

Summary Reflection Guide on a
Human Rights-Based Approach to Health

*Application to sexual and reproductive
health, maternal health and under-5 child health*



HEALTH POLICY MAKERS



© Creative Commons, DFID, Doune Porter GAVI

CONTENTS

INTRODUCTION	3
PLANNING	9
BUDGETING	15
IMPLEMENTATION	20
MONITORING, REVIEW AND OVERSIGHT	22
REMEDIES	27
INTERNATIONAL ASSISTANCE AND COOPERATION	29



INTRODUCTION

Health policy makers have an important role to play in contributing to both the prevention of maternal and child mortality and morbidity, and to the enjoyment of health rights by women and children, including adolescents, by participating in and influencing the chain of decision-making throughout the policy cycle. An essential starting point is the recognition that patterns of maternal and child mortality are not inevitable: they are the result of discriminatory laws and practices, and institutional arrangements that compound poverty, which are fundamental issues of rights and justice.





INTENTION OF THIS GUIDE

This quick reference guide is intended to contribute to the efforts of health policy makers to effectively and meaningfully implement a human rights-based approach (HRBA) to sexual and reproductive health, maternal health¹ and under-5 child health.² It complements other tools and builds on from the two technical guidance documents of the Office of the United Nations High Commissioner for Human Rights on a human rights-based approach to the reduction of preventable maternal mortality and morbidity and under-5 mortality and morbidity,³ which were both welcomed by the United Nations Human Rights Council.

WHAT IS A HUMAN RIGHTS-BASED APPROACH?

An HRBA identifies who has rights (rights-holders) and what freedoms and entitlements they have under international human rights law, as well as the obligations of those responsible for making sure rights-holders are enjoying their rights (duty-bearers). An HRBA empowers rights-holders to claim their rights, and supports duty-bearers to meet their obligations. Promotion of accountability for meeting obligations is continuous in an HRBA; a “circle of accountability”⁴ throughout the policy cycle helps to ensure that policies and programmes are responsive to the needs of rights-holders, including health system users.

In addition to accountability, an HRBA also analyzes a policy cycle through a framework of human rights principles of equality and non-discrimination, participation, indivisibility, and the rule of law, as well as the “AAAQ” framework, which identifies availability, accessibility, acceptability and quality of health care facilities, goods and services as essential components of the right to health. In the case of children, an HRBA also requires that the “best interests of the child”⁵ is a primary consideration in the design and implementation of policies which will affect children.



PURPOSE OF THIS GUIDE

The purpose of this guide is to support health policy makers in applying an HRBA in the areas of sexual and reproductive health, maternal health and under-5 child health. It is one of a series of reflection guides targeted to specific stakeholder groups.

In building on the two technical guidance documents, this guide uses reflective questions to stimulate group discussion on the application of an HRBA to sexual and reproductive health, maternal health and under-5 child health at each stage of the policy cycle. It is essential that this group reflection includes frank and open discussion of what problems are happening to whom and where; why they are happening; and who or what institution is responsible for taking action. It is equally essential that corrective (remedial) actions based upon the diagnoses then be taken, because if they are not it is not a meaningful HRBA, or accountability for the fulfillment of rights. The questions in this document are

illustrative only; they are not meant to be a comprehensive guide. Nor are they meant to be a checklist, as checklists are often not connected to actual practice within and beyond the health ministry.

Meaningful change requires both technical knowledge and capacity to implement an HRBA. But overcoming political and organizational obstacles to change also requires collective deliberation on the part of health policy makers regarding their roles in protecting and promoting the rights and health of women and children and how to overcome the obstacles that these individuals face. The following questions are meant to be used as points of departure for those ongoing conversations and reflections, and to spur collective deliberation on policy changes that need to be made to support the effective implementation and measurement of an HRBA. These discussions can occur strategically in conjunction with the development and presentation of annual work plans and budgets.



SCOPE AND ORGANIZATION OF THIS GUIDE

This guide is organized in 6 Sections which broadly correspond to the chapters of the two technical guidances and mirror the policy cycle. Under each section, there are three types of questions/comments.

CONSIDER

This is a question designed to trigger reflection on various aspects of an HRBA at different moments in the policy cycle.

FOR EXAMPLE

This is an example to illustrate some of the various elements that one might consider in addressing the question at hand.

HRBA REFLECTION

This is an insight into why this issue matters from a human rights perspective.

