

Platform of the Campaign for a Framework Convention on Global Health

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Preamble

We are committed to the highest attainable standard of physical and mental health as a universal human right.¹ We welcome the advances in global health over the past several decades, from major reductions in child and maternal deaths to millions of people receiving AIDS treatment. Yet avoidable health inequalities remain widespread within countries, extending throughout the socioeconomic gradient, and with poor and other socially excluded and hard-to-reach populations severely marginalized, their health seriously compromised. Globally, unconscionable health inequities persist between countries – rich and poor, well and poorly governed [– with unequal and unfair power dynamics among states, governments’ failures with respect to their own people’s rights, and historical legacies, global pressures, insufficient capacities, and multiple human rights priorities that challenge even the most committed governments].

We insist upon a new era of health justice and solidarity among all people to eliminate health inequities, ensure sustainable and equitable access to social and environmental determinants of health, promote human rights, and help enable all people to reach their potential. A new global social contract, codified in a Framework Convention on Global Health (FCGH), could usher in this new era. The treaty would be grounded in the recognition of human rights as the foundation of a global legal order for a cosmopolitan society. The FCGH would be a global health treaty based on the right to health, establishing legally binding standards, with protocols to address specific issues with greater precision. It would be adopted by the United Nations General Assembly or by the World Health Organization’s World Health Assembly.

The treaty would build on the post-2015 sustainable development goals, momentum on universal health coverage, and more. It would establish robust a global governance for health structured around human rights and equity, with mutually agreed binding commitments that clearly delineate responsibilities and establish and catalyze accountability mechanisms required to turn health promises into health realities, placing a transformative understanding of human rights responsibilities at the center of efforts to achieve health for all, and guaranteeing democratic and equity-focused principles in decision-making and inclusive participation. With the belief that an FCGH has the potential to re-invigorate the right to health and minimize health inequities, we launch this Campaign for a Framework Convention on Global Health, and call for national, regional, and global social movements to support adoption, ratification, and implementation of the Convention.

The Need for a Framework Convention on Global Health

Existing treaties and other instruments establish commitments to the right to health, to the key determinants of health, and to improving people’s health. Yet vast gaps exist between commitments and realities. Largely absent from the multitude of existing global health strategies, targets, and plans are effective structures and processes to secure action and accountability from local and national through to regional and global levels – a framework for effective global

governance that will achieve genuine implementation of existing and future national and global health commitments and empower the public to engage in realizing these commitments, from their advocacy and insistence on accountability to partnering with governments in finding and implementing effective solutions. An FCGH could go far towards bridging the implementation gaps, and establish the governance needed to ensure that the policies and practices of states, and through state action and possibly innovative means even practices of non-state actors, respect, protect, and fulfill everyone's to the highest attainable standard of physical and mental health, enabling people to lead a life in dignity.

[Universal] Equitable health systems

Realizing the universal right to the highest standard of physical and mental health requires access to [universal] equitable health systems. Today's move towards universal health coverage and access encompasses widely varying understandings of what this goal entails, with the risk of still leaving many people's health needs unmet. Approaches to universal health coverage may focus on basic packages of services, unduly constrained by a limited vision of available resources, and possibly failing to look and plan beyond initial steps of ensuring a core set of health services for all, towards full realization of the right to health. This risks reinforcing inequitable health systems, where people of different income, social and other status, gender, and location experience different levels of care, with health treated as a commodity rather than the public good that it is – and necessary for continued and sustainable human and economic development. Meanwhile, much of the world's population still cannot enjoy nutritious food and safe water, hygiene and sanitation, and other health needs central to public health functions.

New binding international law – an FCGH – could set general standards for global health, including universal public health functions, along with inclusive participatory processes for further national and local development, while establishing accountability for these standards and global governance to enable their universal achievement. As universal health systems are an aspect of universal social protection, the FCGH could lay the groundwork for expanding and reinforcing universal social protection systems. The FCGH could reinvigorate the centrality of comprehensive primary health care, with people-centered health systems and participation as a core element of universal accessibility.

Social determinants of health²

Policies and national strategies in sectors largely outside of health frequently undermine, or fail to capitalize on opportunities to promote, health, such as for safe transportation, work, and immigration, healthy and safe foods, and clean environments. State failure to protect against unemployment and unsafe working conditions, poor quality education, chronic hunger, and homelessness are but several examples. Discrimination and inequalities outside the health sector, from discrimination against women and marginalized populations and racial, ethnic, and other minorities to vast disparities in wealth and income, harm marginalized groups and affect physical and mental health throughout the socioeconomic spectrum. In the name of meeting their health needs, traditionally marginalized populations are discriminated against, their choices, ways of life, and communities disrupted, further disempowering them. In the name of culture and tradition, certain persisting social norms and practices harm health, especially by discriminating against women, and impede access to health services. Access to water and other resources is inequitable, at times more expensive for the poorest parts of the population. Trade, industrial,

and other policies displace populations and destroy livelihoods, thrusting people into conditions that erode their health. Climate change, air and water pollution, and other environmental degradation cause extensive death and illness; health justice requires environmental justice. The collaboration among sectors, stakeholders, and states required to address the social determinants of health is often lacking.

