



# THESSISMUN



20<sup>TH</sup> EDITION

## **Human Rights Council (HRC)**

Topic Area B

Addressing the Right to Bodily Autonomy and Integrity



# THESSISMUN



## **United Nations Human Rights Council**

Study Guide

Topic Area B:

*“Addressing the Right to Bodily Autonomy and Integrity”*



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## Welcoming Letter

Dear Delegates,

It is our utmost pleasure to welcome you to the Human Rights Council of ThessISMUN 2023! We are more than excited to meet you in person, and we promise to give our best effort for a wonderful and memorable experience. Our Committee this year will provide the opportunity to discuss very important and impactful matters, such as the right to bodily autonomy and integrity as well as the importance of combating discrimination against the LGBTQIA+ community.

We are very optimistic that all of you will work productively, cooperatively and efficiently during the sessions. In order to ensure your best possible performance, we highly encourage you to study the Rules of Procedure of our Committee very carefully, in order to familiarize yourself with the session procedure, as well as the respective Study Guides, as they contain the subtopics that we wish you to address during the debate. Please take into consideration that standing polite and respectful towards the procedure and mainly towards your fellow delegates will allow all of us to create together a healthy and pleasant committee-environment and, of course, to have fun and enjoy ourselves properly.

Within the present Study Guide you will find essential guidelines concerning the topic area of the Committee. However, we suggest that you conduct further research upon the agenda and definitely your country's policy on the matters under discussion. We, your Chairs, will stand with you during every step of the process, and we are eager to see you achieve your goals in this conference, and consequently, the Committee's goal, which is the creation of two exemplary final documents, that provide efficient solutions to all crucial issues regarding the topics on the agenda. Therefore, please note that we remain at your disposal for any queries that may occur during your preparation.

Best Regards,  
The Board of the UN Human Rights Council  
Eleni Chrysafi, President  
Eleni Radovits, Vice President  
Nikolaos Tripolitis, Vice President

### **Topic Area B | United Nations Human Rights Council**

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## Introduction to the Committee

The Human Rights Council is an intergovernmental body within the United Nations, responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations. It was established by the UN General Assembly on the 15th of March of 2006 by resolution 60/251 and it consists of 47 Member States. One year after its establishment, the Council adopted the “Institutions-building package” which outlines certain functions and mechanisms that the organization uses. More specifically, the mechanisms that the Council has enforced are: the Universal Periodic Review which is a tool used for assessing human rights situations amongst Member States, the Advisory Committee which serves as a research group that provides the Council with expertise regarding human rights violations and finally the Complaint Procedure that gives individuals and organizations the opportunity to report human rights violations back to the Council. Lastly, the Council also cooperates with the UN Special Procedures, who are a team of independent human rights experts that have the responsibilities of monitoring and providing advice on human rights issues from both a thematic or country-specific perspective<sup>1</sup>.

## Introduction to the Topic Area

The concepts of bodily autonomy and integrity constitute the core of fundamental liberties such as self-determination, equality and freedom of choice. Therefore the ability of people to make informed and autonomous decisions about their bodies is inextricably linked to their rights to dignity, nondiscrimination, private life, access to standard healthcare services and many more<sup>2</sup>. However, despite the fact that the aforementioned principles are safeguarded by the Universal Declaration of Human Rights, during the last decade we have seen the formation of policies that

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<sup>1</sup> “Welcome to the Human Rights Council,” OHCHR, accessed January 22, 2023, <https://www.ohchr.org/en/hr-bodies/hrc/about-council>.

<sup>2</sup> “Between Recognition, Backlash and Regressive Trends - Office of the ...,” accessed January 21, 2023, <https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/WomensAutonomyEqualityReproductiveHealth.pdf>.



violate these concepts, thus posing a general threat to the protection of human integrity. This issue is multifaceted, and it affects different communities. More specifically, one of the most recent aspects of the topic is the decision of the United States Supreme Court to overturn *Roe v. Wade*, which brought back to the surface the discussion over the matter of abortion. Moreover, this topic entails aspects, such as the implementation of forced genital surgery for the gender reassignment of intersex and transgender people, the practice of female genital mutilation from certain religious communities, the decriminalization of prostitution and the promotion of sex workers' rights. Therefore, it is imperative that the international community tackles this issue in a collective and comprehensive way, so that it can ensure equal rights for all civilians.

