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Right to Health

Health systems and the right to health: an assessment of 194 countries

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Summary

60 years ago, the Universal Declaration of Human Rights laid the foundations for the right to the highest attainable standard of health. This right is central to the creation of equitable health systems. We identify some of the right-to-health features of health systems, such as a comprehensive national health plan, and propose 72 indicators that reflect some of these features. We collect globally

processed data on these indicators for 194 countries and national data for Ecuador, Mozambique, Peru, Romania, and Sweden. Globally processed data were not available for 18 indicators for any country, suggesting that organisations that obtain such data give insufficient attention to the right-to-health features of health systems. Where they are available, the indicators show where health systems need to be improved to better realise the right to health. We provide recommendations for governments, international bodies, civil-society organisations, and other institutions and suggest that these indicators and data, although not perfect, provide a basis for the monitoring of health systems and the progressive realisation of the right to health. Right-to-health features are not just good management, justice, or humanitarianism, they are obligations under human-rights law.

Introduction

December, 2008, marks the 60th anniversary of the Universal Declaration of Human Rights.¹ The declaration provides the foundation for the international code of human rights.² This code gives an internationally agreed set of standards to guide and assess the conduct of governments across a wide range of sectors and has a direct, close bearing on medicine, public health, and the strengthening of health systems.³

The international code of human rights consists of legally binding international components. Among the most important of these components for health systems are the International Covenant on Economic, Social, and Cultural Rights (ICESCR)^{4, 5} and the Convention on the Rights of the Child (CRC).⁶ Both these human-rights treaties are legally binding for those countries that have ratified them. Most states have ratified the ICESCR, and all but two (Somalia and the USA) have ratified the CRC. The right of everyone to enjoy the highest attainable standard of physical and mental health—sometimes known as the right to the highest attainable standard of health or the right to health—is an integral part of both of these international treaties. All countries have ratified one or more binding treaty that includes the right to health, such as the International Convention on the Elimination of All Forms of Racial Discrimination.⁷ Also, many countries include this right in their national constitutions.⁸ The Constitution of WHO,⁹ the Declaration of Alma-Ata,¹⁰ the Ottawa Charter for Health Promotion,¹¹ the Bangkok Charter for Health Promotion in a Globalized World,¹² and other important documents agreed by the health community also recognise this fundamental human right.

In recent years, national and international policy makers, courts, non-governmental organisations, and other stakeholders have adopted and applied features of the right to the highest attainable standard of health. Uganda's review of its health policy expressly

uses a right-to-health analysis¹³ as does WHO in, for example, its publication on human rights, health, and poverty reduction.¹⁴ Courts, too, are explicitly relying on the right to health in their decisions, most recently in a landmark judgment of the Colombian Constitutional Court.^{15, 16, 17, 18, 19} On the basis of a detailed understanding of the right to health, this court effectively ordered a phased restructuring of the country's health system by way of a participatory and transparent process based on current epidemiological information.²⁰ Civil-society guides to the right to health are increasing in number, and many civil-society organisations use these in their work.^{21, 22, 23, 24} Both the UN General Assembly and Human Rights Council have discussed numerous reports on the right to health, covering a wide range of issues, such as neglected diseases,²⁵ sexual and reproductive health,²⁵ maternal mortality,²⁶ mental disability,²⁷ the Millennium Development Goals (MDGs),²⁸ medicines,²⁶ and water and sanitation.²⁹

Recognition that a strong health system is an essential element of a healthy and equitable society is growing. However, according to a recent WHO publication, health systems in many countries are failing and collapsing.³⁰ Too many health systems are inequitable, regressive, and unsafe.³⁰ WHO also confirms that sustainable development, including achievement of the MDGs, depends on effective health systems.³⁰

As with a fair court system, an effective health system is a core social institution and, for this reason, crucially, both systems are protected by human rights.^{31, 32} Although many human rights are important to a well-functioning court system, the key one is the right to a fair trial.³³ Through human-rights treaties, national laws and policies, judicial decisions, and so on, the right to a fair trial has helped to identify the key features of a fair court system, such as an independent judiciary and trials without undue delay. The right to a fair trial has not only identified unfair judicial processes but also led to welcome reforms in many countries.

