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

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

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

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.
Introduction

Why this Brief?

Building on the January 2021 call for a Transformative New NCD Agenda (TNA-NCDs) in the Caribbean, the Healthy Caribbean Coalition (HCC) 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, 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, healthy food and nutrition, and strengthening food and nutrition security. 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), the Universal Declaration of Human Rights (UDHR), the American Declaration of the Rights and Duties of Man (American Declaration) and enshrined in international treaties such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC). 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.

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

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 and documented regionally, and expressed globally in the 2030 Agenda for Sustainable Development and its Sustainable Development Goals (SDGs). A core tenet of the 2030 Agenda is ‘leaving no one behind’, reflected in SDG 3 which seeks to ‘ensure healthy lives and promote well-being for all at all ages’, with target 3.2 specifically addressing NCDs.

Despite commitments to NCD prevention and control from the Caribbean Community (CARICOM), Heads of State and Government, including the 2001 Nassau Declaration and the 2007 Declaration of Port of Spain (POSD), the implementation of cost-effective, evidence-based policy options such as the WHO Best Buys and Other Recommended Interventions have not been taken, strengthened, and accelerated.

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

In the Caribbean, NCDs cause 75% of mortality and 73% of premature mortality. 3 in 3 children and adolescents in the Caribbean are overweight or obese. 15

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. 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, the HCC call to action for the TNA-NCDs 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.

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, 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.

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. These forces and systems include economic policies and systems, development agendas, social norms, social policies, and political systems, including factors that provide economic stability (e.g. employment status and income), geographical location and physical environment (e.g. rural or urban settings); level of education and literacy (e.g. 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).

Determinants of Health

Determinants of health 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. While a detailed discussion of all these determinants 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.

**Social Determinants of Health**

<table>
<thead>
<tr>
<th>Economic Stability</th>
<th>Neighborhood and Physical Environment</th>
<th>Education</th>
<th>Food</th>
<th>Community and Social Context</th>
<th>Health Care System</th>
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</table>

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.”14 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.”15

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 tax 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 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; 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
The COVID-19 pandemic has emphasized 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. Such tactics have included, but are not limited to, co-opting legislators and regulators, funding organizations that appear to be community-based and scientists that produce evidence that align with corporations’ interests, and engaging in litigation against governments. 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”.

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. 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. Health equity is achieved when everyone can attain their full potential for health and well-being.

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. 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. 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 affected by these diseases.
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 existing 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, and developing strategies to tackle the determinants of health.

Moreover, an equity approach is in accordance with a human rights-based approach to control and health equity, 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.

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. The following section encompasses “the right of every individual to the enjoyment of the highest attainable standard of physical and mental health”, according to article 12 of the ICESCR. In the context of the Inter-American System, the American Declaration and the American Convention on Human Rights have also recognized the right to health under article 26.

The Committee on Economic, Social and Cultural Rights (CESCR), 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. 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”, requiring the promotion of determinants of good health. In addition, intrinsically associated with the prevention and control of NCDs and their risk factors, there are core obligations for States under the
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”, ii) “the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone”, 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...” Furthermore, “taking measures to prevent, treat, and control epidemic diseases”, such as NCDs, is among the obligations of comparable priority.53

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 steps1 “to move as expeditiously and effectively as possible towards the full realisation”68 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.53

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 Control70 by establishing a minimum set of tobacco control obligations on States, may be used to promote rights-compliant measures.71 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. 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.53

Regarding unhealthy diets, a former Special Rapporteur on the right to health identified the deceptive packaging and labelling practices that target vulnerable groups and downplay the harms of their products.53

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.”53

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53 CESCR General Comment 14, para 638.
54 CESCR General Comment 14, para 638.
55 CESCR General Comment 14, para 640.
56 CESCR General Comment 14, para 30.
58 https://www.refworld.org/pdfid/45388385e0.pdf (hereinafter CESCR General Comment 3).
59 CESCR General Comment 14, para 638.
61 “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.”53
63 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: Stanley C. Using Human Rights Law to Progress Alcohol Control: European Journal of Risk Regulation, 12 (2021) pp. 444-459.
64 See: Inter-American Court of Human Rights. Case of Indigenous Communities of the Lhaka Honoth (Star Land) Association v Argentina, Merits, Reparations and Costs. (February 6, 2020).
68 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: Stanley C. Using Human Rights Law to Progress Alcohol Control: European Journal of Risk Regulation, 12 (2021) pp. 444-459.
69 See: Inter-American Court of Human Rights. Case of Indigenous Communities of the Lhaka Honoth (Star Land) Association v Argentina, Merits, Reparations and Costs. (February 6, 2020).
72 “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.”53
73 “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.”53
been understood that States should prioritise “access to adequate diets that are socially and environmentally sustainable over the mere provision of cheap calories”106 and approach food safety in a broad manner, “to include the nutritional value of food products.”107