## Definitions

**Abortion:** an induced abortion is a term that describes the voluntary medical procedure used to terminate a pregnancy. The ability to access abortion safely and legally is an extension of the individual's bodily autonomy and reproductive rights<sup>3</sup>.

**Gender Reassignment:** gender reassignment is an umbrella term used to describe a set of measures, usually medical, that aim at altering one's physical or other kinds of attributes to match their gender identity<sup>4</sup>. Gender reassignment is a protected characteristic under many legislations, meaning that transexual persons can be legally protected from discrimination related to their reassignment process, regardless of the stage of the process they are in<sup>5</sup>.

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<sup>3</sup> "The World's Abortion Laws," Center for Reproductive Rights, January 20, 2023, accessed February 4, 2023, <https://reproductiverights.org/maps/worlds-abortion-laws/>.

<sup>4</sup> "Gender Reassignment," European Institute for Gender Equality, accessed January 22, 2023, <https://eige.europa.eu/thesaurus/terms/1204>.

<sup>5</sup> "Gender Reassignment Discrimination," Gender reassignment discrimination | Equality and Human Rights Commission, accessed January 22, 2023, <https://www.equalityhumanrights.com/en/advice-and-guidance/gender-reassignment-discrimination>.



**Bodily Autonomy and Integrity:** bodily autonomy is a principle that describes an individual's right to self-determination regarding their body. It includes people's rights to project power and agency over their bodies and make decisions about them without being subjected to violence or coercion. Bodily autonomy also encompasses the ability to access sexual and reproductive healthcare services<sup>6</sup>.

**Sexual and Reproductive Health and Rights (SRHR):** SRHR is an umbrella term that describes different rights related to sexuality and reproductive healthcare. It includes the right to have a healthy and safe sex life free from violence or coercion, the freedom to decide whether to reproduce, and the ability to access and make choices about your sexual and reproductive healthcare<sup>7</sup>.

**Intersex:** intersex is an umbrella term used to describe people who are born with reproductive and anatomic characteristics that do not fall under the binary spectrum, for example a discrepancy between internal and external genitals<sup>8</sup>.

## Analysis of the Topic

### The progress on the access on Abortions

One of the main reasons why the conversations on the "Right to Bodily Autonomy" is still relevant, is because of the flaming debates between pro-choice and pro-life supporters on the matter of reproductive rights and abortions. In 2022, the US Supreme Court with its decision on *Dobbs v.*

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<sup>6</sup> "Bodily Integrity - ILGA-Europe," ILGA, June 15, 2022, accessed February 4, 2023 <https://www.ilga-europe.org/topics/bodily-integrity/>.

<sup>7</sup> "What Are Sexual and Reproductive Health and Rights?," accessed January 21, 2023, <https://www.humanistfederation.eu/wp-content/uploads/What-are-sexual-and-reproductive-health-and-rights-EHF-briefing-F.pdf>.

<sup>8</sup> "Intersex: Medlineplus Medical Encyclopedia," MedlinePlus (U.S. National Library of Medicine), accessed February 4, 2023, <https://medlineplus.gov/ency/article/001669.htm>.





*Jackson Women's Health Organization*, ruling that there is no constitutional right to abortion, overturned *Roe v. Wade* and *Casey v. Planned Parenthood*, historic decisions that had guaranteed the right to abortion in the U.S. for nearly 50 years, rushing many people worldwide in the roads in order to protest<sup>9</sup>. The right of Bodily Autonomy and Integrity suggests that every human being can make decisions on their reproductive intentions in a safe and supportive environment. Approximately 20 countries around the world, even in regions that have supportive profiles, prohibit any kind of termination of pregnancy for any reason. The national policies, however, on the rest of the world differ from each other. Abortion on request is without restriction in some countries such as Canada, Russia and the EU region. But in most countries the applicant must meet some requirements in order to proceed. Some of the limits are:

1. To save the life of the pregnant,
2. To protect the physical health pregnancy risks significant (but non-fatal) injury to the pregnant,
3. To protect mental health,
4. When the pregnancy is the result of rape or incest,
5. When the pregnant is mentally or cognitively disabled,
6. When the fetus is known to have significant mental disabilities or physical malformations.  
As these can range from non-life-threatening conditions such as Down Syndrome to 100% fatal conditions, more granular guidelines are often necessary,
7. When the pregnancy meets some socioeconomic and is financially unable to support the child.

