

Leveraging Human Rights Standards to Fund Sexual and Reproductive Health and Rights

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With the unfolding of broad new developments around human rights standards in the sexual and reproductive health and rights (SRHR) field, my colleagues at the Ford Foundation and I wanted to reflect on numerous opportunities we see at this critical juncture for human rights funders to strategically engage with these issues.

Global legal recognition of SRHR has grown over the last two decades, particularly since the 1994 International Conference on Population and Development, and we have now reached a critical moment in which there is growing recognition that sexual and reproductive health issues must be addressed as human rights issues. UN monitoring committees such as the Convention on Elimination of Discrimination Against Women (CEDAW) are increasingly applying a human rights lens to ensure access to services essential for their reproductive health, healthy pregnancies, and successful child births. Increasingly, the UN Human Rights Council (HRC)'s Universal Periodic Review (UPR) process, as well as regional mechanisms such as the Inter-American Commission, are calling member states to task on sexual and reproductive rights violations. In March of this year, for example, the HRC adopted a resolution which urged states to ensure the highest attainable standard of sexual and reproductive health for children and adolescents. An emerging critical mass of important, though non-binding, UN entity documents illustrate how human rights standards apply to sexual and reproductive health issues.¹



Source: Ford Foundation

This growing body of standards and norms recognizes and reinforces the idea that women and young people are active agents entitled to participate comprehensively and meaningfully in decisions that affect their sexual and reproductive health. These standards and norms aim to challenge structural factors that encourage discrimination, particularly against vulnerable or marginalized groups.

¹ In 2011, the UN Special Rapporteur on the Right to Health submitted a report to the UN General Assembly addressing the impact of legal restrictions on people's access to SRHR. The report concludes that the right to sexual and reproductive health is a fundamental part of the right to health and asserts that States must therefore ensure that this aspect of the right to health is fully realized. In June 2012, the World Health Organization (WHO) updated its global recommendations on the clinical, service delivery, legal, and policy aspects of safe abortion. Most recently, the Office of the United Nations High Commissioner for Human Rights (OHCHR) published a technical guide to assist policy makers in implementing policies and programs to reduce maternal mortality and morbidity in accordance with human rights standards. In September 2012, the UN HRC adopted a resolution by consensus welcoming OHCHR's guide, and requesting the High Commissioner to report back in two years on how it is being applied. Finally, a February 2013 report by the UN Special Rapporteur on Torture reinforces human rights standards by asserting the mistreatment of women seeking reproductive health services, especially abortion, as a violation of the right to health, the right to life, and the right to privacy. The report acknowledges that many reproductive rights violations amount to torture or ill treatment.

Advocates increasingly have the tools to call upon states to rescind criminal and restrictive laws and policies related to sexual and reproductive health, rights, and services, including safe abortion.

Applying Human Rights To Improve Access To Reproductive Health Services

The human rights framework is a tool to hold governments legally accountable for their failure to address preventable causes for poor sexual and reproductive health. Applying a human rights framework provides comprehensive opportunities for health care systems to address gaps when they fail to provide quality services. For example, applying a human rights frame shifts the understanding of maternal deaths from misfortunes to injustices that states are obligated to fix through policy changes and budget allocations. Similarly, states are obliged to ensure that non state actors do not interfere with the enjoyment of sexual and reproductive health rights.

Evidence-based assessments illustrate that legal and regulatory barriers to sexual and reproductive health care discourage women and young people from seeking care and increase the costs of this care. These barriers violate human rights because they threaten women's access to safe, legal abortion care, maternity care, contraceptives, and HIV prevention and screening, and therefore endanger women's health and lives.

Utilizing a human rights lens also has implications for service delivery regulations, which when creating inequitable access to services, can be seen as violating human rights. Third-party authorization requirements, including hospital approval committees and police reporting, violate the rights of equality and nondiscrimination because they mostly target vulnerable and marginalized women and young people.

Funder Interventions: Enhancing Advocacy and Legal Efforts

There are many opportunities for funders to support the development and application of the growing body of human rights standards and norms in this area, and many of these strategies are mutually reinforcing. An important approach is to support civil society organizations in building their capacity and in working at the national, regional, and/or global level, thus increasing the scope and impact of their advocacy.

The Ford Foundation, for example, funds the Sexual Rights Initiative, a global consortium of predominantly global south organizations which advocates for the recognition of sexual and reproductive rights as fundamental human rights within the UN Human Rights Council's (HRC) Universal Periodic Review (UPR) process. The Sexual Rights Initiative partners, in addition to conducting ongoing advocacy with treaty monitoring bodies, work with national and regional organizations to prepare submissions to the UN HRC's UPR and to urge members of the HRC to raise SRHR issues during the review of their country's human rights records. As a result, the HRC has made numerous SRHR-related recommendations to member states being reviewed, which in many cases states have accepted. This serves to not only hold individual countries accountable and to recognize progress, but also to contribute to the expanding body of norms and standards in this area.

To ensure accountability of and implementation by member states, Ford is also supporting civil society organizations and their partners to strategically invoke human rights standards and arguments in their national and regional advocacy. This includes litigation in national courts and within regional mechanisms, like the Colombian Constitutional Court case that decriminalized abortion under

numerous circumstances. A second example is the landmark case recently filed before the Kenya High Court on behalf of women who have been detained at maternity hospitals for their inability to pay for maternal health services. A third example is the case before the Inter-American Commission for Human Rights that ruled that Costa Rica's ban on the reproductive health technology violated the right to privacy, the right to liberty, the right to personal integrity, and the right to form a family, as recognized under international law.

Grantees are also working together to organize biennial regional meetings in Latin America to educate judges, judicial officers, bar associations, academics, and activists on key reproductive health and rights advances in international, regional, and national forums and to strengthen approaches on how to apply these advances within their respective contexts. Similarly, Ford is funding a network of legal activists and scholars in Latin America to promote the engagement of Latin American law professors and judges in advancing sexual and reproductive rights and the integration of human rights standards in their legal and teaching practices.

Sexual and reproductive rights as human rights are also being advanced within global development agendas. In 2014, a review will be conducted of the International Conference on Population and Development's Program of Action (ICPD). In 2015, there will be a review of the Millennium Development Goals (MDGs) and possibly the adoption of a new development agenda. Grantees composed of global south youth leadership and from global south and global north SRHR organizations are working to insert human rights standards within these processes, stressing the need for achieving universal access to SRHR information, education, and services as integral to achieving development goals such as poverty eradication. These are just a few examples from the Ford Foundation's global sexuality, reproductive health, and rights initiative. Ford's field offices also support national and regional level strategies and partnerships to help make these rights a reality in the lives of women and young people on the ground.

Further Opportunities for Funders

Funders can also support cross-regional learning and collaborative approaches to ensure that advocates continue to build on and learn from successful strategies being developed and implemented by peers. Funders can help convene civil society organizations regionally or cross-regionally in order to share developments in their countries' laws and policies and experiences around implementation. At these convenings, civil society organizations can also discuss the range of strategies tested and used – from legislation to litigation to alliance-building – and how human rights standards and norms have been utilized.

Given the increasing global awareness around SRHR as critical components of a complete human rights agenda, funders can leverage the emerging SRHR norms and standards to initiate and sustain broad-based change in this area. Ford welcomes opportunities to share these experiences and to learn from other funders in the field.

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