Action Sheet 16
The right to the highest attainable standards of health

Key Message

1. Everyone has the right to the highest attainable standard of physical and mental health. This includes not only the right to timely and appropriate health care but also to the underlying determinants of health, such as access to adequate food, water, sustainable livelihood, shelter and sanitation. Safeguarding the right to health requires a coordinated and multi-sectoral response which takes into the account the various inter-linkages between health and protection. This action sheets aims to provide guidance in this respect.

Health and protection in the context of internal displacement

2. The conditions that characterize forced displacement can have profound impact upon health and well-being of individuals and communities. Conflict, displacement and other violations of human rights, combined with lack of access to shelter, sanitation, food and safe water, often combine to deplete people's physical and emotional reserves and undermine their ability to prevent and respond to health-related risks in their environment. All too often health-related factors – such as disease, disability and malnutrition – will claim more lives and cause greater suffering than fighting or other conflict-related violence.

> **What is health?**
> Health is generally defined as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.
> *Constitution of the WHO*
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> **Is there a link between health and human rights?**
> A strong link binds health and human rights:
> - Violations or lack of attention to human rights can have serious health consequences;
> - Health policies and programmes and the ways in which they are implemented can promote – or violate – human rights;
> - Vulnerability and the impact of ill health can be reduced by taking steps to respect, protect and fulfill human rights.
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> *25 Questions & Answers on Human Rights* (WHO, 2002)

3. The internally displaced can face a variety of **risks to their health and well-being** both during displacement as well as upon return or resettlement. These include:
   - ***Physical health*:** Conflict and violence combined with poverty and marginalization as well as lack of access to shelter, sanitation, water and food can result in death, disease, disability, injury or trauma. In some cases, diseases that previously had been brought under control – such as measles, diarrhea, malaria and acute respiratory infections – can become major epidemics as a result of displacement, in particular in crowded camp environments.
   - ***Mental health*:** Exposure to violence, torture and loss or separation from family members can give rise to a number of psycho-social related problems, such as post-traumatic stress disorders, psychosomatic illness, depression and anxiety, which can destroy a person's quality of life and diminish their resistance to disease. In some cases, such factors may contribute to a change in behavior, including increased substance abuse, aggression and higher levels of sexual and domestic violence.
   - ***Sexual and reproductive health*:** Reproductive health problems, which are a leading cause of death and illness for women and girls world-wide, are often compounded during forced displacement owing to disruption in health care, erosion of traditional health practices, and exposure to violence, exploitation and abuse. This may lead to an increase in maternal and infant mortality rates, still births, and low birth weight. Sexual violence, in particular, can have tragic consequences for women and girls. This includes health-risks related to forced and early pregnancies, unsafe abortions, obstructed labour, sterility, incontinence, vaginal fistulas[1] and sexually transmitted infections.[2]

4. Such health risks are often compounded by **lack of or limited access to health care facilities, services and supplies, including medicine** during times of internal displacement. In many cases, the internally displaced face particular obstacles in accessing timely and adequate health-care. Frequent obstacles include:
   - ***Availability* –** The internally displaced may be living in areas – including crowded camps or rural areas – where health care is absent or the infrastructure has been damaged and professional staff hurt or displaced. In some cases, key components of an adequate health response – such as vaccinations, reproductive health care or psycho-social support – may be absent owing to lack of resources or

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[1] Fistula is a health problem that occurs when the wall between the vagina and the bladder or bowel is ruptured due to obstructed labour. Women then lose control of their bladder or bowel functions.

[2] For further information on the consequences of sexual violence see Action Sheet **.

expertise.

- ***Accessibility*** – Access to health care may be limited owing to discrimination (for instance based on ethnic, religious or linguistic background), high user fees or other factors, such as long distances, insecure environments, damaged infrastructure or lack of affordable transport. Women and girls may face additional constraints owing to discriminatory practices and restrictions on their freedom of movement. They may need permission from male relatives to travel or be prohibited from being treated by a male doctor. Survivors of sexual violence may refrain from seeking help due to fear of stigma, humiliation or further threats and violence, including arrest and detention.
- ***Affordability*** - High user fees and costs of medication may prevent the internally displaced from receiving necessary and timely care. As a result they often suffer from preventable illnesses which may lead to an increase in morbidity and mortality rates. In order to afford the cost of health care some individuals may be exposed to exploitative practices, such as forced prostitution.
- ***Acceptability*** – Matters relating to health are often deeply rooted in traditional, cultural or religious practices and beliefs and health care services may not be accepted by the internally displaced unless these are understood and taken into account. Information about health must also be made available in a language which is understood by the displaced population.
- ***Quality*** – Ensuring minimum standards of health in health services[3] during emergencies can be challenging, for instance owing to lack of qualified staff, lack of knowledge or understanding of displacement-related health risks and the health profile of the displaced population, or lack of respect for human rights, such as the right to privacy and confidentiality during all stages of treatment.

