AI submission to CESCR Day of General Discussion on
the right to sexual and reproductive health
15 November 2010

Amnesty International (AI) welcomes the opportunity to provide input on Committee on Economic, Social and Cultural Right's (CESCR or Committee) Day of General Discussion on the Right to Sexual and Reproductive Health. CESCR's initiative in developing a general comment on the right to sexual and reproductive health provides an excellent opportunity to clarify the obligations of State parties under the International Covenant on Economic, Social and Cultural Rights (ICESCR) in the context of rights to sexual and reproductive health and to reflect the full range of states parties' obligations to respect, protect and fulfil the rights to sexual and reproductive health.

The International Conference on Population and Development programme of action identified sexual health as an element of reproductive health. Paragraph 7.2 of the Programme of Action speaks of reproductive health and sexual health as encompassing "a complete state of physical, psychological and social-well being", "a satisfying and safe sex life" and "the enhancement of life and personal relations, and not merely counselling and care related to reproduction and sexually transmitted diseases". This requires a comprehensive approach that recognises that sexuality and reproductive rights issues are fundamental aspects of the right to sexual and reproductive health. Amnesty International calls on the Committee to locate the scope of this general comment within the wider context of sexual and reproductive rights. This should also be reflected in the title of the general comment. Alternate formulations will include "Sexual and reproductive health and rights", "rights to sexual and reproductive health" and so on. For the purposes of this submission we use rights (plural) to sexual and reproductive health.

The topic is of such importance that it deserves in-depth consideration by the Committee, drawing on broad consultation with other UN human rights treaty bodies, UN Special Procedures, relevant regional human rights bodies, representatives of civil society, experts and national human rights institutions among others. In this regard, while we welcome the opportunity to provide input at this early stage, we encourage the Committee to ensure that further consultation is conducted in an open, transparent and timely manner in line with the best practice followed by other treaty bodies in the process of developing its authoritative interpretations of binding international human rights standards.

1. Realisation of the rights to sexual and reproductive health depends on the enjoyment of a range of interrelated human rights

In General Comment 14, the Committee noted: "The right to health is closely related to and dependent upon the realization of other human rights, as contained in the International Bill of Rights, including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and movement. These and other rights and freedoms address integral components of the right to health."

This General Comment provides an opportunity to explore further the interdependence and inter-relatedness of human rights in regard of sexuality and reproduction. The Committee can add to guidance previously given by highlighting specific rights, including (but not limited to):

- The *right to freedom of thought, conscience and religion*[1] as regards laws and policies aimed at enforcing particular conceptions of morality or religious faith on all;
- The *right to choice in marriage*[2] as regards consent to marriage; equal access to sexual and reproductive health information and services for those who are not married; decriminalisation of sexual relations outside marriage;

[1] Universal Declaration of Human Rights, art. 18, 1948.
[2] UDHR, art. 16.

- The *right to freedom from all forms of gender-based violence*[3] (which are forms of gender discrimination) including in regard of population policies that deny individuals access to a full range of information and sexual and reproductive health care options or detract from individual's sexual and reproductive autonomy.

2. Realisation of the rights to sexual and reproductive health requires a full range of health information and services

This General Comment has the potential to add value to existing guidance by CESCR and other UN treaty monitoring bodies in regard of states' obligation to take a *comprehensive and integrated* approach to the provision of sexual and reproductive health information and services.

As the former UN Special Rapporteur on the right to education Vernor Muñoz has noted: "There is no valid excuse for not providing people with the comprehensive sexual education that they need in order to lead a dignified and healthy life." This General Comment gives the Committee the opportunity to affirm that, likewise, there can be no valid excuse for states for not taking appropriate steps to provide people with a comprehensive range of sexual and reproductive health information and services.

Selective approaches – for instance, those that include prevention of unwanted pregnancy and post-abortion care but neglect the provision of safe abortion services to the full extent of the law and (where necessary) legal and policy reform – violate human rights and will lead to detrimental outcomes in terms of individual's health and decision-making power and autonomy. Equally, approaches that exclude some groups – for instance, girls and young women, those who are unmarried, or lesbian, gay, bisexual or transgender individuals – violate human rights.

