



Rights based family planning in achieving universal coverage of sexual and reproductive health services

## Briefing kits for advocacy

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# Background

The Program of Action of the International Conference on Population and Development (PoA-ICPD) in Cairo in 1994 is a significant milestone. The Chinese government sent a delegation to participate in the Conference, and has been committed to the fulfillment of PoA-ICPD. Chapter VII of the PoA-ICPD is on the concept of reproductive health and rights, which caused a great paradigm shift in China's family planning.

In the year 2001, the Chinese Government adopted the Population and Family Planning Law of the People's Republic of China, and the reproductive rights has been included in the Law, which promoted reproductive rights and reproductive health work from the policy, management and service perspectives.

In September 2015, a total number of the 193 member states of the United Nations jointly adopted the 2030 Agenda for Sustainable Development. The specific objectives related to reproductive health states that "by 2030, ensuring universal access to sexual and reproductive health services, sexual and reproductive health and reproductive rights."

In the meantime, the Chinese government organized a new institutional adjustment in 2013. The family planning and maternal and child health services has been integrated by the newly established National Health and Family Planning Commission (NHFPC), and the full two-child fertility policy has been initiated in 2015.

In the face of the new demands arising from the full implementation of the two-child fertility policy, and the diversified needs emerging in the social development and changes, the government departments and service institutions are inevitably required to address the needs of sexual and reproductive health services.

Based on this, the UNFPA China, in cooperation with the National Health and Family Planning Commission, plans to develop a rights-based

advocacy kit on family planning in the 8th UNFPA's country programme (2016-2020).

The kit contains four chapters:

Part 1 - An introduction to the promotion of universal access to sexual and reproductive health services in the international development context

Part 2 - An introduction to a rights-based family planning approach for promoting universal access to sexual and reproductive health, and the role and aspirations of family planning in social and economic development

Part 3 - An overview of the progress and achievements in the universal access to sexual and reproductive health services by the Chinese Government

Part 4 - An introduction to new strategies for family planning/ reproductive health investment from international perspectives, and challenges in China

This document mainly reviews the important international and domestic literatures since 1994, containing the following concepts.



# 1. Definition of sexual and reproductive health and rights

## 1.1 WHO definition on sexuality, sexual health, reproductive health

The definition of sexuality, sexual health and reproductive health by WHO contains a rich connotation.

The concept of sexuality is the center of human life cycle, it has the physical, social, psychological connotation and characteristics, and thus affected by these factors. Sexual health is the physical, emotional, psychological and social well-being of a sexual relationship.

**Reproductive health:** It is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the

capability to reproduce and the freedom to decide if, when and how often to do so.

The ICPD in 1994 adopted the definition of the World Health Organization and included it into the Programme of Action (PoA) of the ICPD. Paragraph 7.2 of the PoA implicits that: Reproductive health means the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant. It also includes sexual health, the purpose of which is the enhancement of life and personal relations, and not merely counselling and care related to reproduction and sexually transmitted diseases.

### *Sexuality:*

It is a central aspect of being human throughout life; it encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy and reproduction. Sexuality is experienced and expressed in thoughts, fantasies, desires, beliefs, attitudes, values, behaviors, practices, roles and relationships. While sexuality can include all of these dimensions, not all of them are always experienced or expressed. Sexuality is influenced by the interaction of biological, psychological, social, economic, political, cultural, legal, historical, religious and spiritual factors.

### *Sexual Health:*

It is a state of physical, emotional, mental and social well-being in relation to sexuality; it is not merely the absence of disease, dysfunction or infirmity. Sexual health requires a positive and respective approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence. For sexual health to be attained and maintained, the sexual rights of all persons must be respected, protected and fulfilled.

Human sexuality and gender relations are closely interrelated and together affect the ability of men and women to achieve and maintain sexual health and manage their reproductive lives... Responsible sexual behavior, sensitivity and equity in gender relations, particularly when instilled during the formative years, enhance and promote respectful and harmonious partnerships between men and women.

Programme of Action of the ICPD, 1994, paragraph 7.34

## 1.2 Definition of reproductive rights and sexual rights by the ICPD and WHO

WHO explained sexual rights, and Paragraph 7.3 of PoA of the ICPD 1994 pointed out the connotation of reproductive rights.

Bearing in mind the above definition, reproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. It also includes their rights to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents.

The Beijing Declaration of the Fourth World Conference on Women in 1995 pointed out that, women have the right to decide freely and responsibly all matters related to sexual relations, including sexual and reproductive health, free of discrimination, coercion and violence. Ensuring women's access to appropriate, affordable and quality health care, counseling, information and related services throughout their life cycle; Emphasizing gender issues mainstreaming in all policies and programs.

### **Sexual rights:**

Sexual rights embrace human rights that are already recognized in national laws, international human rights documents and other consensus documents. These include the right of all persons, to be free of coercion, discrimination and violence, to live to the highest attainable standard of health in relation to sexuality, including access to sexual and reproductive health services; seek, receive and impart information in relation to sexuality;

sexuality education; respect for body integrity; choice of partner; decide to be sexually active or not; consensual sexual relations; consensual marriage; decide whether or not, and when to have children; and pursue a satisfying, safe and pleasurable sexual life.

### **Reproductive rights:**

Reproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and time of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents.

In the exercise of this right, they should take into account the needs of their living and future children and their responsibilities towards the community. The promotion of the responsible exercise of these rights for all people should be the fundamental basis for government – and community – supported policies and programmes in the area of reproductive health, including family planning.

