

**Five Reasons**  
**To Use International Human Rights Law**  
**For the City of Seattle to Implement Measure 1**

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January 26, 2007



Uplift International's mission is to improve the well being of the world's most vulnerable populations by promoting the universal human right to health through education, advocacy, and humanitarian efforts. Uplift International views health through a human rights lens and human rights through a health lens.

#### Our Core Principles

- All people, regardless of economic or social status, have the right to access health information and services to improve their individual, family, and community health
- All people have the right to be free from the inequality, discrimination, or inadvertent neglect that adversely impacts health
- Local implementation of international human rights norms promotes social justice

Uplift International improves health and health equity through rights-based advocacy. We build relationships with professional associations, universities, and with health, law, local governments and business professionals. Our work is carried out through collaborative partnerships that build bridges among diverse groups to respect, protect, and fulfill the right to health for vulnerable populations.

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## Introduction

In 2005, voters in Seattle approved Measure 1, the Seattle Universal Health Care Advisory Ballot (“Measure 1”). Separately, the City adopted the Healthy Communities Initiative Policy Guide (the “Guide”) in February 2006. Measure 1 requires the City to support a right to equal, high-quality health care; the Guide outlines a process for fulfilling this obligation on a local level. Without making it explicit, both Measure 1 and the Guide use language and procedures that form an integral part of international human rights law.

Using the Guide to implement Measure 1 will move Seattle a long way toward establishing an equitable and expanded health care system. However, Seattle can accomplish even more by adopting the full range of health and health care requirements provided for under international human rights law. International human rights law is a body of treaties, declarations, and advisory opinions that represents the global community’s agreement on a set of universal ethical standards regarding health and other issues. Using international human rights standards would give the City consistent and comprehensive guidelines for implementing health care measures that put ethical objectives first. Just as importantly, it provides assurance that all new services will meet international standards.

Measure 1 reflects the shared belief that all people in Seattle deserve health care as a fundamental matter of human dignity. International human rights law provides a way to make sure our health care will meet that high standard in a way that is comprehensive, consistent, and globally endorsed. Just as in the areas of education, trade, and employment, the residents of Seattle want a health care system that sets a high standard for what an American city provides its residents in the 21<sup>st</sup> Century. International human rights law provides that high standard while simultaneously ensuring that implementation in Seattle can be consistent with efforts in other cities around the country. As a city that understands and embraces its international connections, Seattle is well suited to adopt and implement global health care standards that will solidify its role as an ethical and internationally conscious leader among American cities.

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## **1. Seattle residents deserve a health care system focused on ethical concerns that meets international standards**

Measure 1 reflects the opinion of Seattle voters that the primary purpose of a health care system is to create a healthy population. The *goal* of a health care system must be the health of the population, not the profit available for a segment of the population. By passing Measure 1, therefore, Seattle voters were expressing a fundamentally ethical concern about health care: too many people in the city lack the care they need. Since all persons have a right to equal, high-quality health care, it is unethical that so many people cannot get the services they need.

A health care system focused on producing ethical outcomes requires a legal framework focused on producing ethical outcomes. The international human rights framework is just that. The core documents of international human rights law – the Universal Declaration of Human Rights and its two implementing Covenants – were drafted following World War II to codify the belief that individuals, communities and nation states should be governed by ethical objectives instead of by war. The parties to these declarations and covenants (including the United States, which played a leading role in drafting the documents) understood that the ability to live a healthy life with an adequate standard of living was essential to living in a peaceful world. Consequently, international human rights law includes specific provisions on exactly what is required – ethically speaking – to enjoy the right to health and health care. Over time, these guidelines on how to govern by ethics have been refined based upon experience from around the world. They now represent the only set of internationally agreed upon ethical rules, and they specifically address the concerns voiced by Seattle voters in Measure 1.

Seattle voters have made it clear that they believe that the fundamental purpose of a health care system is to provide the best care possible to everyone in the population. International human rights law begins with the same premise and contributes decades of reflection, scholarship, and experience on how to make that happen. Seattle voters deserve nothing less than a right to health care that focuses first and foremost on ethical considerations.