Amnesty International's research on laws and policies on sexual, reproductive and maternal health in different countries[4] makes clear the need for strong guidance on non-selectivity: even where they are grounded in recognition of the resulting public health problems, many laws and policies omit or address only inadequately or in contradictory ways issues considered politically or culturally 'sensitive', in disregard of the resulting human rights violations.

Governments must ensure that women and girls as well as men and boys can exercise their rights to sexual and reproductive health, including their rights to have access to a comprehensive range of effective information and services, to be free from discrimination, violence and coercion and to make decisions regarding their sexuality and reproductive lives. These rights must be protected by law, and in particular national legislation should not infringe on these rights by imposing particular outcomes in matters that should be decided by the individual concerned. The Committee should use this General Comment as an opportunity to address the human rights dimensions of specific issues often considered 'sensitive' which have an impact on the realisation of rights to sexual and reproductive health. These include:

- abortion, criminalisation, and denial of access;
- link between sexual and reproductive health and a range of forms of gender-based violence including early/child marriage, marital rape, and female genital mutilation – both in terms of information and services geared towards prevention, and access to information and services (as well as other elements of redress and reparation) for victims;
- inadequate regulation of health professionals' conscientious objection as an obstacle to access;

[3] UDHR, art. 2 and art.7

[4] Amnesty International, *Out of reach. The cost of maternal health in Sierra Leone (Index AFR 51/005/2009); Amnesty International, The total abortion ban in Nicaragua: Women's lives and health endangered, medical professionals criminalized (Index: AMR 43/001/2009); Amnesty International, Left without a choice. Barriers to reproductive health in Indonesia (ASA 21/013/2010); Amnesty International, 'I am at the lowest end of all'. Rural women living with HIV face human rights abuses in South Africa (Index AFR 53/001/2008).*

- third party authorisation to access to services[5];
- provision of age-appropriate information and services to children and adolescents.

3. Non-discrimination and equality are central to sexual and reproductive health rights

Sexuality and reproduction are aspects of individuals' lived realities that are strongly mediated through gendered stereotypes and norms, as expressed in states' laws, policies and practices as well as community dynamics and individuals' attitudes and actions.

General Comment 14 provides for a "gender-based approach" to health (para. 20) by reflecting on *human rights violations resulting from gender stereotyping and discrimination* and governments' obligation to eliminate gender stereotyping and discrimination. Commitment to gender equality and non-discrimination on any grounds, including in particular age, marital status, and sexual orientation and gender identity, is central to the content and implementation of states' sexual and reproductive health strategies. The Committee should clarify what gender equality and non-discrimination on all prohibited grounds entail in regard to the human rights that underpin sexual and reproductive health.

A specific concern the Committee should address relates to states' laws, policies and practices that coerce individuals into conforming to stereotypes and discriminatory norms regarding sexuality, sexual and other forms of partnership, reproduction, and parenthood regardless of or against their own wishes and aspirations. Examples of such coercion are forcing girls impregnated as result of rape to carry on with the pregnancy (Nicaragua),[6] not permitting girls and women themselves to decide whether and when to be married (Burkina Faso),[7] or criminalising sex outside marriage (Aceh/Indonesia).[8] Gender equality and non-discrimination on grounds of gender require states to support the full range of girls' and women's – as well as boys' and men's – needs and choices throughout the life cycle, without discrimination, coercion or violence.

To broaden and deepen its analysis of non-discrimination and equal treatment in General Comment 14, the Committee should develop its guidance grounded in an *intersectional discrimination analysis*,[9] drawing out both the value-added and the principled human rights commitment inherent in the intersectional approach. As observed by the CEDAW Committee, certain groups of women, in addition to suffering from discrimination directed against them as women, also suffer from multiple forms of discrimination based on "race, ethnic or religious identity, disability, age, class, case or other factors."[10] Such cumulative discrimination impairs women's access to sexual and reproductive healthcare.

