



# POLICY BRIEF

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## Sexual and Reproductive Health and Rights in the Context of International Human Rights

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### ABSTRACT

This policy brief examines the growing recognition of sexual and reproductive health and rights (SRHR) within the framework of international human rights law. It traces the evolution of this consensus through key United Nations (UN) General Assembly and Human Rights Council resolutions, foundational documents like the International Conference on Population and Development (ICPD) Programme of Action and the Beijing Platform for Action, and the interpretative work of human rights treaty bodies. These instruments increasingly affirm that SRHR are an integral component of the right to health and are essential for gender equality. However, this brief also highlights the challenges these common efforts face in line with other views, which prioritise national sovereignty in determining policies on reproductive health. The analysis highlights the tension between the evolving international human rights framework and state-centric approaches, concluding with the imperative for ongoing dialogue to solidify and implement SRHR as universal, inalienable human rights.

**KEYWORDS:** Sexual and Reproductive Health and Rights (SRHR), International Human Rights Law, United Nations General Assembly, Human Rights Council, International Conference on Population and Development (ICPD) Programme of Action, Beijing Platform for Action, Declaration on Future Generations, Geneva Consensus Declaration

*Ce rapport sur les politiques examine la reconnaissance croissante des droits en matière de santé sexuelle et reproductive dans le cadre du droit international des droits de l'homme. Il retrace l'évolution de ce consensus à travers les principales résolutions de l'Assemblée générale des Nations unies et du Conseil des droits de l'homme, des documents fondateurs tels que le Programme d'action de la Conférence internationale sur la population et le développement et le Programme d'action de Beijing, ainsi que le travail d'interprétation des organes créés en vertu d'instruments relatifs aux droits de l'homme. Ces instruments affirment de plus en plus que les droits en matière de santé sexuelle et reproductive font partie intégrante du droit à la santé et sont essentiels à l'égalité des sexes. Cependant, ce rapport souligne également les défis auxquels ces efforts communs sont confrontés face à d'autres points de vue, qui accordent la priorité à la souveraineté nationale dans la détermination des politiques en matière de santé reproductive. L'analyse met en évidence la tension entre l'évolution du cadre international des droits de l'homme et les approches centrées sur l'État, et conclut à la nécessité d'un dialogue continu pour consolider et appliquer les droits en matière de santé sexuelle et reproductive comme des droits humains universels et inaliénables.*

**MOTS-CLÉS:** les droits en matière de santé sexuelle et reproductive, le droit international des droits de l'homme, l'Assemblée générale des Nations unies, le Conseil des droits de l'homme, le Programme d'action de la Conférence internationale sur la population et le développement, le Programme d'action de Beijing, la Déclaration sur les générations futures, la Déclaration de consensus de Genève

*Este informe sobre políticas examina el creciente reconocimiento de la salud y derechos sexuales y reproductivos (SDSR) en el marco del derecho internacional de los derechos humanos. Identifica la evolución de este reconocimiento a través de resoluciones clave de la Asamblea General y del Consejo de Derechos Humanos de las Naciones Unidas (ONU), documentos fundacionales como el Programa de Acción de la Conferencia Internacional sobre la Población y el Desarrollo (CIPD) y la Plataforma de Acción de Beijing, y la labor interpretativa de los órganos creados en virtud de tratados de derechos humanos. Estos instrumentos afirman cada vez más que los SDSR son un componente integral del derecho a la salud y son esenciales para la igualdad de género. Este informe también destaca los retos a los que se enfrentan estos esfuerzos comunes en relación con otras visiones divergentes, que dan prioridad a la soberanía nacional a la hora de determinar las políticas sobre salud reproductiva. El análisis pone de relieve la tensión existente entre el marco internacional de derechos humanos en evolución y los enfoques centrados en el Estado, y concluye con la necesidad imperiosa de mantener un diálogo permanente para consolidar y aplicar los SDSR como derechos humanos universales e inalienables.*

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### KEY MESSAGES

- "Sexual and reproductive health and rights have gained growing recognition in the context of international human rights law."
- "The Working Group on Discrimination Against Women and Girls (WGDAGW) has strongly asserted that reproductive autonomy is fundamental to women's equality, dignity, and overall human rights."
- "The United Nations (UN) Human Rights Council (HRC) has consistently been a major advocate for the protection and advancement of reproductive rights as human rights."