Even though some of these criteria seem progressive, they still are limits so they restrain the freedoms deriving from the right to bodily autonomy. Most of these policies pursue the assurance of the right to life of the fetus. So there appears the main borderline between the pro and anti-

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<sup>9</sup> "Dobbs v. Jackson Women's Health Organization", Centre of Reproductive Rights, accessed March 2018, <https://reproductiverights.org/case/scotus-mississippi-abortion-ban/>





choice supporters. The conversations about the “beginning” of life differ from expert to expert, especially when it is between a scientist or a doctor and a philosopher.

United Nations’ committees<sup>10</sup>, other International Organizations concerned with human rights<sup>11</sup>, women’s health and reproductive rights have unanimously called for decriminalization of the termination of pregnancy and repeal of restrictive abortion laws. Human rights mechanisms call in parallel for decriminalization of abortion, on one hand, and legalization of abortion, variously, in cases in which the life or health, including mental health, of the pregnant woman is threatened, in cases of rape, incest and fatal or severe fetal impairment. Where access to termination of pregnancy is denied in these circumstances, expert international human rights mechanisms and entities have repeatedly concluded that, in some situations, failure to provide women access to legal and safe abortion may amount to cruel, inhuman or degrading treatment or punishment or torture, or a violation of their right to life<sup>12</sup>. In 2016, the Committee on Economic, Social and Cultural Rights stated in General Comment 22: “*States parties are under immediate obligation to eliminate discrimination and to guarantee their equal right to sexual and reproductive health. This requires States to repeal or reform laws and policies [...] and practices that undermine autonomy and right to equality and non-discrimination in the full enjoyment of the right to sexual and reproductive health, for example criminalization of abortion [...]*”<sup>13</sup>

Other than legalized abortions, people need safe and financially approachable structures. The right to health under Article 12 of the Convention on the Elimination of Discrimination against Women (CEDAW) includes the right to bodily autonomy and encompasses women’s sexual and

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<sup>10</sup> “Aborto - UN Human Rights Office,” accessed February 4, 2023, [https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/SexualHealth/INFO\\_Abortion\\_WEB\\_S\\_P.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/SexualHealth/INFO_Abortion_WEB_S_P.pdf).

<sup>11</sup> “Law & Policy Recommendation 1: Criminalization (2.2.1) - Abortion Care Guideline,” Abortion care guideline - Consolidated guidelines for clinical care, service delivery, and law and policy, April 4, 2022, accessed February 4, 2023, <https://srhr.org/abortioncare/chapter-2/recommendations-relating-to-regulation-of-abortion-2-2/law-policy-recommendation-1-criminalization-2-2-1/>.

<sup>12</sup> Julia Cusick Vice President et al., “Abortion Bans Will Result in More Women Dying,” Center for American Progress, August 25, 2022, accessed February 4, 2023 <https://www.americanprogress.org/article/abortion-bans-will-result-in-more-women-dying/>.

<sup>13</sup> “Between Recognition, Backlash and Regressive Trends - Office of the ...,” accessed January 21, 2023, <https://www.ohchr.org/Documents/Issues/Women/WG/WomensAutonomyEqualityReproductiveHealth.pdf>.



reproductive freedom. Experts of the World Health Organization on the subject, remind that unsafe abortion is a leading cause of maternal mortality<sup>14</sup>, urging that way all Member States of the CEDAW Convention to remove punitive measures for women who undergo abortion and to legalize abortion at least in cases of rape, threats to the life or health of the pregnant woman and girls and severe fetal impairment.<sup>15</sup>

## Transgender Status and Gender Reassignment

The definition of bodily autonomy is also of fundamental importance for trans persons who face discrimination in the form of mandatory, forced and oppressive requirements for gender recognition. In thirteen countries Trans people live under laws that criminalize them, punishing them with prison sentences, corporal punishments and even death penalty. On the other hand, latest reports show that nearly 100 countries have processes that allow trans people to change their gender legally, but only 25 of them are not having “prohibitive requirements.”<sup>16</sup>. Such requirements include psychological consultation, cross-hormonal treatment, sterilization (leading to infertility), and the most important the sex or gender reassignment surgery (GRS) in all its forms, such as facial surgeries, chest/breast and genital surgeries, or hysterectomies.

