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Summary

SUMMARY

There is a universal consensus that the right to health is a fundamental human right and a prerequisite to an adequate standard of living. At the international and national levels, multiple obligations are defined for states to realize this right. In Iran, the right to health is guaranteed in the Constitution, and national laws and policies. The objective of this research is to gain insight into international and Iran's legal provisions related to the right to health and the actual situation of this right in Iran. The questions of this study concern whether the current means for protection of the right to health are sufficient in Iran, what the gaps and barriers to equal enjoyment of the right to health are and how those gaps and barriers can be removed.

To answer these questions, a qualitative case study involving a structured document review of international and Iran's laws and policy documents on the right to health, and the academic literature addressing the situation of Iranians' enjoyment of the right to health and its underlying determinants was undertaken. Different human rights assessment tools were used to evaluate the country's conduct in realizing the right to health. In Chapter 1 of the study, background information, including the objectives, questions and methods of the study, is explained. The first step in performing such an assessment is to understand the subject of the assessment—here, the right to health. Chapters 2-3 of the study are devoted to introducing the basic concepts and principles of human rights as well as the right to health and related state obligations. Because of the importance of the justiciability of the right to health in the proper realization of this right, different views for and against this characteristic of the right to health in the academic literature and legal provisions are discussed in this chapter. The question in this part of the study is whether the right to health is justiciable based on the normative content of this right and international human rights provisions. A review of the literature, legal documents and case law indicates that the right to health is substantially a justiciable right. States have the inevitable duty to guarantee at least the minimum necessities for everyone's health and to use all necessary administrative, legal, financial and judicial means to realize this right. After clarifying the right to health and states' obligations, the status of this right in the laws and practice of Iran is scrutinized.

In Chapter 4, after providing a review of the political, demographic and socio-economic situation of Iran and different aspects of the health system of this country, national laws and policies related to the right to health are analyzed. This chapter continues with a situation analysis of the right to health and its underlying determinants in Iran in Chapter 5. In the first two decades after the Islamic Revolution of 1979 in Iran, this country had a respectable record of improving the health of its population and access to healthcare facilities, services and products. However, in

recent years, international isolation and economic sanctions and the country's inappropriate resource management have significantly and adversely affected the welfare of Iran's population. The increase in the poor population, particularly among women and children, and their limited access to the necessities of life, such as nutritious food and medical care, necessitates new policies and immediate actions for improving Iranians' standard of living. This study showed that the international economic sanctions against Iran affected the health of people in two ways. First, by decreasing the country's industrial production, revenues, and the value of national currency, they increased unemployment and inflation, which have deteriorated the general welfare of people. In this situation, some groups of the population could not afford nutritious food and healthcare. Second, placing limitations on shipments and banking and financial services made it difficult to import medicines, medical equipment and food. The limitations endangered the health and lives of people, particularly of patients and children.

A necessary principle for realizing the right to health is considering this right in all the development plans, laws and policies of states. Chapter 6 discusses new population policies of Iran which contain limitations on access to family planning services and contraceptives, and incentives for having more children. Some elements of these policies are in contrast with the standards of international human rights treaties concerning the right to health, including the prohibition on placing limitations on access to sexual and reproductive health services and taking retrogressive measures in the realization of rights. Before changing policies that directly and indirectly affect people's health, such as population policies in Iran, their probable adverse effects should be predicted and necessary measures adopted to prevent them. Iran's new policy can threaten public health by increasing unwanted pregnancies, induced abortions, sexually transmitted diseases, the incidence of HIV infection, and pregnancy-related illnesses and death. This study suggests that Iran should revoke these laws and policies and improve people's enjoyment of their right to sexual and reproductive health. Instead of limiting people's access to family planning, this country should focus on encouraging people to have higher fertility by supporting parents and future children.

Another important principle in the realization of the right to health is the principal of advancing equality. A review of the Constitution, laws and policies of Iran shows that promoting equality in the enjoyment of basic rights is one of the important aims of this country. However, some vulnerable groups of the Iranian population, such as people living in informal urban settlements and remote rural areas, old people, drug addicts, poor children and women and people living with disabilities, might not have equal access to the necessities of life, including medical care, and might require special support. All groups whose enjoyment and exercise of their rights are limited

should receive aid. Chapters 7-9 of the study are devoted to a situational analysis of women's and children's right to health in Iran.

The health of Iranian children in early childhood has improved considerably in recent years, but attention to the health needs of children in other stages of their lifespan, including adolescence, has not been sufficient. Provision of youth-friendly health services and age-appropriate health education as well as promotion of responsible behavior among adolescents are necessary. Examples of disadvantaged and vulnerable groups of children living in Iran include children of poor families, children without an identity, children born out of wedlock, children of illegal immigrants and children living with disabilities. Current programs to support children lack appropriate identification measures and adequate financial means for the improvement of children's living situation. Disparities in the health levels of children living in different provinces of Iran or belonging to indigenous and ethnic minorities should be removed. The future policies of Iran should initially focus on providing minimum subsistence rights for all children and protecting them from rights violations. Then, by using the maximum extent of available resources, Iran should progressively improve the situation of all children. In Iran, a comprehensive policy on the welfare of children, a data system tracking the situation of children and a monitoring system to track the progress of programs are needed. The necessary means for empowering society to identify and support children in need should be addressed. There is a need to enhance knowledge of children's rights on the part of Iranian society, parents and children. Families without adequate means to provide a proper standard of living for their children and married-, parent- and divorced-children should be supported by the government. In addition, the mental health of children has received insufficient attention in the health programs of Iran. It should be considered a priority in the future health plans of this country.

