



Using International Human Rights Law to Support Abortion Rights in the U.S

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Overview

- Abortion as Privacy Issue in the U.S.
- Definition of Women's Health
- Human Rights Law Supporting The Right to Health
- Using Human Rights Law to Support Abortion Rights in the U.S.



Abortion as a Privacy Issue

Roe v Wade

1973





WHO Definition of Health

Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.

The correct bibliographic citation for the definition is:

Preamble to the Constitution of the World Health Organization as adopted by the International Health Conference, New York, 19-22 June, 1946; signed on 22 July 1946 by the representatives of 61 States (Official Records of the World Health Organization, no. 2, p. 100) and entered into force on 7 April 1948.

The Definition has not been amended since 1948.



Human Rights Promote Women's Reproductive Health

- By providing a framework to respect, protect and fulfill the right to health



The Right To Health for Women



Universal Declaration of Human Rights, Article 25

“Everyone has the right to a standard of living adequate for the *health and well-being of himself and of his family*, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”



International Covenant on Economic, Social and Cultural Rights, Article 12(1)

“The States Parties to the present Covenant recognize the **right of everyone to the enjoyment of the highest attainable standard of physical and mental health.**”



**UN COMMITTEE ON
ECONOMIC, SOCIAL
AND CULTURAL RIGHTS**
Twenty-second session
Geneva, 25 April-12 May
2000

**Comment 14 on the Highest
Attainable Standard of Health
ICESCR Article 12(1)**



Comment 14

- Health is a fundamental human right indispensable for the exercise of other human rights
- The right to health is not the right to be healthy



Comment 14

- the right to health...extends not only to **timely and appropriate health care** but also to the **underlying determinants of health**, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, **and access to health-related education and information, including on sexual and reproductive health.**



Comment 14

- A further important aspect is the participation of the population in all health-related decision-making at the community, national and international levels



Comment 14

- The right to health can be measured:
 - Availability
 - Accessibility
 - Acceptability
 - Quality



CEDAW

Convention on the Elimination of All Forms of Discrimination Against Women





CEDAW



CEDAW Article 12

- 1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, **access to health care services, including those related to family planning.**



CEDAW Article 14

1. States Parties shall take into account the particular problems faced by rural womenand, in particular, shall ensure to such women the right:

(b) To have access to adequate health care facilities, including information, counselling and services in family planning; measures to ensure the application of the provisions of the present Convention to women in rural areas.



CRC

Convention on the Rights of the Child





CRC



CRC Article 17

- States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.



CRC Article 24

- States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.



Using International Human Rights Standards to Support Abortion Rights in the U.S.

A Paradigm Shift



Paradigm Shift About Abortion

Privacy → Health



U.S. Ratification of International Human Rights Law

- UDHR-NA
- ICCPR (Civil and Political Rights)-Yes
- ICESCR (Economic, Social and Cultural)-No
- CEDAW (Women's Convention)-No
- CRC (Child Rights)-No



Local Adoption of International Law

- Women's Health: CEDAW
- Environment: Kyoto Protocol



"It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country."

Justice Brandeis, New State Ice Co. v Liebmann, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting).



Campaigns to Adopt CEDAW

- San Francisco-successful 1998
- Many cities and states have adopted CEDAW or CEDAW based resolutions



U.S. Right to Health Initiative

- Uplift International: Implementing NGO

www.upliftinternational.org

- University of Washington School of Law, Global Health and Justice Project

www.law.washington.edu/Healthlaw/GHJ



The End