In fact, not every Trans person wishes for, or is able to undergo any of these measures. The decision to undertake the gender reassignment process is hard, as it can be very stressful, painful, time consuming and costly. So there are people that do not intend to undergo medical treatment but

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<sup>14</sup>Haddad LB, Nour NM, “Unsafe abortion: unnecessary maternal mortality”, Rev Obstet Gynecol. 2009 Spring;2(2):122-6, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2709326/>

<sup>15</sup> “Access to Safe and Legal Abortion: Urgent Call for United States to Adhere to Women's Rights Convention, UN Committee,” OHCHR, July 1, 2022, accessed February 4, 2023 <https://www.ohchr.org/en/statements/2022/07/access-safe-and-legal-abortion-urgent-call-united-states-adhere-womens-rights>.

<sup>16</sup> Jamie Wareham, “New Report Shows Where It's Illegal to Be Transgender in 2020,” Forbes (Forbes Magazine, October 12, 2022), accessed February 4, 2023, <https://www.forbes.com/sites/jamiewareham/2020/09/30/this-is-where-its-illegal-to-be-transgender-in-2020/?sh=790e4d175748>.



wish to identify permanently in a different gender from that they are assigned at birth.<sup>17</sup> Trans youth also often need access to gender affirming care to make their own medical decisions about their bodies and futures—including their reproductive futures. And that includes also the Intersex community<sup>18</sup>. Intersex people have been discriminated against for years as they undergo genital surgeries as infants or young children, at an age that they are unable to participate in decisions about their own futures. Gender justice and bodily integrity right's movements are integral —and support that people of all genders can make decisions about their own bodies and futures and self-determine their gender identity.<sup>19</sup>

## Decriminalization of Sex Work

The stigma associated with the sex industry is a prevalent issue in many regions of the world and discrimination against sex workers is as much of a problem as the discrimination other marginalized groups face because of race, religion, gender etc. The origins of the social stigma around sex work trace back to structural beliefs of our society regarding appropriate sexuality or traditional forms of family ties. However, the discrimination sex workers face is entangled with other kinds of stigma. More specifically, the sex industry disproportionately consists of minority groups, such as women, immigrants or the LGBTQIA+ community, that have always been scapegoated for various social problems, including the escalation of crime rates or the transmission of STDs such as HIV/AIDS<sup>20</sup>. On top of that the stigma associated with sex work can influence the political decisions made in relation to the legal status of sex workers, their access to healthcare services, their treatment by police and government authorities and other inhumane treatments. In

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<sup>17</sup> Kevin Coutinho, “What Is Gender Reassignment,” Equality, Diversity & Inclusion, July 10, 2014, accessed February 4, 2023, <https://www.equality.admin.cam.ac.uk/training/equalities-law/protected-characteristics/gender-reassignment/guidance-gender-reassignment-0>.

<sup>18</sup> “Intersex People,” OHCHR, accessed February 4, 2023, <https://www.ohchr.org/en/sexual-orientation-and-gender-identity/intersex-people>.

<sup>19</sup> *Ibid.*

<sup>20</sup> “Stigma and Sex Work - Peers Victoria,” accessed January 21, 2023, <https://www.safersexwork.ca/wp-content/uploads/2014/06/PEERS-SexWorkStigma-25June2014.pdf>.



fact the criminalization of sex work in many states, as a result of the stigma, constitutes sex workers vulnerable to violence, abuse, exploitation, human trafficking and generally hinders their ability to seek justice for crimes committed against them. Lastly, the criminalization of consensual sex, including the commercial exchange of sexual services, contradicts the principles of bodily autonomy and integrity since it restricts sex workers' ability to make safe and independent decisions about their bodies<sup>21</sup>. That is because they cannot seek legal representation in case their SRHR are violated in their workplace. On the other hand, it has been proposed that the decriminalization of sex work not only maximises the opportunity for legal protection but also provides the government with the opportunity to regulate and shape a safe working environment for sex workers<sup>22</sup>.

## **The bodily autonomy under the prism of culture and religion**

Culture and religion are integral parts of people's private lives' and of course they affect their decisions, intentionally or not. Most religions restrict the freedoms of bodily autonomy. In Islamic countries, there is no choice for a woman to dress the way she wants. But in almost the same vein, such similar practise is legalized in countries like France<sup>23</sup>, where people are restricted to wear religious clothes and accessories, meaning that they can not dress exactly how they wish. There appears a common intersection between bodily autonomy and freedom of expression, as the first one reminds that owning your body means choosing how you dress and express yourself. So freedom of clothing choice is a part of bodily autonomy<sup>24</sup>.

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<sup>21</sup> "Why Sex Work Should Be Decriminalized," Human Rights Watch, April 3, 2022, accessed February 4, 2023, <https://www.hrw.org/news/2019/08/07/why-sex-work-should-be-decriminalized>.

