Policy Brief

POPULATION REFERENCE BUREAU

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Family planning decisions must be based on full, free, and informed choice.

Governments are obliged to make health care available, accessible, acceptable, and of the highest possible quality.

Services that violate human rights jeopardize the survival of family planning programs.

FAMILY PLANNING AND HUMAN RIGHTS—WHAT'S THE CONNECTION AND WHY IS IT IMPORTANT?

"Family planning saves lives" is a simple health prescription that resonates globally.¹ A critical challenge is to ensure that policies and programs embrace the well-established benefits of enabling women to choose whether and when to become pregnant—actions and values that are integral to human rights. Policymakers should be asking, "What do human rights mean in relation to family planning, how do we incorporate them into our country family planning and development plans, and why is that important?"

This brief, drawing from human rights treaties and covenants that have the status of international law, clarifies key human rights principles and outlines policy actions that must be taken to ensure that voluntary family planning programs result in contraceptive use based on full, free, and informed choice. It is also consistent with the rights and empowerment principles of Family Planning 2020 (FP2020), a global partnership that grew out of the 2012 London Summit on Family Planning.²

Zero tolerance for coercion must be the cornerstone of voluntary family planning programs. Services that violate human rights jeopardize the survival of family planning programs and fatally compromise the value of investment in such programs. As a former director of USAID's Office of Population and Reproductive Health has said, "It took me some time to come to the realization that if you tolerate rights violations in family planning service delivery, you are killing your program and wasting your money."³

Background

As early as 1968, 157 governments agreed that "Parents have a basic human right to determine freely and responsibly the number and spacing of their children."⁴ FP2020 sparked a resurgence of global attention to family planning that has added new urgency to understanding and defining why and how human rights principles and norms must be integral to family planning programs. This momentum has given new emphasis to the realization that rights must be respected and protected in program planning, implementation, monitoring, and evaluation of policies and practices.

While human rights have often been mentioned along with family planning programs, the association has not always been positive. Some early practices in "population control" programs resulted in human rights violations that have cast a long shadow over family planning programs. Human rights principles can provide solid protection against coercive family planning policies and practices. Recently, some funders and development organizations have invested in learning how human rights principles can systematically improve the way that clinic-based family planning programs are planned, implemented, monitored, and evaluated, ensuring that they go beyond rhetoric. For example, policies must be in place so that payment systems reward service providers who spend time explaining to clients the strengths and weaknesses of various methods-thereby enabling clients to make more informed choices. Where service providers are paid according to how many IUDs they insert, or how many people they see in an hour-which incentivizes them to see people as quickly as possible-clients are prevented from making a choice based on full, free, and informed consent.

Human rights concepts are also critical to women's empowerment and to advancing women's agency, so that women can access the services they need, decide for themselves whether and when to become pregnant, and become agents of change for their communities and nations. Strengthening women's agency will reduce incidents of rights violations; and as the FP2020 Rights and Empowerment Principles state, empowering and informing clients enables them to "know, understand, claim their rights, and...become pivotal partners in ensuring the realization of rights in future family planning and health development initiatives."⁵

What Are Human Rights?

Nearly 70 years ago, the Universal Declaration of Human Rights asserted that "All human beings are born free and equal in dignity and rights."⁶ Since then, most nations have agreed to human rights treaties and covenants that have the status of international law, including the International Covenant on Economic, Social, and Cultural Rights, which contains the Right to the Highest Attainable Standard of Health. Governments that sign and ratify these treaties are legally bound to bring their national laws into conformity with these treaties.⁷ The right to the highest attainable standard of health has been further clarified, in terms of content and meaning, in a "General Comment" issued by the UN Committee that monitors adherence to the Covenant.⁸ This General Comment sets forth government obligations to make health care services:

- Available.
- · Accessible.
- Acceptable.
- Of the highest possible Quality.

As defined by this Committee, these obligations mean that health care services must be *available* in sufficient quantity; accessible in ways that are nondiscriminatory and ensure that services can be accessed physically and financially; acceptable in the sense of being respectful of the culture of individuals; and of good *quality* (see Box 1). These elements of the right to health are invaluable when applied to policies and to services. They are critical components of family planning programs that are respectful of human rights, and provide guidelines for service providers, who must ensure that the services they provide are themselves available, accessible, acceptable, and of the highest possible quality (see Box 2). Where such services are available, women's agency is increased, as it empowers them to make full, free, and informed choices about whether and/or when to have children. Used together, these elements can help service providers focus, for example, on specific population groups who are not being reached by existing services, such as young people, and help to identify what needs to be in place to make such services available.

