

NCD Prevention and Control in the Caribbean ESSENTIAL CONSIDERATIONS FOR EQUITY-BASED AND RIGHTS-BASED APPROACHES

Policy brief

February 2023

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Acronyms and Abbreviations

CARICOM	Caribbean Community
CARPHA	Caribbean Public Health Agency
CDOH	Commercial Determinants of Health
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CESCR	Committee on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
COVID-19	Coronavirus disease of 2019
CSO	Civil Society Organisation
FCTC	Framework Convention on Tobacco Control
HCC	Healthy Caribbean Coalition
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
ICESCR	International Covenant on Economic, Social and Cultural Rights
NCDA	NCD Alliance
NCDs	Non-communicable Diseases
NCMs	National Coordination Mechanisms
NNCDC	National NCDs Commission
OHCHR	Office of the United Nations High Commissioner for Human Rights
PAHO	Pan American Health Organization
PHC	Primary Health Care
PLWNCDs	People Living with NCDs
POSD	Declaration of Port of Spain
SDGs	Sustainable Development Goals
SIDS	Small Island Developing States
TNA-NCDs	Transformative New Agenda for NCD Prevention and Control
UDHR	Universal Declaration of Human Rights
UHC	Universal Health Coverage
UN	United Nations
UNDP	United Nations Development Programme
UNIATF	United Nations Inter-Agency Task Force on NCDs
UNGA	United Nations General Assembly
UPR	Universal Periodic Review
WHO	World Health Organization

Key Messages

- 1** Non-communicable disease (NCD)* prevention and control demands multisectoral (whole-of-government), multistakeholder (whole-of-society, including civil society), and health-in-all-policies approaches, founded on principles of equity and the realisation of the right to health and other human rights, leaving no one behind.
- 2** Determinants of health, defined as the range of non-medical factors—including social, ecological, political, legal, cultural, and commercial—that combine to influence the health of individuals and communities, must be at the forefront of any policy that seeks to address the NCD burden in the Caribbean and beyond.
- 3** The connection between equity and NCDs creates an understanding of how NCD prevention and control must go beyond the provision of health care goods and services, considering existent inequities and the different impact that policies could have on people in disadvantaged contexts, when designing, monitoring, and evaluating programmes and developing strategies to tackle the determinants of health.
- 4** The human rights framework, grounded in principles of non-discrimination, participation, and accountability, are inextricably linked to the social, political, legal, commercial and other determinants of health, and the reduction of health inequities. The control and prevention of NCDs engage a wide range of indivisible, interdependent, and interrelated human rights, including the rights to health, to life, to adequate food, to information, to equality and non-discrimination, and to the benefits of scientific progress, among others.
- 5** Within the human rights framework, States are the main duty-bearers and have obligations to respect, protect, and fulfil all human rights. In the context of NCDs and their risk factors, there exist a number of effective interventions that can contribute to States' fulfilling these duties.
- 6** The duty to regulate commercial actors' activities is enshrined in the human rights obligation to protect. Although a multistakeholder approach is important, engagement with the commercial sector—given its connection with the commercial determinants of health and its impacts on equity and human rights—must be subjected to a framework that addresses conflict of interest, policy interference, and various types of undue influence. States must also adopt the necessary measures to investigate, sanction, and redress harms caused by commercial actors.
- 7** The priority actions proposed for achieving equity and human rights in policies for NCD prevention and control are: (1) collecting data, (2) establishing or strengthening multisectoral, multistakeholder actions, (3) enabling meaningful participation of people living with NCDs, young people and other groups in situations of vulnerability, (4) ensuring adequate planning, budgeting, and financing, (5) ensuring accountability, and (6) promoting, and building capacity for, equity- and rights-based approaches to NCD prevention and control.

* When NCDs are mentioned throughout this document it is implied that NCDs include mental, neurological and substance abuse disorders (MNSDs)

Introduction

Why this Brief?

Building on the January 2021 call for a [Transformative New NCD Agenda](#) (TNA-NCDs)¹ in the Caribbean, the [Healthy Caribbean Coalition](#) (HCC)² developed this Policy Brief to provide guidance on how to incorporate and leverage equity- and human rights-based approaches into policy and programme development for the prevention and control of NCDs in the region. This resource is also aimed at supporting the inclusion of equity- and human rights-based principles in civil society NCD advocacy in the Caribbean.

The TNA-NCDs and its [Action Plan](#),³ catalysed by the negative impact of the COVID-19 pandemic on persons living with NCDs (PLWNCDs) and the provision of NCD services, have principles of equity and human rights at their core, and enable outcomes that enhance human health, human security, and human capital. The new agenda is propelled by social activism by PLWNCDs, youth, other persons and groups in situations of vulnerability, and other key stakeholders in NCD prevention and control, over the life course.

This Policy Brief also builds on a number of regional initiatives related to NCDs, law, equity, and human rights in which the HCC is engaged,

including those related to [childhood obesity prevention](#),⁴ [healthy food and nutrition](#),⁵ and [strengthening food and nutrition security](#).⁶ The Brief complements HCC's calls for equity- and rights-based approaches to these issues, and provides not only guidance on the relevant framing of NCD policy and programming initiatives, but also indicates platforms and actors—including national multisectoral (whole-of-government) and multistakeholder (whole-of-society) entities, and regional intergovernmental bodies—that can support these approaches.

The Brief demonstrates the critical importance of NCD prevention and control in the region for reducing inequities and ensuring the realisation of human rights, especially the right to health and health-related rights (including the right to adequate food), as articulated in the [Constitution of the World Health Organization](#) (WHO),⁷ the [Universal Declaration of Human Rights](#) (UDHR),⁸ the [American Declaration of the Rights and Duties of Man](#) (American Declaration),⁹ and enshrined in international treaties such as the [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR)^{10,11} and the [Convention on the Rights of the Child](#) (CRC).^{12,13} The Brief

highlights these and other human rights instruments; considerations related to the social, political, legal, and commercial determinants of health, and their impact on equity and human rights; the importance of identifying persons and groups in situations of vulnerability; the imperative of robust information systems for health that provide evidence of the situation and needs of such persons and groups; and the necessity to adopt and implement regulatory interventions to prevent NCDs.

The Brief ends by proposing priority actions for the integration of equity- and rights-based

approaches and framing into policies for NCD prevention and control in the Caribbean.

The HCC endorses the need to promote a more inclusive NCD agenda, however this Brief focuses on the most prevalent NCDs in the Caribbean, namely cardiovascular diseases, cancer, diabetes, chronic respiratory diseases, and mental, neurological, and substance use disorders, which are associated with risk factors such as tobacco use, unhealthy diet, harmful alcohol consumption, physical inactivity, and air pollution.

Who is the target audience, and how should the Brief be used?

The Brief targets Caribbean policymakers in all sectors, health advocates, civil society organisations, and other key stakeholders in NCD prevention and control. The Brief should be used as a component of strategies to sensitise various audiences to equity- and rights-based

principles and actions that can be integrated into advocacy for, and the development, implementation, monitoring, and evaluation of, policies, programmes, and interventions for NCD prevention and control in the Caribbean.

¹ <https://www.healthycaribbean.org/wp-content/uploads/2021/01/TNA-NCD-FINAL.pdf>.

² <https://www.healthycaribbean.org/>.

³ <https://www.healthycaribbean.org/wp-content/uploads/2021/11/TNA-NCD-Action-Plan-web.pdf>.

⁴ <https://www.healthycaribbean.org/childhood-obesity-prevention/>.

⁵ <https://www.healthycaribbean.org/category/our-work/campaigns/>.

⁶ <https://www.healthycaribbean.org/strengthening-food-and-nutrition-security-in-the-caribbean-a-legacy-response-to-the-covid-19-pandemic/>.

⁷ https://treaties.un.org/doc/Treaties/1948/04/19480407_10-51_PM/Ch_IX_01p.pdf.

⁸ <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

⁹ <https://www.cidh.oas.org/basicos/english/basic2.american.declaration.htm#:~:text=AND%20DUTIES%20OF%20MAN&text=All%20men%20are%20born%20free,to%20the%20rights%20of%20all>.

¹⁰ <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

¹¹ Most of the Caribbean countries are parties to the ICESCR. See: United Nations Treaty Collection. International Covenant on Economic, Social and Cultural Rights. Available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-3&chapter=4 (12 independent CARICOM Member States are parties to the ICESCR, namely Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago. Saint Lucia and Saint Kitts and Nevis are not parties to the ICESCR.).

¹² <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

¹³ All independent CARICOM Member States are parties to the CRC. See: United Nations Treaty Collection. Convention on the Rights of the Child. Available at: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-11&chapter=4&clang=_en.

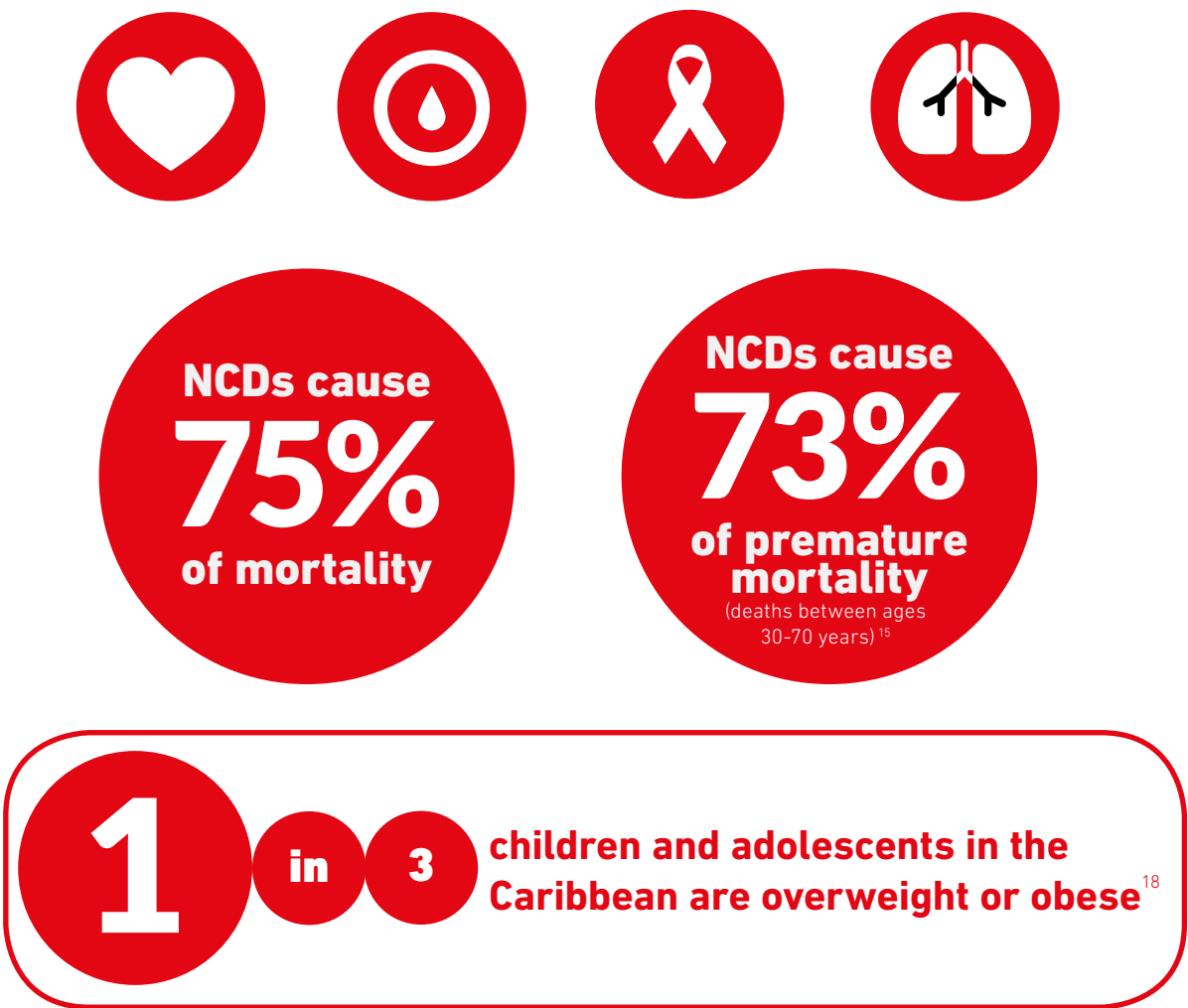
¹⁴ See: United Nations General Assembly (UNGA) 'Political declaration of the 3rd High-Level Meeting of the General Assembly on the Prevention and Control of Non-Communicable Diseases' UNGA Res 73/2. The 5x5 framework incorporates mental, neurological, and substance abuse conditions as a fifth category of NCDs as well as air pollution as a fifth NCD risk factor. Despite this expanded NCD perspective, this Brief primarily focuses on the 4x4 NCD framework. A more in depth analysis of the fifth NCD and risk factor, albeit important, goes beyond the scope of this Brief.

