

Health and Human Rights

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11 December 2009



HUMAN RIGHTS DAY

10 December 2009

Embrace diversity, end discrimination

“Discrimination lies at the root of many of the world’s most pressing human rights problems. No country is immune from this scourge. Eliminating discrimination is a duty of the highest order.”

Navi Pillay
United Nations High Commissioner for Human Rights

Human rights principles

Human rights are:

- **Universal**
- **Interdependent**
- **Indivisible**
- **Interrelated**
- **Mutually reinforcing**
 - **Inalienable**

Human rights principles

State parties (SPs) are obligated to, with respect to human rights:

- **Respect** – no direct or indirect interference
- **Protect** – prevent third parties from interfering
- **Fulfill** – facilitate, provide, promote (through legislative, administrative, budgetary, technical, judicial, promotional, and other measures)

Human rights principles

Progressive realization of human rights is also an important principle; it

- recognizes variations in the resources of States parties and resulting constraints
- but also means that States Parties should not regress or stay static with respect to their obligations

Core International Treaties

- **Universal Declaration of Human Rights – 10 December 1948***
- **International Convention on the Elimination of All Forms of Racial Discrimination (CERD) – 1965, *entry into force 1969***
- **International Covenant on Civil and Political Rights (ICCPR) - 1966, *entry into force 1976****
- **International Covenant on Economic, Social, and Cultural Rights (ICESCR) - 1966, *entry into force 1976 (+ General Comment 14 - 2000)****

* = International Bill of Rights

Core International Treaties

- **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) – 1979, *entry into force 1981***
- **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) –1984, *entry into force 1987***
- **Convention on the Rights of the Child (CRC) – 1989, *entry into force 1990***

Core International Treaties

- **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) – 1990, *entry into force 2003***
- **Convention on the Rights of Persons with Disabilities (CRPD) – 2006, *entry into force May 2008***
- **International Convention for the Protection of All Persons from Enforced Disappearance (CPPED) - 2006, *entry into force pending***

Belize: Core International Obligations

<i>Core universal HR treaties</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations/Reservations</i>
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	14 November 2001	None
International Covenant on Civil and Political Rights (ICCPR)	10 June 1996	Yes
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	16 May 1990	None
Optional Protocol to CEDAW (OP-CEDAW)	9 December 2002	None
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	17 March 1986	None
Convention on the Rights of the Child (CRC)	2 May 1990	None
Optional Protocol to CRC on the involvement of children in armed conflict (OP-CRC-AC)	1 December 2003	Yes
Optional Protocol to CRC on the sale of children, child prostitution, and child pornography (OP-CRC-SC)	1 December 2003	None
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)	14 November 2001	None

Belize: Other Core International Treaties

<i>Core universal HR treaties</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations/Reservations</i>
International Covenant on Economic, Social and Cultural Rights (ICESCR)	Not applicable – signature only 6 September 2000	Not ratified
Optional Protocol to ICESCR (OP-ICESCR)	Not applicable	Not ratified
Optional Protocol to ICCPR (ICCPR-OP1)	Not applicable	Not ratified
Optional Protocol to ICCPR (ICCPR-OP2)	Not applicable	Not ratified
Optional Protocol to CAT (OP-CAT)	Not applicable	Not ratified
Convention on the Rights of Persons with Disabilities (CRPD)	Not applicable	Not ratified
Optional Protocol to CRPD	Not applicable	Not ratified
International Convention for the Protection of All Persons from Enforced Disappearance (CPPED)	Not applicable	Not ratified

Right to health

The right to the highest attainable standard of health (the right to health) is recognized in numerous international instruments, including:

- **Universal Declaration of Human Rights, Article 25.1**
- **ICESCR, Articles 12.1 and 12.2**
- **ICERD, Articles 11.1 (f)**
- **CEDAW, Article 12**
- **CRC, Article 24**

International Covenant on Economic, Social, and Cultural Rights (ICESCR)

- **Entry into force 3 January 1976**
- **Article 12:**
 - 12.1 The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health**

International Covenant on Economic, Social, and Cultural Rights (ICESCR)

- **Article 12:**

12.2 The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

- **The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child**
- **The improvement of all aspects of environmental and industrial hygiene**
- **The prevention, treatment, and control of epidemic, endemic, occupational and other diseases**
- **The creation of conditions which would assure to all medical service and medical attention in the event of sickness**

ICESCR: General Comment 14

- **Developed to assist SPs in implementation of ICESCR**
- **Focuses on normative content of Article 12, SPs' obligations, violations, implementation at non-SP level, obligations of non-State parties**
- **Based on Committee's experience in examining SP reports over many years**

ICESCR: General Comment 14 Excerpts

- **Right to health (RTH) ≠ right to be healthy**
- **RTH contains**
 - **Freedoms**, e.g. right to control one's health and body, including SRH; right to be free from interference such as non-consensual medical treatment
 - **Entitlements**, e.g. right to system of equality of opportunity for people to enjoy the highest attainable standard of health
- **The SP cannot ensure good health or provide protection against every possible cause of ill-health, because...**

