Human Rights

Aim of the course:

The main objective of Human Rights course IS to study the philosophical basis, history and origin of human rights. The course examines the philosolphical basis, history and origin of human rights while remaining grounded in the reality of events that have shaped the world.

Course description

Human Rights Course encompass a theoretical, philosophical, practical and legal system which advocates the position that individuals are the bearers of basic rights fundamental to human dignity. The concept of human rights is closely allied with ethics and morality. However, while there is widespread acceptance of the importance of human rights, there is confusion as to their precise nature and role. The human rights system in international law seeks to regulate the relationship between states and individuals and defines a series of rights which states are obliged to uphold.

Human Rights Course For Pharmacy Students

As healthcare professionals, pharmacists encounter a variety of problems, which may compromise quality care and patient rights. This course is designed to enable pharmacy students to approach the concept of human rights objectively with a thorough understanding of professional human as well as moral responsibility. Students will learn more about the human rights to health. Pharmacy students should be aware about WHO's Essential Medicines Program.

Introduction

Most countries have acceded to at least one global or regional covenant or treaty confirming the right to health. After years of international discussions on human rights, many governments are now moving towards practical implementation of their commitments. A practical example may be of help to those governments who aim to translate their international treaty obligations

into practice.

WHO's Essential Medicines Program is an example of how this transition from legal principles to practical implementation may be achieved. This program has been consistent with human rights principles since its inception in the early 1980s, through its focus on equitable access to essential medicines. This chapter provides a brief overview of what the international human rights instruments mention about access to essential medicines, and proposes five assessment questions and practical recommendations for governments.

These recommendations cover

*The selection of essential medicines *Participation in program development *Mechanisms for transparency and accountability *Equitable access by vulnerable groups

*Redress mechanisms.

Human rights

Human rights concern the relationship between the state and the individual, generating individual rights and state obligations. The promotion of human rights is one of the principal purposes of the United Nations and, as such, affects WHO's work as anchored in its constitutions and the UN Charter.

Human rights are legally guaranteed by international, regional and national human rights law, protecting individuals and groups against actions that interfere with fundamental freedoms and human dignity. Most human rights are interdependent. For example, the right to health is closely associated with the right to life and indispensable for the exercise of most other human rights. Freedom from discrimination underpins all human rights.

Most countries have acceded to at least one global or regional covenant or treaty confirming the right to health. Over 150 countries have become States Parties to the International Covenant on Economic, Social and Cultural

Rights, and over 100 countries have incorporated the right to health in their national constitution.

In addition, in September 2005 all WHO Member States decided to integrate the promotion and protection of human rights into national policies and to support the further mainstreaming of human rights throughout the United Nations system. After years of international discussions on human rights, many governments are now moving towards practical implementation of their commitments.

Essential Medicines

Since the 1970s WHO has promoted equitable access to basic health services through the concepts of primary health care and essential medicines. The first Model list of essential medicines of 1977 preceded the famous 1978 Alma Ata Declaration on Health For All and is widely regarded as one of WHO's most influential public health achievements. Essential medicines are those that satisfy the priority health-care needs of the population. They are selected with due regard to disease prevalence, evidence on efficacy, safer; and comparative cost-effectiveness.

Essential medicines are intended to be available at all times in adequate amounts, in the appropriate dosage forms, with assured quality, and at a price the individual and the community can afford.

Since 1977 the concept of essential medicines has become truly global. By the turn of the century over 150 countries had a national list of essential medicines, and over 100 countries had a national medicines policy. Although initially aimed at developing countries, the concept of essential medicines is increasingly seen as relevant for middle- and high income countries as well. WHO model lists for essential medicines are available at :

http://www.who.intirnedicines/publications/essentialmedicines/enlindex.html

Essential medicines and human rights

The human rights debate, which has tended to be dominated by human rights

lawyers focusing on points of principle, now has to move towards practical implementation. This has three main implications.

Firstly, the discussion on strict legal principles must now move towards a political process which can only proceed on the basis of compromise. Secondly, the richness of practice is also critically relevant for understanding the concept and reach of human rights. In this regard WHO's Essential Medicines Program has much to offer, Its consistent focus on sustainable, universal access to essential medicines through the development of national medicines policies has always been in line with human rights principles of non-discrimination and care fat the poor and disadvantaged. This also applies to its focus on good governance.