This guide covers sexual and reproductive health, maternal health and under-5 child health, in line with the continuum of care. In particular, maternal health is understood within the broader framework of sexual and reproductive health, and requires attention not only to women, but also to adolescents. While under-5 child health can be closely linked to maternal health, it also requires explicit attention to child rights. Applying an HRBA to health will sometimes require similar actions in sexual, reproductive and maternal health, and under-5 child health respectively, and will sometimes require explicit attention to the particularities of women's rights or children's rights. Where appropriate, this guide provides separate considerations and examples on sexual, reproductive and maternal health, and under-5 child health, in order to highlight where different dimensions will need to be factored in. These are identified by pictograms.



As an accompaniment to this guide, a list of resources is also available, with additional materials on an HRBA.

NOTES

- 1 Center for Reproductive Rights and United Nations Population Fund, *Reproductive Rights: A Tool for Monitoring State Obligations Law* (2013); Harvard School of Public Health and United Nations Population Fund, *A Human Rights-Based Approach to Programming* (2010); Office of the United Nations High Commissioner for Human Rights, *Human Rights in Budget Monitoring, Analysis and Advocacy Training Guide* (2011); International Initiative on Maternal Mortality and Human Rights, *A Framework on Applying Human Rights-Based Approaches to Maternal Mortality and Morbidity* (2014).
- 2 Committee on the Rights of the Child, General Comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health (art. 24) (2013); International Institute For Child Rights and Development, *CRED-PRO Child Rights Curriculum for Health Professionals* (2008).
- 3 Technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal morbidity and mortality, UN Doc. A/HRC/21/22 (2012); Technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age, UN Doc. A/HRC/27/31 (2014).
- 4 Alicia Ely Yamin, *Toward Transformative Accountability: A Proposal for Rights-based Approaches to Fulfilling Maternal Health Obligations*, *Sur: An International Journal* 7(12): 95-122 (2010); Alicia Ely Yamin and Rebecca Cantor, *Between Insurrectional Discourse and Technical Guidance: Challenges and Dilemmas in Operationalizing Human Rights-based Approaches in Relation to Sexual and Reproductive Health*, *Journal of Human Rights Practice* 6(3): 451-485 (2014); Alicia Ely Yamin, *Applying Human Rights to Maternal Health: UN Technical Guidance on Rights-based Approaches*, *International Journal of Gynecology and Obstetrics* 121(2): 190-193 (2013).
- 5 States are urged to place children's best interests at the center of all decisions affecting their health and development. The best interest of the child is based on their physical, emotional, social and educational needs, age, sex, relationship with parents and caregivers, and their family and social background. See Committee on the Rights of the Child, General Comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), paras. 12-15 (2013).

ACKNOWLEDGEMENTS

This booklet was jointly produced by the Office of the United Nations High Commissioner for Human Rights, Harvard FXB Center for Health and Human Rights, the Partnership for Maternal, Newborn and Child Health, the United Nations Population Fund, and the World Health Organization.

Gratitude is expressed to the individuals and institutions who offered comments on earlier drafts of this booklet.

Appreciation is also expressed to the German Federal Ministry for Economic Cooperation and Development (BMZ) through Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH for their financial support for these Reflection Guides.

© 2015 United Nations. All worldwide rights reserved.

PHOTO CREDITS

Cover UN: Tobin Jones *Small photos* UN: Louise Gubb, Chris Sattlberger, David Ohana. UNICEF: ZAK. WHO: Christopher Black, Marko Kopic. Creative Commons: DFID Doune Porter, GAVI; Asian Development Bank, UN photo: Tobin Jones, EPA: Rafa Salafrañca.






© Creative Commons, Asian Development Bank

PLANNING

In keeping with best practices in public health as well as commitments under international law, States need to adopt national public health strategies and plans of action (national plans) to guarantee the right to health of women and children. The technical guidance on preventable maternal mortality and morbidity highlights that the national plan must be based on an up-to-date comprehensive analysis of sexual and reproductive, and maternal health. The Technical Guidance on under-5 child mortality and morbidity similarly emphasizes that the national plan must be based on a situational analysis that identifies priority child health issues and their underlying causes, as well as mapping existing plans, services and capacities for addressing them.

YOU, AS HEALTH POLICY MAKERS, can be a driving force behind the development and implementation of national plans and have the opportunity to ensure these plans adopt an HRBA to the reduction of maternal and child mortality, and to the promotion of sexual, reproductive, and maternal health and child health.