<sup>22</sup> *Ibid*

<sup>23</sup> Amy Woodyatt, Nada Bashir, and Dalal Mawad, "French Lawmakers Have Proposed a Hijab Ban in Competitive Sports the Impact on Women Could Be Devastating.," CNN (Cable News Network, February 1, 2022), accessed February 4, 2023, <https://edition.cnn.com/2022/02/01/sport/france-hijab-ban-intl-spt/index.html>.

<sup>24</sup> "Body Autonomy," StudySmarter US, accessed February 4, 2023, <https://www.studysmarter.us/explanations/politics/political-ideology/body-autonomy/>.



One example where the right to bodily autonomy and cultural and religious norm clash, consists of the Jewish males that undergo surgeries -by decision of their family- in infant age with circumcisions, depriving them in this way of their right to make these decision later, in adult age when they are mature enough to have full knowledge of the consequences of their acts and their respective rights.

In this light, female genital mutilation is a violation of women's rights and an extreme form of violence directed exclusively at women, aimed at controlling their sexuality, their bodies and their reproductive rights. While families and communities cite cultural and religious reasons for performing female genital mutilation, one of the main reasons is to reduce women's sexual desire and confidence<sup>25</sup>. As far as the cultural sector is concerned, in many places around the world the right of bodily autonomy is extremely violated. In Africa, there are communities that still perform clitoridectomies on girls in order to secure their "pureness" till their marriage<sup>26</sup>.

Also, following the cultural customs of the region, in the Middle East the multiple wife norm can also be described as modern sex slavery<sup>27</sup>, as muslim women can't make decisions about their bodies. Nonconsensual sex with one's partner has recently begun to be acknowledged as a concept. In the past, under the established patriarchal norms, once a marriage took place, a man "owned" his wife's body and could use it whenever he wants<sup>28</sup>. Today, marital rape is recognized as a human rights violation. Yet there are countries where a man who rapes a woman can escape penalties if

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<sup>25</sup>UNFPA, "Female genital mutilation (FGM) frequently asked questions", (February 2022), accessed February 4, 2023, <https://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions>

<sup>26</sup> Frances A. Althaus, "Female Circumcision: Rite of Passage Or Violation of Rights?", (September 1997), accessed February 4, 2023, <https://www.guttmacher.org/journals/ipsrh/1997/09/female-circumcision-rite-passage-or-violation-rights>

<sup>27</sup> Jeffrey Hays, "Types of Slaves and Slavery in the Middle East: Servants, Harem Girls and Soldiers," Facts and Details, accessed February 4, 2023, <https://factsanddetails.com/world/cat55/sub394/entry-5855.html>.

<sup>28</sup> Guyonne Leduc, "The Representation of Women's Status in Domestic and Political Patriarchy in Mary Astell and Mary Wollstonecraft", 2010, <https://journals.openedition.org/rfcb/6108?lang=en>



he marries her<sup>29</sup>. In all of these cases, bodily autonomy and integrity is being roughly violated, as people give others, “willingly” or not, the right to make decisions about their respective body<sup>30</sup>.

## Euthanasia and Assisted Suicide

Respect for bodily autonomy is typically considered a key reason for allowing physician assisted suicide and euthanasia. But the debate in end-of-life care still exists. There are two different interpretations of expressing the value of bodily autonomy.<sup>31</sup> According to one interpretation, that opposes to the legalization of the practice, there is an understanding that while euthanasia may allow the patient to die at their own choosing; this choice is practically implemented by the physician who must be allowed to cause the death of the patient, practically by pressing a button or by giving drugs, by effectively committing a murder. Therefore it should not be allowed, despite the prudential autonomy and the right to bodily autonomy that the patient might be enjoying. According to a second interpretation that is in favor of the legalization, if a patient is competent to decide, nobody other than that patient should have the authority to decide whether life is worth continuing. And this is where the claim of the “right to die” starts. The connection between bodily autonomy and the right to death raises philosophical and scientific questions, dividing the experts on the decisions about the creation of a legal framework<sup>32</sup>.