**PALABRAS CLAVES:** la salud y derechos sexuales y reproductivos (SDSR), el derecho internacional de los derechos humanos, la Asamblea General de las Naciones Unidas (ONU), el Consejo de Derechos Humanos, el Programa de Acción de la Conferencia Internacional sobre la Población y el Desarrollo (CIPD), la Plataforma de Acción de Beijing, la Declaración sobre las Generaciones Futuras, la Declaración de Consenso de Ginebra

## 1. Introduction

Sexual and reproductive health and rights (SRHR) have gained growing recognition in the context of international human rights law. Several resolutions adopted in the United Nations (UN) framework clearly point in this direction. There subsist, however, different views essentially centred on national sovereignty considerations and diverse perspectives on some of the key components of those rights.

This paper examines the resolutions adopted in the UN context and other declarations that address the matter, highlights the differences in approaching the matter and the need to build up a wider consensus on SRHR as an integral part of inalienable human rights.

## 2. UN General Assembly Resolutions on Sexual and Reproductive Health and Rights

The UN General Assembly (UNGA) has long been a platform for discussions and resolutions on sexual and reproductive health and rights. Notably, UNGA Resolution 67/81 (2012), titled “*Global Health and Foreign Policy*,” affirmed access to sexual and reproductive health services as a critical element of human rights. The resolution stressed the importance of access to family planning and reproductive healthcare, including abortion, when legal within a country. This was echoed by subsequent resolutions, such as Resolution 72/139 (2014), which urged Member States to ensure universal access to sexual and reproductive health and reproductive rights.

The UNGA's evolving stance towards sexual and reproductive rights emphasizes a framework that seeks to progressively eliminate barriers to reproductive healthcare. These efforts, found in both the 2030 Agenda for Sustainable Development<sup>1</sup> and various UN resolutions, aligns with global health and rights organizations advocating for the inclusion of reproductive health services in the broader agenda for sustainable development.

## 3. The UN Human Rights Council and Reproductive Rights

The UN Human Rights Council (HRC) has consistently been a major advocate for the protection and advancement of reproductive rights as human rights. One prominent example is the adoption of Resolution 32/19 (2016) on “*Accelerating efforts to eliminate violence against women: preventing and responding to violence against women and girls, including indigenous women and*”<sup>2</sup> 1 United Nations, Transforming our world: the 2030 Agenda for Sustainable Development (21 October 2015), UN Doc A/RES/70/1, Goal 3, target 3.7 and Goal 5, target 5.6.

girls.” This resolution recognized that access to safe and legal abortion is a critical part of women's health and human rights, highlighting the need to ensure that women are not forced to seek unsafe abortion procedures. The HRC has also issued multiple statements reinforcing the importance of sexual and reproductive health rights as integral to the realization of women's rights and gender equality.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes in article 12 “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”<sup>2</sup> including reproductive and sexual health rights. The Committee on Economic, Social and Cultural Rights' General Comment No. 22 (2016) explicitly interprets the right to sexual and reproductive health as an integral component of the right to health.<sup>3</sup> General Comment No. 22 states that the right to sexual and reproductive health encompasses freedoms (such as freedom to make free and responsible decisions) and entitlements (such as access to healthcare services). The Committee emphasizes that States must ensure the availability, accessibility, acceptability, and quality of sexual and reproductive health facilities, services, goods, and information.

The Working Group on Discrimination Against Women and Girls (WGDAG) has strongly asserted that reproductive autonomy is fundamental to women's equality, dignity, and overall human rights. The WGDAG has highlighted the importance of respecting private life and guaranteeing the highest attainable standard of health, encompassing sexual and reproductive health, free from discrimination and any form of cruel, inhuman, or degrading treatment.<sup>4</sup> The Group has emphasised that these rights include a woman's ability to make autonomous decisions concerning her own body and reproductive functions. This involves access to affordable and quality contraception, including emergency options, and the ability to terminate a pregnancy, with a call for allowing this on request during the first trimester.<sup>5</sup>

Regional human rights systems expand upon these principles, demonstrating a converging international stance. The European Court of Human Rights (ECtHR) has interpreted Article 8 of the European Convention on Human Rights (right to private and family life) to require States to ensure effective and practical access to legally permitted abortion services, as illustrated in cases like *Tysiąc v. Poland*<sup>6</sup> and *R.R. v. Poland*.<sup>7</sup> The Inter-American human rights system has also affirmed sexual and reproductive health and rights as fundamental human rights. In the case of

<sup>2</sup> International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976), 993 UNTS 3, art. 12.

<sup>3</sup> Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 22 (2016) on the Right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights) (2 May 2016), UN Doc E/C.12/GC/22.

<sup>4</sup> Working Group on the issue of discrimination against women in law and in practice, “Women's Autonomy, Equality and Reproductive Health in International Human Rights: Between Recognition, Backlash and Regressive Trends”, Office of the High Commissioner for Human Rights, October 2017. Available from <https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/WomensAutonomyEqualityReproductiveHealth.pdf>.

