

القطاع الدوائي في قطر: يداً بيد في مواجهة الحصار

Medication Sector in Qatar: Hand in Hand Facing the Blockade



The Right to Health under International Law

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Disclaimer:

**Presenting Authors Have No Relationships
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I. The International Legal Framework Surrounding the Right to Health

- ✓ Human beings have always been concerned about their proper health and the health of those they care about
- ✓ Health is our most essential asset
- ✓ The right to health – as a human right – is part of our fundamental human rights
- ✓ Do you believe that the right to health is new?
- ✓ Is the right to health protected by international human right law?



I. The International Legal Framework Surrounding the Right to Health

- ✓ The right to health made its *début* in 1946: Constitution of the World Health Organization (WHO)

Preamble

Definition of Health: “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity”

“The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition”



World Health
Organization



I. The International Legal Framework Surrounding the Right to Health

- ✓ **1948: The Universal Declaration of Human Rights (UDHR)** – Adopted by the United Nations General Assembly – Article 25
- ✓ Health is mentioned as part of the right to an adequate standard of living
- ✓ UDHR – Provisions are general and aspirational (as opposed to containing specific obligations)
- ✓ With the passage of time, they became customary international law – thus binding on all States



UNIVERSAL DECLARATION OF
HUMAN RIGHTS
#STANDUP4HUMANRIGHTS



I. The International Legal Framework Surrounding the Right to Health

- ✓ **1966: The right to health was again recognized as a human right in the International Covenant on Economic, Social and Cultural Rights – Article 12**

“1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”

- ✓ **166 States Parties**



**International Covenant on
Economic Social and Cultural Rights**



I. The International Legal Framework Surrounding the Right to Health

✓ 1989: Convention on the Rights of the Child – Article 24

“1. **States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health** and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services”

✓ 196 States Parties



I. The International Legal Framework Surrounding the Right to Health

✓ **2004: Arab Charter on Human Rights – Article 39**

“Young persons have the right to be afforded the most ample opportunities for physical and mental development”

✓ **13 States Parties**



I. The International Legal Framework Surrounding the Right to Health

- ✓ **A series of other international and regional treaties recognize the right to health**
 - ✓ **The 1965 International Convention on the Elimination of All Forms of Racial Discrimination – Article 5(e)(iv)**
 - ✓ **The 1979 Convention on the Elimination of All Forms of Discrimination against Women – Articles 11(1)(f), 12 and 14(2)(b)**
 - ✓ **The 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families – Articles 28, 43(e) and 45(c)**
 - ✓ **The 2006 Convention on the Rights of Persons with Disabilities – Article 25**





II. Key Aspects of the Right to Health

Essential medicines



II. Key Aspects of the Right to Health

- ✓ **The right to health – An inclusive right – Examples of underlying determinants:**
 - ✓ **Healthy working and environmental conditions**
 - ✓ **Health-related education and information**
 - ✓ **Gender equality**



II. Key Aspects of the Right to Health

- ✓ Entitlements under the right to health:
 - ✓ The right to a system of health protection providing equality of opportunity for everyone to enjoy the highest attainable level of health
 - ✓ **Access to essential medicines**
 - ✓ The provision of health-related education
 - ✓ The right to prevention, treatment and control of diseases



III. Obligations on States towards the Right to Health

- ✓ The obligations to respect
- ✓ **The obligation to protect: It requires States to prevent third parties from interfering with the right to health**
- ✓ The obligation to fulfil



III. Obligations on States towards the Right to Health

- ✓ Committee on Economic, Social and Cultural Rights – General Comment no. 14 (2000), para. 41 and the severance of diplomatic ties with Qatar

“[s]tates parties should refrain at all times from imposing embargoes or similar measures restricting the supply of another State with adequate medicines and medical equipment. Restrictions on such goods should never be used as an instrument of political and economic pressure”

- ✓ Treaty bodies (Committees) assume, *inter alia*, an interpretative role. General comments are meant to clarify and interpret treaty provisions



III. Embargos and the Right to Health – Access to Medicines

- ✓ **Embargo against Haiti (1991-1994)**
- ✓ **Serious impact on health – Child mortality increased by up to 64%**
- ✓ **Criticism: Sanctions did not guarantee free movement of life-saving supplies**



III. Embargos and the Right to Health – Access to Medicines

- ✓ **US embargo against Cuba**
- ✓ **UNICEF: Cuba was unable to import nutritional products destined for children. Adverse effect on the health and nutritional status of the population**
- ✓ **November 2017: United Nations General Assembly Annual Resolution Urging End to United States Embargo on Cuba**



IV. Concluding Remarks

- ✓ **The right to health is multifaceted and its content has significantly evolved**
- ✓ **General Comment no. 14 of Committee on Economic, Social and Cultural Rights constitutes a good basis for the interpretation of the right to health**
- ✓ **Economic or political measures – regardless of their legality – should guarantee free movement of life-saving supplies, especially of food and medicines**



شكرا على انتباهكم - Thank you for your attention

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Questions?

