rights treaties and national constitutions. The International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) are some of the central human rights instruments for the protection of the right to health.

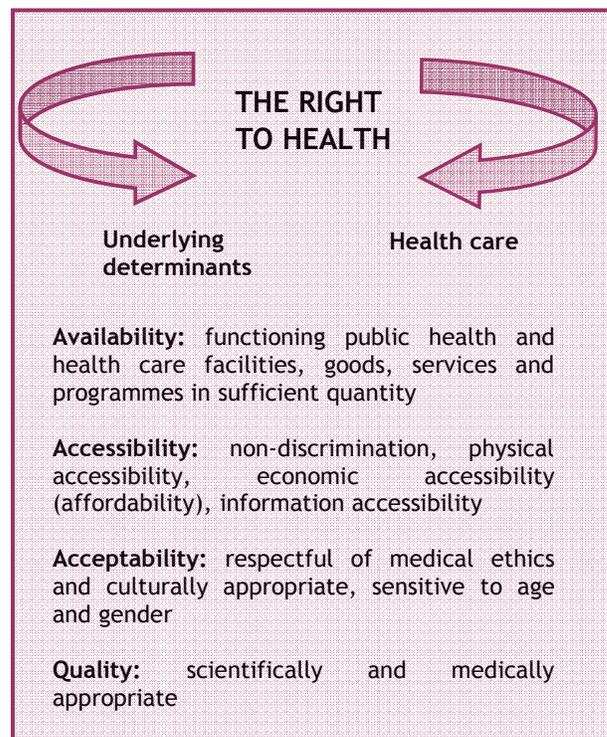
The Committee mandated to monitor the implementation of the ICESCR (Committee on

Economic, Social and Cultural Rights) has interpreted the content of the right to health in the General Comment No. 14, available at OHCHR's web site:

[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/40d009901358b0e2c1256915005090be?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/40d009901358b0e2c1256915005090be?Opendocument)

Among other essential points, General Comment No. 14 highlights that the right to health extends to both timely and appropriate health care and to the underlying determinants of health, such as safe and potable water, sanitation, food, housing, health related information and education, and gender equality. These points highlight the importance of inter-sectoral action to effectively realize the right to health.

Similarly, General Comment No. 14 explains that the four elements of availability, accessibility, acceptability and quality (AAAQ) are essential to the enjoyment of the right to health by all.



PROCESS

Human rights standards and principles guide programming in all sectors

A human rights-based approach gives importance not only to outcomes, but also to the processes. Human rights standards and principles - such as participation, equality and non-discrimination, and accountability - are to be integrated into all stages of the health programming process: assessment and analysis, priority setting, programme planning and design, implementation, and monitoring and evaluation.

Participation and inclusion means that people are entitled to active, free and meaningful participation in decisions that directly affect them,

such as the design, implementation and monitoring of health interventions. Participation increases ownership and helps ensure that policies and programmes are responsive to the needs of the people they are intended to benefit.

Information sharing is a critical component of participatory processes. Participation can only be meaningful if relevant information is available on time and in an accessible language and format, considering for example age, gender, ethnic, religious and cultural backgrounds. Effective participation also requires that the freedom of association is guaranteed.



Equality and non-discrimination requires States to address discrimination in laws, policies and practices, such as in the distribution and provision of resources and health services. Discrimination can be indirect, for example, policies and actions can lead to inequalities in access and in the enjoyment of rights, as a result of being gender-blind.

Functioning national health information systems and availability of disaggregated data are essential to be able to identify the most vulnerable groups and diverse needs. Commonly marginalized groups include: children and adolescents; women (across groups); persons with disabilities; indigenous peoples, ethnic, religious or linguistic minorities; internally displaced people and refugees; migrants, particularly undocumented; and persons living with HIV or AIDS.

General Comment No. 20 of the Committee on Economic, Social and Cultural Rights offers ample details about non-discrimination in relation to the right to health. General Comment No. 20 is available on OHCHR's web site: <http://www2.ohchr.org/english/bodies/cescr/comment20.htm>

Accountability: States must be transparent about their decision-making processes, actions, or omissions, and put redress mechanisms in place. There are many ways to address accountability such as:

- Ratification of treaties and incorporation of standards in domestic law;
- Judicial and quasi-judicial mechanisms, e.g. court rulings, constitutional reviews, national human rights commissions or ombudspersons;
- Administrative and policy mechanisms, e.g. reviews of health policies and strategies, audits, and human rights impact assessments;
- Political mechanisms, e.g. parliamentary processes, monitoring and advocacy by NGOs;
- Reporting on human rights treaties incorporating the right to health.

Recommendations of international human rights bodies and mechanisms should inform programming. The Universal Human Rights Index of UN documents provides easy access for all countries to human rights information from the UN system: <http://www.universalhumanrightsindex.org>

The index includes observations and recommendations of UN treaty monitoring bodies and the Special Procedures of the Human Rights Council.

