

A constitutional right to health care

July 19 2013

Uruguay has it. So does Latvia, and Senegal. In fact, more than half of the world's countries have some degree of a guaranteed, specific right to public health and medical care for their citizens written into their national constitutions.

The United States is one of 86 countries whose constitutions do not guarantee their citizens any kind of health protection. That's the finding of a new study from the UCLA Fielding School of Public Health that examined the level and scope of constitutional protection of specific rights to public health and [medical care](#), as well as the broad right to health.

The study examined the constitutions of all United Nations member states and found the results to be mixed, despite the fact that all U.N. members have universally recognized the right to health, which is written into the original foundational document establishing the international body in 1948. The researchers reviewed the constitutions of all the member states as amended to two points in time: August 2007 and June 2011.

The report appears in the July issue of the journal *Global Public Health*.

The study also calls for regular and long-term monitoring of all countries' protection of health rights, whether or not such rights are written into specific country's constitutions.

That's because a constitutional definition of what [health protection](#)

actually is varies widely between nations. Further, how such protections have been implemented varies widely, said the study's first author, Dr. Jody Heymann, dean of the Fielding School of Public Health.

"With respect to specific rights to health, the status of the world's constitutions can be described as either half empty or half full," Heymann said.

The study found that 73 U.N. member countries (38 percent) guaranteed the right to medical care services, while 27 (14 percent) aspired to protect this right in 2011. When it came to guaranteeing public health, the global performance was even poorer: Only 27 countries (14 percent) guaranteed this right, and 21 (11 percent) aspired to it.

But doing the math doesn't provide a comprehensive picture, said Heymann.

"There also exists gaps between individual countries that may have strong constitutional protections but poor records of implementing health rights on the ground," she said. "On the other hand, there are countries that lack constitutional provisions that have excellent health care systems in place."

The latter is particularly true in the case of older constitutions that have not been significantly amended since constitutional rights to health became common, she noted.

The good news, Heymann said, is the clear trend toward greater constitutional protection of health rights overtime. While only 33 percent of the constitutions adopted prior to 1970 addressed at least one health right, 60 percent of those introduced between 1970 and 1979 included the right to health, public health and/or medical care. Three-quarters of the constitutions introduced in the 1980s, and 94 percent of

those adopted in the 1990s, protected at least one of these rights. Only one of the 33 constitutions adopted between 2000 and 2011 did not protect at least one health right.

"The global recognition of a right to health is a powerful step in guaranteeing health as a fundamental human right for all people," said Heymann. "But it is important to ensure this moral right moves from the philosophical to the practical. That will require a kind of transparency and accountability where the public can readily access information on which countries are implementing these guarantees.

"The U.S. Supreme Court's decision in June 2012 to uphold the Affordable Care Act was based on viewing the legislation as legal," said Heymann. "While the acknowledgement that Congress can provide for health is a step in the right direction, it is a long way from a guaranteed constitutional right to public health and medical care. The U.S., unfortunately, lags far behind many of the world's nations."

Provided by University of California, Los Angeles

Citation: A constitutional right to health care (2013, July 19) retrieved 19 April 2024 from <https://medicalxpress.com/news/2013-07-constitutional-health.html>

<p>This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.</p>
--