<sup>5</sup> *Ibid*.

<sup>6</sup> *Tysiąc v Poland* (2007) 45 EHRR 42

<sup>7</sup> *R.R. v Poland* [2011] ECHR 828

*Manuela v. El Salvador*<sup>8</sup> and *Beatriz v. El Salvador*<sup>9</sup>, the Interamerican Court of Human Rights has condemned absolute abortion bans, highlighted “obstetric violence,” and mandated States to ensure access to essential health services, including abortion.

The efforts of the HRC on reproductive rights are also informed by other key international documents, including:

- **The Programme of Action of the International Conference on Population and Development (ICPD, 1994):** This landmark agreement, which has been endorsed by 179 countries, advocates for universal access to reproductive health services and acknowledges that reproductive rights are fundamental to achieving gender equality and the empowerment of women. The ICPD’s Programme of Action calls, in particular, for the provision of abortion services where legal.
- **The Beijing Platform for Action (1995):** Adopted by the Fourth World Conference on Women, this explicitly recognized the right of women to have access to reproductive health care, including contraception and safe abortion services, framing these as integral to achieving gender equality.
- **The Declaration on Future Generations** (one of the annexes to the Pact for the Future adopted by the UNGA in September 2024) calls to ensure “universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences” (Action 8(f)).

#### 4. Diverging Approaches to Sexual and Reproductive Rights

The Geneva Consensus Declaration (GCD), a non-binding political statement adopted on October 22, 2020 by unspecified representatives of various ministries and levels of governments, represents a diplomatic stance on issues of reproductive and sexual health. Signed by 32 countries, the declaration essentially “affirms that States have the sovereign right of nations to determine their own policies, particularly concerning abortion”. This document has been contentious within the broader framework of international human rights law, with numerous countries adding or withdrawing their support following a change of administration.

The GCD articulates a specific stance on health, life, family, and national autonomy. It recognizes the family as society’s fundamental unit, calling for policies that support and strengthen this structure as essential for societal well-being. A central pillar of the GCD is the assertion of national sovereignty, affirming that each nation retains the right to define and regulate matters related to sexual and reproductive health, including abortion, free from external pressure. It also declares that States have the authority to consider any measures or changes regarding abortion

<sup>8</sup> Case of *Manuela et al v El Salvador* (Preliminary Objections, Merits, Reparations and Costs), Judgment of 2 November 2021, IACtHR Series C No 441

<sup>9</sup> Case of *Beatriz et al v El Salvador* (Merits, Reparations and Costs), Judgment of 22 November 2024, IACtHR Series C No 549

within health systems at the national or local level, according to the country’s legislative process. The GCD’s assertion that abortion is not a universally recognized human right differs from the Council’s consistent stance and the decades-long trend in growing international consensus in favor of reproductive rights, especially its emphasis on access to safe and legal abortion as a matter of women’s health and human rights.

The Geneva Consensus Declaration does not have authoritative standing in international law. It represents a non-binding political declaration by signing countries which has not been referenced in any subsequent UN resolutions. Nevertheless, it articulates a view on reproductive and sexual health and rights that differs from the growing consensus among UN members evidenced in UN resolutions and declarations that advocate for reproductive rights as an internationally recognized human right.

#### 5. The Role of International Human Rights

While the GCD is underpinned by the notion that “human rights of women are an inalienable, integral, and indivisible part of all human rights and fundamental freedoms”, it raises persistent questions about the role of international human rights law in shaping domestic reproductive policies. Its assertion that any measures relating to abortion “can only be determined at the national or local level according to the national legislative process” challenges the premise otherwise recognized in the UN system that reproductive rights are inherent to the internationally agreed human rights framework. International human rights law, as established through the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), implicitly supports the notion of reproductive autonomy and access to healthcare, including abortion services.

These different conceptions can potentially create a divide between States that support reproductive rights as part of the broader human rights framework and those that emphasize national sovereignty, such as the signatories of the GCD.

#### 6. Conclusion

Both the ICPD and Beijing Platform mentioned above have laid the groundwork for much of the UN’s subsequent policy framework on reproductive health and rights. These documents and the above mentioned UNGA resolutions and UN HRC guidance, and other ongoing UN processes, as reflected in the more recent Declaration on Future Generations, evidence the tension between the GCD’s stance and state-centric assertion focused on national sovereignty, on the one hand, and the broader international consensus on sexual and reproductive health and rights as reflected in the above mentioned UN resolutions, on the other hand. The existence of such differing viewpoints underscores the need for continued engagement by the United Nations on this matter, ensuring that discussions and actions align with established international human rights instruments and reinforce the fundamental role of SRHR in achieving the universal right to health.

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