Background

NCDs in the Caribbean

In the Caribbean, NCDs cause 75% of mortality and 73% of premature mortality (deaths between ages 30–70 years) and four major NCDs – cardiovascular diseases, diabetes, cancer, and chronic respiratory diseases – are among the leading causes of death.¹⁵ The Caribbean has the

highest mortality rate related to these NCDs in the Region of the Americas^{16,17} and with one in three children and adolescents in the Caribbean being overweight or obese,¹⁸ the stage is set for the NCD crisis to worsen if effective measures are not taken, strengthened, and accelerated.



¹⁵ Hennis A. Technical Remarks: The impact of NCDs in the Caribbean. Presentation at Forum for Key Stakeholders on NCDs: Advancing the NCD Agenda in the Caribbean, 8–9 June 2015. Available at: <https://www.paho.org/hq/dmdocuments/2015/Technical-remarks-DrHennis-final.pdf>.
¹⁶ Pan American Health Organization (PAHO). Non-communicable diseases in the Region of the Americas: facts and figures. Washington, D.C.: PAHO; 2019. Available at: <https://iris.paho.org/handle/10665.2/51483>.
¹⁷ Razzaghi H, Martin DN, Quesnel-Crooks S et al. 10-year trends in noncommunicable disease mortality in the Caribbean. Pan Am J Pub Health 2019; 43:e37. DOI: 10.26633/RPSP.2019.37. Available at: <https://www3.paho.org/ods3/wp-content/uploads/2021/05/v43e372019.pdf>.
¹⁸ Caribbean Public Health Agency (CARPHA). Plan of action for promoting healthy weights in the Caribbean: Prevention and control of childhood obesity 2014–2019. Port of Spain, Trinidad and Tobago: CARPHA, 2014. Available at: <http://carpha.org/Portals/0/docs/HealthyWeights.pdf>.

In addition to being a serious health issue, NCDs also cause significant losses in productivity, with negative social and economic impacts, putting at risk the achievement of sustainable development, demonstrated nationally^{19,20} documented regionally,²¹ and expressed globally in the [2030 Agenda for Sustainable](#)

[Development](#)²² and its Sustainable Development Goals (SDGs). A core tenet of the 2030 Agenda is 'leaving no one behind', reflected in [SDG 3](#)²³ which seeks to 'ensure healthy lives and promote well-being for all at all ages', with [target 3.4](#)²⁴ specifically addressing NCDs.



SDG Target 3.4²⁴
Noncommunicable diseases and mental health:
By 2030, reduce by one third premature mortality from non-communicable diseases through prevention and treatment and promote mental health and well-being.

Despite commitments to NCD prevention and control from the [Caribbean Community \(CARICOM\)](#)²⁵ Heads of State and Government, including the [2001 Nassau Declaration](#)²⁶ and the [2007 Declaration of Port of Spain](#)²⁷ (POSD), the implementation of cost-effective, evidence-based policy options such as the [WHO Best Buys and Other Recommended Interventions](#)²⁸

and the fulfilment of regional commitments for NCD prevention and control are lagging,²⁹ mirroring the global situation.³⁰ The COVID-19 pandemic, ongoing since March 2020, has highlighted and worsened health inequities—differences in health outcomes and the disparate impact they have on people living

¹⁹ Ministry of Health, UN Inter-Agency Task Force (UNIATF), World Health Organization (WHO), and UN Development Programme (UNDP). The investment case for non-communicable disease prevention and control in Barbados. WHO and UNDP; 2015. Available at: <https://apps.who.int/iris/bitstream/handle/10665/259689/WHO-NMH-NMA-17.97-eng.pdf?sequence=1>.
²⁰ UNIATF, UNDP, and PAHO. The case for investment in prevention and control of noncommunicable diseases in Jamaica: evaluating the return on investment of selected tobacco, alcohol, diabetes, and cardiovascular disease interventions. Washington, D.C.: UNIATF, UNDP, and PAHO; 2018. Available at: https://iris.paho.org/bitstream/handle/10665.2/49693/9789275120545_eng.pdf?sequence=5&isAllowed=y.
²¹ Economic Commission for Latin America and the Caribbean (ECLAC), Subregional Headquarters for the Caribbean. Non-communicable diseases and their impact on sustainable development. Focus magazine Issue 1, January–March 2021. Port of Spain; ECLAC; 2021. Available at: https://www.cepal.org/sites/default/files/events/files/focus_2021_-_issue_1_-_ssdu_1.pdf.
²² <https://sdgs.un.org/2030agenda>
²³ <https://sdgs.un.org/goals/goal3>
²⁴ <https://www.who.int/data/gho/data/themes/topics/indicator-groups/indicator-group-details/GHO/sdg-target-3.4-noncommunicable-diseases-and-mental-health>
²⁵ <https://caricom.org/>.
²⁶ <https://caricom.org/nassau-declaration-on-health-2001-the-health-of-the-region-is-the-wealth-of-the-region/>.
²⁷ <https://caricom.org/declaration-of-port-of-spain-uniting-to-stop-the-epidemic-of-chronic-ncds/>.
²⁸ <https://www.who.int/publications/i/item/WHO-NMH-NVI-17.9>.
²⁹ Port of Spain Declaration Evaluation Group. Evaluation of the 2007 CARICOM Heads of Government Port of Spain NCD Summit Declaration. Executive Summary. Available at: <https://food4changecaribbean.org/wp-content/uploads/2016/10/ACCELERATING-ACTION-ON-NCDs-Executive-Summary-1.pdf>.
³⁰ World Health Organization independent high-level commission on noncommunicable diseases. Final report. It's time to walk the talk. Geneva: WHO; 2019. Available at: <https://apps.who.int/iris/handle/10665/330023>.

in vulnerable conditions that are unfair, unjust, avoidable, and remediable—causing more severe illness and more deaths in PLWNCDs, and disrupting essential NCD services, leading to calls to build back better and fairer during and after the pandemic.^{31,32,33} The Caribbean was not exempt from these impacts and, in recognition of the further threat posed to the already inadequate progress, in common with other authors,^{34,35,36} the [HCC call-to-action for the TNA-NCDs](#)³⁷ in the Caribbean emphasised the need to re-frame NCDs using constructs other than the biomedical model and sole reliance on lifestyle issues and personal responsibility.

Determinants of Health

Determinants of health⁴¹ are defined as the range of non-medical factors—including social, ecological, political, legal, commercial, and cultural factors—that combine to influence the health of individuals and communities.^{42,43} While a detailed discussion of all these determinants

Taking note of lessons learned from the Caribbean's successes in addressing human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) using equity- and rights-based multisectoral, multistakeholder approaches,^{38,39} such re-framing aims to highlight the impact of social, political, legal, commercial and other determinants of health on health outcomes, health equity, and the realisation of the right to health, and other interrelated human rights, and to spur improvements in human health, human security, and human capital.⁴⁰

is outside the scope of this Brief, summary information on selected determinants is presented below to illustrate how they fit within the context of NCD prevention and control, and how they are relevant to a human rights-based approach.

³¹ World Health Organization (WHO) and United Nations Development Programme (UNDP). Responding to non-communicable diseases during and beyond the COVID-19 pandemic. WHO and UNDP; 2020. Available at: https://www.who.int/publications/i/item/WHO-2019-nCoV-Non-communicable_diseases-Policy_brief-2020.1.

³² The Lancet. COVID-19: a new lens for non-communicable diseases. Lancet 2020; 396(10252):649. Available at: [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)31856-0/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)31856-0/fulltext).

³³ PAHO. Policy brief: Noncommunicable diseases in the era of COVID-19 and building back stronger NCD programs. Washington, D.C.: PAHO; December 2021. Available at: <https://iris.paho.org/handle/10665.2/55361>.

³⁴ Tan MMJ, Han E, Shrestha P et al. Framing global discourses on non-communicable diseases: a scoping review. BMC Health Serv Res 2021; 21:20 Available at: <https://bmchealthservres.biomedcentral.com/articles/10.1186/s12913-020-05958-0>.

³⁵ Heller O, Somerville C, Suggs LS et al. The process of prioritization of non-communicable diseases in the global health policy arena. Health Policy and Planning 2019; 34(5):370–383. Available at: <https://academic.oup.com/heapol/article/34/5/370/5519067?login=false>.

³⁶ Zuccala E and Horton R. Reframing the NCD agenda: a matter of justice and equity. Lancet 2020; 396(10256):939–940. Published online September 14, 2020. DOI: [https://doi.org/10.1016/S0140-6736\(20\)31910-3](https://doi.org/10.1016/S0140-6736(20)31910-3).

³⁷ <https://www.healthycaribbean.org/wp-content/uploads/2021/11/TNA-NCD-Action-Plan-web.pdf>.

³⁸ Joint United Nations Programme on HIV/AIDS (UNAIDS), World Health Organization, and the Caribbean Community. A study of the Pan Caribbean Partnership Against HIV/AIDS (PANCAP): common goals, shared response. Geneva: UNAIDS; 2004. Available at: https://www.unaids.org/en/resources/documents/2004/20041206_jc1089-pancap_en.pdf.

³⁹ Mulusa M and Carpio C. Action through partnerships: The Pan-Caribbean Partnership Against HIV/AIDS (PANCAP). En Breve. Washington, D.C.: 2005; World Bank. Available at: https://web.worldbank.org/archive/website00173/WEB/PDF/WW1_5393.PDF.

⁴⁰ Healthy Caribbean Coalition (HCC). NCDs and COVID-19 in the Caribbean: a call to action—the case for a Transformative New NCD Agenda. Bridgetown: HCC; 2021. Available at: <https://www.healthycaribbean.org/wp-content/uploads/2021/01/TNA-NCD-FINAL.pdf>.

⁴¹ For the purposes of this Brief, 'determinants of health' excludes biological determinants such as genetics and immunological status.

⁴² World Health Organization. Determinants of health. 3 February 2017. Available at: <https://www.who.int/news-room/questions-and-answers/item/determinants-of-health>.

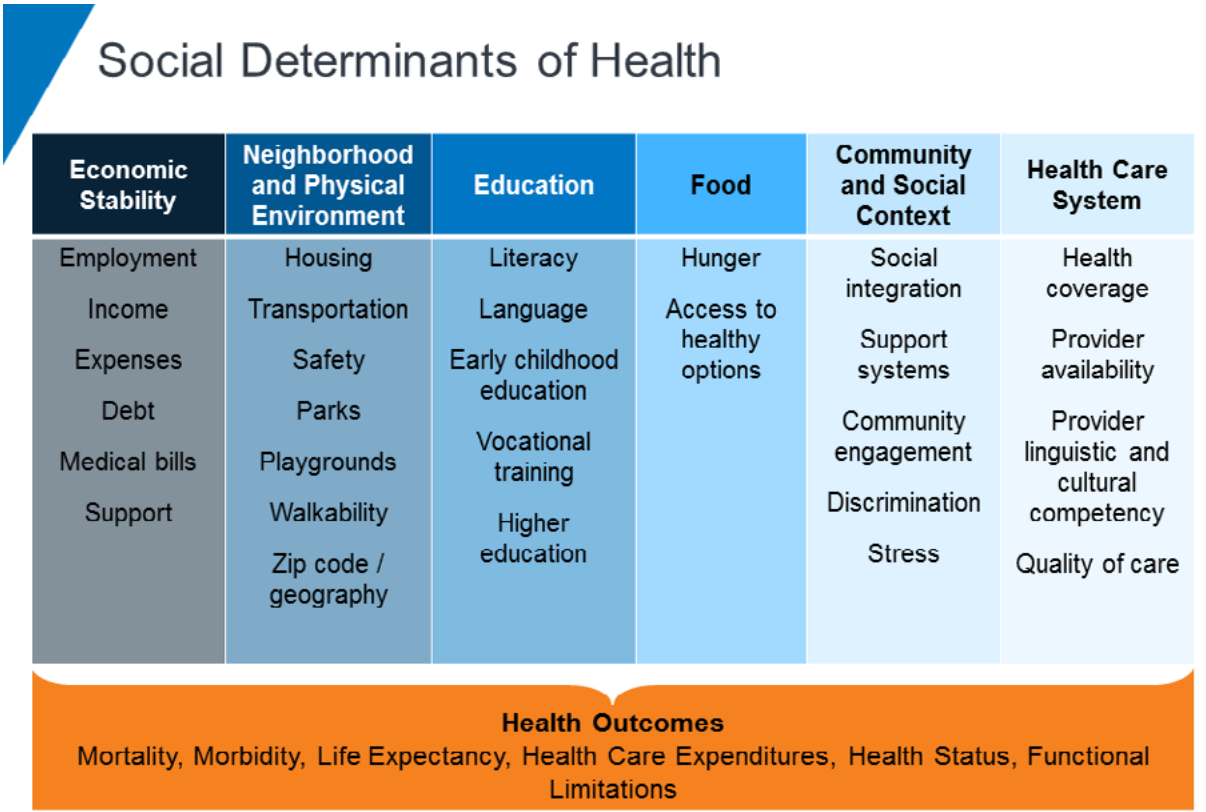
⁴³ Australia Public Health Association. What are the determinants of health? Monograph, May 2018. Available at: <https://www.phaa.net.au/documents/item/2756>.

