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Gesundheit und Menschenrechte

What non-governmental organizations can do **Working with the right to health**

Von Judith Asher

A new resource manual published by the Commonwealth Medical Trust shows health professionals, their associations and other interested non-governmental organizations some of the practical ways in which they can promote, protect and monitor the right to health in their communities and countries.

Why should health professional and health-concerned non-governmental organizations (NGOs) monitor the right to health? Let's start by looking at some examples:

The National Medical Association and National Nurses' Association in developing country X are concerned about the effects of cut-backs to hospital care in rural areas. In recent years, physicians and nurses have not only been reporting increased overtime hours and inadequate numbers of qualified staff in public institutions, but also shortages of essential medicines and emergency facilities. The response from the health authorities has repeatedly been that their hands have been tied because of the conditions attached to the country's development loans from an international financial institution. The National Medical Association and National Nurses' Association have worked with health economists at the university to review health budgets (national, sub-national, and institutional) since the imposition of structural adjustment programmes and other health sector reforms that have placed obstacles on access to health services. The study reveals that primary health care spending has diminished dramatically and provides evidence of increasing disparities between the standard of health services offered in the private and public sectors.

A grassroots HIV/AIDS advocacy group has heard informal reports of patients infected with HIV being turned down for surgery in certain hospitals, although national health laws and policies provide for equal access to health services and therefore prohibit discrimination. The group conducts a small-scale community-based study among HIV-positive patients and their careers which reveals that infected patients are indeed routinely turned down for elective surgery as well as for other healthcare services in public hospitals within a particular medical district. It also provides evidence that the official non-discrimination policy is being neither implemented nor monitored adequately.

A National Medical Association is concerned about the health effects of a cyanide spill in one of the rural areas in the country. A number of villages have been hit by a spillage of thousands of cubic meters of mine waste-water contaminated with cyanide and heavy metals. A local river was contaminated when a dam ruptured at a mine operation owned by a multinational mining company. The National Medical Association contacts a local environmental NGO in order to monitor the situation together with it and collects clinical data from physicians working at the local hospitals. The NGO provides toxicologists to collect water samples for testing and investigates what measures are in place to protect the public from such accidents, and how these are being implemented (for example, how often public regulatory authorities have visited the company).

A few years ago, a national coalition of women's health groups worked together with an international association of women lawyers to launch a test case on female genital mutilation/cutting in the national courts. The case was successful, and, as a result, the laws concerning female genital mutilation/cutting were changed. Despite this, a number of women's groups wonder if their success has been limited, as they have reason to suspect that the change in the law has driven the practice underground. The NGO coalition undertakes a follow-up study, which does indeed reveal that the government has neglected to enforce the new laws. Not only has female genital mutilation/cutting continued to take place virtually unabated in the intervening years, but there have not been any prosecutions of offenders and both the public and local authorities are ill informed about the changes in legislation.

Using a Human Rights framework - why?

So why would an NGO choose to use a human rights framework to promote health?

...because it is relevant to much NGO work. To some people, working within a human rights framework implies that it is limited to specialists, human rights lawyers, and the United Nations system. But the right to health, like other human rights, does not represent a remote set of international principles or abstract idealistic values. Human rights are grounded in real lives and real problems experienced at the community level. They have to do with combating elementary forms of injustice and serve to protect and realize human dignity. Human rights begin with individuals and groups who have entitlements, and with governments which have corresponding obligations. States that ratify human rights treaties freely agree to assume responsibility for guaranteeing that people can enjoy the benefits of the right to health. It is the job of NGOs to hold them to this responsibility. The right to health is relevant to the everyday lives of ordinary people and is therefore relevant to NGOs, because it is often their work that promotes and protects the health of individuals, local communities, and poor, vulnerable, or otherwise disadvantaged groups.

An important consequence of placing health in a human rights framework is that it broadens health issues beyond the domain of clinical medicine and puts the individual at the centre. In a human rights framework, health is placed in the context of social justice and linked with principles of equity and non-discrimination. Recognizing health as a human right dramatically

re-frames health issues. When health is not described simply in terms of needs but also in terms of rights, governments find it far more difficult to justify the withholding of basic provisions and services on account of alleged financial constraints or because of discriminatory priorities.