CONSIDER LINKING ACROSS SECTORS 	
<i>In developing the national plan of action, were you able to link to other ministries, such as education?</i>	<i>In developing the national plan of action, were you able to link to other ministries, such as community development?</i>
FOR EXAMPLE EDUCATION 	INFRASTRUCTURE 
Providing comprehensive sexuality education is fundamental to reducing maternal mortality .	Ensuring the availability of improved water and sanitation is crucial for reducing child mortality .
HRBA REFLECTION INDIVISIBILITY OF RIGHTS	
A multi-sectoral approach to planning is an essential part of an HRBA. It is virtually impossible to get actors from different ministries to work in close collaboration if planning is not multi-sectoral from the outset.	

PLANNING

CONSIDER

ENGAGING INDIVIDUALS AND COMMUNITIES

How have you created opportunities for civil society, including women, children, and families, to participate in the development of the national plan and its implementation? If they were not involved, why is that?

FOR EXAMPLE

REFLECTING CONCERNS OF RIGHTS-HOLDERS

How were the concerns of women, children and families reflected in the plan that was adopted? Are the concerns of ethnic minority groups reflected in the plan?

HRBA REFLECTION

PARTICIPATION

In an HRBA, the intended beneficiaries of programmes and policies should be active participants in the decisions that will affect their lives. Measures must be in place to ensure an enabling environment for such participation, with particular attention to the agency and voice of women and children.

CONSIDER

DISSEMINATION OF PUBLIC POLICIES AND PLANS

Are the goals and indicators of the national plans for sexual and reproductive health, maternal health and under-5 child health publicly disseminated and annual public reports on progress scheduled? If not, why is this not done?

FOR EXAMPLE




PROVIDING INFORMATION IN A VARIETY OF WAYS




Plans and reports can be made available at district level facilities as well as online. The goals and indicators can also be communicated in a simple way to ensure people are aware of the government commitments.

HRBA REFLECTION

ENSURING TRANSPARENCY AND ACCESS TO INFORMATION

It is important in an HRBA for the public, as active citizens who are empowered to claim their rights, to be kept involved in health policy making and to have the information necessary to evaluate government progress.

<p>CONSIDER DISAGGREGATION OF DATA</p> 	
<p><i>In developing the national plans for sexual and reproductive health and maternal health, have you been able to obtain and make use of disaggregated data, where relevant, on the basis of sex, age, geographic location, ethnicity, race, education, income quintile and disability status?</i></p>	<p><i>In developing the national plans for child health, have you been able to obtain and make use of disaggregated data, where relevant, on the basis of sex, age, geographic location, ethnicity, race, education, income quintile and disability status?</i></p>
<p>FOR EXAMPLE UNCOVERING WHICH WOMEN & GIRLS DO NOT HAVE FAIR CHANCES</p> 	<p>UNCOVERING WHICH CHILDREN DO NOT HAVE FAIR CHANCES</p> 
<p>All women and girls should have “fair chances” to get through pregnancy (including surviving the interruption of pregnancy) and childbirth safely.</p>	<p>The heaviest burden of child mortality and morbidity should not fall disproportionately on particular groups of children, including children from particular ethnic groups or children of particular age groups such as newborns.</p>
<p>HRBA REFLECTION ADDRESSING INEQUALITIES</p>	
<p>Addressing inequalities is important for discerning whether the most marginalized and disadvantaged women and children are faring as well, better or worse under policies and programmes. An HRBA is not just concerned with aggregate outcomes; even where it means tradeoffs in terms of absolute numbers.</p>	

<p>CONSIDER IDENTIFICATION OF GAPS AND BARRIERS</p> 	
<p><i>Have you analyzed the legal and policy framework in your country to identify gaps or barriers to the enjoyment of sexual and reproductive health and maternal health?</i></p>	<p><i>Have you analyzed the legal and policy framework in your country to identify gaps or barriers to the enjoyment of child health?</i></p>
<p>FOR EXAMPLE LAWS TO PROTECT SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS</p> 	<p>LAWS TO PROTECT A CHILD'S RIGHT TO HEALTH</p> 
<p>What are the laws and policies related to human rights and sexual and reproductive health and maternal health? Are there criminal provisions related to access to sexual and reproductive health services? Are there laws that prohibit forced and child marriage and female genital mutilation? Are there laws supporting female education, even in cases where girls become pregnant?</p>	<p>What laws and policies protect child health? Is there a law ensuring free and compulsory birth registration? A law requiring that all salt sold in the country be iodized? A law prohibiting the marketing of breast-milk substitutes, especially in maternity hospitals? A policy empowering community health workers to administer antibiotic drugs to children suffering from pneumonia?</p>
<p>HRBA REFLECTION LAWS AND POLICIES ARE ESSENTIAL FOR ENJOYMENT OF RIGHTS</p>	
<p>In an HRBA, planners must conduct a situational analysis, including analysing legal and policy gaps and barriers, to determine what groups of women, children and families are being deprived of access to health and rights, and why.</p>	