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## 2. The City is already well on its way to using international human rights norms to implement the right to health care

The Guide outlines four public health goals and strategies that any enhanced service must meet.<sup>1</sup> Those goals and strategies put the City well on its way to using an international human rights legal framework to implement Measure 1. For example, the goal of “improved access to care” is mirrored in the human rights requirement that health care be accessible for all. Although human rights law provides a slightly broader interpretation of “access” than that provided in the Guide (for example, it would consider complex bureaucratic requirements another barrier to access), the City’s implementation plan nonetheless already reflects many of the fundamental principles found in international human rights law.

The Guide also sets up a framework for evaluating whether a particular service meets the goals and employs the strategies set out in the Guide.<sup>2</sup> Like the goals and strategies, the framework also reflects the requirements of international human rights law. Also like the goals and strategies, the key difference between the Guide’s evaluation framework and that found in international human rights law is that the latter provides a broader set of requirements. Those requirements are spelled out below.

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<sup>1</sup> The goals include:

- the elimination of disparities in health outcomes
- improved access to care
- protection of health and community well-being
- support of other City goals

The strategy requires:

- financial investment
- working in partnership
- supporting policies that enhance public health
- innovative approaches

<sup>2</sup> The framework includes five procedural steps. The first one, for example, restricts the City’s consideration of enhanced services to only those which meet one or more of the City’s four goals described above.

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### 3. International human rights law provides a clear and consistent framework for the City to meet its stated goals

Under international human rights law, health care must meet five basic principles.<sup>3</sup> These principles incorporate the substantive goals and some of the strategies outlined in the Guide. However, they broaden those goals and strategies to include the requirement of community participation and the requirement that every enhanced service meet *each and every* one of the five principles in order to be considered for funding. The section below outlines each of the principles found in international human rights law and cites where that principle appears in the Guide.

The five principles require that health care be:

- *accessible* in terms of affordability for all patients; free of discrimination based upon race, gender, religion, legal status, ethnicity, sexual orientation, level of education, insurance status and neighborhood; and be accessible in terms of facilities being located conveniently, and being simple and straightforward to use
  - The Guide: affordability and non-discrimination are included in the goal of eliminating health disparities
- of high *quality* in terms of state and federal regulations and other quantifiable measurements of care, but also including intangible components of quality such as the doctor-patient relationship and the ability of health care providers to relate to and communicate with their patients.
  - The Guide: best practices and innovation are included in the strategy section and in no. 5 of the implementation section. Quality is not an explicitly stated goal.
- *available*, meaning there are sufficient medical personnel and facilities to treat prevailing health problems

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<sup>3</sup> Legally, there are actually four substantive elements (accessibility, availability, appropriateness, and quality) and four procedural elements (participation, remedy, information, and non-discrimination). However, in the context of Seattle’s health care initiative, the procedural elements of remedy, information, and non-discrimination already fall into existing analyses of the substantive elements. Therefore, for reasons of simplicity, we have consolidated the legal framework into the five principles outlined here.

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- The Guide: primary and preventative care (including condition-specific health education) and specific guidelines for practitioners are included in the goal of promoting access
  - *appropriate*, meaning health care should meet physical, educational, mental, ethical or cultural standards
    - The Guide: culturally appropriate care is included in the goal of promoting access and in no. 5 of the implementation section; education is included, by implication, in the goal of protecting and fostering the health and the well being of communities.<sup>4</sup>
  - *participatory*, meaning that the development encourages impacted individuals to *participate* in its design and development.
    - The Guide: No explicit provision for community participation. It requires that enhanced services address a health need documented by public health data.

Overall, the Guide already embraces many of the substantive content of international human rights law. Some of the components included here (such as requirements of quality) are already assumed to be a requirement of any new health service. Making these assumptions explicit and adding the additional robustness that exists in the international legal framework ensures that proposed plans will meet the ethical goals of Measure 1.

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<sup>4</sup> The elements of preparedness for public health threats, promotion of safe environments and protection from environmental hazards, adequate nutrition, ending homelessness and domestic violence and other issues are beyond the scope of international human rights law as it pertains to health care. These issues, among others, are defined as the “underlying determinants” of health and form an integral part of international human rights law as it pertains to overall population health.

