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UNITED NATIONS POPULATION FUND



OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS

RECOMMENDATIONS

**“Application of
Human Rights
to Reproductive
and Sexual Health”**



UNFPA

United Nations
Population Fund

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Expert Group Meeting

“Application of Human Rights to Reproductive and Sexual Health”

« **R**eproductive rights embrace certain human rights that are already recognized in national laws, international laws and international human rights documents and other consensus documents. These rights rest on the recognition of the basic rights 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, and the right to attain the highest standard of sexual and reproductive health. It also includes the right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents. »

(ICPD Programme of Action, Paragraph 7.3)

INTRODUCTION

In 1996, in Glen Cove, New York, the United Nations Population Fund (UNFPA) in collaboration with the Office of the High Commissioner for Human Rights (then, Center for Human Rights) and the Division for the Advancement of Women (DAW) organized a meeting on “Human rights approaches to women’s health, with a focus on sexual and reproductive health and rights”. The purpose was to contribute to the work of the treaty bodies in interpreting and applying human rights standards to issues relating to women’s health and to encourage collaboration in the development of methodologies and indicators for use by both treaty bodies and the UN agencies to promote, implement and monitor women’s human right to health, in particular reproductive and sexual health. It was also designed to provide an opportunity for the human rights treaty bodies to consider the gender dimensions of human rights from the perspective of their respective treaties and to take account of the conclusions of recent United Nations conferences in the treaty monitoring process. This meeting was the first occasion on which members of the six treaty bodies met to focus on the interpretation and application of human rights in relation to a specific thematic issue.

Five years later, in 2001, the UNFPA and the Office of the High Commissioner for Human Rights organized a follow-up meeting in Geneva, 25-27 June, to assess progress, obstacles and opportunities in integrating reproductive rights into the work of the treaty bodies and to elaborate further measures and strategies to be used by treaty bodies in the monitoring and strengthening of reproductive and sexual health. The meeting defined actions and recommendations to ensure better implementation of treaty obligations at domestic level so as to promote and ensure enjoyment by women and men of reproductive and sexual health.

The meeting was to consider how to make the monitoring work of the treaty bodies more effective in assisting States Parties to give full effect to their treaty obligations and in particular those which are relevant to women’s rights, including their right to reproductive and sexual health. It affirmed that to the vast majority of women in the world, the issues dealt with over the three days are central to their well-being and to their full and equal enjoyment of human rights. Many of the risks to women’s sexual and reproductive health are caused by failure to respect the full equality of women, by attitudes and by practices which reinforce women’s subordinate status. Issues such as forced marriage, early pregnancy, sexual violence, trafficking, female genital mutilation, and others, have negative consequences for sexual and reproductive health.

The Meeting was presented with the results of research compiling and analyzing the work done by the treaty bodies in dealing with issues relating to reproductive health in their concluding observations and general comments and recommendations. The presentations of this research provided a basis for the discussion of progress into the work of the treaty bodies.

The Meeting examined, in particular, three issues of considerable importance to sexual and reproductive health, in order to assess the impact of clinical services, health systems and other underlying social, economic, legal and political factors on the enjoyment of sexual and reproductive health and rights, and to identify the positive measures which States are required to take under relevant treaty provisions to ensure the enjoyment of those rights. The three areas were unsafe abortion, adolescents' access to sexual and reproductive health, and HIV/AIDS.

Participants considered these were core human rights issues and were linked to discrimination in the broadest sense, as well as to many of the rights enshrined in the six principal human rights treaties. As the human rights framework imposes legal obligations on States, it is critical to link reproductive and sexual health issues to relevant treaty provisions to make it clear to the treaty bodies how sexual and reproductive health relate to their respective mandates, with regard to report review, inquiries, concluding observations, and other procedures such as early warning.

Participants agreed that rights essential to the full enjoyment of sexual and reproductive health should be further analysed and clearly linked to the specific treaty provisions. These impose positive obligations on States to implement laws, policies and programmes to promote reproductive and sexual health and negative obligations to remove obstacles.

The recommendations for action are grouped into three main areas : advocacy, information gathering and reporting process, and national level implementation, and have been proposed according to the stakeholders identified as having the main responsibility in implementing them.

ADVOCACY

To all stakeholders

1. Encourage and facilitate the preparation of analyses of rights implicated when addressing reproductive and sexual health issues in order to clarify their relationship to the mandate of all treaty bodies.
2. Ensure wide dissemination of such analysis to support and intensify advocacy efforts of all stakeholders, including NGOs and relevant United Nations entities, to promote the full enjoyment of reproductive and sexual health by all.
3. Disseminate in English, Spanish, French, Chinese, Arab and Russian these recommendations and the report of this meeting as widely as possible, including to field staff of United Nations entities, through all available means, such as the world wide web.
4. Establish a multi-stakeholder task force with representation from the treaty bodies, United Nations entities, including field level staff, and international and national NGOs to follow-up and monitor implementation of these recommendations.

