



Right to Health

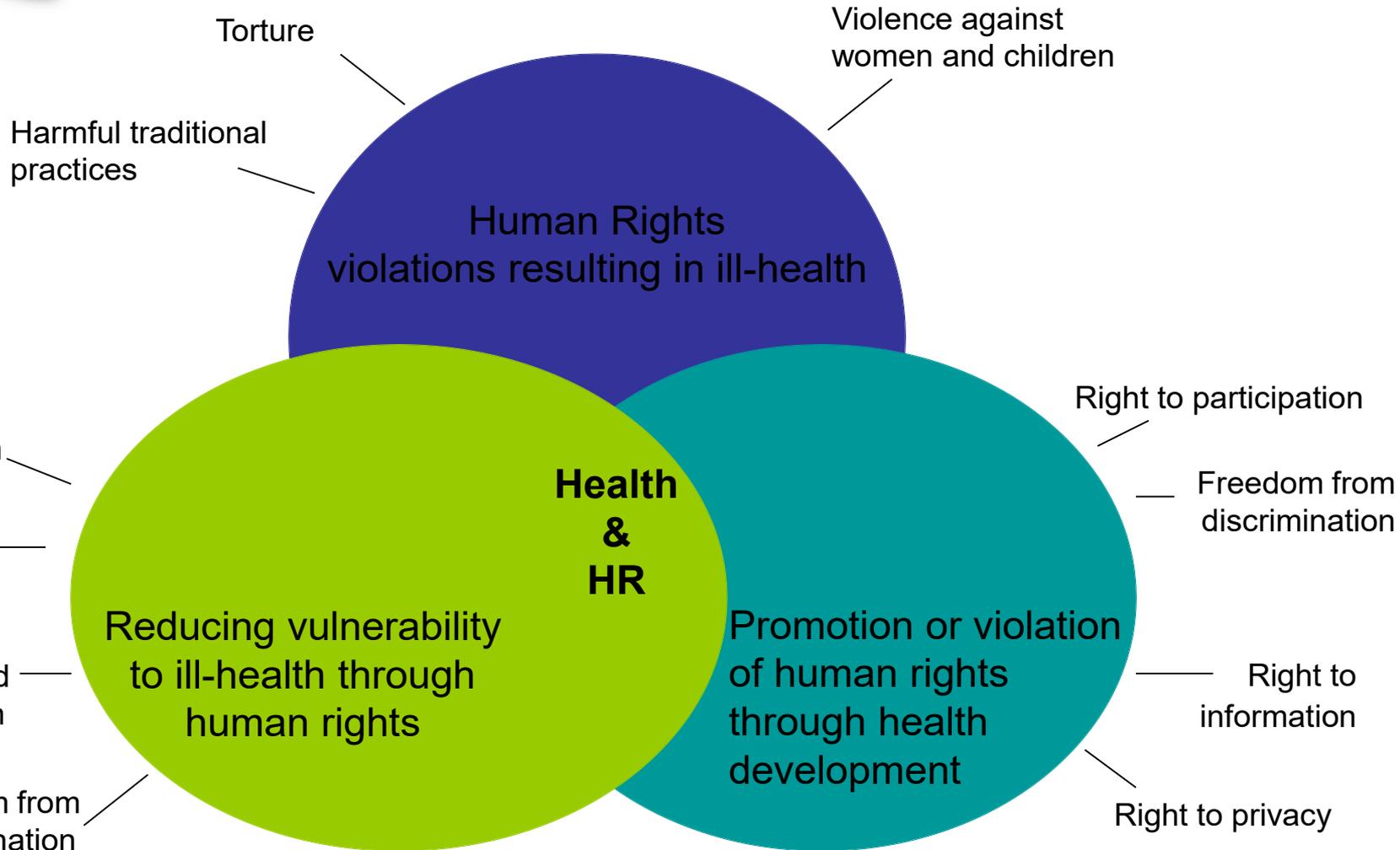


Federal Ministry
for Foreign Affairs
of Austria



“ Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services.”

Art. 25, Universal Declaration of Human Rights, 1948



- ▶ Art. 25 UDHR.
- ▶ Art. 12 ICESCR plus General Comment N° 14 – the right to health relies on the realization of other human rights.
- ▶ Art. 11 of the European Social Charter.
- ▶ Art. 10 of the Add. Protocol to the American CHR
(Protocol of San Salvador).
- ▶ Art. 16 of the African CHR.