For example, the careful selection of essential medicines, good quality assurance, procurement and supply management and rational use all serve to optimize the value of limited government funds, and thereby empower and support governments in making basic services available to all.

Other aspects of good governance work towards the same goal, such as standardized procedures for monitoring inequities in the pharmaceutical situation, and management tools to assess and reduce vulnerability to corruption.

WHO also supports equitable access through its normative activities on pharmaceuticals. For example, the proactive early development of global quality standards, the international prequalification program and the dissemination of information on sources and prices, regulation status and patent status of priority medicines for human immunodeficiency virus/acquired immunodeficiency syndrome (HIV / AIDS), tuberculosis and malaria have promoted good-quality manufacture in developing countries, increased availability and competition, and lowered prices.

The WHO/Health Action International standardized medicine prices survey methodology has empowered countless nongovernmental organizations in

developing countries to measure the availability, out-of pocket prices and affordability of essential medicines; the ensuing national political discussions have often led to increased affordability and more equitable access.

Thirdly, all development programs, including national essential medicines programs, should ensure that all aspects of the rights-based approach are in place. Some practical information in this regard may help governments who wish to translate their international treaty obligations into rights-based health programs to benefit their population.

Human rights instruments and health

The WHO Constitution (I946) states: "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 conddition.".

Article 25.1 of the Universal Declaration of Human Rights (1948) reads:

"Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, housing and medical care and necessary social services".

The fundamental right to the enjoyment of the highest attainable standard of health (hereafter: "the right to health") was reiterated in the 1978 Declaration of Alma Ata and is widely recognized in many other international and regional human rights instruments.

After the Universal Declaration of Human Rights, two subsequent international treaties of 1966 provide more detail on the practical implications of human rights:

-the International Covenant on Civil and Political Rights (ICCPR) and

-the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The latter provides the mam foundation for legal obligations in the field of

health. In the ICESCR States Parties "recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health".

In Article 12.2 it lists a number of steps to be taken by States Parties to achieve the full realization of this right, including the right to: maternal, child and reproductive health; healthy natural and workplace environments; prevention, treatment and control of disease; and "the creation of conditions which would assure to all medical service and medical attention in the event of sickness."

Access to essential medicines as part of the fulfillment of the right to health

The implementation of the ICESCR, which is binding to its over 150 States Parties, is monitored by the Committee on Economic, Social and Cultural Rights which regularly issues authoritative but non-binding comments to clarify the nature and content of individual rights and state obligations. For example, in General Comment No.14 of May 2000 the Committee stated that the medical service in Article 12.2. of the rCESCR includes the provision of essential drugs "as defined by the WHO Action Program on Essential Drugs".

Progressive realization and immediate obligations

It is important to note that the right to health cannot be fulfilled overnight, as resource constraints may prevent States Parties from immediate implementation. The principle of "progressive realization" therefore acknowledges the limits of available resources.

However, the Covenant also imposes on States Parties two immediate obligations.

Firstly, States Parties have to guarantee that the right to health will be exercised without discrimination of any kind (Article 2.2) and, Secondly, to take deliberate, concrete and targeted steps (Article 2.1) towards the full realization of Article 12.

There is a strong presumption that retrogressive measures are not permissible, which means that once states have taken steps towards the fulfillment of the right to health, these cannot be withdrawn.

Practical implications for essential medicines programs

For many countries the body of international human rights treaties and national constitutional provisions has created a binding legal framework to promote access to essential medicines. Although the essential medicines concept was already in line with human rights principles, the following practical recommendations may help committed governments and health policy-makers to translate legal text into pragmatic action.

The rights-based approach to development cooperation

The first general principle of the rights-based approach IS that the general development process must be consistent with human rights. This implies that the norms, standards and principles of the international human rights system be integrated into the plans, policies and processes of development. The basic principles of what is now called the "rights-based approach" include participation, accountability, non-discrimination, attention to vulnerable groups, and explicit linkage to human rights instruments.

The rights-based approach in medicines programs

The second general principle is that specific medicines policies and programs must be consistent with the rights-based approach. The human rights implications of any new medicines policy, legislation or program must therefore be assessed in advance.

There are also some specific ways in which the rights-based approach can strengthen national essential medicines programs. They are presented here as five simple questions which can be used to assess the situation in a specific country or program.