PLANNING

CONSIDER

FOLLOW-UP TO SITUATIONAL ANALYSIS

If you have undertaken a situational analysis, have you been able to follow this up with parliamentarians or other actors to ensure an enabling legal and policy framework is in place? If not, what have been the obstacles to doing so? Might these be overcome through alliances with other actors?

FOR EXAMPLE

FILLING GAPS

What gaps have been identified in the legal and policy framework which would require new initiatives or reform? Are there cross party groups focused on women's rights, children's rights or health which could help to put forward law or policy reforms?

HRBA REFLECTION

IDENTIFIED LEGAL OR POLICY GAPS NEED TO BE ADDRESSED

Laws and policies are not sufficient to guarantee rights related to sexual and reproductive health, maternal health and under-5 child health, but they are a necessary prerequisite. Without them, there are neither standards nor institutional mechanisms against which women and children can claim their rights.

CONSIDER

SOCIAL DETERMINANTS



*In developing the national plan, how did you include actions that address the social determinants of **sexual and reproductive health and maternal health** and that foster gender equality?*

FOR EXAMPLE

FACTORS THAT IMPACT SEXUAL AND REPRODUCTIVE HEALTH



Does the national plan include such issues as comprehensive sexuality education and prevention, and detection of domestic violence, as well as actions to realize the right of all women to access sexual and reproductive health services without discrimination?

HRBA REFLECTION

EXERCISING AGENCY

An HRBA is about more than technical services; it is about enabling women to have freedoms and entitlements that will let them exercise agency over their sexual and reproductive health, and in turn their lives.



© WHO: Christopher Black

CONSIDER
SOCIAL DETERMINANTS



*In developing the national plan, how did you include actions that address the social determinants of **child health** as well as actions to realize the right of all children to access health services, without discrimination?*

FOR EXAMPLE
FACTORS THAT IMPACT CHILD HEALTH



Does the national plan include such issues as access to safe water and sanitation? Does it include initiatives to improve family food security and family education on good nutrition? Does it include initiatives to reduce exposure to indoor pollution and other environmental health hazards?

HRBA REFLECTION
ENABLING ENVIRONMENT

An HRBA requires addressing these determinants in order to remove barriers to realizing children’s health rights.

BUDGETING



In an HRBA, budgeting should also involve a range of ministries and departments, as well as be transparent and open to scrutiny from civil society as well as other stakeholders such as national human rights institutions. Given that “health” is a right, financing of services must not be left to market mechanisms alone, or be borne disproportionately by the poor, such as in the form of fees for service or through uniform insurance premiums. When resources are scarce, the government should still fulfill the minimum core content of the right to health, and allocate “maximum available resources” to the progressive realization of economic, social and cultural rights.




YOU, AS HEALTH POLICY MAKERS, are well placed to advocate for sufficient budget to ensure full implementation of policies and programmes towards the realization of the human rights of women and children.

<p>CONSIDER ENGAGING INDIVIDUALS AND COMMUNITIES</p>	<p>CONSIDER LAW AND POLICY FRAMEWORK FOR THE BUDGET</p>
<p><i>How did civil society, including women, children and families, participate in the formulation of the health budget and in monitoring its execution?</i></p>	<p><i>What laws, policies and processes are in place to ensure an enabling environment for rights-holders to participate in budgetary process?</i></p>
<p>FOR EXAMPLE REFLECTING CONCERNS OF RIGHTS-HOLDERS</p>	<p>FOR EXAMPLE ENABLING ENVIRONMENT</p>
<p>If these groups were not involved, how were their concerns reflected in the budget for health? For sexual and reproductive health, for maternal health and for child health?</p>	<p>Is the budget covered by laws pertaining to access to information? Are there accessible, reader-friendly documents available? How are children enabled to participate in the process?</p>
<p>HRBA REFLECTION PARTICIPATION</p>	<p>HRBA REFLECTION TRANSPARENCY AND ACCOUNTABILITY</p>
<p>In an HRBA, those who will be affected by budgetary allocations should be able to express their views when these are set and have these views be taken seriously.</p>	<p>An enabling legal and policy environment is critical to ensuring budgetary transparency and accountability.</p>