Social determinants of health

The *social determinants of health* are the conditions in which people are born, grow, work, live, and age, and the wider set of forces and systems shaping the conditions of daily life.⁴⁴ These forces and systems include economic policies and systems, development agendas, social norms, social policies, and political systems, include factors that provide economic stability (ex: employment status and income);

geographical location and physical environment (ex: rural or urban settings); level of education and literacy (ex: health literacy); access to healthy food and nutrition; discrimination on the basis of age, sex, gender, ethnicity, religion, immigration status, or other factors; and the characteristics of the health system, among others (Figure 1).

Figure 1. Social determinants of health



Source: Artiga S and Hinton E. Beyond health care: the role of social determinants in promoting health and health equity. Henry J Kaiser Family Foundation (KFF), published May 10, 2018.⁴⁵

⁴⁴ World Health Organization. Social determinants of health. Available at: https://www.who.int/health-topics/social-determinants-of-health#tab=tab_1.

⁴⁵ Artiga S and Hinton E. Beyond Health Care: The Role of Social Determinants in Promoting Health and Health Equity. Kaiser Family Foundation. May 10, 2018. Available at: <https://www.kff.org/racial-equity-and-health-policy/issue-brief/beyond-health-care-the-role-of-social-determinants-in-promoting-health-and-health-equity/>.

Political determinants of health

The *political determinants of health* examine “how different power constellations, institutions, processes, interests, and ideological positions affect health within different political systems and cultures and at different levels of governance”.⁴⁶ The policies and policy environments that influence health and that are associated with intersectoral action are influenced by “*ideologies—ideas, values, and*

*beliefs that influence political positions and the framing employed to inspire action”; “interests— incentives facing stakeholders to engage on specific issues and the power they wield as well as the commitment with which those interests are pursued”; and “institutions—structural factors that shape the rules governing policy processes.”*⁴⁷

“*From a political perspective, leadership on intersectoral action would be more forthcoming if there were demands from civil society.... And sectoral leadership would be more responsive to intersectoral action if inspired by the vision of what it can deliver, transcending the insular mantras and priorities of any individual sector. Compelling narratives are also key to mobilising politicians and the public... putting people, as opposed to economic growth, at the centre of policy can help secure support.*”⁴⁸

Legal determinants of health

The law is also a determinant of health, presenting opportunities for creating more equitable conditions to enable people to lead healthier and safer lives, or, on the contrary, generating barriers for achieving equity and realising those goals.⁴⁹ Defined as “statutes, treaties, and regulations that express public policy, as well as the public institutions (e.g. courts, legislatures, and agencies) responsible for creating, implementing, and interpreting the

law”,⁵⁰ the law can have powerful impacts—either positive or negative—on the social determinants of health.⁵¹

If well-designed, the law can “help build strong health systems, ensure safe and nutritious foods, evaluate and approve safe and effective drugs and vaccines, create healthier and safer workplaces, and improve the built and natural environments.”⁵² This can be done through direct regulation, indirect regulation through

taxation and spending or tort liability, and deregulation, for example.⁵³ Doing so would improve health and sustainable development equitably and with justice.

However, if the law is not well-designed, and implemented effectively, it can either intentionally or unintentionally harm health, particularly for communities living in vulnerable conditions, as well as perpetuate existing stigma and discrimination.⁵⁴ Laws that are “misguided, outdated, arbitrary, or discriminatory”⁵⁵ can cause great harm and should be overturned and changed where possible.

Commercial determinants of health

The *commercial determinants of health* (CDOH) have emerged as a critical framework for understanding the impacts of commercial actors’ behaviour on health of the population. Defined by the WHO as the “private sector activities that affect people’s health positively or negatively”, CDOH influence the “social, physical and cultural environments through business actions and societal engagements”,⁵⁶ making them particularly relevant in the context of NCDs. A wide range of health outcomes may be impacted by corporations’ *business practices*, such as control of the supply chain and market concentration through, for example, mergers and acquisitions; their *market practices*, such as product development, pricing, and marketing, including advertising and retail distribution;

In the context of NCD prevention and control, the legal determinants of health are relevant, as there exist a number of legal and regulatory measures that, if effectively created, adopted, and implemented, would contribute to addressing this crisis in an equitable manner and in line with human rights. Regulatory capacity, including the capacity to draft, implement, enforce and evaluate NCD policies and legislation, is also an important element when considering the legal determinants of health.

and their *political practices*, aimed at securing a favourable policy environment for their products and profit.⁵⁷

Moving away from the notion that NCDs are caused primarily by individual choices, the framing of CDOH helps in understanding how corporations and their actions are themselves responsible for contributing to the creation of health-harming environments and thereby to the rising burden of NCDs. Thus, power imbalances in governance systems, corporate practices, and the concentration of economic power into fewer and fewer transnational corporations—especially in the tobacco, alcohol, and food and beverages sectors—have been noted as threats to health.⁵⁸

⁴⁶ Kickbusch I. The political determinants of health - 10 years on, BMJ 2015; 350:h81. Available at: <https://www.bmj.com/content/350/bmj.h81>; Mackenbach JP. Political determinants of health. European J of Public Health, 2014; 24(1):2. Available at: <https://pubmed.ncbi.nlm.nih.gov/24465018/>.

⁴⁷ The Lancet. COVID-19: a new lens for non-communicable diseases. Lancet 2020, 396(10252):649. Available at: [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)31856-0/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)31856-0/fulltext).

⁴⁸ Buse K, Tomson G, Kuruvilla S, et al. Tackling the politics of intersectoral action for the health of people and planet. BMJ 2022; 376:e068124. Available at: <https://www.bmj.com/content/376/bmj-2021-068124>.

⁴⁹ Prof. Gostin LO, Monahan JT, Kador J, et al. The legal determinants of health: harnessing the power of law for global health and sustainable development. (2019) 393:10193 The Lancet Commissions P1857-1910, p.1859. Available at: [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(19\)30233-8/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(19)30233-8/fulltext) [hereinafter Lancet 2019].

⁵⁰ Lancet 2019, p. 1859.

⁵¹ Lancet 2019, p. 1857.

⁵² Lancet 2019.

⁵³ Gostin LO and Wiley LF. Public Health Law Power, Duty, and Restraint. (3rd ed, University of California 2016), p. 27.

⁵⁴ Lancet 2019.

⁵⁵ Lancet 2019, p. 1859.

⁵⁶ World Health Organization. Commercial determinants of health. Fact sheet 5 November 2021. Available at: <https://www.who.int/news-room/fact-sheets/detail/commercial-determinants-of-health>.

⁵⁷ Mialon M. An overview of the commercial determinants of health. Global Health 2020; 16(74). Available at: <https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-020-00607-x>.

⁵⁸ Swinburn B, Kraak VI, Allender S, et al. The global syndemic of obesity, undernutrition, and climate change: The Lancet Commission report. Lancet 2019; 393:791-846. Available at: <https://www.thelancet.com/action/showPdf?pii=S0140-6736%2818%2932822-8>.

The COVID-19 pandemic has emphasised the power held by corporations, highlighting how they have presented themselves as supporters of health while simultaneously aggressively marketing unhealthy products and actively aiming at preventing the adoption and implementation of public health measures.⁵⁹ Such tactics have included, but are not limited to, co-opting legislators and regulators, funding organisations that appear to be community-based and scientists that produce evidence that align with corporations' interests, and engaging in litigation against governments.⁶⁰ Through these activities, corporations are able to exert undue influence such that the policy making process is "shifted away from the public interest towards narrow private interests".⁶¹

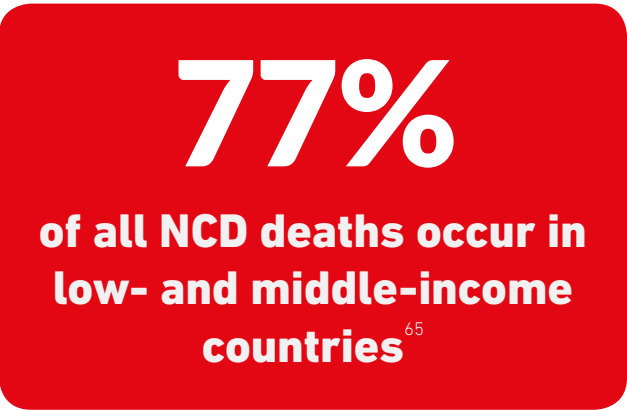
From the human rights-based perspective, the lens of the CDOH highlights the duty of governments to regulate the behaviour of private

entities, including by establishing policies and mechanisms to identify, prevent, mitigate, and manage undue influence on policy making processes, that address potential and actual conflict of interests. Doing so would secure the policy development space and process against vested interests.⁶² The connection between CDOH and the duties of governments created under the human rights framework will be explored later.

This brief overview of the determinants of health illustrates how many of the solutions to the world's health issues, including NCDs, lie outside the purview of the health sector, reinforcing the need for effective whole-of-government, health-in-all-policies, whole-of-society approaches to NCD prevention and control. The determinants of health must be at the forefront of any policy that seeks to address this problem.

Equity and NCDs

Equity is the absence of unfair, unjust, avoidable, or remediable differences among groups of people, whether those groups are defined socially, economically, demographically, geographically, by other dimensions of inequality, such as sex, gender, ethnicity, disability, sexual orientation or health status, or by the vulnerable contexts in which they live.⁶³ Health equity is achieved when everyone can attain their full potential for health and well-being.⁶⁴



The reduction of inequities is a critical strategy for effective NCD prevention and control that leaves no one behind. Although NCDs were traditionally viewed as "lifestyle diseases" affecting primarily high-income countries and people, by 2021 77% of all NCD deaths occur in low- and middle-income countries⁶⁵ and, within each country, people of lower education and economic status are disproportionately exposed to risk factors of NCDs and are in turn impacted by these diseases.⁶⁶

The determinants of health, as described above, have significant impact on the realisation of health equity, and have directly contributed to the unequal burden of NCDs that exists both between and within countries. First, the social factors that determine the conditions in which people are born, grow, live, work, and age are directly "responsible for the patterns of distribution of disability and mortality from NCDs" and depend, in large part, on dimensions of social structures such as socioeconomic status, gender, ethnicity, and disability.⁶⁷ Compounding these inequities are discriminatory practices that are often embedded at institutional and systems levels, where groups in situations of vulnerability are under-represented, underserved, or excluded in decision-making processes.

The CDOH have also been identified as key drivers of health inequities both between and within countries.⁶⁸ Inequity in the distribution of NCDs is exacerbated by the activities of commercial actors, reinforcing situations such as food insecurity, alcohol and tobacco use in certain regions, for example. Commercial actors also take advantage of unregulated environments (common in low- and middle-income countries and small island developing states) to advertise, promote, and sell health-harming products, while not being held accountable for the adverse impacts of their activities on human rights. Further, within countries, persons such as children and persons

⁵⁹ Collin J, Ralston R, Hill SE, et al. Signalling virtue, promoting harm: unhealthy commodity industries and COVID-19. NCD Alliance and SPECTRUM Research Consortium, September 2020. Available at: https://ncdalliance.org/sites/default/files/resource_files/Signalling%20Virtue%2C%20Promoting%20Harm_Sept2020_FINALv.pdf.