Some countries have legalized euthanasia, but they implement some criterias in order to proceed to these actions. In the Netherlands, when in 2001 it became one of the first countries that legalized euthanasia, a physician may euthanize a patient or assist in that patient’s suicide, if the physician is sure that the patient’s re-request is voluntary, well-considered and lasting, and that the suffering is unbearable. The physician must also agree with the patient and another physician that there is

<sup>29</sup> Ayantika Bhattacharyya, “Marital Rape Laws: An International overview”, accessed February 4, 2023, <https://www.legalserviceindia.com/legal/article-7872-marital-rape-laws-an-international-overview.html>

<sup>30</sup> M J Wreen, “Autonomy, Religious Values, and Refusal of Lifesaving Medical Treatment,” *Journal of Medical Ethics* 17, no. 3 (January 1991): pp. 124-130, <https://doi.org/10.1136/jme.17.3.124>.

<sup>31</sup> Manne Sjöstrand et al., “Autonomy-Based Arguments against Physician-Assisted Suicide and Euthanasia: A Critique,” *Medicine, Health Care and Philosophy* 16, no. 2 (August 2011): pp. 225-230, <https://doi.org/10.1007/s11019-011-9365-5>.

<sup>32</sup> Violeta Besirevic, “The Discourses of Autonomy in the International Human Rights Law: Has the Age of a Right to Die Arrived?”, 2014, <https://www.corteidh.or.cr/tablas/r26747.pdf>





no reasonable alternative. These criteria imply that the autonomy of the patient and the beneficence of the physician's intent are essential to a decision in favor of euthanasia<sup>33</sup>. In Switzerland, there are plans to launch suicides pods in order to abolish the active participation of the physician. The process would make the person die in approximately 10 minutes in no pain. This technologized capsule for a self-determined end of life however is still in legal deadlock. Taking in consideration the latest data and the constantly developing technology, practices like the aforementioned are expected to be implemented.<sup>34</sup>

## **Right to health care - HIV discrimination**

As bodily integrity is the inviolability of the physical body and an aspect of personal autonomy, self-ownership, and self-determination of human beings over their own bodies, the right to health care and the equal access to health system is one of the cornerstones in order to preserve the autonomy of someone's body. In the field of human rights, violation of the bodily integrity of another is regarded as an unethical infringement and possibly criminal behavior. One of the conditions that halted this access to healthcare - a fundamental right- is the stigma that comes with HIV/AIDS. More than four decades after the first clinical evidence, AIDS remains one of the most devastating diseases and one of the toughest battles that the world has ever given.<sup>35</sup>

Since the epidemic began, more than 60 million people have been infected with the virus and nearly 30 million people have died of HIV-related causes. AIDS is the sixth-largest cause of death worldwide. Since then, millions of cases that discern and profoundly distinguish the individuals being infected from HIV have been noted. A lack of respect for human rights and stigma exacerbates the impact of the disease, while at the same time it undermines the requested progress

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<sup>33</sup> Government of Netherlands, "Euthanasia, assisted suicide and non-resuscitation on request", accessed February 4, 2023, <https://www.government.nl/topics/euthanasia/euthanasia-assisted-suicide-and-non-resuscitation-on-request>

<sup>34</sup> Jane Wakefield, "Maker of Suicide Pod Plans to Launch in Switzerland," BBC News (BBC, December 9, 2021), accessed February 4, 2023, <https://www.bbc.com/news/technology-59577162>.

<sup>35</sup> "Human Rights-Based Approach to Ending AIDS as a Public Health Threat." UNAIDS, accessed January 22, 2023. <https://www.unaids.org/en/topic/rights>.





against HIV. Social, legal and economic conditions are also noticeable, especially for those living in poverty. It is also apparent in the fact that the overwhelming burden of the epidemic today is borne by developing countries, where the disease threatens to reverse vital achievements in human development<sup>36</sup>.

The most characteristic aspect of discrimination towards the people being infected with the HIV virus is the denial of plenty of insurance companies to offer them the appropriate protection<sup>37</sup>. Specifically, the insurance industry confronts its own racism by charging higher premiums for those with pre-existing conditions and their structured prescription drug limits the access to HIV medical care and antiretroviral medications. Lots of complaints have been noted, claiming that these companies have designed insurance plans in a way that is difficult for people with HIV/AIDS to obtain their medications<sup>38</sup>. This tactic is also detrimental for society as these medicines cannot only preserve health and extend the life of the carriers, but they can reduce further HIV transmission.