Individuals and groups at particular risk

5. Certain individuals and groups may face particular or different health risks owing to social, cultural and biological factors. For instance, women and girls may be exposed to different risks (such as harmful traditional practices or sexual violence) and may have needs that are different from men and boys (for instance for reproductive health care), but which often are not taken into account or fulfilled owing to discrimination. Other groups that may face particular difficulties include older persons, children of both sexes and all ages but particular those under five years of age, persons with disabilities and those living with chronic or serious illness, such as HIV/AIDS. Pregnant and lactating women, as well as young children, may also need special attention and care.

Key legal principles

International human rights law

6. Everyone has the right to the **highest attainable standard of physical and mental health**. This right includes not only the right to equal access to timely and appropriate health care, but goes beyond it to embrace a wide range of socio-economic factors and the underlying determinants of health, such as access to food, shelter, safe water and sanitation, safe working conditions and an healthy environment, and access to health-related education and information, including on sexual and reproductive health.[4]

7. The right to health is also closely related to and dependent upon the realization of **other human rights**, including the rights to non-discrimination and equality, to respect for one's privacy during consultations, examinations and care (including confidentiality of medical information), and to freedom of movement. The right to freedom from torture or cruel, inhuman or degrading treatment or punishment also includes the right not to be subjected to harmful traditional practices, such as female genital mutilation, or forced medical treatment (such as sterilization or mandatory testing) or experimentation.

Guiding Principle 19

1. *All wounded and sick internally displaced persons as well as those with disabilities shall receive … the medical care and attention they require, without distinction on any grounds other than medical one …* [including] *psychological and social services.*

2. *Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counselling for victims of sexual and other abuses.*

3. *Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS …*

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[3] These are described in detail in the Chapter 5 on Minimum Standards in Health Services, of the Sphere Handbook: Humanitarian Charter and Minimum Standards in Disaster Response (Sphere Project, 2004)

[4] See e.g. UDHR Art. 25(1); ICESCR, Arts. 10(2), 11 and 12; and CRC, Arts. 23(3), 24, 39; ICERD, Art. 5 (e)(iv) and CEDAW, Arts. 10(h), 11(1)(f) and 12, 14(2)(b) and 16(e). For further discussion see General Comment 14(2000) of the Committee on Economic, Social and Cultural Rights on the right to the highest attainable standard of health, E/C/12/2000/4.

8. In this context, the term health includes not only physical but also **mental** and **reproductive health**. Reproductive health rights, for instance, require that women as well as men have access to sexual education and information about family-planning methods and services, and that they can decide freely on the number and spacing of their children. It also requires that women have access to appropriate health-care services for pre-natal, delivery, and post-natal care, and measures to diminish maternal, child and infant morbidity and mortality.

9. It should be noted that **women and girls** have an equal right with men and boys to all aspects of health and well-being. This requires that attention be paid to gender-specific aspects of health, including both gender-specific risks (such as sexual violence or harmful traditional practices) and gender-specific needs (such as the need for reproductive health care).

International humanitarian, and international criminal, law

10. International humanitarian law provides extensive protection to the sick and wounded as well as to health workers and other humanitarian personnel, hospitals, medical equipment, medical units and transportation.[5] In particular, the sick and wounded must be collected, protected against ill-treatment and receive, to the fullest extent practicable and with the least possible delay, the needed medical care and attention, without any disctinction except on medical grounds.

Role and responsibility of the State

11. The national authorities carry primary responsibility for ensuring the highest attainable standard of health for everyone within their jurisdiction, including the internally displaced. This obligation requires the State to take progressive steps, to the maximum of its available resources, towards the full realization of the right to health (see legal section), by all appropriate means, including legislative, administrative, financial, educational and social measures. In particular, national authorities must aim to ensure that health care facilities, services and supplies are available, accessible, acceptable and of good quality. These obligations are outlined in greater detail in **General Comment No. 14** of the Committee on Social, Economic and Cultural Rights on the right to the highest attainable standard of health[6].

Role of human rights and humanitarian actors: Building the protection response

12. At the global level, coordination of the humanitarian response to health is primarily the responsibility of the World Health Organization and its partners in the Global Health Cluster.[7] Given the close inter-linkages between health and human rights it is however important that protection staff and partners work with colleagues from the health sector on ensuring that the right to health is respected and human rights integrated into all programming, prevention and response. Table X lists some activities which could prove useful in this respect.