⁶⁰ Barbosa I, Rios B, Tovar Ramirez A. State Obligations in the Context of Unhealthy Diets: Paving the Way within the Inter-American Human Rights System. Revista Internacional de Derechos Humanos 2021; 11(1): 43-72(54). Available at: <https://ojs.austral.edu.ar/index.php/ridh/article/view/647/905>.

⁶¹ Hernández-Aguado I, Chilet-Rosell E. Pathways of undue influence in health policy-making: a main actor's perspective. J Epidemiol Community Health 2018;72:154-159. <http://dx.doi.org/10.1136/jech-2017-209677>.

⁶² Healthy Caribbean Coalition. Conflict of interest in policy making for non-communicable diseases: a primer for public sector policymakers in the Caribbean. Bridgetown: HCC; 2022.

⁶³ Individuals and groups in situations of vulnerability, such as PLWNCs, people living in poverty, people living with disabilities, people of certain races or ethnicities, Indigenous people, some migrants, children and adolescents, older people, women, people in emergency settings or humanitarian crises, LGBTIQ+ people, and others perceived to be not conforming to 'accepted norms', are often negatively impacted by discrimination, stereotyping, prejudice, and social exclusion.

⁶⁴ World Health Organization. Health equity. https://www.who.int/health-topics/health-equity#tab=tab_1.

⁶⁵ World Health Organization. Noncommunicable Diseases. 13 April 2021. Available at: <https://www.who.int/news-room/fact-sheets/detail/noncommunicable-diseases>.

⁶⁶ NCD Alliance. NCDs and Sustainable Development. Available at: <https://ncdalliance.org/why-ncds/ncds-and-sustainable-development>.

⁶⁷ Marmo M, Bell R. Social determinants and non-communicable disease: time for integrated action. BMJ 2019; 364:1251. Available at: <https://www.bmj.com/content/364/bmj.1251>.

⁶⁸ World Health Organization. Commercial determinants of health. 5 November 2021. Available at: <https://www.who.int/news-room/fact-sheets/detail/commercial-determinants-of-health>.

Human Rights and NCDs

The right to health and health-related rights

living in poverty who are already vulnerable due to their socioeconomic status, age, or some other factor, are often disproportionately the target of corporate tactics, such as marketing.⁶⁹ Low- and middle-income countries, and small island developing states (SIDS) in particular, are among those that are most vulnerable to pressures of commercial influences from multinational actors.⁷⁰ For example, SIDS are generally more commodity-dependent economies and therefore influenced by corporate activities that do not necessarily align with health interests.

The nexus between NCD prevention and control and health equity has been addressed in the 2030 Agenda for Sustainable Development, which promises, as one of its core principles, to [leave no one behind](#).⁷¹ This promise includes the requirement of “combating discrimination and rising inequalities within and amongst countries, and their root causes.”⁷² NCDs have been identified as social and health issues in and of themselves, but are also barriers for achieving many of the other SDGs such as ending poverty, achieving zero hunger, and ensuring quality education, for example. In this way, the health consequences of NCDs not only impact individuals and societies inequitably, but they also contribute to exacerbating overall inequities in society.

An understanding of the connection between equity and NCDs highlights the need for NCD prevention and control to go beyond the provision of health care. Interventions must consider existent inequities and the differing impact that policies could have on people in disadvantaged contexts. These factors must be taken into consideration when designing, monitoring and evaluating programmes,⁷³ and developing strategies to tackle the determinants of health.

Moreover, an equity approach is in accordance with a human rights-based approach to NCD prevention and control, which will be discussed in the following section. At its core, equity aligns itself with key human rights principles of equality and non-discrimination, which are necessary for the fulfilment of inalienable economic, social, and cultural rights such as an adequate standard of living, health, and education.⁷⁴ Furthermore, human rights mandates that all health facilities, goods, and services must be available to all people, particularly those living in vulnerable contexts, without discrimination.⁷⁵ The following section will elucidate some of these connections by delving into States’ obligations to address NCDs under human rights law.

All human rights are indivisible, interdependent, and interrelated. This means that all human rights—whether political, civil, social, cultural, economic, or environmental—are of equal importance and cannot be effectively realised without the others.⁷⁶ NCDs illustrate this connection, both in relation to their impacts on several human rights and regarding the States’ obligations to respect, protect, and fulfil such rights. Thus, the rights to health, to life, to adequate food, to information, to equality and non-discrimination, and to enjoy the benefits of scientific progress and its applications,⁷⁷ among others, are germane to the prevention and control of NCDs.

Although a wide range of human rights are involved, the right to health is central to the discussion of NCDs. First recognized in the [Constitution of the WHO](#)⁷⁸ as “one of the fundamental rights of every human being” and in the [UDHR](#)⁷⁹ as the “right to a standard of living adequate for health and well-being”, the right to health encompasses “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”, according to article 12 of the [ICESCR](#).⁸⁰ In the context of

the Inter-American System, the [American Declaration](#)⁸¹ and the [American Convention on Human Rights](#)⁸² have also recognized the right to health under article 26.

The [Committee on Economic, Social and Cultural Rights](#) (CESCR),⁸³ the authoritative body of interpretation of the ICESCR, emphasised a broad conception of the right to health that goes beyond merely the provision of clinical care, and encompasses the underlying determinants of health, “such as access to safe and potable water, and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information...”⁸⁴.

Specifically, placing NCDs well within its purview, the right to health covers the prevention, treatment, and control of diseases, including “epidemic, endemic, occupational and other diseases”,⁸⁵ requiring the promotion of determinants of good health.⁸⁶ In addition, intrinsically associated with the prevention and control of NCDs and their risk factors, there are core obligations for States under the

⁶⁹ See: UN Committee on Economic, Social and Cultural Rights. General Comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, paras 8-9. 10 August 2017. UN Doc E/C.12/GC/24. Available at <https://bit.ly/General-comment-No24-2017> [hereinafter CESCR General Comment 24]; Harris JL, Targeted Food Marketing and Hispanic Consumers: The Tobacco Playbook, American Journal of Public Health; Washington Vol. 110, Iss. 3, (Mar 2020): 217-272. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7002963/>; Nguyen KH, Glantz SA., Palmer CN and Schmidt LA. Transferring Racial/Ethnic Marketing Strategies from Tobacco to Food Corporations: Philip Morris and Kraft General Foods. 2020. American Journal of Public Health, 110(3), 329-336. Available at: <https://pubmed.ncbi.nlm.nih.gov/31944842/>; Ferdman RA. The disturbing ways that fast food chains disproportionately target black kids. 12 November 2014. The Washington Post. Available at: <https://www.washingtonpost.com/news/wonk/wp/2014/11/12/the-disturbing-ways-that-fast-food-chains-disproportionately-target-black-kids/?outputType=amp>.

⁷⁰ World Health Organization. Commercial determinants of health. 5 November 2021. Available at: <https://www.who.int/news-room/fact-sheets/detail/commercial-determinants-of-health>.

⁷¹ <https://unsdg.un.org/2030-agenda/universal-values/leave-no-one-behind>.

⁷² United Nations Sustainable Development Group. Leave No One Behind. Available at: <https://unsdg.un.org/2030-agenda/universal-values/leave-no-one-behind>.

⁷³ Gruskin S, Ferguson L, Tarantola D, et al. Non-communicable diseases and human rights: a promising synergy. Am J Public Health 2014; 104(5): 773-775. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3987606/>

⁷⁴ See: UN Committee on Economic, Social and Cultural Rights. General Comment No. 20 (2009) Non-discrimination in economic, social and cultural rights (art. 2, para 2, of the International Covenant on Economic, Social and Cultural Rights) 2 July 2009. UN Doc E/C.12/GC/20. Available at: <https://www.refworld.org/docid/4a60961f2.html> [hereinafter CESCR General Comment 20].

⁷⁵ United Nations Committee on Economic, Social and Cultural Rights. General Comment 14: Article 12 (The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights). 22nd Sess., adopted 11 Aug. 2000. U.N. Doc E/C.12/2000/4. para. 12.b [hereinafter CESCR General Comment 14].:

⁷⁶ United Nations Population Fund. Human Rights Principles. 2005. Available at: <https://www.unfpa.org/resources/human-rights-principles#:~:text=Human%20rights%20are%20universal%20and,religious%2C%20cultural%20or%20ethnic%20background>.

⁷⁷ International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3, Articles 2 (non-discrimination), 11 (adequate food), 12 (right to health), 15 (benefits of scientific progress) [hereinafter ICESCR]; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), Article 6 (right to life) [hereinafter ICCPR]. See also: Constantin A, Cabrera O.A, Ríos B, et al. A human rights-based approach to non-communicable diseases: mandating front-of-package warning labels. Global Health 17, 85 (2021). Available at: <https://doi.org/10.1186/s12992-021-00734-z>.

⁷⁸ <https://apps.who.int/gb/bd/PDF/bd47/EN/constitution-en.pdf?ua=1>.

⁷⁹ <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

⁸⁰ <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

⁸¹ <https://www.cidh.oas.org/basicos/english/basic2.american.declaration.htm>.

⁸² <https://www.cidh.oas.org/basicos/english/basic3.american.convention.htm>.

⁸³ A body of independent experts that monitors the implementation of the ICESCR and provides authoritative guidance on the substantive and procedural aspects of each right. <https://www.ohchr.org/en/treaty-bodies/cescr>.

⁸⁴ CESCR General Comment 14, para 11.

⁸⁵ ICESCR, article 12.c.

⁸⁶ CESCR General Comment 14, para 16.

right to health, that include, among others, to ensure access to: i) “health facilities, goods, and services on a non-discriminatory basis, especially for vulnerable or marginalized groups”,⁸⁷ ii) “the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone”,⁸⁸ and iii) “adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the whole population...”⁸⁹ Furthermore, “taking measures to prevent, treat, and control epidemic diseases”, such as NCDs, is among the obligations of comparable priority.⁹⁰

Although the right to health and other economic and social rights have been associated with obligations of progressive realisation, there are obligations of immediate effect such as ensuring that the right is exercised without discrimination, and taking deliberate and continued steps⁹¹ “to move as expeditiously and effectively as possible towards the full realization”⁹² of the right. The adoption of regulations to realise human rights obligations, discussed below, are also not subject to progressive realisation because they do not depend on allocation of resources of the State.⁹³

[General Comment No. 3](#) (1990)⁹⁴ of the CESCR emphasises that ‘progressive realisation’ of the ICESCR “should not be misinterpreted as depriving the obligation of all meaningful content...” and that “the phrase must be read in the light of the overall objective, indeed the *raison d’être*, of the Covenant, which is to establish clear obligations for States Parties in respect of the full realisation of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal. Moreover, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources.”

The Committee also “underlines the fact that even in times of severe resource constraints, whether caused by a process of adjustment, of economic recession, or by other factors, the vulnerable members of society can, and indeed must, be protected by the adoption of relatively low-cost targeted programmes.”⁹⁵

In addition to the right to health, NCDs and their modifiable risk factors have been linked to other human rights. Thus, regulations on tobacco use, harmful alcohol consumption, and unhealthy diets are connected to the right to access truthful, accurate, complete, and reliable information that ultimately enables consumers to make informed consumption decisions. In the context of tobacco control, the [WHO Framework Convention on Tobacco Control](#)⁹⁶ (FCTC),⁹⁷ by establishing a minimum set of tobacco control obligations on States, may be used to promote rights-compliant measures.⁹⁸ Thus, the FCTC affirms the right to health in its preamble, as well as other human rights, such as the right to access information, directly and indirectly, in its provisions.⁹⁹ The right to information is central in tackling aggressive advertising, promotion, and sponsorship of tobacco products, as well as the deceptive packaging and labelling practices that target vulnerable groups and downplay the harms of their products.¹⁰⁰

Regarding unhealthy diets, a former Special Rapporteur on the right to health identified front-of-package warning labels as a critical intervention to counter industry tactics and to help consumers make healthy and informed decisions.¹⁰¹ Harmful alcohol consumption is also linked to the right to access information, as evidenced by warning label requirements and advertising restrictions as human rights-compliant alcohol control measures.¹⁰²

Particularly, the promotion of adequate and sustainable healthy diets and the consequential measures to discourage unhealthy diets have an essential connection with the right to adequate food, which is enshrined as a stand-alone right in Article 11 of the ICESCR and also considered as a right protected under Article 26 of the American Convention.¹⁰³ The right to adequate food entails the obligation of States to “ensure (...) access to the minimum essential food which is sufficient, nutritionally adequate and safe...”¹⁰⁴. In this sense, it has

⁹⁶ <https://fctc.who.int/who-fctc/overview>.