BUDGETING

CONSIDER PRIORITIZATION OF MARGINALIZED AND DISADVANTAGED GROUPS
<i>Does the budget identify and prioritize investments in the health of marginalized and disadvantaged groups?</i>
FOR EXAMPLE DIFFERENT GROUNDS OF EXCLUSION
Marginalized and disadvantaged groups may exist based on class/income, but also sex, race, ethnicity, and geographical region, and those at risk of violence and discrimination.
HRBA REFLECTION EQUALITY AND NON-DISCRIMINATION
In an HRBA, it is especially important that historically marginalized and excluded populations be able to access necessary health services, and that these be culturally acceptable.



CONSIDER PRIORITY OF CHILDREN	
<i>Does the budget identify and prioritize investments in the health of children?</i>	
FOR EXAMPLE CHILD RIGHTS ANALYSIS	
Has the budget process included a Child Rights Impact Analysis? What did the analysis reveal about the proposed budget's impact on children's right to health? Has a statement been made explaining how children's best interests were analyzed and weighted against other considerations? Has the budget process included financing of policies which ensure the best interests of the child is respected in determining treatment options, in providing health information in a format accessible to children, and in promoting and protecting a physical and social environment conducive to realizing the child's right to health and best interest?	
HRBA REFLECTION BEST INTEREST OF THE CHILD	
The principle that the "best interests" must be a primary consideration, embedded in the Convention of the Rights of the Child, means that as part of the budgetary and policy decision-making process, the potential impact on children is assessed to prevent negative impacts on children's rights and well-being and assure their best interests.	

<p>CONSIDER BUDGET IMPLEMENTATION</p>			
<p><i>If there are policies calling for free maternal health care, are resources allocated (including at decentralized levels) to ensure that this is implemented in practice? Do you monitor, as part of the budgeting process, provision of care by private facilities and the approximate percentage of out-of-pocket expenses for women’s health care?</i></p>		<p><i>If there are policies calling for free child health care, are resources allocated (including at decentralized levels) to ensure that this is implemented in practice? Do you monitor, as part of the budgeting process, provision of care by private facilities and the approximate percentage of out-of-pocket expenses for children’s health care?</i></p>	
<p>FOR EXAMPLE FREE SERVICES</p>		<p>FREE VACCINATIONS</p>	
<p>Do women receive free services but then have to pay to obtain necessary medicines?</p>		<p>Is vaccination for children free of charge and easily available for all children regardless of their geographic location?</p>	
<p>HRBA REFLECTION MONITORING ACTUAL COSTS</p>			
<p>Sometimes well-intentioned policies can actually lead to greater out-of-pocket costs so it is especially important to monitor the execution of the budget in practice.</p>			

BUDGETING

CONSIDER CHANGES OVER TIME		
<i>How has the budget for sexual and reproductive and maternal health changed over time?</i>	<i>How has the budget for child health changed over time?</i>	
FOR EXAMPLE INCREASING AND DECREASING OVERALL BUDGET		
If the national budget has increased, has the budget for sexual and reproductive health and maternal health increased proportionally? If the national budget has decreased, has the government instituted measures to protect the budget for sexual and reproductive health and maternal health, especially for hard-to-reach, vulnerable or marginalized populations?	If the national budget has increased, has the budget for child health increased proportionally? If the national budget has decreased, has the government instituted measures to protect the budget for child health, especially for hard-to-reach, vulnerable or marginalized populations?	
HRBA REFLECTION PROGRESSIVE REALIZATION OF THE RIGHT TO HEALTH		
The human rights obligation to progressively realize the right to health to the maximum of available resources means that concrete steps must be taken and retrogressive measures are subject to special scrutiny. This is very important to track, especially if donor funding has the effect of displacing governmental funding and thus displacing accountability for adequately funding the right to health.		

