

of progress in reforming the laws, policies, and programs that hinder the exercise of several of these individuals' human rights and freedoms—including their right to health and their right to live a life free of violence. In addition, the civil society organizations involved in defending LGBTI persons—due to their limited resources in terms of staff, capacities, and funding—are ill-equipped to respond to allegations of human rights violations in the context of health.



# THE RIGHT OF YOUNG PEOPLE TO HEALTH AND GENDER IDENTITIES

## Findings, Trends, and Targets for Public Health Action

### e POLICIES AND PROCEDURES ON ADMISSIONS, RETENTIONS AND REVIEW PROCESS ON HEALTH SERVICES INCONSISTENT WITH HUMAN RIGHTS STANDARDS

There are inadequate enforcement mechanisms for identifying, investigating, prosecuting, penalizing, and monitoring violations of the human rights of groups in situation of vulnerability such as LGBTI groups. This has serious repercussions on the physical and mental health of young people and others who are in a situation of vulnerability. Countries lack mechanisms to monitor implementation of international and regional human rights instruments and evaluate the impact of laws, policies, and programs on young people's health.

### TARGETS FOR ACTION IN PUBLIC HEALTH

This project identified a number of actions that PAHO Member States and other relevant stakeholders can take to promote and protect young people's human rights and fundamental freedoms. The actions can be summarized as follows:

- Among health workers and prison staff, introduce measures to raise awareness of international and regional instruments and standards relating to the right to health of young people, women, children, LGBTI persons, and people living with HIV.
- Provide young people with information on sexual and reproductive health and STI prevention, in accordance with international and regional human rights instruments and standards.
- Ensure mechanisms for protecting young people against human rights violations, as well as for investigating and monitoring those violations and for enforcing the law to avoid discriminatory and violent practices against young people, women,

children, and LGBTI groups; and ensure that those persons responsible for murder and/or acts of violence and discrimination be adequately punished or penalized in accordance with domestic and international human rights law.

- Issue and enforce laws prohibiting discrimination with respect to women, children, young people, LGBTI persons, and other groups in situation of vulnerability, including prisoners (persons deprived of liberty), sex workers, and drug users.
- Include the needs of adolescents in national laws, policies, and plans including access to sexual and reproductive health; and in particular, guarantee the implementation of procedures designed to safeguard informed consent, the right to privacy, and freedom of expression.
- Decriminalize same-sex conduct and eliminate other forms of punishing individuals because of their gender identity, gender expression, or sexual orientation—while promoting a strategy to facilitate people's enjoyment of the right to health, including access to health care facilities and prevention and treatment services for young people, including LGBTI groups.
- Designate or establish national monitoring mechanisms in Ombudsperson's offices to monitor implementation of international and regional human rights instruments, as well as recommendations from international human rights treaty bodies in health services and prisons, with a particular emphasis on young people's health.

### FOR MORE INFORMATION:

Please see the PAHO Human Rights and Health website.

[http://new.paho.org/hq/index.php?option=com\\_content&task=blogcategory&id=1178&Itemid=643](http://new.paho.org/hq/index.php?option=com_content&task=blogcategory&id=1178&Itemid=643)

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<http://www.paho.org>





# FOREWORD

Recently approved Resolution CD 50 R.8 of the Pan American Health Organization (PAHO) on “Health and Human Rights” reiterates PAHO’s continuous support to its Member States in providing technical cooperation to formulate, review, and—if necessary—reform national health plans, policies, and legislation, by incorporating the international human rights instruments applicable in each case—especially those related to protecting groups in situations of vulnerability.

The present document is based on PAHO’s technical cooperation carried out in collaboration with the Royal Norwegian Embassy in Guatemala pursuant to the Regional Strategy for Improving Adolescents and Youth Health and the Plan of Action on Adolescents and Youth Health. Its purpose was to protect and promote the right to the enjoyment of the highest attainable standards of health (“right to health”) and other related human rights and fundamental freedoms of young people and women and men in situation of vulnerability (including people living with HIV; and lesbian, gay, bisexual, transgender, and intersex persons, designated collectively under the acronym “LGBTI persons”).

This document is based on first-hand experiences from 11 human rights capacity-building workshops held in 11 countries between 2008 and 2010. The workshops included an average of 35 participants per workshop. Participants included staff from governmental agencies (ministries of health, labor, education, and finance) and civil society (including media, LGBTI groups and youth associations) as well as judges, legislators and ombudspersons.

The observations and recommendations made at each of the workshops have been organized and analyzed by topic, trend, and public health measures. The information is derived from the reports and observations made by the stakeholders who participated in the above-mentioned workshops and national consultations, and that were applicable to health.

The report emphasizes recent developments in women’s and adolescent girls’ sexual and reproductive health. Despite progress made, there are still significant levels of stigma, discrimination, and violence against certain groups in situation of vulnerability (women, children, adolescents, and LGBTI groups). Nor are the views and human rights of these groups being effectively included in health laws, policies, and plans that affect their fundamental human right to health and well-being.

