



The NCD Alliance

Putting non-communicable diseases
on the global agenda

NCD ALLIANCE BRIEFING PAPER

NON-COMMUNICABLE DISEASES AND THE RIGHTS-BASED MOVEMENT

“The UN High-Level Meeting on NCDs in September, 2011, provides an unrivalled opportunity to create a sustained rights-based global movement to tackle NCDs.”

- Priority actions for the non-communicable disease crisis. The Lancet, Volume 377, Issue 9775, Pages 1438 - 1447, 23 April 2011.

“The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.”

- Preamble to the Constitution of the World Health Organization

This is a summary of a full briefing paper which can be found at
www.ncdalliance.org

Introduction

The United Nations decision to tackle non-communicable diseases (NCDs) as a major part of its mandate is an international human dignity and human rights imperative. We now have a window of opportunity to reinvigorate efforts where they are flagging, encourage action where nothing has yet been done, and focus on a scourge of humanity. Dignity and international human rights law and language are critical in this timely and pressing summit.

The identity of those whose rights are denied or at risk becomes an important factor determining why and when the right to health is not being realized.

The human right to health provides a universal normative framework to design and assess health care and health determinants in relation to NCDs. Other human rights which guide and support actions to address NCDs include equality and non-discrimination, and the right to information, education and participation.

Implementation for Prevention

International human rights instruments and their interpretation by human rights bodies have made clear that many of the obligations that States must undertake to increase the right to health are of immediate effect: “a State Party cannot, under any circumstances whatsoever, justify its non-compliance with the core obligations...which are non-derogable.”

At the same time, health care and disease control can only be realized in widely divergent countries according to capacity. Much of the right to health is considered a right of ‘progressive realization’ under international law. All nations are expected to take positive steps towards increased services and require States to take steps to achieve those rights to the maximum of their available resources. It distinguishes the inability from the unwillingness of a State Party to comply with its right to health obligations.

Accountability through human rights language provides an internationally recognized legal framework under which governments have concrete obligations relevant to NCDs. The Special Rapporteur on the right to health has defined accountability as “ensuring that health systems are improving, and the right to the highest attainable standard of health is being progressively realized, for all, including disadvantaged individuals, communities, and populations.”

Under international human rights law, the government is under the obligation to protect the right to health and therefore must regulate non-state actors – corporations and private interests

– to respond in a way consistent with this right. In NCDs, the private sector is a significant player, including the tobacco, food, sugar, and alcohol industries. It is an obligation of government to protect human rights by regulating the private sector so that it acts in conformity with human rights.

Related Diagnostics and Treatment with HR Principles

THE RIGHT TO ESSENTIAL MEDICINES AND TECHNOLOGIES

To comply with the right to health, countries must ensure that health policies address the needs of patients who can no longer be cured, many of whom are victims of NCDs. Quality assured essential medicines and technologies, including but not limited to, opioids such as morphine, insulin, anti-asthmatic inhalers, and various core medications for cardiovascular diseases must be made available to all who need them.

Moreover, evidence-based national guidelines and proper training of healthcare workers are crucial to the delivery of quality care.

SOCIAL DETERMINANTS OF HEALTH AND HUMAN RIGHTS

NCDs are affected by a number of underlying social, economic, cultural and political determinants of health and structural barriers. A human rights-based approach provides a practical way to address the social determinants of NCDs, including poverty, gender equality, ethnicity, economic exclusion, stigmatization, non-discrimination and other socially determined barriers.

The public health community has the authoritative tools of epidemiology, which are revealing causal links not only between smoking and death, but also between unhealthy diets and a range of NCDs such as diabetes, cardiovascular disease, cancer and chronic disease. The human rights and public health communities can generate stronger leadership from governments and international organizations to address NCDs through a human rights-based approach, cognizant of social determinants.

Vulnerable Populations and International Co-operation

WOMEN'S HEALTH AND NCDs

Non-communicable diseases represent the biggest threat to women's health worldwide. The right to health, including sexual and reproductive health, encompasses both the freedom to control one's health and body as well as the right to enjoy a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health. The right to education is essential to women's ability to access

information to assist in making informed choices. Healthcare systems in low- and middle-income countries are still geared towards infectious diseases and delivering acute care, and need to be reformulated to integrate NCDs, with innovative partnerships to improve access to affordable, quality assured, gender-sensitive essential medicines.

CHILDREN AND NCDs

Children are not only affected by NCDs, but are the key audience in primary prevention and risk factor management. The United Nations Convention on the Rights of the Child (1989) is the most widely ratified United Nations Convention, and, as such, represents a clear commitment by the international community to the importance of children. While the idea of children as a vulnerable group is reflected in many and various international legal instruments, too often when it comes to addressing NCDs, the rights of children are left off the policy agenda.

INDIGENOUS POPULATIONS AND NCDs

Throughout the world there are marked inequalities between indigenous peoples and their non-indigenous counterparts for almost every socioeconomic and health indicator, with indigenous people faring clearly worse. The United Nations and several Regional human rights systems have a body of legal instruments that can be used as standards to protect the rights and liberties of indigenous peoples and, therefore, their enjoyment of good health and well-being.

A right to education includes programs of disease-prevention and health-promotion, with information processing of traditional knowledge, medicine, and healing practices that are consistent with the right to freedom of expression.

Monitoring and Reporting

Non-communicable disease, by its very definition, can be prevented and controlled. A human rights-based analysis reveals why rights are not realized and throws light on why duty-bearers are not living up to their human rights obligations or responsibilities.

The promotion and protection of human rights must be integrated into national NCD policies, ensuring particular attention is paid to women and girls, young people, orphans and children, older people, migrants, and people affected by humanitarian emergencies, indigenous people, people with mental and physical disabilities, and other vulnerable populations.



KEY RECOMMENDATIONS

- The outcome document of the UN Summit on NCDs must reaffirm the human right to health and commit to bold targets for the treatment and prevention of NCDs. To do less is a continued threat to personal, social and economic well-being of countless societies and persons.
- The outcome document must recognize that the role of human rights law and international human rights standards are essential in order to reduce the impact of NCDs at the global level, and reaffirm the world community's commitment to the full realization of human rights for all as an essential part of the global response to the NCDs epidemic.
- Resolve to integrate the promotion and protection of human rights into national NCD policies, ensuring particular attention is paid to women and girls, children and young people, older people, migrants and people affected by humanitarian emergencies, indigenous people, people with mental and physical disabilities, and other vulnerable populations.
- Recognise that access to safe, effective, affordable, quality assured medicines and technologies in the context of the NCDs epidemic are fundamental to the full realisation of the right of everyone to enjoy the highest attainable standard of physical and mental health throughout the lifecycle.
- Recognize that initiatives to address NCDs should contribute to the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights, which involves education and the engagement of civil society in the political process.
- Realize that the social determinants of health are intricately related to human rights issues; that they do not exist in isolation to one another; and that human rights principles will aid and abet the improvements of social determinants.
- Resolve that human rights should guide our response to NCDs. Human rights standards relevant to NCDs need to be further developed in the pursuit of Millennium Development Goals (MDGs). In the first instant, the Committee on Economic, Social and Cultural Rights could issue a General Comment on human rights and NCDs.
- Organize briefings on NCDs and human rights for the relevant treaty body committees and Special Rapporteurs via the Office of the High Commissioner for Human Rights (OHCHR).
- The OHCHR Special Rapporteur on Human Rights and Health should undertake a special report and present influential annual reports on NCDs and Human Rights to the Human Rights Council and General Assembly.
- Civil society organisations should write 'Charters of Rights', which address the rights and responsibilities of people with NCDs.



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