BUDGETING

CONSIDER BUDGET CUTS		
<p><i>Even in the event of budgetary contractions, are essential sexual and reproductive health and maternal health commodities and medicines adequately budgeted for in every region/department/district?</i></p>	<p><i>Even in the event of budgetary contractions, are essential newborn and child health commodities adequately budgeted for in every region/department/district?</i></p>	
FOR EXAMPLE ESSENTIAL MEDICINES		
<p>Essential medicines include a range of contraceptive methods; vacuum extractors; oxytocics, anti-convulsants, including magnesium sulphate; and all appropriate antibiotics.</p>	<p>Essential medicines include vaccines against six childhood diseases, oral rehydration solutions and antibiotics.</p>	
HRBA REFLECTION MINIMUM ESSENTIAL LEVELS		
<p>Under an HRBA, no public policy decision should result in the enjoyment of rights below certain minimum essential levels, below which the the right to health loses meaning.</p>		

IMPLEMENTATION

To assess how national planning and policies are affecting a country's public health, it is essential to look at how these plans and policies are being implemented on the ground, and in particular, monitor indicators of health services' availability, accessibility, acceptability and quality (AAAQ) for all women and children, without discrimination.

YOU, AS HEALTH POLICY MAKERS, are in a position to track implementation of policies and programmes, and to ensure that action is taken on gaps or deficiencies identified.

CONSIDER

AVAILABILITY, ACCESSIBILITY, ACCEPTABILITY AND QUALITY

If you conducted a random sampling of health facilities (e.g., primary tertiary, referral) in your country, would they meet the requirements of AAAQ?

FOR EXAMPLE

AAAQ IN PRACTICE

Do these facilities:

- (i) have adequate skilled human resources?;
- (ii) have essential health infrastructure and equipment, as well as essential medicines and commodities, including those related to maternal, sexual and reproductive health and related to under-5 child health?;
- (iii) provide safe, child friendly spaces for young children and their care givers, including spaces for rest and play?;
- (iv) treat women, including adolescents, and families with respectful, dignified care, including respect for their right to privacy and the obligation of obtaining informed consent, as well as instituting youth-friendly services?;
- (v) treat health workers with dignity, including abiding by relevant labor standards, protections and established codes of ethics?;
- (vi) have effective information/education so that, for example, when asked, women adolescent girls are aware of emergency signs during pregnancy and parents/children have basic knowledge of child health, hygiene and environmental sanitation?;
- (vii) eliminate barriers for ethnic or linguistic minorities, people with disabilities, people living in poverty, and other discriminated groups, including providing information in local and minority languages?

HRBA REFLECTION

ENSURING ENJOYMENT OF RIGHTS IN REALITY

If the abovementioned measures/elements are not in place, services are not operating under the AAAQ framework. This signals that women and children are not effectively enjoying their health rights, and parents, women and children will not be empowered to take charge of their own and their children's health.

IMPLEMENTATION IN PRACTICE

CONSIDER COMPLAINT MECHANISMS

What mechanisms are in place to enable complaints and how are these complaints followed up? If there is inadequate follow-up or redress, how might this be addressed in practice? Where are the obstacles to improving the responsiveness of the health system to women's and children's health needs and accountability claims?

FOR EXAMPLE WHAT CAN BE REPORTED AND HOW

Complaints may be regarding stock-outs, staffing inadequacy, discrimination, disrespect and abuse by health personnel, lack of respect for the right to privacy and confidentiality, failure to obtain informed consent, illicit fees, and the like, both from patients and health personnel. How are women and children informed of existing complaint mechanisms and processes?

HRBA REFLECTION ACCOUNTABILITY REQUIRES FOLLOW-UP

Follow-up is essential to ensuring accountability through actions taken to address the complaint and provide compensation if harm is proved.



© UNF: Martine Perret

MONITORING, REVIEW & OVERSIGHT

Monitoring and evaluation of what is actually going on and what results are being achieved are essential to a circle of accountability, and to creating a responsive health system that is part of a democratic society. To do this effectively, well-functioning health information and surveillance systems should be in place.

YOU, AS HEALTH POLICY MAKERS, can ensure not only the collection of relevant data, but also spur corrective action when data points to human rights failures.

CONSIDER ENGAGING INDIVIDUALS AND COMMUNITIES

How are rights-holders involved in monitoring and evaluation efforts?

FOR EXAMPLE COMMUNITY MONITORING



What role do community members play in collecting information about the availability and quality of **sexual and reproductive health and maternal health** services?

What role do community members play in collecting information about the availability and quality of **child health** services?

HRBA REFLECTION PARTICIPATION AND SOCIAL ACCOUNTABILITY

Application of an HRBA will include civil society and other community members in the collection and analysis of monitoring and evaluation data relating to sexual and reproductive health, maternal health and child health, as well as in making decisions arising from analysis of this data. Ensuring social accountability further requires environments in which human rights defenders are able to carry out their work in safety and in which freedom of expression, assembly and association are guaranteed.