⁹⁷ The WHO FCTC was adopted in 2003 and came into force in 2005. All independent Caribbean countries are parties to this treaty. See: United Nations Treaty Collection, Framework Convention on Tobacco Control. Available at: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsq_no=IX-4&chapter=9&clang=_en.

⁹⁸ Cabrera OA and Gostin LO. Human Rights and the Framework Convention on Tobacco Control: Mutually Reinforcing Systems. April 23, 2012. International Journal of Law in Context. Cambridge University Press 7(3): 285-303. Available at: <https://ssrn.com/abstract=2044796>.

⁹⁹ WHO. Framework Convention on Tobacco Control (WHO FCTC). 2003. Available at: <http://apps.who.int/iris/bitstream/handle/10665/42811/9241591013.pdf?sequence=1>, Article 10 (Regulation of product disclosures) (“Each Party shall further adopt and implement effective measures for public disclosure of information about the toxic constituents of tobacco products and the emissions that they may produce.”); Article 11 (Packaging and labelling of tobacco products); and Article 12 (Education, communication, training and public awareness). See also: Cabrera OA. and Gostin LO. Human Rights and the Framework Convention on Tobacco Control: Mutually Reinforcing Systems. April 23, 2012. International Journal of Law in Context. Cambridge University Press 7(3): 285-303. Available at: <https://ssrn.com/abstract=2044796>.

¹⁰⁰ WHO FCTC, Articles 10 (Regulation of tobacco product disclosures) and 11 (Packaging and labelling of tobacco products). See also: Cabrera OA. and Gostin LO. Human Rights and the Framework Convention on Tobacco Control: Mutually Reinforcing Systems. April 23, 2012. International Journal of Law in Context. Cambridge University Press 7(3): 285-303. Available at: <https://ssrn.com/abstract=2044796>.

¹⁰¹ United Nations Human Rights Office of the High Commissioner. Danius Puras, Statement of the UN Special Rapporteur on the right to health on the adoption of front-of-package warning labelling to tackle NCDs (27 July 2020). Available at: <https://www.ohchr.org/en/statements/2020/07/statement-un-special-rapporteur-right-health-adoption-front-package-warning>.

¹⁰² CESCR General Comment 14, para 36 (“Further obligations include...information campaigns, in particular with respect to...the abuse of alcohol and the use of cigarettes, drugs and other harmful substances.”). See also: Slattery C. Using Human Rights Law to Progress Alcohol Control. European Journal of Risk Regulation, 12 (2021), pp. 444-459.

¹⁰³ See: Inter-American Court of Human Rights. Case of Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina, Merits, Reparations and Costs. (February 6, 2020).

¹⁰⁴ UN Committee on Economic, Social and Cultural Rights. General Comment 12: The Right to Adequate Food (Article 11), para 14. 20th Sess. Adopted 12 May 1999. UN Doc E/C.12/1999/5. Available at <https://www.refworld.org/pdfid/4538838c11.pdf> [hereinafter CESCR General Comment 12].

⁸⁷ CESCR General Comment 14, para 43(a).

⁸⁸ CESCR General Comment 14, para 43(b).

⁸⁹ CESCR General Comment 14, para 43(f).

⁹⁰ CESCR General Comment 14, para 44(c).

⁹¹ CESCR General Comment 14, para 30.

⁹² CESCR General Comment 14, para 31.

⁹³ Inter-American Court of Human Rights. Case of the Workers of the Fireworks Factory in Santo Antônio de Jesus and their Families v. Brazil. Preliminary Objections, Merits, Reparations and Costs. (July 15, 2020).

⁹⁴ <https://www.refworld.org/pdfid/4538838e10.pdf>.

⁹⁵ Office of the United Nations High Commissioner for Human Rights. CESCR General Comment No. 3: The Nature of States Parties’ Obligations (Art. 2, Para. 1, of the Covenant). Adopted at the Fifth Session of the Committee on Economic, Social and Cultural Rights, on 14 December 1990 (contained in Document E/1991/23). Available at: <https://www.refworld.org/pdfid/4538838e10.pdf> [hereinafter CESCR General Comment 3].

been understood that States should prioritise “access to adequate diets that are socially and environmentally sustainable over the mere provision of cheap calories”,¹⁰⁵ and approach food safety in a broad manner, “to include the nutritional value of food products”.¹⁰⁶

Across these risk factors to NCDs, the human right to equality and non-discrimination is also engaged. Given the disproportionate impact of NCDs on people living in vulnerable contexts, and the tobacco, food, and alcohol industries’ practice of targeting persons living in poverty, specific racial and ethnic groups, and children,¹⁰⁷ States shall adopt measures to guarantee enjoyment of all rights, without discrimination and to ensure equality for people that have faced historical discrimination.¹⁰⁸ The need for measures to address inequalities in relation to people suffering due to NCDs have been highlighted by the [UN Inter-Agency Task Force](#)

[on Non-communicable Diseases](#)¹⁰⁹ (UNIATF)¹¹⁰. Throughout the COVID–19 pandemic, people living in disadvantaged contexts experienced COVID-19 and NCDs as “a co-occurring, synergistic pandemic that is interacting with and increasing social and economic inequalities.”¹¹¹

From among those targeted specifically by the unhealthy commodities’ industry, children are recognized as being especially vulnerable.¹¹² Children’s rights, therefore, including but not limited to, their rights to health, to education, and to play, are directly impacted by NCDs and their risk factors.¹¹³ The CRC¹¹⁴ imposes specific duties on States related to the right to health. For example, States are to address obesity in children¹¹⁵ and protect them from alcohol and tobacco, including through the “regulation of advertising and sale of substances harmful to children’s health and of the promotion of such items in places where children congregate, as

well as in media channels and publications that are accessed by children...”¹¹⁶ In addition, [General Comment No. 15 \(2013\)](#)¹¹⁷ also provides recommendations to private companies, to “limit advertisement of energy-dense, micronutrient-poor foods, and drinks containing high levels of

caffeine or other substances potentially harmful to children; and refrain from the advertisement, marketing and sale to children of tobacco, alcohol and other toxic substances or the use of child images”.¹¹⁸

State obligations to respect, protect, and fulfil human rights

Within the human rights framework, States are the main duty-bearers and have obligations to *respect, protect*, and *fulfil* all human rights.¹¹⁹ First, the *obligation to respect* requires States to refrain from interfering directly or indirectly with the enjoyment of the right to health and other human rights.¹²⁰ Bearing in mind the content of human rights previously presented, such an obligation requires, for example, that States not behave in a way that promotes or incentivizes the consumption of unhealthy products that are associated with NCDs.

Against the backdrop of tactics used by corporations to influence consumer choices and to oppose, weaken, or delay the adoption of regulations that would address risk factors of NCDs, the *obligation to protect* requires States to take measures that prevent third parties from interfering with the achievement of human rights. A violation of the obligation to protect includes the failure to regulate activities of actors that have negative impacts on human rights,¹²¹ which include, for example, businesses’ aggressive marketing of unhealthy products

associated with NCDs. [General Comment No. 24 \(2017\)](#) identifies that part of the *obligation to protect* involves “direct regulation and intervention”, including for example “restricting marketing and advertising of certain goods and services in order to protect public health, such as tobacco products [...] and of breast-milk substitutes.”¹²²

Lastly, the human rights framework imposes an *obligation to fulfil* human rights, which requires States to adopt appropriate legislative, administrative, budgetary, judicial, promotional, and other measures towards the full realisation of the right to health and other human rights.¹²³ In the context of NCD prevention and control, these measures can include the adoption of multisectoral policies and strategies to create health-promoting environments, and the allocation of adequate resources for their implementation and monitoring.

When considering NCDs and risk factors like tobacco use, harmful alcohol consumption, and unhealthy diets, there exist a number of

¹⁰⁵ United Nations General Assembly. Human Rights Council. Report submitted by the Special Rapporteur on the right to food, Oliver De Schutter. A/HRC/19/59, par. 12. Available at: https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-59_en.pdf.

¹⁰⁶ United Nations General Assembly. Note by the Secretary-General. Right to Food. A/71/282, par. 74. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/247/21/PDF/N1624721.pdf?OpenElement>.

¹⁰⁷ See: Harris JL, Targeted Food Marketing and Hispanic Consumers: The Tobacco Playbook, American Journal of Public Health; Washington Vol. 110, Iss. 3, (Mar 2020): 217-272. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7002963/>; Nguyen KH, Glantz SA., Palmer CN and Schmidt LA. Transferring Racial/Ethnic Marketing Strategies from Tobacco to Food Corporations: Philip Morris and Kraft General Foods. 2020. American Journal of Public Health, 110(3), 329-336. Available at: <https://pubmed.ncbi.nlm.nih.gov/31944842/>.

¹⁰⁸ See: CESCR General Comment 20; Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (adopted 18 December 1979, entered into force 3 September 1981) art. 3; International Convention on the Elimination of All Forms of Racial Discrimination (adopted 21 December 1965, entered into force 4 January 1969), art. 2.2; Inter-American Court of Human Rights. Case of the Yakye Axa Indigenous Community v. Paraguay, Judgement (June 17, 2005), para. 162.

¹⁰⁹ <https://www.who.int/groups/un-inter-agency-task-force-on-ncds>.

¹¹⁰ World Health Organization. Terms of Reference for the UN Interagency Task Force on the Prevention and Control of Noncommunicable Diseases. 2015. Available at: https://cdn.who.int/media/docs/default-source/ncds/un-interagency-task-force-on-ncds/tor_uniatf.pdf (The UNIATF coordinates the activities of the UN and intergovernmental organisations to support governments’ response to the NCD-related SDGs, and its membership includes the OHCHR, which advocates for the inclusion of human rights in the work of the Task Force. The UNIATF terms of reference include objectives of strengthening national capacity, leadership, governance, multisectoral action, and partnerships to accelerate country responses for NCD prevention and control, and reduction of underlying social, commercial, political, and other determinants, through the creation of health-promoting environments, people-centred PHC, and UHC. A suggested area of work specifically addresses the gender and human rights dimensions of national NCD responses.).

¹¹¹ World Health Organization. Responding to noncommunicable diseases during and beyond COVID-19 pandemic: policy brief. September 4, 2020. p. 3. Available at: https://www.who.int/publications/i/item/WHO-2019-nCoV-Non-communicable_diseases-Policy_brief-2020.1.

¹¹² United Nations Human Rights Office of the High Commissioner. Danius Puras, Statement of the UN Special Rapporteur on the right to health on the adoption of front-of-package warning labelling to tackle NCDs (27 July 2020), available at: <https://www.ohchr.org/en/statements/2020/07/statement-un-special-rapporteur-right-health-adoption-front-package-warning> (“Children are especially vulnerable to diet-related NCDs because they may be dependent on others, such as parents or schools, for food, and because they are more susceptible to marketing strategies”).

¹¹³ See e.g: Roache SA and Cabrera OA. International human rights and childhood obesity prevention, in Garde A, Curtis J and De Schutter O, eds., Ending Childhood Obesity: A Challenge at the Crossroads of International and Economic and Human Rights Law (Edward Elgar Publishing, 2020): at 30-56.

¹¹⁴ All independent CARICOM Member States are parties to the CRC.

¹¹⁵ UN Committee on the Rights of the Child. General Comment No. 15 (2013) on the right of the child to the enjoyment of the highest standard of health (art. 24), para 47. 62nd Sess. Adopted 17 April 2013. UN Doc CRC/C/GC/15. Available at <https://www.refworld.org/docid/51ef9e134.html> [hereinafter CRC General Comment 15].

¹¹⁶ CRC General Comment 15, para 65.

¹¹⁷ <https://www.refworld.org/docid/51ef9e134.html>

¹¹⁸ CRC General Comment 15, para 81.

¹¹⁹ Within the context of the Inter-American System of Human Rights these State obligations are referred to as the obligation to respect and guarantee. See: American Convention on Human Rights. “Pact of San Jose, Costa Rica”. July 18, 1978. Available at: <https://www.cidh.oas.org/basicos/english/Basic4.Amer.Conv.Ratif.htm>, Article 1.1.

¹²⁰ CESCR General Comment 14, para 33.

¹²¹ <https://www.refworld.org/docid/5beaecba4.html>.

¹²² CESCR General Comment 24, para 19.