This document reflects three years of intense work in the Americas. We hope that it can serve as an inspiration and tool for advocates, public health specialists, legislators, and civil society organizations in opening new pathways leading to significant changes in the way human rights instruments are conceptualized and applied at the national legal and practical levels. Our goal is to improve the health of young people around the world, regardless of their gender identity, sexual orientation, and gender expression.

  
Mirta Rosés Periago  
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# EXECUTIVE SUMMARY

## INTRODUCTION

This technical document is the result of 11 training workshops conducted by PAHO with the collaboration of the Royal Norwegian Embassy in Guatemala. These capacity-building exercises were aimed at assessing the current situation of the human rights and fundamental freedoms of young people and other groups in situation of vulnerability such as women; children; lesbian, gay, bisexual, transgender, and intersex persons (LGBTI persons); and people living with HIV.

This paper analyzes and summarizes the results of the training workshops. It identifies preliminary ‘trends’ or ‘patterns’ related to young people’s human rights and fundamental freedoms. It then proposes targets for public health action.

The document emphasizes that the concepts of ‘health,’ ‘sex,’ and ‘gender’ are in a state of continuous evolution. In this respect, there is a need to broaden the scope of measures to protect the right to the enjoyment of the highest attainable standards of health (‘right to health’), especially in the context of young people.

## BACKGROUND

Recently approved Resolution CD50.R.8 of the Pan American Health Organization/World Health Organization (PAHO/WHO) on “Health and Human Rights” urged PAHO Member States to strengthen the technical capacity of their health authorities to work with the corresponding government human rights entities. Their joint task would be to evaluate and oversee the implementation of international human rights instruments that are related to health, as they apply to health systems and policy reform.

In accordance with this Resolution, and to develop and protect the human rights and fundamental freedoms not only of young people, but also of other groups in situation of vulnerability—such as women, children, LGBTI people, and people living with HIV—PAHO conducted 11 human rights capacity-building workshops. Each of these were attended by an average of 35 participants from governmental agencies (ministries of health, labor, education, and finance) and civil society, as well as judges, legislators, ombudspersons, the media, LGBTI groups, and youth associations.

These capacity-building programs introduced relevant human rights concepts, principles, norms, and guidelines as articulated under international human rights law (treaties and standards) in the context of policies, plans, laws, and goals concerning young people.



The ultimate objective of the workshops was to advance the right to young people’s enjoyment of the highest attainable standard of health (‘right to health’) as well as other related human rights and fundamental freedoms throughout the Central American and Caribbean sub-regions. Special consideration was given to young people’s right to sexual health and sexuality in the context of international human rights law and the obligations set forth therein.

## FINDINGS PERTAINING TO YOUNG PEOPLE’S HEALTH IN 11 PARTICIPATING COUNTRIES OF THE AMERICAS

Following each national and sub-regional workshop, a questionnaire on the current picture of the right to health and other related human rights of young people was distributed to the participants. Workshop facilitators prepared a summary report documenting the participants’ responses.

Most of the workshop reports were organized as a series of key observations and recommendations, grouped according to five main findings. This section includes the summary of findings and needs, by heading:

### a THE NEED FOR CONSCIOUS-RAISING AND TRAINING ON HUMAN RIGHTS LAW

There is an urgent need to raise awareness of the human rights of groups in situation of vulnerability as women, children, adolescents, LGBTI people, and people living with HIV. There is a need to strengthen the capacity of magistrates, public health personnel, prison staff, congressional delegates, police officers, and union members, so that they can deal effectively with human rights issues among these groups. In addition, training is urgently needed on the Convention on the Rights of the Child (CRC) as well as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

### b STIGMA, DISCRIMINATION AND VIOLENCE AGAINST CERTAIN GROUPS IN SITUATION OF VULNERABILITY (WOMEN, CHILDREN, ADOLESCENTS, LGBTI GROUPS, PERSONS DEPRIVED OF LIBERTY, SEX WORKERS AND DRUG USERS)

There are high levels of discrimination and violence against children, adolescents and women. Violence and discrimination have also extended their reach to include other vulnerable groups: for example, LGBTI persons, because of their sexual orientation, gender identity, and gender expression. In the case of LGBTI groups, there is high level of selective persecution. Sexual violence against women, children, adolescents, and LGBTI groups—especially transgender individuals—is a constant in the sub-region. Moreover, these groups have limited access to health care services and information on sexual and reproductive health.

### c LEGISLATION, POLICIES, AND PROGRAMS INCORPORATING ADOLESCENTS’ NEEDS

National legislation, policies, and plans do not incorporate young people’s needs, including measures to protect their right to privacy and to safeguard informed consent. There are high levels of teenage pregnancy and teenage suicide—particularly among young adolescent girls. There is also the issue of insufficient access to services and education on sexuality. This applies to both to family counseling services and to parent education programs. It also applies teenagers having safe, legal, and confidential sexual and reproductive health services—including universal access to prevention, treatment, care, and support services for HIV and other sexually transmitted infections (STIs).

### d LEGISLATION, POLICIES, AND PROGRAMS INCORPORATING THE NEEDS OF THE LGBTI COMMUNITY

There are high levels of discriminatory practices against LGBTI groups. Current legislation, plans, and policies do not take into account the needs of this group and there is no evidence