As defined by the UN High Commissioner for Human Rights, states (governments) are also obligated to **respect**, **protect**, and **fulfill** human rights (see Box 3, page 3).⁹ These obligations are particularly relevant for family planning policy professionals and service providers (see Box 4). One example is confidentiality: Respecting that right means taking steps to ensure that no staff member breaches the confidentiality of clients. It means taking additional steps to make sure that third parties—for example, contractors or visitors—do not breach the confidentiality of clients.

BOX 1

Elements of the Right to Health

- Availability refers to functioning public health and health care facilities, goods, and services, as well as programs available in sufficient quantity within the country.
- Accessibility has four components: nondiscrimination, physical accessibility, economic accessibility, and information accessibility.
- Acceptability implies that all health facilities, goods, and services must be respectful of medical ethics and culturally appropriate (in other words, respectful of the culture of individuals, minorities, peoples, and communities; sensitive to gender and life-cycle requirements; as well as designed to respect confidentiality and improve the health status of those concerned).
- Quality emphasizes that health facilities, services, and commodities must also be scientifically and medically appropriate and of good quality. This requires, among other things, skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment, safe and potable water, and adequate sanitation.

BOX 2

Helping Youth Access Services

In Papua New Guinea, an integrated service package specifically for young people provides clients with a well-youth check. This check provides a range of critical services including a general medical check-up, HIV voluntary testing and counseling, sexually transmitted infections screening, contraceptive counseling, pregnancy testing, breast or testicular check-ups, and antenatal care if the client is a young mother. This package has proved highly popular. In its first year (2010-2011), more than 1,400 young people received a well-youth check. This model was not without challenges, however, including a reported reluctance among some young people to attend the center when adult clients were present. In cases like this, strong feedback mechanisms to ensure young people's preferences are heard have allowed the program to adapt client flow to reduce young people's exposure to adult clients and provide them with privacy in waiting rooms and other common areas.

Source: Delivering Sexual and Reproductive Health Services to Young People: Key Lessons From Marie Stopes International's Programmes (London: Marie Stopes International, 2012), accessed at http://mariestopes.org/sites/default/files/Delivering-sexual-and-reproductive-health-services-to-young-people_0.pdf, on July 9, 2015.

Rights and Family Planning

Other key human rights principles include participation, accountability, nondiscrimination, and empowerment (see Box 5).¹⁰

Adopting these principles within family planning programs will mean that:

- Communities and individuals will be able to participate in the planning of such services.
- Mechanisms will exist to ensure that such services are accountable to the communities they serve.
- Policymakers will seek the views of service users and regularly incorporate their views to improve programs.
- Services will not discriminate in their availability to different groups or the extent to which different groups can access services.
- Individual women and men will have agency to make decisions about whether and when to have children and which methods they select.
- Family planning decisions will be based on full, free, and informed choice (see Box 6, page 4).¹¹

BOX 4

Role of the Media—Respect During Labor and Delivery

In both Uganda and Malawi, journalists exposed abuses of pregnant women during labor and delivery, spurring actions by health care officials and policymakers. Radio Buddu in Uganda is giving women a chance to voice complaints and demand better reproductive health services. Every Sunday, talk show staff air a show on reproductive health. During one show, women complained that maternity nurses at the public hospital were verbally abusing and extorting money from them. Hospital officials responded and notices were posted throughout the hospital with phone numbers to call to report such abuse. In Malawi, a journalist published an investigative report and editorial on nurses' abuse of pregnant women during labor and delivery. The reports spurred a meeting of the National Organization of Nurses and Midwives and the Ministry of Health conducted its own investigations to identify the nurses responsible.

Source: Population Reference Bureau's IDEA project annual report 2012-2013.

BOX 5

Basic Principles of Human Rights

- Accountability: A rights-based approach requires the development of laws, administrative procedures, and practices and mechanisms to ensure the fulfillment of entitlements, as well as opportunities to address denials and violations. It also calls for the translation of universal standards into locally determined benchmarks for measuring progress and enhancing accountability.
- Nondiscrimination and Equality: A rights-based approach requires a particular focus on addressing discrimination and inequality, focusing on marginalized, disadvantaged, and excluded groups.
- Empowerment: Empowerment is the process by which people's capabilities to demand and use their human rights grows. They are empowered to claim their rights rather than simply wait for policies, legislation, or the provision of services. The development process should be locally owned.
- Link to Human Rights Standards: Programming is informed by the recommendations of international human rights bodies and mechanisms.