- ▶ Adopted in 2000.
- ▶ States that the human right to health is based on the **four criteria**:
 - **Availability**: functioning of public health care and health-care facilities, goods and services.
 - **Accessibility**: requires non-discrimination, physical accessibility, affordability and adequate information.
 - **Acceptability**: respect for medical ethics and culturally appropriate, gender-sensitive and life-cycle requirements.
 - **Quality**: health facilities, goods and services must be scientifically and medically appropriate and of good quality.

- ▶ The right to health has to be awarded to everybody without any distinction based on sex, ethnicity, age, social origin, religion, physical or mental disability, nationality, civil, political or other status.
- ▶ CEDAW affirms in Arts. 10, 12 and 14 this right for women, mentioning especially family planning, appropriate services for reproductive health care and pregnancy and family health care services. This is also mentioned in the Beijing Platform of Action.

- ▶ Right to enjoy the benefits of scientific progress.
 - Limited access to new drugs hampers *e.g.* eradication efforts of various diseases.
 - Example of HIV/AIDS.
 - Manifested in Art. 15 ICESCR.

- ▶ Right to benefit from life-saving drugs.
 - Problem of globalisation.
 - Drug companies overrun traditional knowledge.
 - DOHA-Round: specific precaution taken, but TRIPS-Plus might cause new challenges to the right to health.

- ▶ **Health and Environment:** environmental protection is necessary for the right to health
 - World Summit on Sustainable development in 2002.
 - Precautionary principle: new technologies need to be proved safe before their public use.
- ▶ Competition between **traditional medicine** and normal medicine ⇒ WHO Traditional Medicine Strategy **2014 to 2023** aims to help health care leaders to develop solutions that contribute to a broader vision of improved health and patient autonomy.
- ▶ **Female Genital Mutilation:** causes severe health problems for thousands of women each day.

- ▶ Governments need to respect, protect and fulfil the right to health.
- ▶ Limitations are possible in cases of an epidemic, but need to follow the Syracuse Principles.
- ▶ **Committee on Economic, Social and Cultural Rights:** Its Optional Protocol, adopted in 2008 and **came into force in 2013, includes** individual complaints on the right to health.
- ▶ Civil society provided shadow reports on the conduct of governments to treaty monitoring bodies.
- ▶ **Special Rapporteur** on the right of everyone to enjoyment of the highest attainable standard of physical or mental health, since 2002, deals with information and consults *e.g.* with WTO.

- ▶ **Campaigns** such as those on HIV/AIDS in Cambodia or Thailand show the necessary comprehensive scope.
- ▶ Prohibition of FGM: **the Oath of Malicounda**. Via mobilising the social structures, Senegal reached a legal prohibition which otherwise would not have been possible.
- ▶ Good practices often address those who are most vulnerable and thus do not have access to “normal” health care.

- 1946 Constitution of the WHO.
- 1961 European Social Charter (revised 1996).
- 1966 International Covenant on Economic, Social and Cultural Rights.
- 1975 Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind.
- 1975 Declaration on the Rights of Disabled Persons.
- 1978 Alma Ata Declaration on Primary Health Care.
- 1981 African Charter on Human and People's Rights.
- 1988 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights.

- 1991 Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care.
- 1991 United Nations Principles for Older Persons.
- 1992 United Nations Conference on Environment and Development (UNCED).
- 1993 Declaration on the Elimination of Violence Against Women.
- 1994 International Conference on Population and Development (ICPD).
- 1995 Fourth World Conference on Women (FWCW).
- 1997 Universal Declaration on the Human Genome and Human Rights (UNESCO).
- 1998 Guiding Principles on Internal Displacement.

- 2000 General Comment No. 14 of the UN Committee on Economic Social and Cultural Rights on the right to health.
- 2001 Doha Declaration on the TRIPS Agreement and Public Health.
- 2002 World Summit on Sustainable Development.
- 2002 UN Special Rapporteur on the right of everyone to enjoyment of the highest attainable standard of physical and mental health.
- 2002 International Declaration on Human Genetic Data (UNESCO).
- 2006 UN Convention on the Rights of Persons with Disabilities.
- 2008 Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.