¹²³ CESCR General Comment 14, para 33.

interventions that can effectively contribute to States' obligations to respect, protect, and fulfil their human rights obligations. Such measures have been identified in instruments such as the [Global Action Plan for the Prevention and Control of Noncommunicable Diseases 2013-2020](#),¹²⁴ which provided a road map and menu of policy options that Member States and other relevant stakeholders could implement to reduce the number of preventable deaths from NCDs.¹²⁵ The WHO also released its *Best Buys*¹²⁶ that provide a wide range of cost-effective legal and regulatory measures for tackling four of the NCD risk factors. For example, the *Best Buys* recommends "plain/standardized packaging and/or large graphic health warnings on all tobacco packages" and implementing "nutrition labeling to reduce total energy intake (kcal), sugars and fats."¹²⁷ Recently, a former Special Rapporteur on the right to health issued [a statement](#)¹²⁸ that identified front-of-package warning labelling on unhealthy food and beverage products as a rights-compliant response to the NCD crisis. These interventions have been echoed

in the concluding observations of the ESCR Committee, which identified "the insufficient level of tobacco taxes and the weak regulations on advertising campaigns",¹²⁹ and more broadly the need to take effective measures to address the high incidence of NCDs.¹³⁰

Some Caribbean countries have implemented some of the *Best Buys* and other recommended measures to tackle the burgeoning NCD crisis, moving them closer to the realisation of the right to health and other human rights. With regard to tobacco control, Caribbean countries such as Guyana,¹³¹ have made progress in implementing robust laws that comply with multiple articles of the WHO FCTC. In the diet-related NCD context, although progress has been much slower, several Caribbean countries have shown an interest in regulating the school food environment,¹³² as well as the consumption of sugar-sweetened beverages more broadly by imposing taxes on such beverages.¹³³ Caribbean countries, on the other hand, have paid little attention to alcohol control policies.¹³⁴

Addressing conflicts of interest and undue influence as a part of human rights obligations

In the context of NCD prevention and control, CDOH, and in relation to the three types of obligations aforementioned, States must adopt measures aimed at preventing and addressing conflicts of interest¹³⁵ and activities from third parties that can be labelled as undue influence in the decision-making processes.

Industries in the business of unhealthy commodities - tobacco, alcohol, and unhealthy beverage and food products - have systematically opposed NCD prevention and control regulations, in part through the development of biased research that favours industry interests.¹³⁶ States therefore must refrain from using evidence affected by conflict of interest. This duty also aligns with the right to enjoy the benefits of scientific progress as articulated in [General Comment No. 25 \(2021\)](#),¹³⁷ which specifically calls for States to implement "measures to avoid the risks created by conflicts of interest, by creating an environment in which actual or perceived conflicts of interest are adequately disclosed and regulated, especially when involving researchers who give policy advice".¹³⁸

Conflicts of interest must also be prevented and addressed throughout all decision-making processes. As [stated by a previous Special Rapporteur on the right to health](#),¹³⁹ "the conflict of interest between the State's duty to promote public health and companies' responsibility towards their shareholders to increase profits renders private-public partnership suspect".¹⁴⁰ To counter some of these concerns, States should ensure transparency by creating and implementing effective and robust mechanisms that promote disclosures of conflicts of interest within governance structures, and should develop mechanisms to ensure the exclusion or restriction of commercial sector interests during decision-making processes related to public health. Processes should be put in place to hold all actors, including institutions, involved in decision-making accountable for any breaches of such measures. Additionally, in support of the right to information, access to information legislation should be implemented to support transparency and accountability and mitigate conflicts of interest in political decision-making processes.

¹²⁴ <https://www.who.int/publications/i/item/9789241506236>.

¹²⁵ World Health Assembly, Global Action Plan for the Prevention and Control of NCDs 2013-2020. Available at: <https://www.who.int/publications/i/item/9789241506236>.

¹²⁶ <https://apps.who.int/iris/bitstream/handle/10665/259232/WHO-NMH-NVI-17.9-eng.pdf>.

¹²⁷ World Health Organization. Tackling NCDs: 'best buys' and other recommended interventions for the prevention and control of noncommunicable diseases. Available at: <https://apps.who.int/iris/handle/10665/259232>.

¹²⁸ https://www.ohchr.org/en/statements/2020/07/statement-un-special-rapporteur-right-health-adoption-front-package-warning#_ednref9.

¹²⁹ Concluding observations on the fourth periodic report of Argentina, Committee on Economic, Social and Cultural Rights, (1 November 2018) UN Doc E/C.12/ARG/CO/4 para 51-52.

¹³⁰ Concluding Observations on the fifth periodic report of Mauritius, Committee on Economic, Social and Cultural Rights (5 April 2019), UN Doc. E/C.12/MUS/CO/5 para 51-52.

¹³¹ Tobacco Control Act of Guyana, 2017 (includes 100% smoke-free environments, a ban on all forms of advertising, promotion and sponsorship, ban on the sale of tobacco products to and by minors, graphic and text health warnings, among other provisions.). See also: PAHO. Strategy and Plan of Action to Strengthen Tobacco Control in the Region of the Americas 2018-2022. Available at: <https://ais.paho.org/phil/tobaccotool/> (for the status of implementation of WHO FCTC articles, namely Articles 6, 8, 11, 12, 13 and 20 in the Caribbean).

¹³² See: Healthy Caribbean Coalition, Childhood Obesity Prevention Scorecard, <https://www.healthycaribbean.org/cop/country-scorecard.php> (for policy and legislative responses to childhood obesity in the Caribbean).

¹³³ Barbados recently increased its 2015 tax on sugar-sweetened beverages from 10% to 20% in conformity with WHO recommendations for the most effective tax rate to curb SSB consumption. See: <https://www.healthycaribbean.org/increase-in-excise-tax-on-sweetened-beverages-an-open-letter-to-the-prime-minister-of-barbados/>. As at the date of publication of this Brief, SSB taxes have also been implemented in the following Caribbean countries: Belize, Bermuda, Dominica, St. Kitts and Nevis, St. Vincent and the Grenadines, and Suriname.

¹³⁴ See: World Health Organization. (2018). Global status report on alcohol and health 2018. World Health Organization. <https://apps.who.int/iris/handle/10665/274603>. License: CC BY-NC-SA 3.0 IGO. Available at: <https://www.who.int/publications/i/item/9789241565639> (for status of implementation of alcohol policies in countries around the world, including Caribbean countries).

¹³⁵ United Nations General Assembly (UNGA) 'Political declaration of the 3rd High-Level Meeting of the General Assembly on the Prevention and Control of Non-Communicable Diseases' UNGA Res 73/2, para 43, <https://digitallibrary.un.org/record/1648984?ln=en> ("Engage with the private sector, taking into account national health priorities and objectives for its meaningful and effective contribution to the implementation of national responses to non-communicable diseases in order to reach Sustainable Development Goal target 3.4 on non-communicable diseases, while giving due regard to managing conflicts of interest"); Sixty-Ninth World Health Assembly, Framework of engagement with non-State actors, WHA69.10 (28 May 2016), Article 22, https://apps.who.int/gb/ebwha/pdf_files/wha69/a69_r10-en.pdf ("A conflict of interest arises in circumstances where there is potential for a secondary interest to unduly influence, or where it may be reasonably perceived to unduly influence, either the independence or objectivity of professional judgement or actions regarding a primary interest."). See also: WHO, Safeguarding against possible conflicts of interest in nutrition programmes, WHO Director General Report 4 December 2017 (WHO, EB142/23), https://apps.who.int/iris/bitstream/handle/10665/274165/B142_23-en.pdf?sequence=1&isAllowed=y.

¹³⁶ Lauber K et al. Commercial use of evidence in public health policy: a critical assessment of food industry submissions to global-level consultations on non-communicable disease prevention. BMJ global health vol. 6,8 (2021): e006176. Available at: <https://gh.bmj.com/content/6/8/e006176>.

¹³⁷ <https://bit.ly/General-comment-No25-2020>.

¹³⁸ General Comment No. 25 (2021) on children's rights in relation to the digital environment, paragraph 53.

¹³⁹ <https://digitallibrary.un.org/record/771865?ln=en>.

¹⁴⁰ United Nations Human Rights Council. 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: unhealthy foods, noncommunicable diseases and the right to health. 2014. Paragraph 24. Available at: <https://digitallibrary.un.org/record/771865?ln=en>.

States' obligation and industries' responsibility: due diligence

The concept of due diligence has been established as an important benchmark in relation to both what States are required to do and what States must require from corporations.¹⁴¹ To behave with due diligence means that States comply with their obligations under international human rights law and adopt measures to ensure that commercial actors respect human rights. Thus, States are obliged to prevent and address adverse impacts on human rights that derive from commercial actors' activities, and therefore to regulate, monitor and supervise such activities.¹⁴²

[General Comment No. 24 \(2017\)](#)¹⁴³ echoes these principles, identifying the need for States to "adopt a legal framework requiring business entities to exercise human rights due diligence in order to identify, prevent and mitigate the risks of violations of Covenant rights."¹⁴⁴ Relevantly, the Inter-American Commission on Human Rights' report on [Business and Human Rights: Inter-American Standards](#)¹⁴⁵ identifies due diligence as a critical aspect of the obligation to protect rights. Due diligence is necessary for an "effective human rights system and processes, to identify, prevent, mitigate, and provide accountability for damages businesses cause, to which they contribute, or with which they are associated." Therefore, under the obligation to protect human rights, States are required to

establish effective due diligence systems and processes, which include the need to take the necessary measures to investigate, sanction, and redress harms caused by commercial actors.¹⁴⁶ Failing to act with due diligence in relation to non-State actors may result in human rights violations on the part of the State.

Furthermore, the Committee on the Rights of the Child elaborated on the business impacts on human rights in its [General Comment No. 16 \(2013\) on State obligations regarding the impact of the business sector on children's rights](#).¹⁴⁷ Here, the Committee recognised that duties and responsibilities for realising the rights of children extend in practice beyond the State and State-controlled services and institutions, and apply to private actors and business enterprises. Therefore, all businesses must meet their responsibilities regarding children's rights, and States must ensure that they do so through the adoption and implementation of proper regulation. In addition, business enterprises should not undermine States' ability to meet their obligations towards children under the CRC and its [Optional Protocols](#).¹⁴⁸

The requirement to prevent negative impacts on human rights has been affirmed in the United Nations [Guiding Principles on Business and Human Rights](#) (Guiding Principles),¹⁴⁹ which sets out, as one of its foundational principles,

the need for States to prevent and investigate human rights abuses from business enterprises through effective policies, legislation, regulations and adjudication. These guiding principles also identify the responsibility of corporations to respect human rights by, in part, preventing and mitigating human rights

violations that are associated with their business operations. In this sense, States' obligations to regulate business activities do not replace the responsibilities of corporations for carrying out due diligence processes regarding their operations, including their behaviour in the regulatory space.

¹⁴¹ Barbosa I, Rios B, Tovar Ramirez A. State Obligations in the Context of Unhealthy Diets: Paving the Way within the Inter-American Human Rights System. *Revista Internacional de Derechos Humanos* 2021; 11(1): 43-72(51), Available at: <https://ojs.austral.edu.ar/index.php/ridh/article/view/647/905>.

¹⁴² See: Inter-American Court of Human Rights. Case of the Employees of the Fireworks Factory of Santo Antônio de Jesus v. Brazil, Preliminary Objections, Merits, Reparations and Costs, (July 15, 2020); Inter-American Court of Human Rights. Case of Buzos Miskitos (Lemeth Morris and Others) v. Honduras. Judgement, (August 31, 2021); Inter-American Court of Human Rights. Case of Vera Rojas et al. v. Chile, Preliminary Objectives, Merits, Reparations and Costs, (October 1, 2021).

¹⁴³ <https://www.refworld.org/docid/5beaecba4.html>.

¹⁴⁴ CESCR General Comment 24, para 16.

¹⁴⁵ http://www.oas.org/en/iachr/reports/pdfs/Business_Human_Rights_Inte_American_Standards.pdf.

¹⁴⁶ Barbosa I, Rios B, Tovar Ramirez A. State Obligations in the Context of Unhealthy Diets: Paving the Way within the Inter-American Human Rights System. *Revista Internacional de Derechos Humanos* 2021; 11(1): 43-72, Available at: <https://ojs.austral.edu.ar/index.php/ridh/article/view/647/905>.

¹⁴⁷ <https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.16.pdf>.

¹⁴⁸ <https://violenceagainstchildren.un.org/content/optional-protocols-crc>.

¹⁴⁹ https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr_en.pdf.