Source: Gabrielle Berman, "Undertaking a Human Rights-Based Approach: A Guide for Basic Programming (Bangkok: UNESCO Bangkok, 2008), accessed at http://unesdoc.unesco.org/images/0017/001791/179186e.pdf, on July 9, 2015.

BOX 3

Obligations of States

Human rights entail both rights and obligations. States (governments) assume obligations and duties under international law to respect, to protect, and to fulfill human rights.

- The obligation to respect means that states must refrain from interfering with or curtailing the enjoyment of human rights.
- The obligation to protect requires states to protect individuals and groups against human rights abuses.
- The obligation to fulfill means that states must take positive action to facilitate the enjoyment of basic human rights. At the individual level, while we are entitled to our human rights, we should also respect the human rights of others.

Source: UN Office of the High Commissioner for Human Rights.

BOX 6

Elements of Full, Free, and Informed Choice

These elements have been summarized as follows:

- Full Choice: Access to the widest range of methods possible from which to choose (short-acting, long-acting, permanent, hormonal, nonhormonal, client-controlled, providerdependent).
- Free Choice: The decision whether or not to use family planning and what method to use, made voluntarily, without barriers or coercion.
- **Informed Choice:** A decision based on complete, accurate, unbiased information about all family planning options, including benefits, side effects and risks, and information about the correct use of the method chosen, as well as the risks of nonuse.

Legal and Policy Barriers

Even when family planning services and sexual and reproductive programs exist, access can be difficult because of cost, location, or district or national policies that require spousal or parental consent. These barriers can render services unavailable even in places where they are theoretically available. It is therefore important to prioritize and develop, revise, or implement laws, legal frameworks, and policies to respect, protect, or fulfill the right to access family planning services and eliminate policies that create unnecessary barriers to access. It is also important to back up these policies with sufficient budgetary allocation. Examples of such legal and policy change might include developing laws and policies that ensure that family planning services are sufficiently available, physically and economically accessible to all people without discrimination, acceptable and respectful of culture and confidentiality, and of the highest possible quality.

Other relevant legal and policy changes might include support for the prevention of harmful practices (such as child marriage or gender-based violence) and increasing knowledge and awareness of the rights violations and harms caused by such practices. Further actions might include eliminating unjustifiable access barriers (such as client eligibility criteria) or policies that contain method-specific or performancebased targets or incentives for service providers that can be coercive in practice, since they compromise the extent to which contraceptive decisionmaking is fully free. For example, where service providers are given financial incentives to promote a particular contraceptive method, this incentivizing could compromise the amount of time those providers spend explaining the advantages and disadvantages of other methods.

Contraceptive Security

Even where family planning services are in place, if specific contraceptive methods are not available at the time the client needs them, the program has not succeeded. Behind the "No Product, No Program" slogan is a harsh reality: Where supplies are not consistently available, people will believe visiting the service is a waste of their time. Wise investment in family planning programs will include developing, revising, or implementing policies to ensure contraceptive security, including consistent access to a range of methods within public, private, and nongovernmental sectors. Where only a few methods are available, this limitation clearly compromises a full, free, and informed choice. Examples include:

- A steady supply of a full range of contraceptives (including methods that are short-acting, long-acting, reversible, and permanent), supplies, and equipment.
- Collaboration among relevant ministries and donors in budgeting for reproductive health supplies.
- An effective supply chain and procurement system, including a monitoring system that enables all partners to monitor (and quickly rectify) stock-outs and improve the distribution system.
- Collaboration with research institutions, manufacturers, service delivery organizations, and potential users to develop safe, effective, and acceptable contraceptive technologies that meet individuals' needs.