An FCGH could establish accountability around well-defined obligations for the social determinants of health – including for many of the rights included in the International Covenant on Economic, Social and Cultural Rights and other human rights treaties – and Health in All Policies, and advance the “do no harm” principle embedded in the right to health, respecting this right in all contexts. It could ensure the protection and promotion of health in other sectors, contribute to achieving positive determinants of health, establish platforms for multi-sector strategies to secure health and human rights for all, and serve as a foundation for further progress.

Financing for [universal] equitable health systems and the broader determinants of health

Domestic and international health financing is insufficient. International financing responsibilities are particularly ill defined, while existing national and global health and development financing commitments largely go unmet. International funders are insufficiently accountable to intended beneficiaries. Public and private resources that could be devoted to health and development are lost to inequitable and ineffective tax systems, corruption, mismanagement, and weak international financial regulation and enforcement. Health spending, including for research and development, is skewed away from disadvantaged populations. Key determinants of health and their realization across different parts of the population may go unmeasured and with budgets unknown, undermining accountability.

An FCGH could establish clear national and international financing responsibilities, with enforceable norms. It could empower states to mobilize increased funding for health and development, while ensuring predictability and alignment of international resources with national strategies, and accountability at country and community levels. It could provide a framework for improved budget tracking, evaluation, and accountability.

Human rights implementation and enforcement

Recognition of the right to health and the many interconnected rights vital to people’s health often fails to translate into implementation and enforcement of these rights. Avenues for effective redress to right to health violations are few, particularly where this right is not judicially enforceable. Many people are uninformed of their rights, much less the means to claim them, while some governments limit rather than empower civil society in its vital accountability role, and may resist transparency and accountability and ignore the voices and needs of marginalized populations. The right to health itself needs further elaboration and clarification. It is focused on national responsibilities, yet global forces partially determine its realization, such as trade, intellectual property, and investment frameworks and treaties, and transnational corporations, migration, and interlinked economies. Imprecise human rights requirements limit judicial, political, and social enforcement, and provide states inadequate benchmarks for guidance. Authoritative interpretations of the right to health have established critical elements that remain to be incorporated into binding international instruments.³

An FCGH could establish precise, enforceable human rights obligations and build people's and civil society's capacity to assert and enforce the right to health and other rights, recognizing the interdependence among rights, to raise their voices to make policymakers and providers accountable. It could ensure that today's excluded populations can participate in tomorrow's policy decision-making, monitoring, and enforcement. The treaty could facilitate education on and understanding of the right to health and related rights throughout the population and enable the right to health to better respond to challenges in our globalized world. And it could establish pathways for government to respect the right to health, at home and abroad. These include the many actions states can take immediately and do not depend on additional resources, such as reforming discriminatory laws and other legal reforms, enhancing transparency, and distributing health financing more equitably.

Global governance for health

There are too few effective mechanisms, including ones that are democratic and enable public engagement, to hold governments accountable to, much less to enforce, international health frameworks and commitments[, such as on health worker migration and workforce strengthening]. Policies are too often developed from the top-down, driven by agendas of financing and development agencies, rather than by the countries and populations whose right to health is least adequately being realized, including policies that encourage privatization, leading to further entrenching inequities, with level of access to health services still depending on ability to pay. Civil society capacity is often insufficient, and transparency frequently lacking. The World Health Organization (WHO) is deprived of sufficient and flexible funds and other capacities to fulfill its global health leadership mandate. International legal regimes, such as trade, have binding legal instruments that at times are enforced at the expense of health, with its limited binding law. International health assistance is insufficient and too often fails to meet local priorities and to utilize and build upon national and community knowledge, processes, culture, and other capacities and assets; to respect country ownership; to build overall health system capacity, and; to achieve the gains possible through better coordination and collaboration. International assistance for health and its determinants is outstripped by avoidable resource outflows that undermine tax bases in developing countries. Insufficient progress in other legal regimes required to protect health, notably the environment and climate change, place untold millions at risk.