Acknowledging, addressing and eradicating the impact of multiple factors of discrimination working together is extremely important in the provision of healthcare.[11] Recognition of the existence and impact of compound discrimination, however, is severely lacking in different countries around the world. The result is that women belonging to minority communities are invisible in national level strategies to combat gender inequality and racial discrimination, and they are subjected to further discrimination.

Further, in addition to the prohibited grounds of discrimination highlighted in General Comment 14 (which the Committee should explore more fully in this General Comment), the following grounds of discrimination (and others) should be a particular focus in this General Comment: age, marital status,

[5] Amnesty International Report 2010, The State of the World's Human Rights (Index: POL 10/01/2010) – Slovakia, Right to Health; Amnesty International, *Women's Struggle for Safety and Justice. Violence in the family in Mexico* (Index: AMR 41/021/2008)
[6] Amnesty International, *The total abortion ban in Nicaragua: Women's lives and health endangered, medical professionals criminalized* (Index: AMR 43/001/2009)
[7] Amnesty Interntional, "Giving life, risking death – Maternal mortality in Burkina Faso" (AFR 60/001/2009)
[8] Amnesty International. *Left without a Choice. Barriers to Reproductive Health in Indonesia* (ASA 21/013/2010)
[9] DAW, OHCHR, UNIFEM, Gender and Racial Discrimination: Report of the Expert Group Meeting, 2000.
[10] CEDAW Committee, *General Recommendation No. 25*, supra note 12, para.12; See also CESCR, *General Comment 16*, (34th Session, 2005), UN Doc E/C.12/2005/4, para 3.
[11] Amnesty International, *Peru: Deadly inequalities: Maternal mortality in Peru* (AMR 46/002/2009).

sexual orientation and gender identity, and health status. In addition, attention should be given to particular settings such as detention/state custody and conflict/humanitarian situations.

A particular concern the General Comment should address is gender-based violence against girls and women but also against boys and men. Such violence can constitute violations of the rights to sexual and reproductive health, in particular in the form of denial of sexual and reproductive autonomy. In some circumstances, individuals are targeted for gender-based violence by those seeking to impose stereotypes relating to sexuality[12]. Gender-based violence may lead to further violations of the rights to sexual and reproductive health where laws and policies deny victims the option to access a full range of health information and services – including post-exposure prophylaxis against HIV, emergency contraception and abortion – as part of a remedy.[13]

4. Rights to sexual and reproductive health includes mental health

This General Comment provides the Committee with the opportunity to explore mental health as a dimension of sexual and reproductive health. Denial of sexual and reproductive health care and information and the resulting (risk of) physical ill-health and death as well as the lack of decision-making power and autonomy in regard to one's sexuality and reproductive life is detrimental to mental health.

Examples of the negative impact of lack of sexual and reproductive decision-making power on girls' and women's mental health include the denial of the option of access to lawful and safe abortion services to those pregnant as a result of rape. On the basis of documentation of the cases of girls and women affected by the total abortion ban in Nicaragua, Amnesty International has argued that the criminalisation of abortion and the absolute denial of access to safe abortion services intentionally inflict severe physical and mental pain and suffering for purposes that are discriminatory, in violation of the prohibition on torture and other cruel, inhuman or degrading treatment. Such pain and suffering can take the following forms, among others: fear of seeking care when suffering miscarriage, in case of being accused of having carried out an abortion, leading to delays in treatment and jeopardising health and life; fear of being detained and imprisoned; and anxiety of not being able to have access to appropriate medical care.[14]

Another example is the prevention of mistimed or unwanted pregnancy. The contraceptive prevalence rate and the unmet need for family planning have been chosen as indicators for progress on Millennium Development Goal 5b, universal access to reproductive health. The related components of comprehensive sexual and reproductive health information and services are contributors not only to physical health and elimination of preventable death but also to individuals' mental health and emotional well-being. Highlighting the gender-specific importance of contraceptive decision-making for women, the World Health Organisation has stated: "Women's decision-making latitude, including their control over participation in family planning programmes and use of contraception, is critically linked to their emotional well-being and their status in the family. Support from health professionals for autonomous decision making is associated with fewer psychosomatic complaints and depressive symptoms."[15]