Since 1999, effective and sustainable response has made progress towards by supporting the work and the UNAIDS has played a key role in the battle to equal access to healthcare systems, eliminating the transmissions. Efforts through treaty bodies, resolutions, reviews, national human rights institutions, as well as mainstreaming issues within the broader UN system have been ensured. UNAIDS is leading a process for the development of updated HIV targets and estimates of the resources needed for the global AIDS response up to 2030<sup>39</sup>. Plenty of complaints have been filed against the insurance companies and some progress has been made. Affirmative, the Harvard

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<sup>36</sup> "HIV/AIDS and Human Rights." OHCHR, accessed January 22, 2023. <https://www.ohchr.org/en/health/hivaids-and-human-rights>.

<sup>37</sup> Hunt, Marianna. "'Toxic' Terms and HIV Discrimination: How Insurers Leave LGBT+ People Unprotected." *The Telegraph*, (2019). accessed July 6, 2019. <https://www.telegraph.co.uk/money/consumer-affairs/toxic-terms-hiv-discrimination-insurers-leave-lgbt-people-unprotected/>.

<sup>38</sup> Heitz, David. "Insurers Accused of Keeping HIV Medications Out of Patients' Reach." *Healthline*, (2019), accessed August 1, 2019. <https://www.healthline.com/health-news/lawsuit-accuses-insurers-withholding-hiv-medication-053014>.

<sup>39</sup> Content From: Andrew D. Forsyth, Senior Science Advisor, Office of HIV/AIDS and Infectious Disease Policy, U.S. Department of Health and Human Services, and Oskian Kouzouian, J.D., ORISE Fellow, AIDS.gov, U.S. Department of Health and Human Services, [Andrew D. Forsyth, Senior Science Advisor, Office of HIV/AIDS and Infectious Disease Policy, U.S. Department of Health and Human Services | HIV.gov](#)



University Law School's Center for Health Law and Policy Innovation (CHLPI)<sup>40</sup> announced a new strategy to help fight health insurance discrimination by raising awareness and encouraging the advocates and the carriers of the virus to file complaints of discrimination directly with State Departments of Insurance (DOI). The outputs will lead the global AIDS response from 2021 to 2030 by informing and planning, in order for the virus to be eliminated. It remains to be seen.

## Legal Framework

**The Universal Declaration of Human Rights (1948):** The Universal Declaration of Human Rights, ratified in 1948 after World War II, laid the foundation of international human rights law. It was the first universal statement on the basic principles of human rights law creating a common standard of achievement for all people and all nations. Some of the Articles worth mentioning are Articles 1–2 that establish the basic concepts of dignity, liberty, and equality, Articles 3–5 that define the right to life and enter the prohibition of slavery and torture, and lastly, Article 25, which is the cornerstone of the modern welfare state and social empathy, upholds an expansive right to an adequate standard of living, and makes special mention of care given to those in motherhood or childhood, establishing the right to healthcare<sup>41</sup>. As the former United Nations High Commissioner for Human Rights, Navi Pillay declared during the 60th anniversary of the Declaration that it «*is a single short document of 30 articles that has probably had more impact on mankind than any other document in modern history*»<sup>42</sup>.

**The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW):** The Convention on the Elimination of All Forms of Discrimination against Women<sup>43</sup>

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<sup>40</sup> Shachar, Carmel. "2015 Healthcare Marketplace & the HIV Community: A Review of EssenCal Health Benefits and Provider Networks." Center for Health Law and Policy Innovation, Harvard Law School, 2015. Available at <https://chlp.org/wp-content/uploads/2013/12/CHLPI-PACHA-Presentation-02.2015.pdf>

<sup>41</sup> "Universal Declaration of Human Rights." United Nations. United Nations. Accessed January 22, 2023. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

<sup>42</sup> United Nations High Commissioner for Human Rights Navi Pillay on the Occasion of the 60th Anniversary of the Universal Declaration of Human Rights, Statement, 2015, [Microsoft Word - Statement by the UN High Commissioner for Human Rights-E.docx \(ohchr.org\)](#)

<sup>43</sup> Henkin, Louis. *Human Rights*. (Foundation Press, 2009), p. 221.



(CEDAW), adopted in 1979 by the UN General Assembly, is often described as an “international bill” of rights for women<sup>44</sup>. It defines what constitutes discrimination against women, planning simultaneously an agenda for national and international action. Regarding bodily autonomy, Articles 1–6 focus on non-discrimination, sex stereotypes, and sex trafficking, while Articles 10–14 establish their right to health care and furthermore to safe abortions, a breakthrough against conservatism and cruel and inhumane treatment of women .