An FCGH could catalyze transformation in the governance of global health, improve adherence to health agreements and commitments, and counter the influence of laws and legal regimes harmful to health, while supplementing and reinforcing health protection in climate, environmental, and other regimes. It could empower WHO to achieve its mandate, and create enforceable standards to advance country ownership that respects and builds upon local priorities, processes, and capacities, and improves coordination.

Key Principles of a Framework Convention on Global Health

The above shortcomings create a risk of that health inequities will persist, with health underclasses forming, from impoverished and marginalized populations to the whole populations

in the most fragile countries. Yet with great failings come great opportunities for change, through a renewed and reinforced commitment to health and other human rights.

Building on international treaties, national constitutions, civil society proclamation, and global declarations and other key instruments and commitments,⁴ grounded in the right to health and aimed at closing health inequities, and in the spirit of global solidarity, an FCGH should:

[Universal] Equitable health systems

- a) Set standards for all countries to achieve [universal] equitable health systems to meet the physical and mental health needs of the whole population. Such health systems should:
 - i) Be based upon robust standards for health systems and a comprehensive core of health services to which all people are immediately entitled, expeditiously building towards [universal] equitable health systems, ones that serve people of all socioeconomic and other statuses and comprehensively meet the health needs of the whole population. Such systems should avoid access to health services or facilities that differs based on ability to pay, but instead incorporate policies to enable marginalized and vulnerable populations to fully benefit.
 - ii) Aim to achieve equality through equity, recognizing that the right to health should enable all people in all countries to receive high quality health care and eliminate avoidable health disparities. Policies and strategies should promote human rights, human security, and address health inequities across the social gradient, with the greatest focus on people subject to the greatest inequities.
 - iii) Provide health care across the life course and continuum of care, including health promotion and disease prevention, care (including palliative), treatment, rehabilitation, and support services (including for people with disabilities), while ensuring integrated care, gender perspectives (both women and men), non-discrimination and equal access, accountability, participation, and other elements of a human rights approach to health systems.
 - iv) Be developed through equitable processes at local and national levels that promote social justice and empowerment; build on local knowledge, priorities, and processes, and; include informed participation of civil society and marginalized and affected populations.
 - v) Encompass public health services, including safe water, hygiene promotion, education, and supplies, sanitation, safe and nutritious food, housing, tobacco and vector control, alcohol and pollution reduction, and injury prevention, recognizing the joint roles and responsibilities of health and other sectors.
 - vi) Reduce the need for out-of-pockets payments on health and ensure that no one is impoverished by, or experiences catastrophic, health spending.
 - vii) Ensure access to medicines, health facilities, and equitably distributed, skilled, motivated, fairly compensated, and supported health workers with safe working conditions and who follow proper treatment protocols.

- viii) Extend to areas of conflict and insecurity [, including through the necessary negotiation, international support, health worker incentives, and security measures].
- ix) Protect patients' rights, including to safe health care, informed consent, confidentiality, and respectful treatment, and ensure sexual and reproductive health services and rights.

b) Empower governments to regulate corporate health actors based on evidence from health systems that are equitable, effective, efficient, and universal, with characteristics including removal of financial barriers, mandatory prepayment into financing mechanisms, large [where possible, national,] risk pools, and government financing, at least for people unable to afford full coverage.

Social determinants of health

- c) Establish principles and [the mandate for health and other sectors to collaborate in establishing] standards to promote the positive determinants of health[, such as education and housing].
- d) Effectuate Health in All Policies and policy coherence for health, such as through right to health assessments, comprehensive multi-sector public health strategies, and inter-sector and inter-country dialogue, while ensuring that policies of trade, energy, immigration, agriculture, transportation, the economy, and other sectors do not undermine the right to health.
- e) Require needs-based planning and budgeting for determinants of health, developed through equitable and inclusive processes where all parts of the population can identify needs and solutions.
- f) Ensure safe and healthy workplaces for all workers, without discrimination.
- g) Regulate unhealthy products and practices of private actors that undermine health.

Funding for [universal] equitable health systems and the social determinants of health

- h) Establish a national and global health financing framework with clearly delineated responsibilities that raises sufficient resources to achieve equitable and effective health systems, including public health services.
- i) Raise additional resources for health through:
 - i) Fair, progressive, effective, and transparent taxation and innovative forms of tax, such as on financial transactions, tobacco products, alcohol, unhealthy foods, and environmentally damaging processes.
 - ii) Ensuring public benefit from, and transparent and accountable use of, state revenue from natural resources.
 - iii) Increased global financing through increased state funding and innovative approaches.

- iv) Innovation and expansion in domestic financing for health including harnessing pooled funds and reducing out-of-pocket and other retrogressive forms of payment for health care services.
- v) Protecting resources for health through transparency and combating corruption, illicit financial transfers, tax havens, and misuse of public resources.
- j) Equitably distribute financing within countries, including ensuring needed resources for underserved and marginalized communities and populations.

