

Rights based approach to health

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Sept. 2009



What are Human Rights?

- ▶ Those rights that every human being possesses and is entitled to by virtue of being human irrespective of citizenship, nationality, race, ethnicity, language, sex, sexuality or abilities
- ▶ Are the birth right of all human beings based on the fundamental principle that all persons possess an inherent human dignity
- ▶ A powerful tool for promoting social justice and dignity of all people



Principles and Values underlying Human Rights

- ▶ *Equality*
- ▶ *Nondiscrimination*
- ▶ *Dignity*
- ▶ *Bodily integrity*
- ▶ *Self determination*
- ▶ *Compassion*
- ▶ *Interdependence*
- ▶ *Right to life and development*



History of Human Rights

- ▶ *Universal Declaration of Human Rights (1948)*
- ▶ *International Covenant of Civil and Political rights*
- ▶ *International Covenant of Social, Cultural and Economic Rights*
- ▶ *Third generation of rights: CEDAW, CRC, Racial Discrimination etc.*



Another definition....

- ▶ *What does one mean by a 'right'?*
- ▶ *a right is an **entitlement** that locates the particular **concerns, needs and interests** of certain **class(es) of individuals** against a set of **objective standards** such that such needs and interests can be **claimed and asserted** irrespective of an individual's, a community's or a government's views on the issues around them*



Sources of Rights

- ▶ *Constitution of countries*
- ▶ *National law*
- ▶ *International human rights conventions, covenants, treaties*
- ▶ *Regional human rights conventions, charters*
- ▶ *Declarations, programmes of action of various international and UN conferences*
- ▶ *Committees eg CEDAW*

These sources of rights often define – or lead to - the objective standards



Obligations of the State

- ▶ **To respect:** *no obstacles in enjoyment of rights*
- ▶ **To protect:** *to protect against violations by third parties*
- ▶ **To fulfill:** *to create enabling conditions so that rights can be met – legislations, policies, budgets*



Right to Health in International Documents

- ▶ *Universal Declaration of Human Rights, Article 25*
- ▶ *International Covenant on Economic, Social and Cultural Rights, Article 7, 11 and 12*
- ▶ *Convention on the Elimination of All Forms of Discrimination Against Women, Article 10, 12 and 14*
- ▶ *Convention on the Elimination of all forms of Racial Discrimination, Article 5*
- ▶ *Convention on the Rights of the Child, Article 24*



Constitutional Provisions Relating to Health

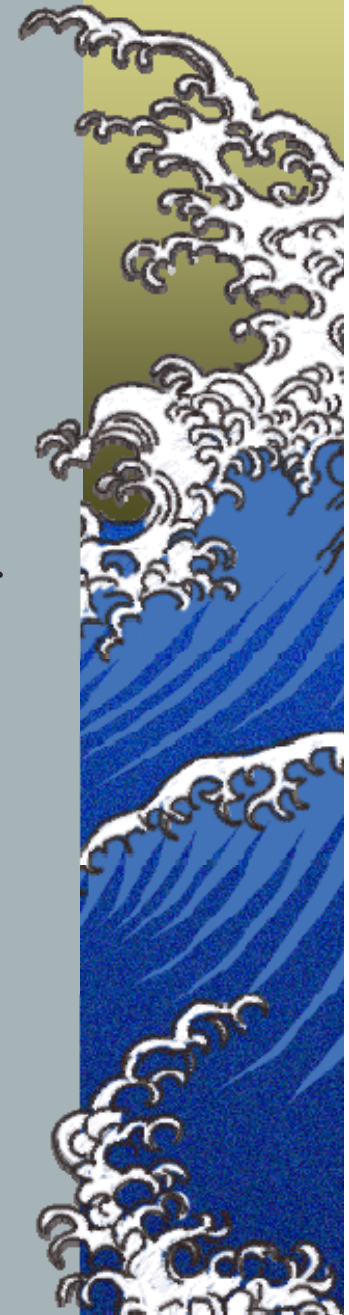
- ✦ *Unfortunately, in the Constitution of India, health is not a fundamental right of the citizens.*

BUT.....

- ✦ *Fundamental Rights, Article 21 (No person shall be deprived of his life or personal liberty)*
- ✦ *Directive Principles of State Policy Articles 41, 42, 47,*



- ▶ *Article 41 (...make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement,)*
- ▶ *Article 42 (...make provision for securing just and humane conditions of work and for maternity relief)*
- ▶ *Article 47 (...regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medical purposes of intoxicating drinks and of drugs which are injurious to health.)*



Health as a Human Right

▲ *Right to HEALTH*

- ▲ Right to food, Right to a healthy environment ,
Right to adequate housing, Right to education,
Right to work and rights at work, Right to life,
Right to information, Physical integrity

▲ *Right to HEALTH CARE*

- ▲ *CESCR Article 12, General Comment 14 on health...highest attainable standard of health, availability, accessibility, acceptability, quality*



Highest attainable standard of health.....