By analogy, the right to the highest attainable standard of health can help to establish health systems that are reasonably equitable. However, to make this happen, the right-to-health features of health systems need to be identified. This process will take time, just as our understanding of the right to a fair trial has developed over many years. Once identified, the right-to-health features will not provide a neat blueprint or formula for a health system. There will be many grey areas, just as there are in relation to the right to a fair trial and court systems.³⁴ The right to a fair trial does not provide detailed prescriptions, rather it insists upon key principles, such as fairness, independence and impartiality, and several important features that a court system must have if it is to be fair. The right to health has a similar role.

Of all the important human rights that bear upon health systems, the right to the highest attainable standard of health is the cornerstone of both an effective health system and the growing movement for health and human rights.³⁵

In this Report, we aim to assess the degree to which the health systems of 194 countries include some of the features that arise from the right to health. We introduce the right to health and identify some of the right-to-health features of health systems. These features are not just a matter of good management, justice, or humanitarianism—they are a matter of human-rights law. We set out our methods and their limitations and identify 72 indicators of right-to-health features of health systems. We present some of the findings and results arising from the data on the indicators, and discuss these data and make recommendations for a range of stakeholders.

Section snippets

What is the right to health?

The right to the highest attainable standard of health encompasses medical care, access to safe drinking water, adequate sanitation, education, health-related information, and other underlying determinants of health;³⁶ it includes freedoms, such as the right to be free from discrimination and involuntary medical treatment, and entitlements, such as the right to essential primary health care.³⁶ Like other human rights, the right to health has particular concern for disadvantaged people and...

Right-to-health features of health systems

The Declaration of Alma-Ata identifies some vital components of an effective health system. The declaration is especially instructive because of its public-health, medicine, and human-rights aspects (panel 2), and it provides compelling guidance on the core obligations of the right to health.³⁶

Other attempts have been made to identify what constitutes a functioning health system.⁵² WHO identifies six essential building blocks that make up health systems: health services (medical and public...

Scope and objectives

We begin to assess the degree to which the health systems of 194 countries include features arising from the right to the highest attainable standard of health.

From the start, this project did not aim to give a weighting to indicators nor to rank countries in an index, although we are aware that ranking can appeal to politicians and sometimes might enhance monitoring and accountability, leading to improved health and respect for human rights.^{91, 92} Ranking in league tables is also problematic...

Development and selection of indicators

Our aim was to assess how much the health systems of all countries include some of the features that arise from the right to health. To meet this aim, we identified the following objectives: to promote awareness of the complementary relation between a health system and the right to health; to select a manageable set of indicators to assess the degree to which a health system includes some of the right-to-health features; to assess if sufficient information is available about these features both ...

Key findings

We discuss some of the key findings and results arising from the data collected for the 72 indicators, giving special attention to three of our objectives. Do countries' health systems have the relevant right-to-health features? Are the relevant data available at the global level? Do the data provide a basis to monitor, over time, health systems and the progressive realisation of the right to the highest attainable standard of health.

We did not try to find directional relations between...

Opportunities and challenges

On a country-by-country basis, table 1 summarises the degree to which health systems of countries include some features that arise from the right to health in relation to 72 indicators. Table 2 summarises national data for the same indicators in relation to five countries. When considering the performance of an individual country, the country's stage of economic development (what human-rights treaties refer to as the countries resource availability) is important.

Some of our findings are...

Recognition of the right to health

Recognition of the right to health in international treaties, national constitutions, and other statutes gives rise to a legal obligation for countries to ensure that their health systems have certain features, as discussed, and also that the performance and quality of health systems do not regress or stagnate but improve over time. However, most countries (121 of the 184 for which data are available) do not recognise the right to health in their national constitutions or other statute,...

Health information

Health information is the life-blood of effective, accessible health systems and the right to health. Information enables individuals and communities to promote their own health and allows governments to formulate evidence-based health plans. Monitoring, accountability, and participation depend upon access to information. Without reliable disaggregated data, whether health systems are delivering access to services and facilities without discrimination is impossible to know. However, our...

Additional research

This project highlights the need for more research on the right to health. For example, what are the core obligations signalled in paragraph 43 of general comment 14? Research is needed on the application of the right to health to the six WHO building blocks of a health system and within both public and private sectors. More attention should be devoted to right-to-health features of health systems: for example, what are appropriate mechanisms of monitoring and accountability? More research is...

Conclusion

Over 18 months of research, our interdisciplinary project has depended upon the insights of experts in both health and human rights. UN bodies, non-governmental organisations, policy makers, academics, and others have made indispensable contributions. We strongly recommend that all those sharing the common ground between health and human rights deepen their dialogue, cooperation, and collaboration. Our findings have implications for professions and institutions at all levels and in both public...

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