

OP.037 International law and ethics right to health as an international obligation

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In the wake of the abuses that occurred during World War II States have paid more attention to the creation and implementation of international standards of behavior. First, with the UN Charter, which includes among its purposes the achievement of international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion. Later as well with the Universal Declaration of Human Rights, proclaimed by the UN General Assembly on 10 December 1948 and The European Convention on Human Rights, that entered into force on 3 September 1953.

International human rights law refers to a universal duty to assure human dignity and health. The Universal Declaration of Human Rights guarantees respect for economic, social, and cultural rights, considering them indispensable for human dignity and proclaims that they should be insured through national effort and international cooperation. A State's duty of international cooperation and assistance is derived from a number of international legal sources, including the International Covenant on Economic, Social and Cultural Rights, the human right to health, and the International Health Regulations.

The duty of international cooperation is often framed specifically in the context of an universal right to health. The Committee on Economic, Social and Cultural Rights provides guidance on the normative content and States' international obligations concerning the right to health. It extends not only to health care but also to the underlying determinants of health. The right to health must be available in sufficient quantity; accessible to everyone without discrimination, acceptable to different cultures, genders, age groups; and of adequate quality. During public health emergencies of international concern, World Health Organization is empowered to mobilize international assistance.

In the UN Millennium Declaration, States recognized "a collective responsibility to uphold the principles of human dignity, equality and equity at the global level" and that includes "a duty to all the world's people, especially the most vulnerable". Since then a majority of States has made legal undertakings and political commitments to help protect the health of people in all countries. Although a State's primary obligation is to the people within its jurisdiction, it has a responsibility to assist countries in need and population abroad provided it has the resources to do so. States have voluntarily entered into agreements and made political promises to offer international assistance on matters of health. They have done it because they have ethical responsibilities to those who are less fortunate at home and abroad. A "common concern of mankind". Human rights law provides a framework of officially recognized ethical principles that address issues of global equity. Human rights norms need to be developed and refined to make clearer the international obligations owed by States.