MONITORING, REVIEW & OVERSIGHT

CONSIDER

EVIDENCE OF DISPARATE HEALTH OUTCOMES

As a health policy maker, what action are you taking or would you take, if disaggregated data reveals that some groups of women or children are being left behind and not benefiting from the national plan, laws and policies in place to advance their health rights?

FOR EXAMPLE

WHO IS LEFT BEHIND AND HOW CAN THEY BE REACHED

Are there some groups who are particularly difficult to reach such as those living in remote areas, those living in informal settlements, irregular migrants, or others who may face discrimination and exclusion? What are the reasons behind their exclusion? Can targeted efforts be developed to ensure their access to quality healthcare?

HRBA REFLECTION

EQUALITY AND NON-DISCRIMINATION

In an HRBA, these disparities are critical to address and equally important as aggregate progress.

CONSIDER
CHOICE OF INDICATORS

What national and sub-national indicators do you use? Do at least some of them meet the criteria of being frequently measurable, objective, programmatically relevant and subject to local audit?

FOR EXAMPLE
MORTALITY RATES AND RATIOS



Maternal mortality ratios (MMRs) do not meet these criteria: It is impossible to tell from MMRs alone whether the government is taking appropriate measures to reduce maternal mortality. How does the government supplement MMRs in its health planning and programme evaluation? With skilled birth attendance (if so, how is this measured to ensure meaningfulness)? Unmet need for family planning (including unmarried women and girls)? What qualitative indicators are in use?

Under-five mortality rates cannot be reliably measured each year, as determining this rate may require periodic household surveys. Therefore, indicators of malnutrition rates, vaccine coverage rates, and periodicity of diarrhea episodes may be more suitable for timely assessment of progressive realization of a child's right to health. What qualitative indicators are in use?

HRBA REFLECTION
INDICATORS SHOULD BE ALIGNED WITH HUMAN RIGHTS

An HRBA recognizes that what we measure reflects what we care about and that, if poorly chosen, indicators can create perverse incentives to collect data which distracts from larger human rights concerns, and may even lead to human rights violations.

MONITORING, REVIEW & OVERSIGHT

CONSIDER

MONITORING HEALTH POLICY MAKERS

Are programme directors and staff at the Ministry of Health evaluated on how human rights is integrated into their work on sexual and reproductive health, maternal health and under-5 child health?

FOR EXAMPLE

INTEGRATION OF HUMAN RIGHTS INTO WORK

Is human rights knowledge included in job descriptions? Is there training provided on HRBA?

HRBA REFLECTION

BUILDING CAPACITY TO IMPLEMENT HRBA

This is crucial to the meaningful implementation of HRBA, as the Ministry of Health plays a major role in the design and delivery of health services.

CONSIDER

REVIEWING MATERNAL AND CHILD DEATHS

Is there a policy in place requiring reviews of each maternal death? Of each death of a child under five? Do you monitor these reviews and do you institute policy and programming changes based on the findings?

FOR EXAMPLE

PROCEDURE AND FOLLOW-UP

What is the procedure to follow in order to report a maternal or child death? Who is responsible for analysing these reports and taking action? Does the procedure require the recording of specific health information on death certificates? Does the policy advance birth and death registration among vulnerable groups of children such as orphans, migrants, refugees and internally displaced children?

HRBA REFLECTION

MONITORING TO CORRECT SYSTEM FAILURES AND ENSURE ACCOUNTABILITY

An HRBA should ensure there are such reviews, as part of accountability. However, these should be performed not to punish front-line providers but in ways that identify and correct structural factors leading to deaths.

CONSIDER

MONITORING BY NATIONAL HUMAN RIGHTS INSTITUTIONS

Do you facilitate oversight and monitoring by the national human rights institution in your country, if one exists? How might this oversight be better facilitated?

FOR EXAMPLE

ACTIONS WITH AND BY NATIONAL HUMAN RIGHTS INSTITUTIONS

Have you convened a meeting with the national human rights institution to discuss monitoring of the right to health in your country? Has the national human rights institution organized hearings on the right to health and have you participated in such hearings?

HRBA REFLECTION

OVERSIGHT IS ESSENTIAL TO ACCOUNTABILITY

Independent oversight of the health system, by national human rights institutions and other institutions, is critical to accountability in an HRBA.