5. Criminalisation can lead to human rights violations

[12] Amnesty International, *USA: Stonewalled: Police abuse and misconduct against lesbian, gay, bisexual and transgender people in the U.S.* (Index: AMR 51/122/2005).
[13] Amnesty International, *Sudan/Darfur: Rape as a weapon of war – sexual violence and its consequences* (AFR 54/076/2004); Amnesty International, *Democratic Republic of Congo: mass rape - time for remedies* (AFR 62/018/2004); Amnesty International, *'I am at the lowest end of all'. Rural women living with HIV face human rights abuses in South Africa* (Index AFR 53/001/2008); Amnesty International, *Nicaragua: The impact of the complete ban of abortion in Nicaragua: briefing to the United Nations Committee against Torture* (AMR 43/005/2009)
[14] Amnesty International, *Nicaragua: The impact of the complete ban of abortion in Nicaragua: briefing to the United Nations Committee against Torture* (AMR 43/005/2009), http://www.amnesty.org/en/library/info/AMR43/005/2009/en.
[15] See also World Health Organisation, *Mental health aspects of women's reproductive health: a global review of the literature*, 2009, http://whqlibdoc.who.int/publications/2009/9789241563567_eng.pdf

An important human rights challenge that remains under-addressed and which this General Comment could provide guidance on is the impact of states' use of the criminal law to regulate individuals' conduct in regard to sexuality, reproduction and parenthood. This General Comment provides a strong platform – in the context of sexual and reproductive health rights – to reaffirm the state of current international human rights analysis on the appropriate use of the criminal law (for instance, to target gender-based violence against women) and the inappropriate use of the criminal law (for instance, to target consensual sexual relations outside marriage, non-coercive abortion, the provision of sexual or reproductive health information or the legitimate activities of defenders of sexual and reproductive health rights).[16]

In regard to abortion, for instance, it will be important for the Committee to use this opportunity to highlight authoritative normative developments through the work of the United Nations human rights treaty monitoring bodies – including the work of this Committee – since the 1994 International Conference on Population and Development and the 1995 Fourth World Conference on Women. States' human rights obligations extend not just to making safe abortion services accessible to the full extent of existing law.[17] They include law reform to remove punitive measures against women who have undergone illegal abortions,[18] eliminate penalties against medical professionals in the exercise of their professional responsibilities[19] and provide for exceptions to legal prohibitions of abortion.[20]

In some cases, criminal laws both constitute violations of sexual and reproductive rights and may lead to further violations: In Northern Nigeria, Amnesty International found that laws which criminalise sex outside marriage put women who are pregnant from a man not recognised to be their husband at risk of investigation, prosecution, detention and cruel, inhuman and degrading punishments.[21] By reflecting and enshrining norms that violate human rights, such laws erect barriers to concerned girls' and women's ability to acknowledge their pregnancy and to seek the reproductive and maternal health care they need, with an attendant risk to their own health and to the pregnancy.

6. Limitations

This General Comment provides an important opportunity for the Committee to expand on its guidance (in paragraphs 28 and 29 of General Comment 14) on permitted versus prohibited limitations on individuals' exercise of their sexual and reproductive health rights. In particular, it will be crucial for the Committee to reflect on purported justifications for limitations which have the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise of human rights and fundamental freedoms on recognised prohibited grounds of discrimination. This includes sexual and reproductive health interventions without the full and informed consent of the individual concerned.

In this context, particular attention should be given to examples of where national legislative processes are cited in support of laws and policies that have been recognised to violate human

[16] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, A/HRC/14/20. See also United Nations Development Programme, Global Commission on HIV and the Law, http://www.undp.org/hiv/comissiononhivandthelaw/

[17] "In circumstances where abortion is not against the law, such abortion should be safe." (Programme of Action of the International Conference on Population and Development, UN Doc. A/CONF.171/13, paragraph 8.25)

[18] Platform for Action of the Fourth World Conference on Women, Beijing, China, 1995, UN Doc. A/CONF.177/20, para. 106k, http://www.un.org/documents/ga/conf177/plateng/aconf177-20-tocen.htm

[19] See, for instance, Concluding observations of the Committee on Economic,
Social and Cultural Rights on Nicaragua, UN Doc E/C.12/NIC/CO/4, 28 November 2008, para. 26; Concluding observations of the Human Rights Committee, UN Doc. CCPR/C/NIC/CO/3, 12 December 2008, para. 13; Concluding Observations of the Committee against Torture on the initial report of Nicaragua, UN Doc CAT/C/NIC/C/1, para. 16.