Equity and Human Rights in Policies for NCD Prevention and Control: Proposed Priority Actions

The UNIATF policy paper on NCDs and the right to health proposes a non-exhaustive list of measures as part of equity- and human rights-based approaches to NCD prevention and control, all of which are applicable to the Caribbean situation. The priority actions proposed below are based on the measures in the UNIATF policy paper and adapted as needed for the region.

1 Collect data

The collection, analysis, reporting, and dissemination of comprehensive, disaggregated data are crucial aspects of equity- and rights-based approaches. In order to identify issues related to the social, political, legal, commercial, and other determinants of health, national information systems for health must include quantitative and qualitative data collected and analysed not only by age and sex, but also by socio-economic stratifiers such as income, level of education, geographic location and area of residence, occupation, gender, and ethnicity.

The disaggregation of data and identification of groups in situations of vulnerability enables the development and implementation of appropriate policies and programmes; facilitates allocation and mobilisation of resources to execute relevant interventions; enables monitoring and evaluation of interventions; and provides opportunities to report and showcase improvements. Not only can undesirable conditions be alleviated and people's health improved, but political capital can also be built and advances towards national, regional, and international development goals facilitated.

Strengthened national information systems for health is an essential outcome for inclusion in national NCD prevention and control plans or strategies, with allocation of adequate resources and definition of mechanisms. These mechanisms may include data collection on NCDs as part of the population census and should provide for the periodic implementation of WHO-recommended, population-based NCD-related surveys.¹⁵⁰ The [WHO SCORE for health data technical package](#)¹⁵¹ provides guidance on strengthening information systems for health.

¹⁵⁰ Bonita R, de Courten M, Dwyer T, et al. Surveillance of risk factors for noncommunicable diseases: The WHO STEPwise approach. Summary. Geneva: World Health Organization; 2001. Available at: https://www.who.int/ncd_surveillance/media/en/269.pdf.

¹⁵¹ <https://www.who.int/data/data-collection-tools/score#:~:text=>

2 Establish or strengthen multisectoral, multistakeholder actions

Reduction of the NCD risk factors of tobacco use, unhealthy diet, harmful alcohol use, and physical inactivity demands multisectoral, multistakeholder action, as do interventions to address social, political, legal, commercial, and other determinants of health, and to implement the WHO Best Buys and Other Recommended Interventions. Legislation, regulations, and guidelines will be needed to effect many of these interventions, and various sectors and key stakeholders must be aware of the need for their contribution and involvement.

The lack of an effective 'whole-of-government' approach to NCD reduction has been noted in the Caribbean, a contributing factor being the perception by ministries other than health that NCDs are solely a health issue, and thus not one for their concern or already limited budgets.¹⁵² The POSD mandates the establishment of multisectoral, multistakeholder national NCD commissions (NNCDCs) or their equivalents in CARICOM Member States, envisaged as bodies that would provide policy advice, coordination, and oversight for NCD reduction in the countries. The NNCDCs have not lived up to their potential, and HCC has been working with the commissions and their equivalents to strengthen their functioning.¹⁵³

The establishment or strengthening of multisectoral, multistakeholder NCD national coordination mechanisms (NCMs) is critical for the promotion of policy coherence and the approaches needed to achieve NCD goals and targets.¹⁵⁴ However, there are challenges in engaging with multiple partners, particularly when it comes to the human rights obligations of States, as discussed above. When commercial actors are involved, questions of undue influence and of conflicts of interest may arise. In a multidisciplinary area like NCD prevention and control, States seeking to address this health crisis while maintaining its human rights obligations, should put in place policies and mechanisms that address conflicts of interest and undue influence, as mentioned previously, as well as governance, structures, and strategies to ensure the efficient and effective functioning of NCMs.¹⁵⁵ These safeguards should be applied broadly so as to improve public health governance and protect public health decision making from undue influence. Recommendations for improved NCM functioning include strong leadership and convening authority above the ministerial level; the development of a multisectoral, multistakeholder NCD plan or strategy with a common vision across government sectors and key stakeholders; adequate financing for the plan or strategy; clear rules for engagement with commercial actors; and transparency and accountability.

National Parliaments, Assemblies, or Cabinets in Caribbean countries, and regional entities such as the [CARICOM Secretariat](#),¹⁵⁶ relevant [CARICOM institutions](#),¹⁵⁷ PAHO, and civil society organisations like HCC, can facilitate and enable multisectoral, multistakeholder actions through the provision of guidance (including preventing and managing conflicts of interest), resources, oversight, and/or accountability and transparency mechanisms, according to each entity's legislative framework, level of authority, sphere of action, scope of work, and mandates.

¹⁵² Unwin N, Samuels TA, Hassell T, et al. The development of public policies to address non-communicable diseases in the Caribbean country of Barbados: the importance of problem framing and policy entrepreneurs. *Int J Health Policy Manag*. 2017; 6(2): 71-82. Available at: https://www.ijhpm.com/article_3222_75340d3b996529e187033bfeca39f3ab.pdf.

¹⁵³ Healthy Caribbean Coalition. An analysis of National NCD Commissions in the Caribbean: fit-for-purpose? Bridgetown: HCC; 2021.

¹⁵⁴ World Health Organization. WHO Independent High-level Commission on NCDs: report of Working Group 1, 1 October 2019. Available at: <https://www.who.int/ncds/governance/high-level-commission/HLC2-WG1-report.pdf?ua=1>.

¹⁵⁵ Healthy Caribbean Coalition. An analysis of National NCD Commissions in the Caribbean: fit-for-purpose? Bridgetown: HCC; 2021; World Health Organization. WHO Independent High-level Commission on NCDs: report of Working Group 1, 1 October 2019. Available at: <https://apps.who.int/iris/rest/bitstreams/1138446/retrieve>.

¹⁵⁶ <https://caricom.org/caricom-secretariat/>.

¹⁵⁷ <https://caricom.org/institutions/>.

3 Enable meaningful participation of PLWNCDs and other groups in situations of vulnerability

Transparency and participation are critical for the human-rights based approach, and are necessary to ensure that NCD prevention and control measures are equitable. Based on their lived experience and their role as rights-holders, PLWNCDs have much to contribute to the development, implementation, monitoring, and evaluation of equity- and rights-based policies and programmes for NCD reduction, and their health and well-being should remain at the centre of relevant interventions. There have been international and regional calls for mechanisms to be put in place for the sustained and meaningful involvement of PLWNCDs, including interventions to build their capacity to participate in policy development.^{158,159} The 'Our Views Our Voices' initiatives of the NCD Alliance (NCDA) and HCC promotes and encourages the participation of PLWNCDs in issues that affect them, and HCC has conducted peer advocacy training in Barbados to enable meaningful involvement of PLWNCDs and those who care for them.¹⁶⁰

The NCDA [Global Charter of Meaningful Involvement of People Living with NCDs](#),^{161,162} recognises the following principles as essential for meaningful engagement:

- **Rights-based:** PLWNCDs are fully aware of, and claim, their rights (including rights to health and participation) to realise their full potential as engaged members of society, free of stigma and discrimination, and duty-bearers are aware of their obligations to respect, protect, and fulfil these rights.
- **Respect and dignity:** PLWNCDs are treated with respect and dignity, their privacy is respected, and they are treated as equals and supported to be autonomous and meaningfully involved in all decision-making processes concerning them.
- **People-centredness:** PLWNCDs and their wellbeing, rather than their conditions, are placed at the centre of policies, programmes, and services, with their needs and priorities shaping the NCD response, rooting it in the community.
- **Equity:** Ensuring that marginalised and underrepresented groups are considered central in processes to attain equitable and fair health and development outcomes, recognising that these groups are often at greatest risk of NCDs.
- **Social participation:** Having formal mechanisms for PLWNCDs and communities to have a 'seat at the table' to inform and influence policy and decision-making on an equal footing, and hold institutions to account.¹⁶³

The HCC Publication [OUR HEALTH, OUR RIGHT A Rights-Based Childhood Obesity Prevention Agenda](#)¹⁶⁴ is a rights-based advocacy framework which aims to guide young people seeking to advocate for urgent government action on the epidemic of childhood overweight and obesity in the Caribbean.

¹⁵⁸ NCD Alliance (NCDA). Meaningfully involving people living with NCDs – what is being done and why it matters. Geneva: NCDA; 2018. Available at: https://ncdalliance.org/sites/default/files/resource_files/MeaningfulInvolvementPLWNCDs_Report_FINAL.pdf.

¹⁵⁹ World Health Organization. Nothing for us, without us: opportunities for meaningful engagement of people living with NCDs. Meeting report. Geneva: WHO; 2021. Available at: <https://www.who.int/publications/i/item/nothing-for-us-without-us-opportunities-for-meaningful-engagement-of-people-living-with-ncds>.

¹⁶⁰ See: NCD Alliance. Our Views, Our Voices. (2020). Available at: <https://ncdalliance.org/what-we-do/capacity-development/our-views-our-voices>; Healthy Caribbean Coalition. Our Views, Our Voices Workshop. Available at: <https://www.healthycaribbean.org/category/our-work/our-views-our-voices/>.

¹⁶¹ https://www.who.int/tobacco/mpower/mpower_english.pdf.

¹⁶² NCD Alliance. Global Charter on Meaningful Involvement of People Living with NCDs. Available at: <https://ncdalliance.org/what-we-do/capacity-development/our-views-our-voices/global-charter-on-meaningful-involvement-of-people-living-with-ncds>.

¹⁶³ Based on the national and local situation, such mechanisms may include formal agreements and partnerships, including memoranda of understanding, between government and civil society organisations (CSOs), and granting observer status to CSOs.

¹⁶⁴ <https://www.healthycaribbean.org/wp-content/uploads/2022/11/Our-Health-Our-Right.pdf>

4 Ensure adequate planning, budgeting, and financing

Under the human rights framework, States are required to use the maximum resources available for the full realisation of human rights, as stated in article 2(1) of the ICESCR¹⁶⁵ and explained in [General Comment No. 3 \(1990\)](#)¹⁶⁶ by the CESCR. The Committee notes that the phrase 'to the maximum of its available resources' was intended by the drafters of the Covenant to refer to both the resources existing within a State and those available from the international community through international cooperation and assistance. Despite this obligation, low levels of investment in NCDs have been documented both nationally in Caribbean countries¹⁶⁷ and globally, as the share of development assistance for health dedicated to NCDs has remained at 1–2% of the total since 2000.¹⁶⁸

[Universal Health Coverage](#) (UHC)¹⁶⁹ is an effective contributor to addressing inequities in countries,¹⁷⁰ and plays a critical role in the prevention and control of NCDs for all segments of society. However, a focus on NCDs and UHC has traditionally been one of clinical prevention and control. For example, the [WHO Package of Essential Noncommunicable \(PEN\) Disease Interventions for Primary Health Care](#),¹⁷¹ the related application, WHOPEN, and the WHO OneHealth tool for strategic health planning provide useful guidance in health system planning for NCD prevention and control from a clinical perspective. Further, the [WHO UHC Compendium](#)¹⁷² is a database of health services and intersectoral interventions designed to assist countries in making progress towards UHC.¹⁷³ This approach to addressing NCDs, while important, requires ongoing substantial resources.

Expanding beyond the traditional focus of UHC, equity and human rights considerations require States to ensure that the control and prevention of NCDs includes upstream regulatory interventions that tackle the root causes of these preventable diseases. Regulatory interventions—such as regulating advertising and marketing, school environments, and front-of-package labelling, among other interventions described early in this Brief—are cost-effective, rights-based measures that allow the State to address NCDs without drastically increasing its budget in the present while ensuring savings on healthcare in the future.¹⁷⁴ Fiscal measures

¹⁶⁵ Nolan A and Dutschke M. Article 2(1) ICESCR and States Parties' obligations: whither the budget? European Human Rights Law Review 2010; 3:280. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1663230.

¹⁶⁶ <https://www.refworld.org/pdfid/4538838e10.pdf>.

¹⁶⁷ Theodore K, Lalta S, LaFoucade A, et al. Responding to NCDs under severe economic constraints: the links with universal health care in the Caribbean. In Pan American Health Organization and University of Washington. Economic Dimensions of Non-Communicable Disease in Latin America and the Caribbean. Disease Control Priorities. 3. ed. Companion Volume. Washington, D.C.: PAHO, 2016. Available at: https://iris.paho.org/bitstream/handle/10665.2/28501/9789275119051_eng.pdf?sequence=1&isAllowed=y.

¹⁶⁸ Allen LN. Financing national non-communicable disease responses. Glob Health Action <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5496084/>; 2017; 10(1): 1326687. <https://doi.org/10.1080/16549716.2017.1326687>.

