



Sexual and Reproductive Rights

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Training course in Sexual and Reproductive Health Research
Geneva 2016



What are Sexual and Reproductive Rights?

- “Reproductive health ... implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.”
- “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 on 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.”



What are Sexual and Reproductive Rights?

Sexual and Reproductive Rights include the right of all persons, free of coercion, discrimination and violence, to:

- the highest attainable standard of sexual health, including access to sexual and reproductive health care services;
- seek, receive and impart information related to sexuality;
- sexuality education;
- respect for bodily integrity;
- choose their partner;
- decide to be sexually active or not;
- consensual sexual relations;
- consensual marriage;
- decide whether or not, and when, to have children; and
- pursue a satisfying, safe and pleasurable sexual life.



What are Sexual and Reproductive Rights?

Sexual and Reproductive Rights encompass:

- The need to end sexual violence against adults and children;
- The need to ensure access to sexual education and all information related to sexual and reproductive health, especially for young people;
- The right to access reproductive health care services;
- The right to contraception;
- The right to legal and safe abortion;
- The right to freedom from coerced sterilization, abortion, contraception, etc;
- The right to protection against harmful practices related to sexuality and reproduction, such as female genital mutilation, or early and forced marriage;
- The need to guarantee equality and non-discrimination in law and practice regardless of sexual orientation and gender identity;
- The need to guarantee equality and non-discrimination in law and practice regardless of health status (eg. HIV/AIDS);
- The need to protect the right to health of sex workers;
- The need to ensure access to medicines, information campaigns concerning HIV/AIDS; and
- The right to family planning education and services.



How are Sexual and Reproductive Rights protected?

- Sexual and Reproductive Rights are protected by various human rights enshrined in the International Bill of Human Rights (which consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and its two Optional Protocols).
- Article 25.1 of the Universal Declaration of Human Rights affirms:

“Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, housing and medical care and necessary social services”.



The right to health

- Article 12.1 of the International Covenant on Economic, Social and Cultural Rights affirms “*the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*”.
- Article 12.2 provides that the steps to be taken by the States Parties to achieve the full realization of this right shall include those necessary for:
 - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.



The right to health

The right to health is also recognized in:

- article 5(e)(iv) of the International Convention on the Elimination of All Forms of Racial Discrimination (1965);
- articles 11.1(f), 12 and 14(2)(b) of the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- article 24 of the Convention on the Rights of the Child (1989);
- article 25 of the Convention on the Rights of Persons with Disabilities (2006); and
- articles 28, 43(1)(e) and 45(1)(c) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).



The right to health

The right to health contains both freedoms and entitlements.

- The freedoms include the right to control one's health and body, including sexual and reproductive freedom, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation.
- The entitlements include the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.



The right to sexual and reproductive health services

- The provision for the reduction of the stillbirth rate and of infant mortality and for the healthy development of the child” (contained in art. 12.2 (a) of the International Covenant on Economic, Social and Cultural Rights) may be understood as requiring measures to improve child and maternal health, sexual and reproductive health services, including access to family planning, pre- and post-natal care, emergency obstetric services and access to information, as well as to resources necessary to act on that information.



The right to sexual and reproductive health

Reproductive health is clearly encompassed within the right to health, but is also closely related to other human rights that are rights recognized in the International Bill of Human Rights, including:

- The right to life
- The right to human dignity
- The right to privacy
- The right to freedom of opinion and expression
- The right to information and education
- The right to work
- The right to non-discrimination and equality
- The right to be free from torture and ill-treatment



The right to sexual and reproductive health services

- In 2002, the United Nations Human Rights Council appointed a Special Rapporteur on the right to health, as an independent expert to examine, report and make recommendations on specific issues or on the health situation in specific countries.
- The Special Rapporteur maintains that women are entitled to reproductive health care services, goods and facilities that are: (a) available in adequate numbers; (b) accessible physically and economically; (c) accessible without discrimination; and (d) of good quality.
- “The right to the highest attainable standard of health entitles women to services in connection with pregnancy and the post-natal period, and to other services and information on sexual and reproductive health. These entitlements encompass the key technical interventions for the prevention of maternal mortality, including access to a skilled birth attendant, emergency obstetric care, education and information on sexual and reproductive health, safe abortion services where not against the law, and other sexual and reproductive health-care services”



The right to sexual and reproductive health services

- Article 16 of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) guarantees women equal rights in deciding “*freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.*”
- Article 10 of the CEDAW also specifies that women’s right to education includes “*access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.*”



The right to sexual and reproductive health services

- The UN Women Beijing Platform for Action (1995) states that *“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.”*



What are violations of Sexual and Reproductive Rights?

Violations of Sexual and Reproductive Rights include (but are not limited to):

- Female genital mutilation.
- Denial of access to services that only women require, or poor quality services, or subjecting women's access to services to third party authorization,
- Performance of procedures related to women's reproductive and sexual health without the woman's consent, including forced sterilization, forced virginity examinations, and forced abortion.
- Early marriage (child marriage) and pregnancy.



What must States do to protect Sexual and Reproductive Rights?

States assume obligations and duties under international law:

- **Obligation to Respect:** the State should refrain from intervening with the human rights of the individual.
 - E.g.: States cannot arbitrarily deprive someone of his/her liberty.
- **Obligation to Protect:** the State should create mechanisms to prevent third parties from interfering with the human rights of the individual.
 - E.g.: States must require employers not to discriminate on the basis of gender.
- **Obligation to Fulfil:** the State should take positive measures to assist individuals to enjoy their human rights, including the allocation of resources.
 - E.g.: States should ensure access to basic health care services for all.



What must States do to protect Sexual and Reproductive Rights?

- 'Highest attainable standard of health'
 - Indirect recognition of the existing differences between countries regarding their social and economic development. This should be taken into account when analyzing compliance with the State's positive duties.
- 'Progressive realisation of rights'
 - Certain degree of flexibility for states on how to comply with their duties according to their socio-economic status
 - Margin of discretion in terms of assessing suitable measures, but States must certainly take steps forward in a deliberate, concrete and targeted way.
 - States must therefore use all appropriate means, particularly through the adoption of legislation, but also by adopting administrative, budgetary, promotional, and other measures.



What must States do to protect Sexual and Reproductive Rights?

- 'Core Content'
 - the 'bottom-line' of obligations, a universal minimum standard for all: A basic package of health-related services and conditions, which is not subjected to the "progressive realisation-principle"
 - Obligations of immediate effect to which the government has to comply with under all circumstances, irrespective of the amount of resources available for health and health care.
 - Basic reproductive, maternal (pre-natal as well as post-natal) and child health care is seen as part of this core content. (ICESCR GC 14, Par.44 (a))



What can I do to protect Sexual and Reproductive Rights?

Medical practitioners can (subject to the laws of your own country):

- Ensure that you do not discriminate against patients and that you show all of your patients respect and give them the best possible level of care regardless of their sexual orientation and gender identity, regardless of their health status (eg. HIV/AIDS) and regardless of how they make a living (eg sex workers);
- Ensure that everyone has access to sexual education and information related to sexual and reproductive health and family planning, especially young people;
- Ensure that all patients can access reproductive health care services;
- Where it is legal in your country, provide patients with access to contraception and safe abortion;
- Refuse to perform coerced (without a patient's consent) sterilization, abortion, contraception, etc;
- Educate your patients against harmful practices related to sexuality and reproduction, such as female genital mutilation, or early and forced marriage;
- Educate your patients on the protection against and the treatment of HIV/AIDS; and
- Keep up your good work.



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