© EPA: Rafa Salasfranca

REMEDIES

Remedies can take many forms, some of which are judicial, but also include administrative mechanisms and actions through national human rights institutions. Judicial and other remedies are used to ensure rights are realized, or to respond to accountability claims. Even where the right to health is not justiciable, the right to life and rights relating to non-discrimination are very relevant to sexual and reproductive health, including maternal health and mortality, and to child health. Remedies need not be used to sanction or blame individual providers, who more often than not could not avoid specific outcomes.

YOU, AS HEALTH POLICY MAKERS, can utilize remedies as a means to promote greater responsiveness from the health system.

CONSIDER PATIENTS' RIGHTS CHARTERS

Do you ensure that patients and health providers understand the implications of patients' rights charters and other legal remedies? How?

FOR EXAMPLE CONVEYING INFORMATION IN VARIOUS FORMS

Are the patients' rights and children's rights charters posted in facilities and are they available in local languages? Do service providers share information about patients' rights orally in their interactions with patients as a matter of standard practice? How are the rights of children discussed with parents and other care givers?

HRBA REFLECTION ACCOUNTABILITY REQUIRES AWARENESS OF REMEDIES

If patients are to be able to claim their rights, they must be aware of them, and providers must be aware of their corresponding obligations.

CONSIDER

JUDICIAL AND ADMINISTRATIVE REMEDIES

Do you widely disseminate to the public judicial and/or administrative remedies available for non-fulfillment of health-related rights? Through what media and mechanisms are these disseminated?

FOR EXAMPLE

CONVEYING INFORMATION IN VARIOUS FORMS

Are there public awareness campaigns to explain how health rights violations are remedied? Is information on remedies available in accessible formats including local languages? What means are used to communicate information about remedies to people who are illiterate?

HRBA REFLECTION

ACCOUNTABILITY REQUIRES AWARENESS OF REMEDIES

Legal remedies are only useful if people know they can use them, and have effective access to them.

CONSIDER

WORKING WITH THE JUDICIARY

Do you interact with the judiciary regarding the creation/enhancement of remedies in the event of violations of sexual and reproductive health rights or child health rights? What would enhance the effectiveness of judicial accountability with respect to sexual and reproductive health, maternal health and child health?

FOR EXAMPLE

IMPACT OF RIGHT TO HEALTH CASES

Have there been cases concerning the right to health brought before the courts? How have judicial decisions impacted the way in which services are delivered?

HRBA REFLECTION

JUDICIAL REMEDIES TOWARDS IMPROVED REALIZATION OF HUMAN RIGHTS

It is important that remedies not be simply punitive in nature. To ensure the effective use of remedies in an HRBA, lawyers, judges and the public must be systematically made aware of the right to health and how policy and programmes can be remedied to strengthen the realization of that right in the future, so that more women and children enjoy it, without discrimination.

INTERNATIONAL ASSISTANCE & COOPERATION

In some countries, development partners play a significant role in setting global health goals.

YOU, AS HEALTH POLICY MAKERS, are well placed to analyze the role of donors in your country's health system in order to provide essential insight into how they impact the country. Under international law, donors should be harmonizing their aid and aligning their assistance with national priorities.

CONSIDER ROLE OF DEVELOPMENT PARTNERS

Do donors/development partners play a substantial role in setting the government's health priorities for women and children? What actions can you as a health policy maker take to try to ensure that donors fund the sexual and reproductive health, maternal health and child health aspects of the national plan according to the State's evidence-based priorities?

FOR EXAMPLE ALIGNMENT OF PRIORITIES

Do donors align funding with government priorities, and support strengthening of national systems, or do they set their own priorities and their own monitoring and evaluation frameworks?

HRBA REFLECTION PRIMACY OF STATE OBLIGATION TO CITIZENS

It is important for the State to be accountable to its own citizens in an HRBA; donor financing should not distort incentives, undermine national health plans and institutions, or displace national accountability to citizens.

CONSIDER
REACHING THE MOST MARGINALIZED

In their support of maternal and child mortality reduction, have donors paid particular attention to women's and children's health priorities among the poorest and most marginalized groups of the population?

FOR EXAMPLE
WHO IS FACING EXCLUSION

Are there explicit efforts to reach women and children in remote areas, in informal settlements, or otherwise facing exclusion?

HRBA REFLECTION
EQUALITY AND NON-DISCRIMINATION

In an HRBA, special concern should be paid to marginalized and excluded groups, such as minorities, as well as to the most economically disadvantaged.