¹⁶⁹ [https://www.who.int/news-room/fact-sheets/detail/universal-health-coverage-\(uhc\)](https://www.who.int/news-room/fact-sheets/detail/universal-health-coverage-(uhc)).

¹⁷⁰ Pan American Health Organization. Strategy for universal access to health and universal health coverage. Document CD53/5. Rev.2. Washington, D.C.; PAHO; 2014. Available at: <https://www.paho.org/en/documents/strategy-universal-access-health-and-universal-health-coverage>. (UHC is achieved when all individuals and communities receive the health services they need without suffering financial hardship, and includes essential, comprehensive, quality health services ranging from health promotion to disease prevention, treatment, rehabilitation, and palliation across the life course. UHC is a major contributor to reducing inequities, and as countries strengthen their health systems to advance to UHC, including primary health care (PHC) approach as a core UHC component to ensure that people receive quality, comprehensive care.).

¹⁷¹ [https://www.who.int/publications/i/item/who-package-of-essential-noncommunicable-\(pen\)-disease-interventions-for-primary-health-care](https://www.who.int/publications/i/item/who-package-of-essential-noncommunicable-(pen)-disease-interventions-for-primary-health-care).

¹⁷² <https://www.who.int/universal-health-coverage/compendium>.

¹⁷³ The Compendium creates a framework to facilitate decisions on health services and health interventions, including promotive, preventive, diagnostic, resuscitative, curative, rehabilitative, and palliative services; intersectoral interventions; human and material resource inputs; and feedback on cost impact.

¹⁷⁴ See e.g., Ministry of Health, UN Inter-Agency Task Force (UNIATF), World Health Organization (WHO), and UN Development Programme (UNDP). The investment case for non-communicable disease prevention and control in Barbados. WHO and UNDP; 2015. Available at: <https://apps.who.int/iris/bitstream/handle/10665/259689/WHO-NMH-NMA-17.97-eng.pdf?sequence=1>; UNIATF, UNDP, and PAHO. The case for investment in prevention and control of noncommunicable diseases in Jamaica: evaluating the return on investment of selected tobacco, alcohol, diabetes, and cardiovascular disease interventions. Washington, D.C.: UNIATF, UNDP, and PAHO; 2018. Available at: https://iris.paho.org/bitstream/handle/10665.2/49693/9789275120545_eng.pdf?sequence=5&isAllowed=y.

are also a rights-based approach for the prevention and control of NCDs. In various fora promoting advances to UHC, organisations such as PAHO and WHO have called for an increase in national funding allocation to health to at least 6% of gross domestic product and, an investment of 30% of the health budget in the first level of care.¹⁷⁵ Where governments are subject to resource constraints, fiscal measures, including taxes on unhealthy products such as sugar-sweetened beverages, tobacco and alcohol,¹⁷⁶ can collect revenue that can then be used in whole or in part to increase spending on NCD prevention and control.¹⁷⁷

The impact of NCDs on other priority development issues such as climate change,^{178,179,180} food and nutrition security,^{181,182} and poverty alleviation^{183,184} provides opportunities for funding and technical cooperation available for those issues to address NCD reduction, reaping co-benefits and maximising resource utilisation. Technical cooperation and other resources may be mobilised from national entities; regional agencies and organisations, such as the [Caribbean Public Health Agency \(CARPHA\)](#)¹⁸⁵ and HCC; and international organisations such as PAHO/WHO, other UN agencies, the UNIATF, and other development entities, including regional and international financing institutions. In May 2021, the [UN Multi-Partner Trust Fund to Catalyze Country Action for NCDs and Mental Health](#)¹⁸⁶ was established, providing another possible source of funding for national NCD reduction interventions.

5

Ensure accountability

Accountability in equity- and rights-based approaches integrates the different parties that can be held accountable or hold others accountable; the domains of accountability related to availability, accessibility, acceptability, and quality of health facilities, goods, and services, as well as non-discrimination and participation; and the procedures for evaluating compliance and disseminating results.⁷²

In addition to monitoring, evaluation, and reporting of the achievement of objectives of the national NCD prevention and control strategy or plan, there should be reviews of whether, and the extent to which, health services are being provided in a manner consistent with human rights obligations; establishment or strengthening of transparent, inclusive, and participatory monitoring processes and mechanisms, involving PLWNCDs and with jurisdiction to recommend remedial action; and the degree to which there is redress and justice for violations of the right to health and interrelated rights.⁷²

The CESCR, the [Special Rapporteur on the right to health](#),¹⁸⁷ and the Inter-American Commission on Human Rights also provide another layer for monitoring States Parties' compliance with treaty obligations. The UN Human Rights Council's [Universal Periodic Review](#) (UPR)¹⁸⁸ of States Parties invites not only responses from States, but also submissions—"shadow reports"—from other stakeholders, including civil society organisations (CSOs), complementing reports received from States Parties, such as a 2012 [shadow report from Guyana](#),¹⁸⁹

In addition, the [UN High-level Political Forum on Sustainable Development](#),¹⁹⁰ which has a central role in monitoring progress toward the SDGs, encourages [Voluntary National Reviews](#),¹⁹¹ which are country-led reviews to determine progress at national and sub-national levels, enabling determination of the application of equity- and rights-based approaches. With regard to specific measures to assess the reduction of inequities, the [WHO Health Equity Monitor](#)¹⁹² provides evidence on existing health inequalities, and tools and resources for their monitoring, building on discussions related to theory and methods.¹⁹³ The HCC [Childhood Obesity Prevention Scorecard \(COPS\)](#)¹⁹⁴ tracks the implementation of policies related to childhood obesity prevention across CARICOM and where available, provides the supporting regulatory instruments.

¹⁷⁵ Pan American Health Organization. Brochure: Compact 30-30-30 PHC for Universal Health. 7 October 2019. Available at: <https://www.paho.org/en/documents/brochure-compact-303030-phc-universal-health>.

¹⁷⁶ Pan American Health Organization. Sugar-sweetened beverage taxation in the Region of the Americas. Washington, D.C.: PAHO; Available at: <https://iris.paho.org/handle/10665.2/53252>. Hassell T and Hutton M. Caribbean moves towards taxing of sugar-sweetened beverages. Online article for Heart Foundation of Jamaica. 8 March 2019. Available at: <https://www.heartfoundationja.org/2019/03/08/caribbean-moves-towards-taxing-of-sugar-sweetened-beverages/>. Countries such as Barbados, Bermuda, and Dominica, have instituted taxation on sugar-sweetened beverages, in addition to excise taxes already applied to unhealthy products such as alcohol and tobacco products, though few have reached the WHO-recommended levels of taxation.

¹⁷⁷ World Health Organization. Fiscal Policies to Promote Healthy Diets: Policy Brief. (2022) CC BY-NC-SA 3.0 IGO. Available at: <https://apps.who.int/iris/bitstream/handle/10665/355965/9789240049543-eng.pdf>.

¹⁷⁸ Climate change and NCDs in the Caribbean: Launch of the 2019 Lancet Countdown on Health and Climate Change report. Available at: <https://www.healthycaribbean.org/climate-change-and-ncds-in-the-caribbean/>.

¹⁷⁹ Friel S, Bowen K, Campbell-Lendrum D, et al. Climate change, noncommunicable diseases, and development: the relationship and common policy opportunities. *Annu Rev Public Health* 2011; 32:143-147. Available at: https://www.who.int/sdhconference/resources/friel_annualrevpubhealth2010.pdf.

¹⁸⁰ NCA Alliance and The Global Climate and Health Alliance. NCDs and climate change: shared opportunities for action. Available at: https://ncdalliance.org/sites/default/files/resource_files/NCDs_%26_ClimateChange_EN.pdf.

¹⁸¹ United Nations Inter-Agency Task Force and World Food Programme. Responding to the challenge of non-communicable diseases: World Food Programme. September 2019. Available at: <https://docs.wfp.org/api/documents/WFP-0000110409/download/>.

¹⁸² Caribbean Community (CARICOM) COVID-19 Response Agri-Food Plan, '25 in5'. Available at: <https://caricom.org/caricom-covid-19-response-agri-food-plan/>.

¹⁸³ Bukhman G, Mocumbi AO, Horton R. Reframing NCDs and injuries for the poorest billion: a Lancet Commission. *Lancet* 2015; 386: 1221-22. Available at: <https://www.thelancet.com/action/showPdf?pii=S0140-6736%2815%2900278-0>.

¹⁸⁴ NCDI Poverty Network. NCDI Poverty Network Charter, ratified February 12, 2021. Available at: <http://www.ncdipoverty.org/ncdi-poverty-network-charter>.

¹⁸⁵ <https://carpha.org/>.

¹⁸⁶ <https://mptf.undp.org/factsheet/fund/NCD00>.

¹⁸⁷ <https://www.ohchr.org/en/special-procedures/sr-health>.

¹⁸⁸ <https://www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx>.

¹⁸⁹ <https://outrightinternational.org/content/human-rights-violations-lesbian-bisexual-and-transgender-lbt-people-guyana-shadow-report>.

¹⁹⁰ <https://sustainabledevelopment.un.org/hlpf>.

¹⁹¹ <https://sustainabledevelopment.un.org/vnrs/>.

¹⁹² <https://www.who.int/data/gho/health-equity>.

¹⁹³ Asada Y. A framework for measuring health inequity. *J Epidemiol Community Health* 2005; 59:700-705. Available at: <https://jech.bmj.com/content/jech/59/8/700.full.pdf>.

¹⁹⁴ <https://www.healthycaribbean.org/cop/cop-scorecard.php>

6 Promote, and build capacity for, equity- and rights-based approaches to NCD prevention and control

Though some persons in public health may be aware of the value of equity- and rights-based approaches to NCD reduction, key stakeholders that address the clinical aspects of health, those in sectors other than health, civil society, the general public, and the media are often not sensitised to these aspects of NCD prevention and control. There must be efforts, consistent with approaches recommended in the TNA-NCDs, to raise awareness of relevant issues, and ensure training/capacity building of a wide range of stakeholders, including policymakers, professionals in public health and clinical medicine, and health advocates in government, civil society, and the health-supporting private sector.

Lawyers and other legal stakeholders, health advocates in all sectors, civil society, and the media, in particular, should be targeted to improve their knowledge of, and capacity to, communicate information on these approaches and their benefits for NCD reduction using various platforms, as appropriate for different audiences. CSOs have important roles to play in ensuring that their constituents are aware of their status of rights-holders; in disseminating information on procedures and processes to claim those rights; in advocating for and demanding equity- and rights-based approaches; and in holding governments accountable as duty-bearers. The Law and Health Research Unit in the Faculty of Law at the University of the West Indies Cave Hill Campus in Barbados and the Caribbean Public Health Law Forum, are two relatively new regional entities established to build regional capacity to utilise the law as a tool to tackle health challenges including NCD prevention and control.

The [WHO QualityRights initiative](https://www.who.int/mental_health/policy/quality_rights/QRs_flyer_eng_2017.pdf?ua=1#:~:text=QualityRights)¹⁹⁵ champions an equity- and rights-based approach to addressing mental health and neurological conditions, and provides [training and guidance tools](https://www.who.int/publications/i/item/who-qualityrights-guidance-and-training-tools)¹⁹⁶ for policymakers, CSOs, families, and other key stakeholders, while the [WHO MiNDbank](https://www.mindbank.info/)¹⁹⁷ is an online platform providing access to a variety of equity- and rights-related international, regional, and national resources. These resources include policies, strategies, laws, and service standards for mental health, substance abuse, disability, general health, NCDs, human rights and development, children and youth, and older persons, and though some are focused on mental health conditions, all have relevance and application to other NCDs.

Conclusion

Equity and human rights are important and necessary frameworks for strengthening NCD prevention and control efforts and to improve the daily lives of PLWNCDs.





Already vulnerable because of their small size, limited resources, economies of scale, and susceptibility to climate change, among other factors, Caribbean States must accelerate the reduction of NCDs and integrate equity and human rights into NCD prevention and control policies, plans, and programmes, in order to advance towards the sustainable development of their countries and the region as a whole.

¹⁹⁵ https://www.who.int/mental_health/policy/quality_rights/QRs_flyer_eng_2017.pdf?ua=1#:~:text=QualityRights.

¹⁹⁶ <https://www.who.int/publications/i/item/who-qualityrights-guidance-and-training-tools>.

¹⁹⁷ <https://www.mindbank.info/>.

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