▲ *Availability*

- ▲ *Services, facilities, goods, programmes in sufficient quantities*
- ▲ *Trained personnel*
- ▲ *Essential drugs*
- ▲ *Determinants of health e.g. water, sanitation etc.*

▲ *Accessibility*

- ▲ *Non-discrimination*
- ▲ *Physical accessibility including for vulnerable groups (old, dalits, disabled...)*
- ▲ *Economic accessibility*
- ▲ *Information (along with confidentiality)*



▲ *Acceptability*

- ▲ *Culturally appropriate (Life –cycle, gender, minorities)*
- ▲ *Medical ethics*

▲ *Quality*

- ▲ *Scientifically, medically appropriate*
- ▲ *Skilled personnel*
- ▲ *Rational, unexpired, quality drugs*
- ▲ *Aseptic procedures*
- ▲ *Safe blood*



Reproductive Rights

- ▶ *the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so,*
- ▶ *the right to attain the highest standard of sexual and reproductive health.*
- ▶ *the right of all to make decisions concerning reproduction free of discrimination, coercion and violence.*
- ▶ *promoting mutually respectful and equitable gender relations*
- ▶ *meeting the educational and service needs of adolescents to enable them to deal in a positive and responsible way with their sexuality.*



Sexual Rights

- ▶ *The concept of sexual rights, like that of human rights, provides a framework to ensure non-discrimination, and therefore cannot be used to privilege one individual or group over another.*
- ▶ *Sexual rights affirms entitlements, such as the right to bodily integrity, as well as rights that protect against violations, such as the right not to be coerced into sexual activity.*



Sexual Rights include the right to

- ▶ *Sexual pleasure without fear of infection, unwanted pregnancy*
- ▶ *Sexual expression and to make sexual decisions that are consistent with one's personal, ethical and social values.*
- ▶ *Sexual and Reproductive health care, information, education and services.*
- ▶ *Bodily integrity and right to choose if, when, how and with whom to be sexually active and engage in sexual relations with full consent*
- ▶ *Enter relationships, including marriage, with full and free consent and without coercion.*
- ▶ *Privacy and confidentiality in seeking sexual and reproductive health care services.*
- ▶ *Express one's sexuality without discrimination, and independent of reproduction*



Rights related to safe motherhood

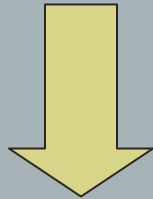
- ▶ *Rights related to life, survival, and security of person,*
- ▶ *Rights related to maternity and health*
- ▶ *Rights related to nondiscrimination and respect for differences*
- ▶ *Rights to education and information*



Examples of the links between Health and Human Rights



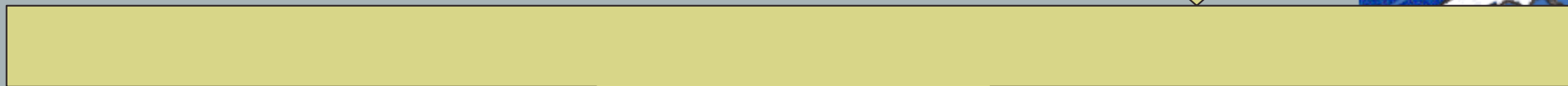
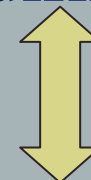
citizen ↔ other stakeholders ↔ government



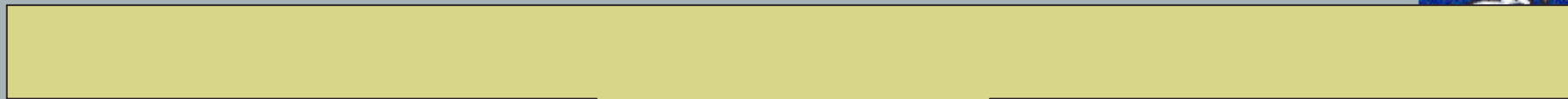
voice
participation

respective roles

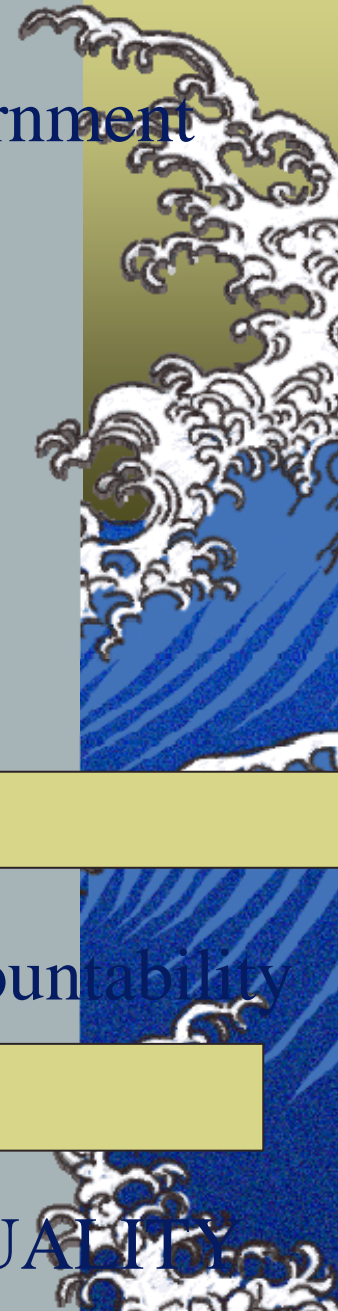
respect
protect
fulfil



laws, policies, information, services, resources, accountability



AVAILABLE, ACCESSIBLE, ACCEPTABLE, QUALITY



Group Task

- ▶ *Read the case study.*
- ▶ *Identify the ‘class of persons’?*
- ▶ *What human rights are being violated? (see UDHR).*
- ▶ *What are their Needs/Concerns/Interests,*
- ▶ *resulting in the violation of what health rights? (refer to General Comments 14 summary)*
- ▶ *What obligation of the state is not being fulfilled?*