In our work we can …	
Assessment and analysis	▪ Ensure that protection assessments and analysis take into account **(i)** the extent to which people are able to enjoy their right to health and the underlying determinants of health; **(ii)** the health-impact of human rights violations; and **(iii)** any protection concerns that arise as a result of ill-health
Coordination	▪ Establish a focal point for health and coordinate closely with other sectors/clusters – such as health, shelter, food, nutrition and water/sanitation/hygiene - in order to ensure that health-related aspects of protection are identified and adequately addressed.
Advocate	▪ Advocate with local and national authorities to ensure that health policies and programmes respect, protect and aim to fulfill the right to the highest attainable standard of health. This includes ensuring that everyone, including the internally displaced, has access to health-care and appropriate medication.
Community mobilization	▪ Help to strengthen traditional, cultural and religious social networks, events, activities or practices that play a role in safeguarding health, in particular various preventive measures. This may, for instance, include traditional cleansing and healing practices that assist people in dealing with grief or trauma.

[5] This is a customary principle of IHL. See also Common Art. 3; GC IV Art. 16-23; AP I Art. 10-18 and 75(2)(a); AP II Art. 4(2)(a), 5(1)(a), 5(2)(e) and (d), 7-12. For a detailed overview of relevant standards please see the thematic compilation of legal standards in Annex #.

[6] General Comment 14(2000) of the Committee on Economic, Social and Cultural Rights on the right to the highest attainable standard of health, E/C/12/2000/4.

[7] The Global Health Cluster was established by the IASC in December 2005 under the leadership of the WHO. For further information please see www.humanitarianreform.org.

	▪ Ensure the active participation of displaced individuals, both men and women, in all planning and programme implementation. Community leaders and community groups, such as women or youth groups, can also play an important role in disseminating important health information through their communities.
Information and communication activities	▪ Work together with colleagues from relevant sectors/clusters to inform and educate the internally displaced, host communities as well as local and national authorities about the right to health and the link between health and human rights. Such activities could also include various health-related information, including on the availability and location of health-care services, general practices of good health (including sexual and reproductive health) and ways to reduce various health-risks, such as sexual violence. Such information must be provided in a language and mannter that both the displaced and the host population understand.
Education	▪ Advocate to ensure that health-related information, including about the link between health and human rights, is integrated into school curricula and that children and adolescents have access to information about hygiene promotion, adequate nutrition, and sexual and reproductive health, in a safe learning environment.
Training	▪ Support or offer training in human rights and on the link between human rights and health to important stakeholders, such as health professionals, and local and national authorities. Such training should in particular emphasize the rights to health and the underlying determinants of health, preventive health measures, and the right to privacy and confidentiality. ▪ Provide training for traditional practitioners such for example practitioners of witchcraft, circumsizers and traditional birth attendants (TBAs) as a way to receive buy in from a powerful community group as well as improve their skills and practice to ensure that they benefit the people seeking their assistance.
Technical advice and assistance	▪ Support or offer technical advice and assistance on **(i)** how human rights can be integrated into the health response by local and national authorities (for instance by guaranteeing privacy and confidentiality); and **(ii)** how a targeted health response can contribute to greater respect for human rights (for instance by ensuring an adequate health response, including emergency referrals, for survivors of sexual violence).
Material assistance	▪ Provide targeted material assistance to individuals and families that are at risk of or suffer from health-related protection risks. This may, for instance, include older persons; survivors of (or those at risk of) sexual violence; single-headed households; separated and unaccompanied children; persons living with HIV/AIDS; and others. ▪ Provide, on a temporary basis, material assistance to relevant authorities to assist them in integrating human rights into their health policies and programmes. This may include office equipment, assistance with transportation (for instance in order to access remote camps), or modest financial grants.

References

Unless otherwise stated the below references are available from **www.refworld.org**

Reading

- **25 Questions & Answers on Health and Human Rights** (WHO, 2002)
- The **right to the highest attainable standard of health**, General Comment No. 14(2000) of the Committee on Economic, Social and Cultural Rights, E/C.12/2000/4 (available from www.ohchr.org/english/bodies/cescr/comments.htm)
- Chapter 14 on Health in **Handbook for Emergencies** (UNHCR, 3rd ed., 2006)
- Chapter 5 on **Minimum Standards in Health Services**, of the Sphere Handbook: Humanitarian Charter and Minimum Standards in Disaster Response (Sphere Project, 2004)
- Chapter ? on Health, in the IASC **Gender Handbook** for Humanitarian Action - Women, Girls, Boys & Men: Different Needs – Equal Opportunities (IASC, 2007) – available from www.humanitarianinfo.org/iasc/gender
- **Reproductive Health** in Refugee Situations: An Inter-Agency Field Manual (UNHCR, 1999)

Websites

- Physicians for Human Rights (http://physiciansforhumanrights.org)
- Website of the Global Health Cluster (www.humanitarianreform.org)
- WHO - World Health Organisation - WHO (www.who.int)
- UNICEF - United Nations Children Fund – UNICEF (www.unicef.org)
- UNFPA - United Nations Population Fund - UNFPA (www.unfpa.org)
- ICRC - International Committee of the Red Cross (www.icrc.org)