

The denial of the human right to health care in the United States**Presentation notes, UPR consultation, New York City, February 26, 2010***Anja Rudiger Ph.D., National Economic and Social Rights Initiative (NESRI)***Health care is a human right**

- Everyone has an equal right to get the health care they need. This requires a health system that works to protect people's health, guaranteed by the government. (UDHR, CERD, ICESCR, General Comment 14)

A health check up for the U.S.:

- Evidence that health outcomes are poorer than in most other high-income countries: e.g. the U.S. has a higher infant mortality rate and lower life expectancy than comparable countries. (WHO 2007, Commonwealth Fund 2007)
- 45,000 people die each year simply because they have no health insurance (American Journal of Public Health 2009)

Barriers to receiving needed health care:

- Around 50 million people do not have health insurance. Over half of them are African Americans. (Center for American Progress 2009)
 - Of those who are insured, at least 25 million are underinsured. They often forgo care because of high deductibles and co-pays. (Commonwealth Fund 2008)
 - U.S. has fewer doctors and nurses than other high-income countries. (WHO 2007)
 - Hospitals and doctors are disproportionately located in wealthier areas
- Up to 101,000 unnecessary deaths a year because of the way health care is organized in the U.S. (Health Affairs 2008)
- Despite the highest health care costs in the world, the U.S. government has failed to meet its human rights obligation to respect, protect and fulfill everyone's right to a system of health protection.
- People in the U.S. are denied their right to health care.

Why is the U.S. such an outlier in the international context?

- Health care is treated as a commodity, not as a human right.
- Market-based system: the U.S. is the only high-income country that treats care as commodity instead of a public good. The U.S. is the only high-income country that doesn't have universal health insurance. The U.S. is the only high-income in which the government has not taken the initiative to pool all risks, cross-subsidize costs, and guarantee access to care according to people's health needs.
- Market imperatives take precedent over health protection. E.g. private insurance industry: they make money if people don't use health care, and they lose money every time someone gets treated. That is the wrong incentive.
 - In the last year, the five largest insurance companies made a combined profit of around \$12 billion. (HHS 2010)
 - The flipside of that is that 700,000 families go bankrupt each year just by trying to pay for their health care – even through three quarters of them are insured. (Health Affairs 2006)

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→ This is unacceptable under international human rights standards, which say that health care must be accessible, available, acceptable and of good quality for everyone, on an equitable basis, everywhere in the country. (GC 14)

The principle of universal access

Human Rights Principle:

- Everyone must have equal and automatic access to comprehensive, quality care, guaranteed throughout our lives

Access must be free of barriers, including cost barriers.

Reality Check:

- Health care services are not there for everyone's benefit, unlike schools and fire departments, which are public goods.
- Instead, most people have to buy access to care, if they can afford it. But for many, costs are a key barrier. E.g. two thirds of all bankruptcies stem from medical costs. (American Journal of Medicine 2009)

The principle of equity and non-discrimination in access

Human Rights Principle:

- Everyone must get health care appropriate to their needs, and share costs according to their means.
- No one must be excluded, receive fewer or poorer services, or more limited insurance coverage, on the basis of income, race, ethnicity, immigration status, age, gender, or any other factor.

Reality Check:

- Markets work by excluding those who cannot pay or who are not deemed profitable. Our health care market limits access according to payment, coverage source, and location – all unrelated to health needs.
- The U.S. has a highly stratified system with separate tiers for different categories of people receiving different levels of care. What care you get depends on how you're able to access this system. Those who are well-off, white, male, young or employed have better access to care, and usually better health outcomes, than others. This is a clear violation of human rights.
 - E.g. rights of people of color are violated: 10 year survival rate of people with cancer: 60% for Whites, 48% for African Americans. (SEER cancer statistics, also Office of Minority Health)
 - E.g. women's right to non-discrimination is violated through increasingly restricting those services only women use: reproductive health care.
 - Severe barriers to access reproductive health care particularly disadvantage poor and low-income women, because Medicaid prohibits funding for abortions. Current reform proposals even prohibit most private insurers from covering abortions.
 - Title X family planning clinics are seriously underfunded, leaving many low-income women without access to family planning.

The principle of universal, equitable availability of infrastructure and services

Human Rights Principle:

- Resources must be allocated equitably, guided by health needs.

Reality Check:

- Especially in inner city and rural areas where poor people and people of color live, health needs remain unmet.
- In a market-based system, providers are necessarily located where the most money can be made.
- Public hospitals are closing in areas where they are most needed.
- U.S. already ranks lowest among high-income countries in its primary care infrastructure. Projected shortage of 44,000 primary care doctors within the next 15 years. (WHO, Health Affairs 2008)

The principle of equal high-quality care

Human Rights Principle:

- Everyone has the right to equal high-quality care.

Reality Check:

- In a market-based system, hospitals and doctors are incentivized to use expensive procedures and devices, because those generate revenue. This does not necessarily improve health outcomes.
 - E.g. childbirth: the U.S. has one of the highest rate of C-Sections (32%, as opposed to a WHO recommended 5-15%), yet also the highest rate of maternal mortality among high-income countries (13 in 100,000). Amnesty International is about to publish a report on this violation of women's right to health.

Recommendations to the U.S. Government for ensuring universal, equitable access to health care

1. Provide a publicly financed and administered health insurance plan for every person in the U.S., guaranteed and continuous through a person's life. → principle of universality
2. Finance this social insurance plan equitably, through progressive taxation, so that access to health care no longer depends on the ability to pay → principle of equity
3. Start a democratic health care reform process that meets the human rights standards of participation and accountability.
 - Government has no mandate from the people for continuing the business model of health insurance and using public monies to create more consumers of private insurance products. Such reforms would leave many millions out and be unsustainable. (NESRI 2009, 2010)
 - Instead, the government needs to engage with the largest grass-roots movement for universal health care that this country has seen: give serious consideration to Medicare for All, single payer health insurance proposals. Stop criminalizing those who practice civil disobedience to demand the human right to health care and start a democratic process to meet human rights obligations.

(Sources available upon request)