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#### **4. International human rights law provides a multi-faceted approach to implementing the right to health care**

The five health-related human rights principles are interdependent. For example, if there are not enough available medical personnel to treat a common ailment, patients will risk receiving medical services of a lesser quality. Similarly, if care is not culturally appropriate, immigrants and refugees may be reluctant to obtain necessary care. Going further, the right to health care is dependent on other human rights. There can be no real enjoyment of the right to free speech without a right to education. There can be no right to fair trial without institutionalized legal standards and rights. And, at the most basic level, there can be no real enjoyment of the right to life without the right to health and health care.

This fundamental interconnectedness is recognized in both the Guide and international human rights law. Both documents recognize that population health requires more than access to health care; to enjoy good health individuals must, among other things, live in a safe and clean environment, receive a good education, good nutrition, adequate housing and be free of violence and discrimination that limits their opportunities.

Although the differences between human rights principles and the Guide are not great, the differences that do exist – community participation and application of all five principles – are important. Community participation is important because individuals who do not participate in a plan’s development are less likely to find it culturally or physically acceptable. Health professionals and city planners should all have a place at the health reform table. The private insurance industry will want a place too. However, the users of services must not be left out. The requirement that each and every reform proposal meet all five of the international human rights health care principles is equally important. This requirement ensures that key aspects of treatment and care are never ignored or omitted.

The additional components added by international human rights law streamline the decision-making process mandated under the Guide. The five elements are easy to understand and to apply. This simplicity means that most Seattle residents will be capable of evaluating the benefit of suggested reforms. And, the approach – more comprehensive than the Guide’s –

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will lead to policy decisions that are focused on ethical concerns about health care and are therefore more likely meet the obligations of Measure 1.

The Seattle health care system, like the U.S. system within which it operates, is difficult to negotiate and will be difficult to reform. Seattle voters know that although the concept behind Measure 1 – that everyone has a right to health care – is very simple, trying to implement that policy will be complicated. In conjunction with the Guide, international human rights law provides the City with a crucial and comprehensive starting point. The roadmap begins with the five elements listed above, and leads in the direction of systemic and sustainable reform.

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## **5. Using international human rights law to implement the right to health care provides political and strategic benefits for the City of Seattle**

The City of Seattle has a long track record of leading the way on issues related to global health. From Mayor Nickels' initiative on the Kyoto Protocols to the efforts of Seattle-based hospitals and research initiatives, the City's efforts are impressive and of national significance. Given its history of leadership, it is appropriate for Seattle to be one of the select U.S. cities that applies international human rights law and influences the dialogue on health care – on how it should be perceived and implemented on the local, regional and national levels. Appendix III is an article about the U.S. cities that have directly implemented international laws (including Seattle's efforts with regards to the Kyoto Protocols).

An international approach provides Seattle with several strategic and political benefits. First, a human rights framework is one that can be replicated throughout the country. It allows for consistent application across the country in terms of standards of health care but allows for adaptation to local needs.

Second, using international human rights law to implement the right to health care creates an important national precedent. Cities, states, and the federal government are all currently embroiled in trying to figure out how to address the American health care crisis. However, the currently popular proposals (such as those in Massachusetts and California) are like band-aids on a gushing wound; they are ill equipped to meet the complex problems that underlie the U.S. health care crisis.<sup>5</sup> One of the reasons is because these proposals do not focus on meeting ethical concerns as a primary goal. By using international human rights law to implement the right to health care, Seattle can set an important precedent by focusing first and foremost on moral considerations. Doing so will ultimately lead to more effective long-term solutions to the health care crisis.

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<sup>5</sup> Because the five principles of international law have not been followed in the U.S. – and in some cases specifically rejected – the system is inequitable. The current problems are many and include: affordability; health insurance premium inflation rate control; insurance-related administrative burden on practitioners; costs of private insurance bureaucracy; extreme insurance industry profits; insurance company employees making medical decisions for doctors; inadequate numbers of practitioners in poor, rural areas; inadequate standards of care; increasing medical mistakes; overcrowding of hospitals; closing of community clinics, etc.