[20] See for instance Concluding Observations of the Committee against Torture on the initial report of Nicaragua, UN Doc CAT/C/NIC/C/1, para. 16

[21] Amnesty International, The Death Penalty and Women under the Nigeria Penal Systems, AI Index:
AFR 44/001/2004, 10 February 2004, http://www.amnesty.org/en/library/info/AFR44/001/2004/en

rights.[22] Some purported justifications for limiting sexual and reproductive health rights reference particular moral or religious principles, culture, tradition and custom. The Committee should reaffirm that states must not invoke any custom, tradition or religious considerations to avoid their obligations with respect to individuals' sexual and reproductive health and autonomy or to seek to justify limitations on these rights[23].

It will also be important for the Committee to consider instances of (potential) conflict between moral conceptions, on the one hand, and human rights principles and public health evidence, on the other hand. An example recently highlighted by the former UN Special Rapporteur on the right to education is sexuality education: "Comprehensive sexual education presupposes values-based perspectives and may include different moral considerations from a pluralist point of view, but it must also be based on scientific evidence and promote the integration of individuals into a more democratic and egalitarian society."[24]

7. Retrogressive measures

Considering the central impact of legislative developments such as criminalisation – in addition to the use of available resources – on individuals' enjoyment of sexual and reproductive health rights, the Committee should provide states parties with guidance on what measures it considers legislatively 'retrogressive' (in the sense provided by paragraph 32 of General Comment 14) and what kind of process of consideration it would expect states parties to have undertaken to consider alternatives.

For instance, Amnesty International's research on Nicaragua highlighted how prior to 2006, the Nicaraguan penal code permitted 'therapeutic abortion'. The pre-2006 law was interpreted in practice to permit abortion to be performed when the life or health of the pregnant woman or girl was at risk from continuation of pregnancy and, on particular occasions, in cases of pregnancy as a result of rape.[6] In addition to the woman's consent, the pre-2006 law required authorisation for abortion by a minimum of three physicians and the consent of the partner or closest family member of the woman.[7]

In a clear retrogressive move, the revised penal code removes any exceptions to the criminal prohibition on abortion. The new provisions put doctors at risk of criminal prosecution in any case, regardless of intent, in which foetal injury of any degree, or foetal death, results from medical care aimed at preserving the woman's or the foetus's life or health.

Guidance by the Committee therefore on what kind of process of consideration it would expect states parties to have undertaken to consider alternatives will be crucial to clarify state responsibility.

8. Remedies and accountability

States parties would benefit from guidance on several aspects of the right to a remedy and to adequate reparations. On the one hand, this General Comment could usefully explore in more detail how general right to health mechanisms work in regard of rights to sexual and reproductive health and whether specific and targeted policy measures may be needed in order to take account of specific barriers. An example here is denial of sexual and reproductive health rights resulting from lack of regulation of health professionals' exercise of their right to conscientious objection to the

[22] See, for instance, statement made by the representative of Nicaragua in regard to the total ban on abortion brought into force in 2008 (Committee on Economic, Social and Cultural Rights, Forty-first session, Summary record of the 31st meeting – Consideration of the second, third and fourth periodic reports of Nicaragua (continued), UN Doc. E/C.12/2008/SR.31, para 29, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/449/39/PDF/G0844939.pdf?OpenElement)
[23] UN Declaration on the Elimination of Violence against Women, A/RES/48/104, http://www.un.org/documents/ga/res/48/a48r104.htm; The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), art. 5a
[24] UN Special Rapporteur on the right to education, Interim report to the UN General Assembly, UN Doc. A/65/162, para. 74, accessible at: http://daccess-ods.un.org/TMP/8562068.html

provision of specific forms of care.[25] On the other hand, the Committee should consider contexts in which measures to secure the full enjoyment of rights to sexual and reproductive health should be implemented as part of adequate reparations, for instance in regard to the provision of a full range of medical and psycho-social health information and services to rape victims.[26]

