

Health as a Human Right



Health is a Fundamental Human Right

“[We] recognize the right of everyone to the highest attainable standard of physical and mental health.” These words are enshrined in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), one of five key international human rights instruments that together form the International Bill of Human Rights. The Kenyan government acceded to the ICESCR in 1976. With this key step the Kenyan government became party to the ICESCR and fully committed itself to respect, protect and fulfill the economic, social and cultural rights of its citizens, including the right to the highest attainable standard of health.



Components of the Right to Health

The right to health endows each person with an equal claim to timely and appropriate health care, as well as the underlying conditions that foster good health, such as access to safe water, adequate nutrition, safe housing and access to accurate information, among others. The international community elaborated the right to health in the document “General Comment 14,” which outlined four specific criteria that could be used throughout the world to further understand what governments must do to ensure the realization of the right to health for its citizens:

Governments must meet all four of these criteria, ensuring that health care is available, accessible, acceptable and of good quality.

Furthermore, these criteria also apply to the “underlying determinants of health,” such as clean and safe water, adequate nutrition, safe housing, access to accurate information, and many others.

When measuring whether or not the government has realized the right to health for all its citizens, the international community uses these four criteria, asking “is health care available, accessible, acceptable, and of good quality for everyone?”

Availability:

Functioning public health and health care facilities, goods, services and programs have to be available in sufficient quantity.

Accessibility:

Health facilities, goods, services and programs must be physically and economically accessible to everyone, information about these services must be accessible to everyone, and these services must be free from discrimination.

Acceptability:

All health facilities, goods and services must be respectful of medical ethics, culturally appropriate, sensitive to gender and lifestyle requirements, and designed to respect the confidentiality and improve the health of those concerned.

Quality:

Health facilities, goods and services must be scientifically and medically appropriate and of good quality.

Center for Economic and Social Rights (CESR), <http://cesr.org/health>.

Taking Action to Fulfill the Right to Health

The United Nations' Guidelines

Each government that has signed and ratified the ICESCR is obligated to fulfill the right to health for all its citizens. In order to facilitate this, the United Nations has outlined four action areas for governments throughout the world. These include:

Reducing infant mortality and providing for the health development of children.

Improving environmental conditions and monitoring the consequences and industrial working conditions more closely.

Preventing, treating and monitoring disease, including developing preventive health systems and systems for monitoring occupational health.

Providing basic medical services for the entire population.



The Government's Responsibility and the Citizen's Responsibility

Approaching the issue of sound public health policies through the lens of human rights, and the right to health in particular, is a relatively new concept in many nations. This approach is called a “rights-based approach,” and transforms the traditional discourse on health in two fundamental ways:

1. It changes the government's responsibility in terms of the health of its population.

Every man, woman and child has a fundamental right to available, accessible, acceptable and quality health services. When a government ratifies the International Covenant on Economic, Social and Cultural Rights (which Kenya ratified in January 1976) it assumes the responsibility of fulfilling these rights for all its citizens, including the right to health. A rights-based approach re-frames the discourse on public health, changing the debate from “what can the government provide to improve the health of its citizens?” to one of “what must the government provide according to its international obligations?”

2. It changes the citizen's responsibility in terms of demanding that government meet its human rights commitments

In essence, a rights-based approach reframes basic health needs as fundamental human rights. Using a rights-based approach, health is no longer a blessing to be wished for, but rather a right to be demanded. This empowers people—no matter what their economic status, HIV status, gender or nationality may be—to demand that the government ensure access to quality health care and information for all its citizens. Furthermore, it empowers people to engage with the government, as the basis for all human rights are found in a set of internationally recognized documents that the Kenyan government has signed and ratified.