**Convention on the Rights of the Child (CRC):** The United Nations Convention on the Rights of the Child<sup>45</sup> (commonly abbreviated as the CRC or UNCRC) is an international human rights treaty which defines the civil, political, economic, social, health and cultural rights of children. Every child has basic rights, including the right to life, to their own name and identity. The core principles of the Convention are: non-discrimination, devotion to the best interests of the child, the right to life, survival and development, and respect for the views of the child, as well as child marriage and slavery. The Convention aims to uphold fundamental rights of the vulnerable children as they develop their physical, social and mental skills and knowledge with the danger of being exploited or harmed in every aspect of their harmonic growth.

## **General Comment 22 of the Committee of Economic, Social and Cultural Rights E/C.12/GC/22**

The present comment, being adopted by the Committee of Economic, Social and Cultural Rights, aims to preserve and protect the rights to sexual and reproductive health, as both of them being established by the International Covenant on Economic, Social and Cultural Rights. Due to numerous legal, procedural, practical and social barriers, the access to the full range facilities and information is dangerously restricted. The Resolution targets to examine the availability, the affordability and the quality of the offered facilities, the discrimination that plenty of female and intersex people face, calling simultaneously the Member-States to adopt national strategies in order

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<sup>44</sup>“Convention on the Elimination of All Forms of Discrimination against Women”, New York, 10 December 1979, United Nations Treaty Collection, accessed September 6, 2015, [UNTC](#)

<sup>45</sup> Trevor Buck, *International Child Law* (Routledge, 2014), p. 89.



to ensure the safe access, for example through the provision of medicines and transparent remedies, to legalize new policies and practices and to ensure the universal and equitable accessibility.

## **Human Rights Council Resolution A/HRC/40/L.10/Rev.1**

This examining Resolution was the first time that the Human Rights Council began the conversation regarding the meaning of bodily autonomy through the discussions considering the elimination of the discriminatory acts against women and girls in the sector of athleticism. Affirmative, recognizing the need to engage women and girls in the practice of sports and noting with concern that many women and girls face stigma socially and legally, calls upon the States to take immediate actions to eliminate the policies and practices that national sporting associations choose to be engaged to, leading to harmful and humiliating norms against the female world in contrast to the international human rights law. That is the reason why, the Council requested the United Nations High Commissioner for Human Rights to prepare a report on the intersection of race and gender discrimination in sports, declaring also that it will observe this issue carefully. It was a groundbreaking decision.

## **Conclusions**

The concept of protecting the right of Bodily Autonomy and Integrity, as it is proven with the aforementioned information, is multifaceted and complicated. Bodily autonomy is connected with the power to make choices over our bodies, without threats, violence or coercion. So there must be elaboration to find ways to promote this powerful message. As Margaret Sanger, activist and founder of the birth control movement in the United States and an international leader in the field<sup>46</sup> said *“No woman can call herself free who does not have own or control of her body. No woman can call herself free until she can choose consciously whether she will or will not be a mother.”*<sup>47</sup>

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<sup>46</sup> “Margaret Sanger,” Encyclopædia Britannica (Encyclopædia Britannica, inc.), accessed January 22, 2023, <https://www.britannica.com/biography/Margaret-Sanger>.

<sup>47</sup> *Ibid.*



Constraints on bodily autonomy lead to health consequences and low life quality. Bodily autonomy and bodily integrity are violated when a husband prevents a woman from using birth control. They are violated when a person is forced to unwanted and unsafe sex for an exchange. They are violated when people with diverse gender identities cannot choose the structure of their bodies. Nowadays, many of these violations are criminalized and globally condemned. But many other forms are “protected” by norms, and even laws, most of them driven by deeply rooted heteronormative patriarchal norms.

## **Points to be addressed**

- How can the international community help with the global legalization of the right Bodily Autonomy and Integrity?
- How could the Human Rights Council promote the protection of bodily autonomy?
- What are the possible measures that member states could adopt in order to ensure access to legal and safe abortion methods?
- How can the Human Rights Council promote discussions over the topic of marital rape?
- Is there a way that the Council promotes the agenda of creating a legal framework for the “right to die” ? Is it possible for the member states to have an effective national policy that respects this right also?
- Is there a way for the Human Rights Council to promote the removal of oppressive requirements for gender reassignment recognition?
- Can the Council take action against violent cultural customs?
- What is the role of the mass media in promoting the right to Bodily Autonomy in authoritarian states?
- How could the Human Rights Council help to equal access to the healthcare system?



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