Human rights

- k) Define state responsibilities for the health of all its inhabitants, on an equal basis, regardless of nationality, gender, race, age, sexual orientation, or socioeconomic, migration, disability, disease, or other status, and to promote equality through equity, ensuring equal access to quality and responsive health services, including by removing financial barriers and ensuring physical accessibility and dignified treatment of all patients.
- l) Empower people to claim the right to health and other rights, including through effective enforcement and collective remedies; build capacities to realize this right among all stakeholders and sectors, including for the public, civil society, communities, and the media to hold governments to account; educate health workers, legal and judicial personnel, and government officials on the right to health and other human rights; require health accountability strategies at all levels, and; ensure community and civil society participation in all stages of health decision-making.
- m) Ensure mechanisms to remedy individual and systematic violations of the right to health and the determinants of health, from legal procedures to structured community engagement, regular reporting on obstacles to implementing the right to health and these determinants, and plans of action to overcome these obstacles.
- n) Affirm and ensure the immediate enforceability, including judicial enforcement, of the right to health in all states, including the obligations and understandings of the right contained in the FCGH; create greater precision of the right's requirements, and; codify its principles.
- o) Ensure respect for the right to health to protect against direct and indirect threats to health.
- p) Define the responsibilities of states to the health of people beyond their borders, [and well as responsibilities of other entities,] including through sufficient funding, adequate investment in health research and development, and not harming the health of people in other countries (for example, as a result of pollution and climate change, impeding access to medicine, or actively recruiting health workers from countries facing shortages or agreeing to or engaging in other harmful trade in health services).
- q) Remove all discrimination – both purposeful and in effect, both in law and in fact – and other barriers in law, policy, and practice that undermine the right to health; respond to

specific health needs of women and other populations that are marginalized or have special needs, and; respond to gender-based violence.

- r) Protect the rights of health workers and individuals seeking care in situations of conflict and insecurity, including providing access to care to all in need regardless of political or other affiliation, ensuring their security and unimpeded movement, and refraining from attacking or interfering with people seeking care and health personnel, facilities, and transport. States' right to health obligations continue during times of conflict and insecurity.
- s) Strengthen global leadership on the right to health, including that of WHO.

Global governance for health

- t) Empower WHO to effectively achieve its mandate of global health leadership.
- u) Improve international health assistance harmonization and alignment with national health strategies and ensure that external funds contribute to health systems strengthening, country ownership, effective local and national governance, and mutual accountability.
- v) Facilitate sharing lessons and evidence for implementing policies on effective approaches to improve health and health equity.
- w) Enhance accountability for existing regional and global health frameworks.

Compliance with the FCGH

Ensure accountability including through timelines, indicators, benchmarks, and targets; rigorous reporting, monitoring, and evaluation including regular reporting on implementation and compliance, along with recommendations to state parties on specific actions to improve implementation and compliance; community participation in treaty monitoring; inclusive platforms that engage governments and other stakeholders to transparently implement actions to remedy non-compliance with provisions of the FCGH, and; effective incentives and sanctions. These might include an international mechanism for individual and groups to bring claims under the FCGH, peer review, citizen-based monitoring of adherence to FCGH obligations....

Protocols

Possible subjects of FCGH protocols are the broader determinants of health including nutritious food, clean water, and good sanitation; health financing; health workers including health worker migration; health research and development....

¹ The right to health is included in numerous international and regional treaties, including the International Covenant on Economic, Social and Cultural Rights and the Constitution of the World Health Organization, along with the Universal Declaration of Human Rights.

² In using the term “social determinants of health,” we refer to the comprehensive definition of WHO, “the societal conditions in which people are born, grow, live, work, and age,” including social, economic, political, and environmental conditions.

³ These interpretations include the General Comment 14 of the Committee on Economic, Social and Cultural Rights (2000) and General Comment 15 of the Committee on the Rights of the Child (2013).

⁴ Among the key civil society proclamations upon which the FCGH would build are the People's Health Charter and the declarations from the World Social Forum on Health and Social Security, while global commitments, declarations, and other key instruments that would inform the FCGH are the Declaration of Alma-Ata on Primary Health Care, the International Conference on Population and Development's Program of Action, the UN Millennium Development Goals, the Rio Political Declaration on Social Determinants of Health, the Helsinki Statement on Health in All Policies, WHO's Comprehensive Mental Health Action Plan, the Convention on the Rights of Persons with Disabilities, the 2008 World Health Assembly resolution on the health of migrants, the WHO Global NCD Plan of Action 2013-2020, and CEDAW General Recommendation 24.