In this way, the right to health offers an empowering strategy for NGOs. Empowerment and participation, central to much NGO work, are key elements of a right to health approach. Assisting individuals and groups to claim their right to health emphasizes empowerment as both a means and an end. It is up to each NGO to define the aspects of the right that are important to its work; to identify possible violations it might be aware of; to set its own priorities; and to choose the best strategies to achieve its goals.

...because it is based on already established government commitments, international standards and legal obligations, as well as national legislation, it can provide NGOs with a powerful tool to move a wide variety of issues forward. Since human rights are grounded in international and national law, using them as a framework can add legitimacy and strength to NGO strategies and activities. The right to health has been recognized and reaffirmed in numerous international treaties and documents. States that ratify human rights treaties are required to fulfil certain commitments. Understanding these commitments can provide NGOs with a powerful tool to promote a wide variety of issues. Invoking the right to health can add authority and weight to NGO goals and strategies by providing a framework of internationally agreed standards and relevant national legislation, and by placing emphasis on holding governments accountable for their obligations.

Legal responsibility is closely linked to the notion of entitlement. The legal recognition of the right to health is important because it allows the right to be claimed by individuals and groups. NGOs working to promote the health of individuals and groups can benefit from using a human rights approach because it stipulates legally sanctioned guidelines on what individuals and groups are entitled to receive, or to be protected from, in order to achieve the highest attainable standard of health, and on who is the responsibility placed for providing the necessary services and conditions. For the right to health to be experienced and enjoyed, and for it to become a lived reality, the entitlements of individuals and groups must be reflected in the actions of others such as those of the state, and also of various civil society actors including NGOs and health professionals.

...because many of the strategies that NGOs use to promote and protect the health of individuals and groups will be enhanced by this approach. A right to health approach complements many of the strategies that are already being employed by NGOs. In many cases, the work being done by NGOs already contributes to implementing human rights standards affecting health. Making this link explicit will help reinforce their work. In other cases, a right to health approach may add new dimensions to an NGO's work and perhaps help to sharpen the focus of its strategies by clarifying the relationship between rights-holders (the public) and duty-bearers (public authorities).

In many important respects, there is overlap between strategies and goals employed in public health and 'right to health' advocacy and monitoring. Although they use different terminologies, the two perspectives share many common concerns including providing populations with the preventive and treatment services that are essential to health promotion and protection, such as clean water, sanitation, adequate nutrition, primary health care, and health information and education.

A human rights framework can enhance policies by helping to shape more comprehensive, effective and equitable responses to diverse public health problems. It can also help strengthen NGO advocacy by enabling the evaluation of existing public health policies and programmes in light of concrete government obligations.

A right to health approach may be integrated in a wide array of advocacy procedures and strategies that can be undertaken at local, national and international levels. Activities that involve promoting the right to health include:

- monitoring implementation of government obligations arising from the right to health;
- co-operating with governments in using human rights standards as criteria for the design and implementation of health-related policies and programmes;
- participating in community education, awareness-raising and mobilizing public opinion;
- acting as a watchdog of governments by exercising vigilance in identifying actual and potential violations of the right to health, and documenting and exposing them;
- making full use of existing laws and procedures to address violations of the right to health; and
- participating fully in national, regional and international human rights reporting procedures, where relevant to an NGO's own country.

...because it can help amplify its voice in the public arena, expose the local reality of what is happening 'on the ground' and bring violations of the right to health to the attention of a wider audience. Health-concerned NGOs and health professionals are often privy to important information about what is actually happening at the community level. They are in a position to understand the most pressing health-related problems being faced by particular groups and the reality of local conditions. Moreover, they are able to ascertain whether government health-related policies benefiting those most in need are being fully implemented. They are therefore often in a favourable position to observe actual or potential violations of the right to health.

Documenting violations of the right to health, and using this information both for advocacy and for seeking remedies can alert the public to the reality of local conditions and what changes need to be made. Working with the media, NGOs can bring urgent problems to the attention of a wider public and can mobilize national and even international public pressure to bring about change.

The right to health cannot be invoked effectively if individuals and groups do not know what it means. It is only through knowledge and awareness that individuals can exercise their rights and demand that they be enforced and protected. Community education and awareness-raising are often central to work done by NGOs. Since the right to health entails entitlements, NGOs can enhance their effectiveness by making individuals and communities aware of their rights.

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