

What do we mean by sexual rights?

Human rights applied to sexuality and sexual health

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Definition of sexual health

“the enhancement of life and personal relations, and not merely counselling and care related to reproduction and sexually transmitted diseases”.

A fuller definition of sexual health is a state of physical, emotional, mental and social well-being related to sexuality, not merely the absence of disease, dysfunction or infirmity; sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence."

Cairo Programme of Action, para. 7.2, the Beijing Platform for Action, para. 94.



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Sexual Health - Reproductive Health

While there is obviously an intimate relationship between sexual health and reproductive health, ICPD and the Fourth World Conference on Women recognize that sexual health and reproductive health are also different and distinct dimensions of human well-being.



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Human Rights & ICPD Programme of Action

“7.3..... reproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest on the recognition of 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, and the right to attain the highest standard of sexual and reproductive health. **It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents.**”



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Human Rights & Beijing Platform for Action

In Beijing participants added:

“The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence. Equal relationships between women and men in matters of sexual relations and reproduction, including full respect for the integrity of the person, require mutual respect, consent and shared responsibility for sexual behaviour and its consequences” (para. 96).



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Human Rights & Sexuality and Sexual health

- Abiding principles that have shaped international human rights law including privacy, equality, and the integrity, autonomy, dignity and well-being of the individual.
- Numerous human rights have a direct bearing upon sexual and sexual health, for example:
 - Right to liberty and security of the person
 - Right to be free from torture and inhuman and degrading treatment
 - Right to private and family life
 - Right to non-discrimination
 - Right to information and education
- There is a “right to attain the highest standard of sexual and reproductive health”

Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt, 16 February 2004, E/CN.4/2004/49



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Recognition of 'sexual rights' –HR related to sexuality and sexual health

- International human rights treaties
- Regional human rights treaties
- National constitutions
- National laws
- Court decisions



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Application of 'sexual rights'

- Right to health care services: provision of reasonable treatment for pregnant women with HIV/AIDS (South Africa)
- Right to non-discrimination on the basis of sexual orientation: denying artificial insemination by lesbian women
- Right to life, privacy, right to non discrimination: criminalizing sexual conduct between consenting male adults

Other issues:

- Freedom in speech in academic research on matters of sexuality, including highly stigmatized sexual practices
- Information on sexual health to be made available to young people
- Providing asylum for women who are in danger of FGM



Freedoms and entitlements

"The right to sexual health, and other related rights encompass both freedoms, such as freedom from discrimination, and entitlements."

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*Freedom*s

In the context of sexual and reproductive health, freedoms include a right to control one's health and body. Rape and other forms of sexual violence, including forced pregnancy, non-consensual contraceptive methods (e.g. forced sterilization and forced abortion), female genital mutilation/cutting (FGM/C), and forced marriage all represent serious breaches of sexual and reproductive freedoms, and are fundamentally and inherently inconsistent with the right to health.

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Entitlements

The right to health includes an entitlement to a system of health protection, including health care and the underlying determinants of health, which provides equality of opportunity for people to enjoy the highest attainable level of health.

For example, women should have equal access, in law and fact, to sexual health services information on sexual health issues (access to such vital health services as voluntary testing, counselling and treatment for sexually transmitted infections, including HIV/AIDS, etc. improving education, increasing female literacy, enhancing the quality of health-care services, and making them more available and accessible).

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Rights based approach

Accountability

- Rights holders
- Duty bearers

Non discrimination

Participation



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Respect, protect and fulfil

States have a duty to respect, protect and fulfil the human rights of all individual without discrimination ensure that health information and services are made available to vulnerable groups

- Respect: to refrain from denying or limiting equal access for all persons to sexual health services, as well as the underlying determinants of sexual health
- Protect: to prevent third parties from jeopardizing the sexual health of others, including through sexual violence and harmful practices
- Fulfil: to give recognition to the right to health, including sexual and reproductive health, in national political and legal systems.



Levels of application in a rights-based approach

- development of laws and policies
- enforcement and implementation of laws and policies
- health system and service delivery
- education, training
- research
- etc.



Gender based violence

- Enactment and enforcement of laws that impose sanctions against the perpetrators of sexual abuse
- formulation of policies (including health care protocols) to address violence against women
- Gender sensitive training for health care workers to manage and detect the health consequences of gender based violence
- research



Multi- stakeholder approach

- Government:
 - health
 - finance
 - education
 - police
- Parliament; Judiciary
- Professional associations
- Human rights commissions
- Non governmental actors
- Academics
- Donors, UN agencies



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Vulnerability, discrimination, stigma

Discrimination and stigma continue to pose a serious threat to sexual health for many groups, including women, sexual minorities, refugees, people with disabilities, rural communities, indigenous persons, people living with HIV/AIDS, sex workers, and people held in detention.



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Stigma, discrimination, human rights

- Stigma plays into and reinforces existing social inequities (gender inequalities, based on race and ethnicity, inequalities linked to sexual orientation)
- discrimination occurs when a distinction is made against of a person that results in being treated unfairly and unjustly
- discrimination may occur 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, and civil, political, social or other status
- Discrimination and stigma continue to pose a serious threat to sexual and reproductive health for many groups, including women, sexual minorities, refugees, people with disabilities, rural communities, indigenous persons, people living with HIV/AIDS, sex workers, and people held in detention. Some individuals suffer discrimination on several grounds e.g. gender, race, poverty and health status

Stigma, discrimination and human rights violations are interrelated and reinforcing responsibility and accountability of action.



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Participation

- law and policy development and implementation
- health service delivery issues
- research
- Etc.



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