Women's rights to enjoy an adequate standard of living and achieve good health are recognized by the Constitution, Charter of the Rights and Responsibilities of Women (2004) and health laws and policies in Iran. National laws require the government to remove barriers to women's access to the necessities of life, such as healthcare. However, not all women who are eligible to receive support are covered by Iran's current social security programs. In addition, not all the provisions of the Constitution and national laws on women's rights are supported with action plans. In some cases, the law has not even defined the responsible authorities for implementing legal provisions, such as the Charter of the Rights and Responsibilities of Women in Iran. Different groups of women living in Iran might not have equal opportunities to enjoy their right to health. Examples include female heads of families, unemployed women, women without an appropriate male guardian, widows, divorced women, women living with disabilities, illegal immigrant and indigenous women, women

belonging to ethnic and religious minorities, elderly women, street women, rural women, and poor women. Along with removing the disparities in health status and access to health services, empowering women and providing them opportunities to work and participate in society will help them enjoy their rights.

In addition to the barriers that both men and women may face when attempting to access healthcare, such as the inability to pay for the services, women face another barrier, which is the consent of their male guardian. Having a male guardian can be an advantage for poor women to overcome financial barriers to access healthcare because the guardian bears the responsibility for paying the costs of services. However, Iranian law gives men the right to interfere in their wife's enjoyment of her rights to access some health services, such as an abortion, a C-section or an organ transplant. The role of the male guardian in the access of women to healthcare needs to be reviewed. Everyone is entitled to an equal opportunity to exercise his/her rights and access health services. The right to health cannot be conditional. Moreover, women are fully capable adults who are able to make responsible decisions concerning their health and lives and they have a right to autonomy and control of their bodies; they do not need a guardian. Iran's government should identify and remove all barriers in the law and the cultural attitudes of the population that hinder women's access to health services and social security. Women's rights should be guaranteed regardless of their marital status.

Chapter 10 of the study assesses the health system of Iran in terms of the realization of the right to health by using the conceptual framework suggested by the Office of the United Nations High Commissioner for Human Rights, which is a structural, process and outcome assessment using AAAQ criteria introduced by General Comment no.14 ICESCR. The structural part concerns the ratification of international human rights treaties. Iran has ratified most international treaties but, in particular, not the Convention on the Elimination of all Forms of Discrimination against Women. However, the provisions of this convention concerning women's right to health are considered in Iran's laws. The process part is related to the incorporation of international standards into domestic laws and policies. A review of Iran's laws and practice indicate that the government intends to move forward in the realization of the right to health. The Outcome captures the actual realization of the right to health. In recent years, Iran has made considerable achievements in improving its population's main health indicators. However, there are disparities in the health level of citizens of under-developed provinces that should be removed.

The availability and acceptability of health services, products and facilities in Iran are acceptable. Moreover, physical access to primary healthcare (PHC) facilities is satisfactory, but a few rural areas do not have access to these facilities. The number of secondary and tertiary health facilities is also sufficient. However, they are not

distributed equally throughout the country. Furthermore, access to PHC information is acceptable; however, opportunities to acquire health information at the level of advanced and hospital care are not sufficient. In addition, the quality of PHC services is acceptable, but the quality of hospital care needs improvement. With respect to the affordability of health services, although Iran has promoted universal health insurance, made plans for supporting the poor, attempted to keep hospital service fees as low as possible and increased its share of health services costs, healthcare is not affordable for the poorest proportion of the population. Iran's health system lacks an efficient referral system and suffers from an excessive use of services resulting from induced demand and a lack of clinical guidelines. Moreover, the consumption of subsidized health services is not regulated. This situation has increased people's actual share of health service costs. Maintaining an under-resourced health network, when human and financial resources are pulled into vertical programs, pushes the health system to the point of collapse.

Epidemiologic and demographic transitions and the growing burden of chronic diseases require the immediate establishment of Family Doctors Program throughout the country. To improve the realization of people's right to health, this country should change its priorities in regard to the allocation of health system resources from excessive spending on advanced health services to health prevention and protection services, which are beneficial for a larger proportion of the population. Removing existing inequities in the distribution of health sector resources and facilities and bringing disadvantaged groups up to mainstream levels are necessary. Policies on improving the health of the population should be part of a comprehensive plan on the welfare of the population and the empowerment of vulnerable groups. In addition, the government should implement appropriate measures to protect the health of citizens. Insufficient control of the agricultural sector, food industry, sanitation in cities, health of the environment, and vanishing drinking water resources endangers the health of Iranians. Not regulating private parties' conduct and inspecting and monitoring their compliance and not enforcing administrative and judicial sanctions against non-compliant third parties, such as potentially polluting industries or food and water suppliers, are violations of the right to health.

Finally, Iran has weaknesses in the implementation of health laws and policies related to improving the living standards and health of the population, including incomplete implementation, a lack of corresponding programs and provincial action plans, and unclear methods and processes of implementation and financing. Iran's programs on the welfare of the population are very often scattered and short term in nature. A change in the government or provincial authorities might stop the implementation of a long-term plan. The establishment of a data system concerning the health situation of the population and a monitoring system to control the implemen-

tation of related laws are necessary in Iran. It is crucial to provide appropriate means for ensuring governmental transparency and accountability related to the healthcare and welfare policies and to provide remedies and redress for every individual or group whose rights are violated.