There are significant gaps in data on sexual and reproductive health. There are particular gaps in information around issues considered 'sensitive,' stigmatised and even treated as crimes, such as access to abortion information and services in countries where abortion is illegal. There is urgent need to collect data not just on health interventions but also on other sexual and reproductive health issues such as sexual violence, female genital mutilation, and early marriage. Such information is crucial for governments to assess the true extent of rights denials and target interventions accordingly. Disaggregated data are essential to ensure that discrimination and exclusion is not masked in national statistics. Disaggregation can also serve the purpose of

- acknowledging the differential needs and entitlements of specific groups of individuals – for instance, adolescents and young people – and monitoring whether these are met and what further legal and policy measures are needed to respect, protect and fulfil human rights;
- establishing and acknowledging the need for specific temporary special measures on behalf of certain groups[27], for instance those for whom a historic experience of state violence and coercion in regard of reproductive health care amounts to an obstacle to health information and service access unless addressed specifically through appropriate policies.[28].

The General Comment must emphasise the need for collection of disaggregated data which can inform focused interventions for groups at risk of exclusion, stigmatisation or denial of autonomous decision-making and increase accountability in service provision at the local and national level. It is also important to emphasise that data collection must not violate confidentiality, which could risk reinforcing discrimination, for instance against lesbian, gay, bisexual and transgender individuals.

Another area of particular concern is the lack of equity-oriented research, policy and monitoring. More research is needed on how to reach poor and marginalized groups.

While progress has been made in understanding technical interventions associated with rights to sexual and reproductive health, there is still very limited understanding of human rights aspects. This undervalues the processes, accountability and participation fora and mechanisms which are crucial to ensuring that the causes of lack of access to information and services and the lack of women's and girls' decision-making power and autonomy are addressed and removed. Women and girls must have effective means to hold their governments to account for violations of human rights. Committee has an important role to play in supporting state parties to develop national monitoring and accountability mechanisms. Such mechanisms would help enhance the delivery of governments' policies and programmes and empower women and their families to claim what they are entitled to under such policies. Processes to increase accountability and provide effective remedies can also serve as an incentive for governments to engage in co-operative dialogue with groups often excluded from policy making.

Accountability should not be understood as a matter of blame and punishment. Sometimes called 'constructive accountability', it is a process that helps to identify what works, so it can be repeated,

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[25] See Council of Europe Parliamentary Assembly Social, Health and Family Affairs Committee, Report on 'Women's access to lawful medical care: the problem of unregulated use of conscientious objection', Doc. 12347, 20 July 2010, http://assembly.coe.int/Documents/WorkingDocs/Doc10/EDOC12347.pdf. See also Amnesty International and Human Rights Watch, Letter to the Members of the Parliamentary Assembly of the Council of Europe (PACE), 1 October 2010, http://www.hrw.org/en/news/2010/10/01/letter-members-parliamentary-assembly-council-europe-pace

[26] See Amnesty International's case for how Nicaragua's complete abortion ban denies a remedy to rape victims in: Amnesty International, *Nicaragua: The impact of the complete ban of abortion in Nicaragua: briefing to the United Nations Committee against Torture* (AMR 43/005/2009), http://www.amnesty.org/en/library/info/AMR43/005/2009/en. Related to this, see Concluding observations of the Committee on Economic, Social and Cultural Rights on the second, third and fourth periodic report of Nicaragua, UN Doc E/C.12/NIC/CO/4, 28 November 2008, para. 26, http://daccess-ods.un.org/TMP/5738030.07602692.html

[27] CEDAW Committee, *General Recommendation No. 25,* A/59/38 Part I; CEDAW/C/2004/I/WP.1/Rev.1

[28] Amnesty International, *Fatal Flaws. Barriers to Maternal Health in Peru* (AMR 46/008/2009)

and what does not, so it can be revised and including the full range of relevant actors, including actors outside the health system.