Effective Monitoring and Accountability

The need for ongoing, effective monitoring of family planning programs is not always evident, but the absence of such monitoring manifests itself in tragedies, such as the deaths of 13 women after surgical sterilization at a camp in the central Indian state of Chhattisgarh in November 2014 (see Box 7, page 5).¹² Ongoing monitoring means systematically checking the quality of service offered in a variety of ways, such as service provider performance assessments or "mystery client" studies (where a researcher poses as a client). Legal and policy support for monitoring and accountability processes, including national commitments to international human rights treaties, is important for ensuring ongoing commitment to maintaining quality standards in service provision. Examples of necessary monitoring might include:

- Adequate monitoring and evaluation systems and data (for example, disaggregated by age, sex, wealth quintile, ethnicity) to facilitate a timely monitoring and accountability process, and raise awareness of the extent to which certain groups do not access services, so that this can be addressed.
- Action and follow up on commitments and observations from international human rights treaties (such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)).
- Support for independent civil society organizations and others (such as women's group and key populations) who monitor government policies and performance on family planning issues, including quality of care. Valuable actions include participation in the preparation of "shadow reports," when countries are due to report to the various human rights committees that monitor adherence to relevant UN Covenants and Conventions, such as the International Covenant on Economic, Social, and Cultural Rights. But actions also include raising awareness of rights violations, pursuing redress at the local level, and encouraging community participation in the implementation and evaluation of service provision.
- Government monitoring of budget appropriations to ensure that reproductive health care is covered, that service delivery is of high quality, and family planning services are used.

BOX 7

Lessons From Tragedy in India

In India, 13 deaths occurred after participants attended a "sterilization camp" in Chhattisgarh. While service guidelines state that doctors should not perform more than 30 sterilizations in one day, the doctor in Chhattisgarh was said to have performed 83 operations in less than five hours. The incident led to calls for the India program to adopt a "target-free" approach. In theory the government has made this change, but not in practice, since targets have been replaced by "expected levels of achievement." Subsequent investigations have also called into question the quality of medication used. Sterilization camps are a feature of the Indian family planning program, which relies overwhelmingly on postpartum IUD insertion and female sterilization.

Financing for Access and Equity

Family planning information, education, and services must be available for all, including the poorest share of the population. Governments must be willing to invest resources in programs that have little or no potential to generate income or become self-supporting. Such investment is also necessary to reach hard-to-reach populations—those in remote areas or marginalized groups. Examples of relevant financing options to maximize access to family planning services might include:

- National and donor resources and financing mechanisms to implement policies to expand coverage of family planning services and ensure access to a wide range of methods and services by all (including poor and vulnerable groups).
- Identifying and reforming financing plans that can eliminate barriers to achieving access to family planning services, commodities, and supplies.
- A budget line item for family planning commodities, equipment, supplies, and services.

What Can Policymakers Do to Improve Service Delivery?

While human rights standards and norms refer primarily to governments and their obligations under human rights treaties, they also provide an important rights-based lens for family planning service delivery goals, standards, and objectives. Policymakers play a valuable role by being champions for high-quality services and for resources financial, human, and technical—needed to provide such services. They can also voice their opposition to quotas, or numerical or method-related incentives for service providers, or other inducements for potential family planning adoption that may compromise the extent to which contraceptive use is based on full, free, and informed choice. Examples include strong policy messages directing health service providers to:

- Encourage all clients to demand high-quality interactions; provide counseling that includes accurate, unbiased, and comprehensible information; and protect clients' dignity, confidentiality, agency, and privacy (see Box 8, page 6).
- Refer clients to other sexual and reproductive health services where necessary, and train service providers to deliver such services.
- Ensure high-quality care through effective training, supervision, performance improvement, and remuneration practices that integrate rights-based values and skills before and during service, and recognize and reward providers for respecting clients and their rights.

- Ensure equitable and gender-sensitive service access for all, including disadvantaged, marginalized, discriminated against, and hard-to-reach populations, through various service models (including integrated, mobile, and/or youthfriendly services) and effective referral to other voluntary sexual and reproductive health services.
- Routinely provide a wide choice of methods and ensure proper removal services for implants and IUDs, supported by sufficient supply, necessary equipment, and infrastructure.
- Establish and maintain effective monitoring and accountability systems with community input.
- Strengthen health management information systems and quality assurance/quality improvement processes.

BOX 8

Taking a Human Rights Audit Through Clinical Services

Human rights lawyer and academic Lynn Freedman has suggested that family planning service managers walk through their clinical facility, carrying nothing but their dignity as a human being. From their greeting by the receptionist, through their experience in the waiting room, interaction with clinic personnel, to their exit from the facility, by simply walking through their clinic, they may, for example, realize for the first time that they routinely make their clients walk through a crowded waiting room with a urine sample. This may seem as though it has no public health impact, but it is possible that it makes individual women feel so ashamed that they never return to the facility. If this results in an unplanned pregnancy, the public health consequences become more apparent.