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 linked to alcohol and tobacco industries’ practice of targeting persons living in poverty, specific racial and ethnic groups, and children,108 States shall adopt measures to guarantee enjoyment of all rights, without discrimination and to ensure equality for people that have faced historical discrimination.109 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 Diseases110 (UNIATF).111

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.”112

From among those targeted specifically by the unhealthy commodities’ industry, children are recognized as being especially vulnerable.113 Children’s rights, therefore, including but not limited to, their right to protection and to play, are directly impacted by NCDs and their risk factors.114 The CRC115 imposes specific duties on States related to the right to health. For example, States are to address obesity in children116 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.”117 In addition, General Comment No. 15 (2013)118 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.”119

State obligations to respect, protect, and fulfill human rights

Within the human rights framework, States are the main duty-bearers and have obligations to respect, protect, and fulfill all human rights.120 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.121 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,122 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.”123

Lastly, the human rights framework imposes an obligation to fulfill 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.124 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

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114 See: Principles and Guidelines on the Promotion and Protection of Human Rights while Countering the COVID-19 Pandemic. UN Inter-Agency Task Force on the COVID-19 Pandemic. 24 (2020) 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.”


116 CRC General Comment 15, para 63.


118 CRC General Comment 15, para 81.


120 CESCR General Comment 14, para 33.

121 See: CESCR General Comment 14, para 33.

122 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, 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. The WHO also released its Best Buys 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 products” and implementing “nutrition labeling to reduce total energy intake (kcal), sugars and fats.”

Recently, a former Special Rapporteur on the Right to Health issued a statement 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” and more broadly the need to take effective measures to address the high incidence of NCDs. 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, 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, as well as the consumption of sugar-sweetened beverages more broadly by imposing taxes on such beverages. Caribbean countries, on the other hand, have paid little attention to alcohol control policies.

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 interest and activities from third parties that can be labelled as undue influence in public health decision-making processes. States in the business of unhealthy commodities - tobacco, alcohol, and unhealthy beverage and food products - have systematically opposed NCD prevention and control policies, in part through the development of biased research that favours industry interests. 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), 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.”

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, “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.” 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.
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. 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. Relevantly, the Inter-American Commission on Human Rights’ report on Business and Human Rights: Inter-American Standards 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 damages caused by commercial actors. 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. 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.

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), 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.
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 package151 provides guidance on strengthening information systems for health.

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 NNDCDs 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.

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157 https://caricom.org/institutions/.
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 ICESCR and explained in General Comment No. 3 (1990) by the CESCR. The Committee notes that the phrase ‘to the maximum of its available resources’ was intended by the drafter 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 countries 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 Compendium172 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 their budget in the present while ensuring savings in healthcare for the future.174 Fiscal measures

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.161,162

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.162

The NCDA Global Charter of Meaningful Involvement of People Living with NCDs161,162 recognises the following principles as essential for the meaningful engagement of people living with NCDs:

- **Rights-based**: PLWNCDs are fully aware of, and claim, their rights (including rights to health and health care) 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 fulfill 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 places, are centered at the core of the programmes, policies, 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 Agenda164 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.

4

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

Fiscal measures...
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.177 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,176,178,179 186 food and nutrition security,180,181 and poverty alleviation182,183 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 UNIAF, 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 Health186 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.184,185

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.186

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 Development190 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 Monitor192 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.
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 as 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 champions an equity- and rights-based approach to addressing mental health and neurological conditions, and provides training and guidance tools for policymakers, CSOs, families, and other key stakeholders, while the WHO MiNDbank 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.
HEALTH IS A HUMAN RIGHT

BUILD HUMAN CAPITAL

EQUITY

TNA NCDs NOW!

HUMAN RIGHTS

PEOPLE CENTRED

STRENGTHEN HUMAN SECURITY

TRANSFORMATIVE NEW NCD AGENDA

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