9. Participation in health-related decision-making

In General Comment 14, the Committee highlighted the importance of the participation of the population in health-related decision-making at the community, national and international levels. According to the Committee, an "important aspect is the improvement and furtherance of participation of the population in the provision of preventive and curative health services, such as the organization of the health sector, the insurance system, and in particular, participation in political decisions relating to the right to health taken at both the community and national levels."[29] Meaningful participation by those who are affected by laws, policies and programs is crucial in all spheres of decision making and implementation.

In regard to sexual and reproductive health rights, emphasis should be put on facilitating the effective participation of those directly affected by decisions concerning sexual and reproductive health laws, policies and practices and those who have historically been excluded – and are excluded today – from relevant processes as a result of discrimination, coercion or violence.

Amnesty International's research in Peru highlighted the need for promoting the participation of communities in topics relating to their right to health, in particular guaranteeing the participation of inhabitants of communities of indigenous or peasant origin to ensure that health services are tailored to their cultural beliefs and are acceptable to all.[30]

10. Sexual and reproductive rights defenders

Since 2000, the year of General Comment 14, seminal developments have occurred in regard to the recognition of the rights of human rights defenders.[31]

Activists working in defence of sexual and reproductive health rights as well as medical professionals providing sexual, reproductive and maternal health care need an enabling environment to carry out their work. However, many are not offered protection against violence and threats as a consequence of their legitimate activities in defence of human rights.[32] In fact, these activities are often not recognised as human rights defence and, in some contexts, are directly called into question, including by attack through legal proceedings.[33]

The General Comment should elaborate the rights of those defending sexual and reproductive health rights and the corresponding obligations of states parties.

11. Linkages between commitments – Cairo, Beijing, MDGs

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[29] CESCR, General Comment 14, para 17, HRI/GEN/1/Rev.9/(Vol I), 2008.
[30] Amnesty International, Peru: Poor and Excluded Women-Denial of the Right to Maternal and Child Health, 2006, AMR 46/004/2006.
[31] See Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms [http://www2.ohchr.org/english/issues/defenders/translation.htm] and mandate of the UN Special Rapporteur on the situation of human rights defenders: http://www2.ohchr.org/english/issues/defenders/index.htm. Further, see AG/Res. 1818 (XXXI-O/01), adopted by the General Assembly of the Organization of the American States (OAS) resulting in a comprehensive study of the situation of human rights defenders in the Americas and creation of a Human Rights Defenders Unit within the Office of the Executive Secretary; as well as ACHPR /Res.69(XXXV)04: Resolution On The Protection Of Human Rights Defenders In Africa and ACHPR/Res.83(XXXVIII)05: Resolution on the Appointment of a Special Rapporteur on Human Rights Defenders in Africa.
[32] See Amnesty International, USA: Open Letter to the U.S. Department of Justice Attorney General, AI Index AMR 51/079/2009, 9 June 2009, accessible at: http://www.amnesty.org/en/library/info/AMR51/079/2009/en [concerning the killing of abortion service provider Dr. George Tiller]
[33] See Amnesty International, *Nicaragua: Defending women's right to life and health: Women human rights defenders in Nicaragua*, AI Index, AMR 43/001/2008, http://www.amnesty.org/en/library/info/AMR43/001/2008/en

Commitment to ensure gender equality and promote the full range of women's rights, including rights to sexual and reproductive health are set out in a number of key instruments including the Platform for Action, adopted at the Fourth UN World Conference on Women in Beijing (1995); the Cairo Programme of Action of the International Conference on Population and Development (1994); and CEDAW, to which 186 states are parties. However, reporting on efforts to achieve these obligations and commitments is often ad hoc and incomplete.

International human rights mechanisms such as CESCR could address complaints from individuals and groups about human rights violations in the context of the MDGs where access to justice at the domestic level has been denied them. However, in order to be able to do this, states must ratify treaties such as the Optional Protocol to the ICESCR that allow these mechanisms to receive complaints. The General Comment must emphasise the need for international accountability for commitments made not only under the Covenant but also for other related commitments.