### 1.3 Promote the universal access to reproductive health

In 2000, the representatives of 189 United Nations Member States adopted the Millennium Declaration, pledging to reduce poverty and improve the quality of life for all. These commitments translate into eight goals for the Millennium Development Goals (MDGs) in 2001, the fifth of which is to improve maternal and child health. The 57th World Health Assembly in 2004 proposed to strengthen health systems for universal access to sexual and reproductive health care, with particular attention to poverty issue, and other marginalized people, including adolescents and male.

2005 World Summit reviewed the progress made on the Millennium Development Goals, and global leaders reaffirmed that reproductive health enhances the eight goals, especially on maternal and child health. In addition, recognizing that improvements in reproductive health contribute to gender equality, child health, universal education, curbing the spread of AIDS and reducing poverty.

In 2007, "universal access to reproductive health by 2015" has been formally included as target 5B

of the MDGs by the 62nd UN General Assembly, which put forward 4 reproductive health evaluation indicators:

(1) contraceptive prevalence rate (2) Adolescent fertility rate (3) Prenatal care coverage and (4) Unmet need of family planning.

In September 2010, UNFPA selected key reproductive health indicators, namely, adolescent fertility, contraceptive prevalence and unmet needs for family planning, the percentage of demand satisfied. An empirical analysis of global situation on universal access to reproductive health was conducted using data from 1990 to 2007, taking data in the year 2000 as a connection point. The result has shown that (1) global adolescent fertility is sluggish, (2) there is a significant gap between the family planning needs and utilization, (3) the difficulties exist in meeting the needs of family planning and (4) the imbalances emerged in geographical regions. In 2010, at the 10-year Millennium Development Goals review summit, global leaders once again reaffirmed their commitment to "achieve universal access to reproductive health by 2015 and promote gender equality and eliminate discrimination against women."



## 2. A rights-based approach to family planning for promoting universal access to reproductive health

### 2.1 Family planning and human rights: a framework

At the ICPD in 1994, the international community translated its recognition of people's right to family planning into a commitment to a human rights-based approach to health, which focuses on building capacity of States and individuals to realize rights. Thus, people not only have rights, but States have the obligation to respect, protect and fulfil these right (Center for Reproductive Rights and United Nations Population Fund, 2010)

The practical expression of the right to family planning can be divided into freedoms and entitlements to be enjoyed by individuals, and the obligations of the State (Center for Reproductive Rights and UNFPA, 2010). The freedoms and entitlements of individuals are strongly dependent on States' obligations to ensure an equal opportunity and the progressive realization of human rights, including the rights to health, for all without discrimination. They achieve this through strategies that contribute to removing obstacles and the adoption of positive measures

that compensate for the factors that systematically prevent specific groups from accessing quality services.

Freedoms and entitlements of individuals: (1) The rights to family planning entitles individuals and couples to access a range of quality family planning goods and services. (2) The right to family planning information and sexuality is central to people's entitlements. (3) The third element of the right to family planning is informed consent and freedom from discrimination, coercion and violence.

The State's obligations to respect, protect and fulfil the right to contraceptive information and services. Respect: States must refrain from interfering in the enjoyment of the right to family planning. Protect: States must also prevent third parties from infringing people's access to family planning information and services; Fulfil: States are required to adopt legislative, budgetary, judicial, and/or administrative measures to achieve people's full right to family planning.

The UNFPA family planning strategy is founded on key principles: a rights-based approach including a commitment to gender equality; geographical, social and economic equity in services; a focus on innovation and efficiency; sustainable results, and integration with national priorities.

UNFPA's commitment to the integration of human rights in family planning policies and programmes emphasizes two essential actions. All policies, services, information and communications must meet human rights standards for voluntary use of contraception and quality of care in service delivery. And actions must be taken to reduce the poverty, marginalization and gender inequalities that are often the root causes of violations of the right to family planning and of people's inability to enjoy their right to family planning.

## 2.2 A human rights-based approach to family planning

The committee on Economic Social and Cultural Rights in its General Comment Number 14 on the right to the highest attainable standard of physical and mental health has defined the following normative elements that apply to all the underlying determinants of health.

**Availability:** The State's obligation to ensure the availability of the full range of family planning methods extends to offering services, to regulating conscientious objection and private service delivery, and to ensuring that providers are offering the full range of legally permissible services.

**Accessibility:** Even when services exist, social norms and practices can limit individual access to them. The subordination of the rights of young people to those of their parents, for example, can limit access to information and services and the capacity to act.

**Acceptability:** Information and services may exist, and they may be readily available to individuals in a community. But if they are not acceptable for cultural, religious or other reasons, they will not be used.

**Quality:** To be in line with fundamental rights, family planning services must meet certain quality standards. Considerable agreement has evolved over the definition of "quality of care since it was first defined in 1990 by Bruce.

In recent years, consensus has emerged on what ensuring quality means in the context of family planning and human rights. It includes:

- Providing family planning as part of other reproductive health services, such as prevention and treatment of sexually transmitted infections, and post-abortion care;
- Disallowing family planning targets, incentives and disincentives, such as providing money to women who undergo sterilization, etc.
- Including assessments of gender relations in plans and budgeting for family planning services;
- Accounting for factors such as the distance clients must travel, affordability and attitudes of providers.

Of critical importance is that the priority must be given to the rights and needs of those groups of population left behind and excluded as a result of persistent patterns of discrimination and disempowerment. Three cross-cutting principles contribute to building strong, rights-based family planning programmes:

**Participation** - a commitment to engaging key stakeholders, especially the most vulnerable beneficiaries, at all stages of decision making, from policies to programme implementation to monitoring.

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