Source: Lynn P. Freedman, "Using Human Rights in Maternal Mortality Programs: From Analysis to Strategy," *International Journal of Gynecology and Obstetrics* 75, no. 1 (2001): 51-60.

The Role of Communities and Individuals

Successful policymakers recognize the critical role of communities and individuals in contributing to the acceptability and success of family planning programs, particularly in hard-to-reach populations. Actions at the individual level address agency—the ability of individuals to take control of key aspects of their lives. The individual is at the heart of a voluntary, human rights-based approach to family planning. Below are examples of activities at community and individual levels that uphold human rights principles in family planning programs.

COMMUNITIES CAN

- Engage diverse groups in participatory program development and implementation processes, including assessing and addressing some of the social barriers to family planning use.
- Build or strengthen capacity to demand high-quality services, participate in monitoring and accountability processes, and ensure robust redress for violations of rights.
- Advocate for reproductive health funding and an enabling environment for family planning access and use.
- Support healthy transitions from adolescence to adulthood, particularly in settings where young people have limited access to family planning/sexual and reproductive health services, but where unplanned pregnancies and sexually transmitted infections are a cause for concern.

INDIVIDUALS CAN

- Demand increased access to information on reproductive rights and contraceptive choices.
- Advocate for empowerment opportunities, through education and training about reproductive health, self-esteem, rights, life skills, and interpersonal communication.
- Call for high-quality services and supplies through information, education, and behavior change communication, to increase their agency to manage their sexual and reproductive health and ability to choose whether and when to have children.
- Insist on service providers who listen to them, counsel appropriately, and take care to ensure that their rights are respected, protected, and fulfilled.

Critical Actions for Policymakers

Focus on the legal and policy framework for sexual and reproductive health and rights and ensure that respecting human rights is part of program design, implementation, monitoring, and evaluation.

Prioritize the funding of the demand side of family

planning, as well as the supply side. Policymakers should actively encourage, research, and act on community views about family planning service needs and invest in information and education on sexual and reproductive health and rights that will enable individual women and men to demand highquality family planning services. Such actions are likely to vary widely in different settings and are best identified at the local level, where funding opportunities for the necessary research and community mobilization to challenge social and gender norms are often limited.

Invest in the contraceptive supply chain to guarantee that a wide range of safe and effective contraceptives are available.

Ensure an appropriate method mix, ideally including permanent, reversible, short-acting, and long-term contraceptive options to meet the needs of and support contraceptive use by both women and men.

Invest in research on the value-added dimensions of a rights-based approach—incorporating principles including participation, accountability, nondiscrimination, empowerment, and legality—enabling family planning programs to contribute directly to other international sustainable development priorities.

The outcome of such actions will lead to better quality family planning services reaching more women and men, and increased agency of individuals to make empowered choices for themselves about whether and when to have children.

Additional Resources

- Family Planning 2020, *Rights and Empowerment Principles for Family Planning*, accessed at http://ec2-54-210-230-186.compute-1.amazonaws.com/wp-content/uploads/2014/12/FP2020_Statement_of_Principles_FINAL.pdf, on July 9, 2015.
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Conceptual Framework User's Guide:

J. Kumar et al., *Voluntary Family Planning Programs That Respect, Protect, and Fulfill Human Rights: Conceptual Framework Users' Guide* (Washington, DC: Futures Group, 2014), accessed at www.futuresgroup.com/files/publications/ Voluntary_Rights-Based_FP_Users_Guide_FINAL.pdf, on July 9, 2015.

Evidence and Tools Supporting the Framework's Development Reviewed:

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- 3 Steven W. Sinding, retired director general, International Planned Parenthood Federation, and former Director, USAID Office of Population and Reproductive Health, personal communication, June 2015.
- 4 Proclamation, adopted unanimously at the UN International Conference on Human Rights, Teheran, 1968 (Article 16).
- 5 The FP2020 Rights and Empowerment Principles relate to 10 dimensions of family planning: agency and autonomy, availability, accessibility, quality, empowerment, equity and nondiscrimination, informed choice, transparency and accountability, voice, and participation.
- 6 Universal Declaration of Human Rights, accessed at www.ohchr.org/EN/ UDHR/Pages/Language.aspx?LangID=eng, on July 9, 2015.
- 7 Once countries have ratified these treaties, they have to report regularly to UN Committees, which monitor the extent to which countries are implementing them. These Committees sometimes issue General Comments or Observations, which add content and meaning to specific articles in the UN Conventions.

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