ICESCR: General Comment 14 Excerpts

- Individual health is affected by:
 - Genetic factors
 - Individual susceptibility
 - Adoption of unhealthy or risky lifestyles
- RTH must therefore be understood as the **right to the enjoyment of a variety of facilities, goods, services, and conditions** necessary for the realization of the highest attainable standard of health

ICESCR: General Comment 14 Excerpts

- RTH is an inclusive right, extending not only to timely and appropriate health care, but also to **underlying determinants of health**, e.g. access to:
 - Safe and potable water
 - Adequate sanitation
 - Adequate supply of safe food, nutrition, and housing
 - Healthy occupational and environmental conditions
 - Health-related education, including SRH

ICESCR: General Comment 14 Excerpts

- RTH contains inter-related and essential elements related to facilities, goods, services and conditions for health:
 - **Availability**
 - **Accessibility**: non-discrimination, physical accessibility, economic accessibility (affordability), information accessibility
 - **Acceptability**
 - **Quality**

ICESCR: General Comment 14 Excerpts

- Another important aspect of the RTH is **participation** of the population in all health-related decision making – at community, national, and international levels
- **Progressive realization** means that SPs have a specific and continuing obligation to move as expeditiously and effectively as possible towards the full realization of article 12

HR Accountability Mechanisms

Five broad types:

- 1. *Judicial***, e.g. judicial review of executive acts and omissions; constitutional redress, statutory interpretation, public interest litigation
- 2. *Quasi-judicial***, e.g. NRHI, regional and international HR treaty bodies
- 3. *Administrative***, e.g. HR impact assessment

HR Accountability Mechanisms

Five broad types:

- 4. *Political*, e.g. parliamentary committee review of budgetary allocation and the use of public funds, democratically elected health councils, health care commissions**
- 5. *Social*, e.g. involvement of civil society (independently or in collaboration with government) in budget monitoring, health centre monitoring, public hearings and social audits**

Remedies to Redress HR Violations

For rights-holders:

- Restitution
- Rehabilitation
- Compensation

For duty bearers/national systems:

- Satisfaction
- Guarantees of non-repetition

Both of these include organizational improvements in health planning, budgeting and policy formulation, and RTH training for government and health workers

National HR Institutions

- **UN GA Resolution A/RES/48/134 December 1993:**
 - Encourages Member States to establish or, where they already exist, to strengthen national institutions for the promotion and protection of human rights and to incorporate those elements in national development plans
- **Paris Principles for NHRI deal with:**
 - Competence and responsibilities
 - Composition and guarantees of independence and pluralism
 - Methods of operation
 - Additional principles concerning the status of commissions with quasi-judicial competence

Belize's recent Human Rights reports

- **2005: Report to CRC**
- **2007: Third and Fourth Combined Reports to CEDAW**
- **May 2009: Universal Periodic Review (UPR) to UN Human Rights Council, Geneva**

UPR May 2009

- **Based on:**
 - **National report, submitted and presented by CEO MHD**
 - **Compilation by OHCHR of information contained in reports of treaty bodies, special procedures, and other official UN documents**
 - **Summary of 4 stakeholders' submissions (UNIBAM, Sexual Rights Initiative, Cultural Survival, and Global Initiative to End All Corporal Punishment of Children)**
- **Draft Report of UPR Working Group contains several recommendations made by 19 countries**

Main UPR May 2009 Recommendations

- **Accede to major international HR instruments - ICESCR mentioned by several**
- **Strengthen national capacity to fulfill HR, including training of law enforcement officials, judicial officers, and all state officials, and strengthening the office of the Ombudsman**
- **Consider the possibility of establishing a NHRI in conformity with the Paris Principles**
- **Abolish discrimination of same-sex activity between consenting adults⁺**
- **Take measures to enhance women's access to health care, in particular SRH services**

Main UPR May 2009 Recommendations

- **Further strengthen activities to prevent the spread of HIV and stigmatization and discrimination against PLWA**
- **Consider the possibility of eliminating the required parental consent for HIV testing of persons <16 years of age**
- **Strengthen efforts to fully implement the National Plan of Action for Children, including seeking technical assistance**
- **Review legislation with a view to prohibiting all forms of corporal punishment of children**
- **Increase the age of criminal responsibility and minimum age of marriage⁺**

Main UPR May 2009 Recommendations

- **Submit overdue treaty body reports**
- **Seek technical assistance to develop treaty body reports**
- **Continue pursuit of assistance from the international community to foster national HR capacities**
- **Consider extending a standing invitation to all special procedures of the HR Council**

Non-discrimination

Participation

Availability

Accessibility

Acceptability

Quality



Key tenets of the Right to Health!

Thank you