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Finally, the federal government has endorsed several international treaties that include provisions related to health care. For example, the Convention on the Elimination of Racial Discrimination (CERD) requires the United States to change policies, regulations, or laws that result in different racial groups having unequal access to health care.<sup>6</sup> The federal government has made it clear that this is an obligation that applies to local governments in addition to federal policies. Adopting international human rights norms will allow Seattle to contribute to Washington State’s efforts to help the United States meet its international legal obligations.

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<sup>6</sup> The Convention on the Elimination of Racial Discrimination requires the United States to, among other things, “take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists” and “to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division” (CERD, Article 2). Both of these obligations apply specifically to health care (CERD, Article 5).

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## Conclusion

By passing Measure 1, the voters charged the City of Seattle with the task of promoting the right to quality health care for all city residents. Through the Guide the City has already started to define its interest in health care along the lines spelled out in international human rights law, but it has not taken the step of explicitly embracing international standards. The international standards set the bar a little higher in terms of the City's guarantee of the right to health care. They also provide a way to ensure that the residents of Seattle have health care that meets global standards.

The effort will not be an easy one. Health care is one of the most complicated and politically charged areas of contemporary American life. However, using the five elements listed above, international human rights law provides the City with a place to start. Explicit use of international human rights law is good for both the people of Seattle and for the City as a whole. It ensures that health care reform will be focused on creating an ethical system. It provides norms that are clear and consistent, and which address the systemic challenges facing health care today. Finally, adopting international law defines Seattle as part of the global community as well as a City that takes the lead in using innovative and effective approaches to solve long-term problems.

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## Appendix I: Health care in International Human Rights Law

### *Substance of the right*

Everyone has the right to the enjoyment of the highest attainable standard of physical and mental health. Health care is a necessary component of the right to health. It includes:

*Availability.* Health care facilities must be sufficient to meet the needs of the population in urban and rural areas. They must also be able to function, meaning they need to have clean water, appropriate sanitation, and sufficient numbers of medical service providers.

*Accessibility.* Health care must be geographically and economically accessible for all persons. Accessibility requires non-discrimination, and it requires that people know *how* to access health care.

*Acceptability.* All health facilities, goods and services must be respectful of medical ethics and be culturally appropriate.

*Quality.* As well as being culturally acceptable, health care must be scientifically and medically appropriate, according to both quantifiable and intangible measures.

*Participation.* Any health care plan or service must be developed with the participation of the affected community. This is a requirement which applies to all of the above substantive elements.

### *International instruments pertaining to the right to health and health care*

- Universal Declaration of Human Rights, Article 25
- International Covenant on Economic, Social & Cultural Rights, Article 12
- Convention on the Elimination of All Forms of Discrimination against Women, Article 12
- International Convention on the Elimination of All Forms of Racial Discrimination Article 5
- African [Banjul] Charter on Human and Peoples' Rights Article 16
- Constitution of the World Health Organization
- Agenda 21, Paragraph 6.12
- Copenhagen Declaration, Commitment 6
- Beijing Platform for Action, Paragraph 106
- The Cairo Declaration on Human Rights in Islam, Article 17
- Declaration of Alma-Ata, Article 1
- Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, 'Protocol of San Salvador', Article 10

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## Appendix II: Human rights law in action: reducing childhood asthma and asthma hospitalization

The five principles outlined above can be used to directly evaluate a proposed health care proposal. Below is a fictitious proposal meant to illustrate how to use the international standards to evaluate a program designed to reduce childhood asthma in Seattle.

- I. The five principles of an international human right to health care
  - **Accessibility** in terms of physical location, affordability for all patients, and in terms of whether the health care system is simple and straightforward to use;
  - **Quality**, including best practices, quantifiable measures and intangible components;
  - **Availability**, meaning there are enough medical personnel and facilities to treat prevailing health problems;
  - **Appropriateness**, meaning health care can meet physical, educational, mental, ethical or cultural standards; and
  - **Participation**, meaning it is developed in a way that encourages impacted individuals to participate in its design and development.
  