INFORMATION GATHERING AND REPORTING PROCESS

To Human Rights Treaty Bodies

5. Elaborate, after consultation with relevant United Nations agencies and bodies, guidelines to assist United Nations entities in the provision of information required to support the work of the treaty bodies in regard to reproductive and sexual health.
6. Chairpersons should consider directing formal and regular requests to heads of United Nations entities for information, including with regard to specific States parties, on reproductive and sexual health.
7. Elaborate specific reporting guidelines for States Parties on information to be provided in reports including statistics, disaggregated by sex and age, socio-economic status and other relevant factors; information on the economic impact of the denial of rights relating to reproductive and sexual health

such as maternal mortality and the impact of health sector reform, including privatisation, on access to services relating to reproductive and sexual health.

8. Consider scheduling an exchange of views on reproductive and sexual health in the programme of work of future sessions of each treaty body to discuss the issues that fall within the scope of the relevant human rights treaty.
9. Seek opportunities to interact across treaty bodies on issues including reproductive and sexual health, including through the mechanism of the annual meeting of persons chairing the human rights treaty bodies.
10. Consider undertaking an article-by-article analysis of the respective treaties regarding sexual and reproductive health and rights with a view toward underscoring the indivisibility and interdependence of all human rights. Include such an analysis in general comments/recommendations, or, where pertinent, elaborate general comments/recommendations on the enjoyment of sexual and reproductive rights, including with respect to specific groups, including young women and men, migrants, refugees and indigenous people.
11. Ensure that existing general recommendations/comments with relevance to reproductive and sexual health and rights be fully utilized in the formulation of concluding observations/comments, in particular by explicitly referencing them or including relevant language.
12. Include concrete, specific recommendations, clearly linked to provisions in individual treaties, including on incompatibility of laws, policies, programmes and practices, in concluding observations/comments on States Parties' reports. Ensure such recommendations include specific directives for national level action.
13. Ensure that treaty bodies in their concluding observations and general comments, make linkages between widespread, systemic discrimination against women, including gender and cultural stereotypes, and violations of reproductive and sexual health rights. Explore how different forms of discrimination, based on sex, race, socio-economic or other status, intersect with gender-based discrimination and result in violations of reproductive and sexual health rights.
14. Consider including specific recommendations on United Nations technical assistance available to

States parties, in particular with regard to capacity building for the collection of statistics, including on issues of reproductive and sexual health.

15. Seek opportunities to interact with other human rights mechanisms working on reproductive and sexual health issues, including the Special Rapporteur on violence against women, the Special Rapporteur on the human rights of migrants and the Special Rapporteur on harmful traditional practices affecting the health of women and girls.
16. Consider coordinating a list of indicators on reproductive and sexual health issues for national level implementation of human rights obligations.
17. Consider nominating within each treaty body a focal point on reproductive and sexual health.

To United Nations entities

18. Provide information to treaty bodies on the most significant human rights issues relating to reproductive and sexual health in States parties which are being considered by those bodies, including on economic status, relevant statistics, such as on maternal mortality and morbidity, number of abortions (safe/unsafe) by age and ethnicity where available, incidence of HIV/AIDS disaggregated by sex and age, early pregnancy, early marriage, FGM and other harmful traditional practices and sexual violence, enjoyment of the right to education, illiteracy rates, disaggregated by sex and age, number of refugees/situation of migrants and indigenous people.
19. Provide briefings on specific reproductive and sexual health issues, for example on maternal mortality and morbidity, to each human rights treaty body to enhance their understanding of the relevance of these issues to their respective mandates.
20. Establish an interagency task force to develop, in cooperation with treaty bodies and secretariat staff, a protocol for the provision of information to human rights treaty bodies, in particular on issues related to sexual and reproductive health.
21. Create an interagency 'virtual country profile' database containing information, in particular on reproductive and sexual health, found in the reports of United Nations entities.
22. United Nations agencies should work to build the capacity of NGOs at the local and national level with respect to the international reporting process to encourage sustainability.

To the High Commissioner for Human Rights and to the Special Adviser on Gender Issues and Advancement of Women

23. Encourage relevant United Nations agencies and bodies to provide country specific information on reproductive and sexual health, including through official requests to heads of such entities.