OUTCOME

Focus on capacity development of duty bearers to meet their obligations and of rights-holders to claim their rights

A human rights-based approach focuses on capacity development, both of duty bearers to meet their obligations and of individuals to claim their rights. Capacities include skills, abilities, resources, responsibilities, authority and motivation.

Duty bearers: A HRBA aims to build the capacity of the State at all levels (local, regional/federal and national) to *respect*, *protect* and *fulfil* human rights. Important categories of duty-bearers in relation to health include policy makers, hospital managers, health professionals, inspectors and parliamentarians, among others.

Three types of State obligations:

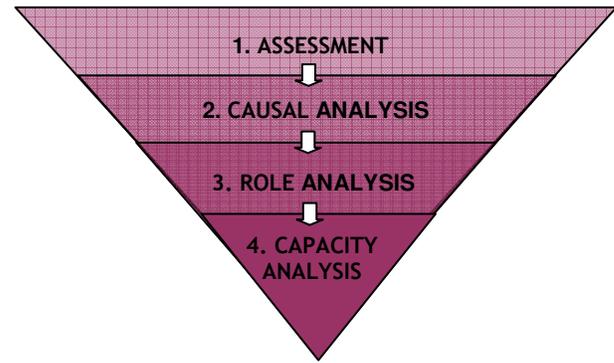
Respect: not to interfere directly or indirectly with the enjoyment of the right to health, e.g. refrain from limiting access to health-care services or marketing unsafe drugs.

Protect: prevent third parties from interfering with the right to health, e.g. ensure that private companies provide safe environmental conditions for their employees and surrounding communities

Fulfil: adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures to fully realize the right to health.

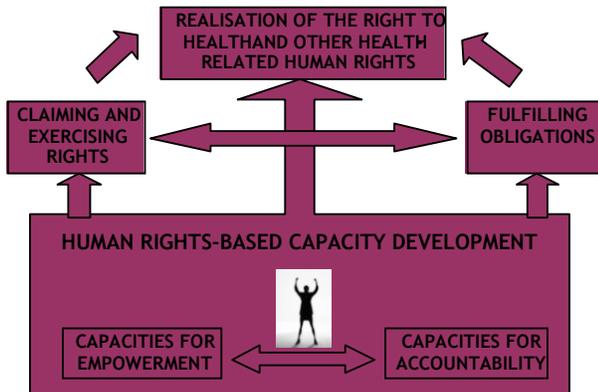
Rights-holders: A human rights-based approach gives attention to ways of empowering individuals and communities, particularly marginalized groups, to understand and claim their rights.

In order to effectively claim their rights, rights-holders must be able to access information, organize and participate, advocate for policy change and obtain redress.



The U.N. Secretary-General has reaffirmed the centrality of human rights in development (Policy Decision 2008/18) and requested the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Development Group (UNDG) to initiate an interagency process to strengthen system-wide coherence, collaboration and support for UN Resident Coordinators and UN Country Teams in mainstreaming human rights.

WHO and other UN agencies working in the area of health need to continue strengthening their capacity to integrate a human rights-based approach and advocate for health-related human rights.



A HRBA situation analysis

The 2009 Guidelines for UN Country Teams on Preparing a Common Country Assessment (CCA) United Nations Development Assistance Framework (UNDAF) provide guidance on how to carry out a HRBA situation analysis. In relation to health, such an analysis responds to four main questions:

1. What is happening, where and who is more affected? (assessment) For every health challenge, identify the inter-related human rights standards and the groups suffering from a greater denial of rights.

2. Why are these problems occurring? (causal analysis) Identify the underlying and root causes of exclusion, discrimination and inequality.

3. Who has the obligation to do something about it? (role analysis) Identify individual and institutional duty-bearers and their corresponding obligations.

4. What capacities are needed for those affected, and those with a duty, to take action? (capacity analysis) Identify the skills, abilities, resources, responsibilities, authority and motivation needed by those affected to claim their rights and those obliged to fulfil the rights.

Once capacity development assets and needs have been identified, the central question is: **where and how can capacity development efforts produce the greatest results?**

Country example: CCA Iraq 2009

The CCA in Iraq addresses health as a human right and a range of essential services. It gives importance to equality, inclusion, participation and empowerment, noting that people often lack the information and awareness needed to make informed choices and claim their rights.

The CCA used a HRBA to guide the thematic analysis of key challenges. This helped focus attention on vulnerable groups and reveal the immediate, underlying and root causes of poor health. The analysis discussed the roles of various stakeholders and identified specific areas where capacity development is needed.

Selected resources

- OHCHR/WHO, The Right to Health, Factsheet No. 31, 2008
- OHCHR/WHO, Human Rights, Health and Poverty Reduction Strategies, 2008
- WHO, 25 Questions and Answers on Health and Human Rights, 2002
- OHCHR/Sida/WHO, Human Rights and Gender Equality in Health Sector Strategies - an analytical tool (forthcoming)
- UN Practitioners' Portal on HRBA Programming: www.hrbaportal.org
- Also refer to the WHO Health and Human Rights web site: www.who.int/hhr/en