- II. Proposal to reduce childhood asthma and asthma hospitalization: using elementary schools to detect and treat childhood asthma

*Actions to be taken at elementary schools:*

- 1) Ensure every elementary school has access to a part-time nurse practitioner
- 2) Train all school nurse practitioners to test for asthma in children
- 3) Prepare and distribute materials (video/printed) for educational programming in the schools and for use at home
- 4) Invite parents to attend an educational session on childhood asthma and encourage them to permit asthma testing in the school
- 5) Designate space in each school for medication, asthma-testing equipment, and information materials storage
- 6) Train all teachers about the signs of asthma and enlist them to assist the school in identifying children in need of care
- 7) Work with the University of Washington and other educational facilities to ensure implementation of best and new practices

*Supplies and personnel to be provided by the City*

- 1) Asthma testing equipment to each elementary school in Seattle
- 2) Medication (the City could presumably negotiate a contract price for asthma medications such as Albuterol, thus decreasing the per unit cost)
- 3) Asthma educational materials for children and parents in multiple languages about the disease and the program in schools
- 4) Nurse practitioners

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### III. Evaluating the proposal Using a Human Rights Analysis

In essence, this is a proposal meant to utilize existing physical infrastructure (elementary schools) in order to target a particular population with a particular health condition. From a human rights perspective, the proposal would be evaluated in the following way:

#### ***Accessibility***

The proposal meets accessibility concerns because it reaches all children who are in school. Presumably, this is the vast majority of children in Seattle. The proposal also meets concerns of financial accessibility because the entire procedure is free to the potential patient. Finally, the proposal meets the accessibility concern of simplicity because it fits the testing, diagnosis, and prescription components into existing activities. The addition of multi-lingual pamphlets about asthma makes the program even more likely to meet accessibility concerns.

Finding a cost-effective method for obtaining parental feedback on how well this program works for them would need to be a crucial component of maintaining accessibility in the long term.

#### ***Quality***

The primary way in which this proposal addresses quality is by requiring that elementary school nurses have adequate training to identify asthma sufferers and then can prescribe and provide the proper medication. That is a step in the right direction, but the proposal should also address the quality concern of whether inhaler prescriptions would be appropriate for the children receiving inhalers. To that end, the proposal should include some way to guarantee that the right inhalers go to the right children, and it should provide for a way to easily correct incorrect prescriptions. As with accessibility, the participation of children and parents along the way would lessen the quality concerns.

#### ***Availability***

Since this proposal relies on existing elementary schools to provide asthma tests and prescriptions, the medical services would be available throughout the city. The proposal also calls for increased availability of personnel for schools who may not already have a part-time nurse. However, this is another area where participation is a key component of implementation, and the proposal should allow for school nurses to participate in the way the policy is crafted. Nurses would be the best ones to state whether the asthma testing program would add too much to their currently existing duties, and whether a second nurse should be added to schools specifically to administer this program.

#### ***Appropriateness***

Appropriateness asks whether a proposed plan or policy will meet the cultural, linguistic, educational, physical or other particularities of a community. In this case, the proposal requires that educational materials about the program and childhood asthma be distributed in appropriate languages. This is a crucial component of the



program, since it means that all parents and children will have an equal opportunity to access the asthma program. The proposal could be strengthened by providing a way for parents and children to have input on the appropriateness of the program.

There would have to be public health data that documented the need for such a program which would include information on the current incidence of clinic/hospital treatment of childhood asthma, and the change in the number of incidents after implementation of the program.

***Participation***

As outlined above, participation is a crucial component of each of the elements in addition to being an explicit concern on its own. In this case, participation can be integrated into each of the above elements. However, parents in particular should be included in the policy focus on asthma as a specific health issue.

The five principles outlined above can be used to directly evaluate a proposed health care proposal. Below is a fictitious proposal meant to illustrate how to use the international standards to evaluate policy proposals.

**APPENDIX III: INTERNATIONAL LAW IN U.S. CITIES**

(Attached separately)