To the Secretariats of Human Rights Treaty Bodies

24. Provide treaty bodies with all available country specific information on States parties, including from the United Nations Statistical Office, all United Nations entities, including field offices and regional bodies, where pertinent.
25. Ensure sharing and timely transmission of country-specific information on reproductive and sexual health between treaty bodies where pertinent, as well as between those servicing treaty bodies, including between OHCHR and DAW.
26. Convene a meeting of staff servicing all treaty bodies to consider, inter alia, how best to support the work of individual treaty bodies with regard to reproductive and sexual health.
27. Institute a formalized, ongoing method for outreach to NGOs, including by publicizing the timing of country reports and the format for NGO input into the reporting process.

To NGOs

28. NGOs should make a particular effort to provide information to the treaty bodies that is concise and timely, related to the articles on the relevant treaty and which comments on the State party's report and discusses measures undertaken to comply with concluding comments and observations since the previous reporting process.
29. NGOs should provide events-based data on particular cases or situations, when comprehensive countrywide data is not available.
30. International and regional NGOs with particular expertise on the treaty body system should continue to work to transfer their expertise to a broader range of civil society actors concerned with issues of sexual and reproductive health.

NATIONAL LEVEL IMPLEMENTATION

To Human Rights Treaty Bodies

31. Consider, where these do not already exist, establishing procedures for follow-up to concluding observations/comments, and monitoring of compliance with recommendations, including through, for example, visits to States parties.
32. Consider collaboration with NGOs and/or United Nations agencies on country visits to monitor compliance with recommendations and dialogue with government and civil society.
33. Consider requesting States parties to provide information on follow-up to recommendations of other treaty bodies on issues relating to reproductive and sexual health which are pertinent to their own mandate.
34. Participate in national level capacity building, including seminars, sensitisation and training, on compliance with treaty obligations relating to sexual and reproductive health.

To United Nations entities

35. Integrate a rights-based approach, including specifically with respect to reproductive and sexual health, into the work of United Nations field staff, in particular UNFPA field staff.
36. Disseminate treaty body concluding comments/observations particularly at country level and to a broad spectrum of civil society organizations (e.g. through UN Resident Coordinators and through the United Nations Information Centres), monitor national level implementation of recommendations contained in concluding comments/observations, and inform the treaty bodies on the implementation of their recommendations.
37. Facilitate training of relevant sectors, including judicial officers, law enforcement, health and education personnel on the work of treaty bodies in the promotion of reproductive and sexual health and human rights.
38. Facilitate implementation of treaty body recommendations by providing technical assistance aimed to implement such recommendations, as well as where possible, financial resources; create an inventory of

good practice examples of technical assistance programmes.

39. UNFPA should consider convening regional consultations of United Nations agency representatives, NGOs and treaty body members on integrating sexual and reproductive health into the work of the treaty bodies and improving implementation at the national level.
40. Encourage the nomination of individuals committed to gender equality and the promotion of reproductive and sexual health issues for election to treaty bodies.

To NGOs

41. Disseminate and monitor the implementation of the recommendations made by bodies in their concluding observations/comments and general comments/recommendations with respect to reproductive and sexual health.
42. Encourage national institutions, including women's national bureaus, professional associations, for example, of teachers, health and legal professionals, youth-related NGOs and national human rights institutions to monitor the implementation of treaty body recommendations with respect to reproductive and sexual health, including through broad-based civil society and community participation.
43. Consider undertaking political and media campaigns on reproductive and sexual health issues, for example freedom of information with regard to reproductive and sexual health services, including provision of contraception with particular emphasis on lobbying lawmakers and advocating law reform.
44. Provide information to treaty bodies on compliance with recommendations in concluding observations/comments and general comments/recommendations in regard to reproductive and sexual health issues.
45. NGOs with expertise in reproductive and sexual health rights should provide information and training to general human rights non-governmental organizations, as well as specialized NGOs with a focus on particular issues or groups for which the following could be relevant :
 - reproductive health laws and policies
 - treaty provisions relating to reproductive and sexual health

- gathering and submitting information on violations of human rights provisions relating to reproductive and sexual health for the purposes of human rights under the inquiry or communication procedures.

46. Create linkages between international and national-level NGOs, including through capacity building for national-level NGOs, to encourage them to work for implementation of human rights obligations through the treaty body system.
47. Consider working with existing coalitions or creating new coalitions of NGOs working on reproductive and sexual health issues so as to provide more comprehensive information to treaty bodies.
48. Disseminate concluding observations/comments of treaty bodies at national level to both women and men, including particularly specific groups, such as young women and men, refugees, racial or ethnic minorities, migrants and indigenous people.
49. NGOs should provide, to the extent possible, accurate and reliable information on reproductive and sexual health issues, including on the legal framework of States parties, implementation of existing laws and policies, for example through national level judicial decisions and information on reproductive and sexual health issues, such as the availability of quality reproductive health services, including contraception, the incidence of HIV/AIDS, disaggregated by sex and age.