

**EXAMINING NEW FRAMEWORKS: THE HUMAN RIGHT TO
REPRODUCTIVE HEALTH,**

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The preamble to the Constitution of the World Health Organization states that “[t]he enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being...” This overall right to health clearly extends to reproductive health, as every human rights instrument acknowledges. Moreover, the human rights system recognizes that ensuring the right to reproductive health is a necessary component to addressing discrimination against women.¹

Despite a vigorous reproductive rights movement in the United States and an equally vigorous movement globally that approaches reproductive health through a human rights lens, there has been surprisingly little overlap between the two. While reproductive health activists from the U.S. have traveled abroad to U.N. Conferences and occasionally participated in roundtables or seminars, for many (although not all) organizations and individual activists the involvement appears to end there.

Most troubling is that the rich conceptual framework developed in the international arena has not penetrated the debate and the framing of reproductive health matters in the U.S. Too often the words reproductive rights elicit narrow images of abortion battles in the courts. While these battles are critical, the failure of the public imagination to put them in a broader context and the lack of an integrated analysis inclusive of economic and social rights among reproductive rights advocates hinders reproductive rights work in the U.S. from harnessing the transformative potential of human rights.

So what is potentially transformative about embracing a human rights approach to reproductive health? And why should that have particular relevance for Latinas in the United States? A human rights approach obligates governments to both respect and ensure rights. This involves recognizing the civil, political, economic, social and cultural dimensions of reproductive health. What this means in practice is that human rights standards not only obligate governments to not interfere with a woman’s ability to make her own decisions with regards to her health, but also requires governments to ensure that women are afforded the conditions to fully realize their right to the highest attainable standard of health. This translates into affordable, accessible, and quality health care for all women. The duty to ensure has not been fully embraced within the United States, and that is reflected in the deep inequities – faced disproportionately by Latinas – regarding access to health care.

Specifically, while the human right to health (including reproductive health) is conceived of in broad terms, at minimum it requires ensuring the right to health care. There are at least four components to the right to health care – availability, accessibility, quality, acceptability. Thus, there must be enough healthcare facilities to meet the populations’ needs (which may be relevant to abortion services as there are fewer doctors over time providing the service), and those facilities must be physically and economically accessible.

The latter requires that all communities have facilities within a reasonable distance so that travel burdens do not become obstacles to accessing care, and that those facilities are physically accessible to the disabled, as well as provide interpreters for non-English speakers and people who are deaf. It also requires that all people have access to affordable insurance or some other alternative that make access to services affordable. Services must be of good quality and acceptable to patients receiving them, which includes being culturally acceptable.

Our advocacy community is not accustomed to seeing all the above components in concrete rights terms. This creates a perception that health care involves “only” questions of policy and not rights which are non-negotiable and justifiable (i.e. requiring a remedy when violated) by their nature. This view of rights violations as merely bad policy choices often extends to the issue of discrimination in the system. It is common knowledge that some communities, including Latinos, do not receive the same quality of care nor have the same health outcomes as the general population. The human rights system recognizes these differences in health outcomes as a violation of the right to non-discrimination. Because access to health care is perilous and insecure for such a large number of Latinas (for example, 37% of Latinas have no health insurance), the Latina advocacy community should view a human rights approach as one that truly serves our constituency. A human rights approach also makes no distinction between those with a documented immigration status and those who do not have such a status. A framework that recognizes that the health of all members of our community is a fundamental right that deserves serious consideration is a potential foundation for the vision of Latina health in the future in the United States.

1 See par. 21 of General Comment 14 of the U.N. Committee on Economic, Social and Cultural Rights