FACT SHEET

THE RIGHT TO HEALTH

The UN Committee on Economic Social and Cultural Rights has stated that health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity.

Australia is a party to seven core international human rights treaties. The right to health is contained in article 12(1) of the International Covenant on Economic Social and Cultural Rights (ICESCR)- external site.

See also article 5(iv) of the Convention on the Elimination of All Forms of Racial Discrimination (CERD)- external site , articles 10(h), 11(1)(f) , 12, 14(2)(b) and 16(1)(e) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)- external site, articles 24 and 25 of the Convention on the Rights of the Child (CRC)- external site and articles 23(1)(c) and 25 of the Convention on the Rights of Persons with Disabilities (CRPD)- external site.

CEDAW requires measures to be taken in the field of health to eliminate discrimination against women. They include protecting health and safety in working conditions, including the safeguarding of women's function of reproduction. CEDAW also requires access to adequate health care facilities, including information, counselling and services in family planning and appropriate services in connection with pregnancy, confinement and the post-natal period.

The CRC requires that appropriate measures be taken to diminish infant and child mortality.

The CRPD requires that effective and appropriate measures be taken so that people with disability, including children, retain their fertility on an equal basis with others. CRPD also requires that people with disability be provided with the same free or affordable health care and programs as are provided to other persons, including in the area of sexual and reproductive health. The CRPD requires countries to prohibit discrimination against people with disability in the provision of health insurance and life insurance.

The UN Committee on Economic Social and Cultural Rights has stated that the right to health is not to be understood as a right to be healthy. According to the Committee, 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 Committee has stated that the notion of 'the highest attainable standard of health' takes into account both the conditions of the individual and the country's available resources. The Committee recognises that good health cannot be ensured by a country, nor can countries provide protection against every possible cause of human ill health, such as genetic factors, individual susceptibility to ill health and the adoption of unhealthy or risky lifestyles.

THE HEALTHY COMMUNITIES FOUNDATION AUSTRALIA

Consequently, the right must be understood as a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the individual to realise his or her highest attainable standard of health.

The Committee has stated that the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment. This entails a right of access to a variety of public health and health care facilities, goods, services, programs and conditions necessary for the realisation of the highest attainable standard of health. The precise nature of the facilities, goods and services will vary depending on numerous factors, including the country's developmental level. In this regard, developed countries such as Australia will be held to higher standards than developing countries.

The services must be within safe physical reach for all sections of the population, especially vulnerable or marginalised groups, such as ethnic minorities and Indigenous populations, women, children, adolescents, older persons, people with disability and persons with HIV/AIDS. The services must be affordable for all. Payment for health care services, as well as services related to the underlying determinants of health, must be based on the principle that the services, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups.

Where can I read more about the right to health?

- United Nations, Office of the High Commissioner for Human Rights, Human Rights Bodies- external site (human rights treaty bodies that monitor implementation of thecore international human rights treaties)
- UN Committee on Economic Social and Cultural Rights General Comment No 14
- UN Human Rights Council Special Rapporteur on the Right to Health
- Australian Institute of Health and Welfare
- Australian Government National Disability Strategy
- Australian Human Rights Commission Social Justice Report 2005- (see Chapter 2 on Aboriginal and Torres Strait Islander health)
- World Health Organisation

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FOR MORE INFORMATION

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