1. Which essential medicines are covered by the right to health?

General Comment No.14 to the ICESCR refers to the right to essential medicines "as defined by the WHO Action Program on Essential Drugs" and in paragraph 12a it refers to the WHO model list of essential medicines.

In line with this definition, exactly which medicines are regarded as essential remains a national responsibility and within countries the national list of essential medicines should therefore be used to define the minimum needs. If no such national list exists, the first step is to develop one.

For situations outside the scope of national governments, such as ships and refugee camps, specific lists of essential medicines have been developed by WHO and relevant stakeholders.

Suggested assessment questions:

Does the national constitution, or any other national law, recognize the right of everyone to the enjoyment of the highest attainable standard of health?

Are there Jaws which specify the government's responsibility in ensuring equitable access to essential medicines?

Is there a national list of essential medicines, updated within the last two years?

2. Have all beneficiaries of the medicine program been consulted?

True participation means that the beneficiaries of national medicines policies and programs are consulted in decisions that affect them. Besides the usual discussion partners, such as the central government, universities and professional associations, other important beneficiaries to be consulted are rural communities, nongovernmental organizations, patients and consumer groups, and representatives of the vulnerable groups.

Suggested assessment questions:

Is there a national medicines policy updated within the last 10 years? Were patients' organizations and rural communities consulted when the national

medicines policy and program were developed?

3. Are there mechanisms for transparency and accountability?

The objectives of the medicines policy and program should be clear, and government obligations to respect, protect and fulfill the right to health should be articulated, in line with any binding obligations of the applicable international treaties. Indicators and targets should be identified and used to monitor the progressive realization of universal access to essential medicines.

The national medicines policy should specify the roles and responsibilities of all stakeholders, with mechanisms in place to hold all accountable.

Suggested assessment questions:

Does the national medicines policy describe the obligations of the various stakeholders?

Are there baseline and target data on access to essential medicines against which progress can be measured?

4. Do all vulnerable groups have equal access to essential medicines? How do you know?

The main vulnerable groups to be considered are children (especially girls), women, people living in poverty, rural communities, indigenous populations, national (ethnic, religious, linguistic) minorities, internally displaced persons, the elderly, people with disabilities and prisoners. Ensuring equality and freedom from discrimination starts with collecting disaggregated access statistics for each of these groups. Such statistics are essential to create awareness among policy-makers, to identify vulnerable groups that need special attention and to monitor progress towards universal access.

The absolute minimum in this regard consists of gender-disaggregated statistics and incidental surveys specifically aimed at vulnerable groups.

Suggested assessment questions:

Are disaggregated access statistics available for girls, boys, women and men, and for urban and rural populations?

Are essential medicines available in prisons?

Are training materials and drug information leaflets available ill all common ethnic languages?

5. Are there safeguards and redress mechanisms in case human rights are violated?

Access to essential medicines is best ensured by the development and implementation of rights-based medicines policies and programs, as described above. However, in cases of unjustifiably slow progress, possibilities for redress and appeal are also needed as a last resort.

A recent WHO study has shown that careful litigation has been one additional mechanism to encourage governments to fulfill their constitutional and international treaty obligations with respect to the right to health and access to essential medicines.

Suggested assessment question:

Are legal mechanisms available and have they been used to file complaints about lack of access to essential medicines?

Conclusion

Many essential medicines' policies and programs are based on human rights principles and can contribute valuable experience to the international human rights community in its task of practical implementation. National medicine programs can be used to promote access to essential medicines as part of the progressive fulfillment of the right to health.

Governments and policy-makers can maximize the extent of this promotion by taking the following steps:

• ensure that constitutional and other legal provisions on the fundamental right to the enjoyment of the highest attainable standard of health, on the right to life and on the right to non-discrimination are in place;

• specify the obligations of the government and other stakeholders with regard to social welfare, the provision of health-care services and access to essential medicines, with emphasis on vulnerable groups;

• develop and implement a national medicines policy to fulfill these obligations, and collect disaggregated statistics to monitor access by gender and vulnerable groups;

•create the necessary legal instruments for enforcement and redress;

•report regularly (e.g. every five years) on the progressive realization of the right to health, with, for example, disaggregated statistics on access to essential medicines.

The WHO Essential Medicines Program is ready to assist all Member States and nongovernmental organizations in making such an assessment and in strengthening their national essential medicines programs on this basis.