

Chapter 2

Understanding and Applying a Human Rights Lens

Introduction

The first theme-based strategy of a rights research approach is understanding and applying a human rights lens for conceptualizing and implementing a research and evaluation project. This theme involves understanding and applying: (1) the values and principles of a human right framework (UN 2015), (2) relevant human rights instruments, such as the Universal Declaration of Human Rights (UN 1948), (3) familiarity with human rights implementation mechanisms, and (4) knowledge and application of the central constructs for research that advances human rights and the mission of social work. They are reviewed in that order, respectively. For social workers passionate about justice, the rights research approach in theory and practice can help assist with the goals and objectives to conduct research that contributes to advancing human rights, social justice, and the well-being of individuals, families, and communities from diverse cultural backgrounds and locations (CSWE 2015).

The Lens of a Human Rights Framework

The first aspect and organizing lens for a rights research approach is the human rights framework and its underlying values and principles (UN 2015). Fundamental to human rights values, dignity, worth, and respect for all persons, the intrinsic value of each person, and the duty of governments (i.e., duty bearers) to their citizens (rights holders) and duty-bearing citizens to rights holding citizens (UN 1948). The six major principles of a human rights framework that form the basis for the six theme-based strategies of a rights research approach are: (1) universality, (2) nondiscrimination, (3) the indivisibility and interdependence of rights (political, civil, social, economic, and cultural), (4) participation, (5) accountability, and (6) transparency, and are described below (Ife 2012; IJRC 2014; NESRI 2014; UN 2015). Table 2.1 then applies these values and principles for a rights research approach.

Table 2.1 Examples of applying a human rights framework to research

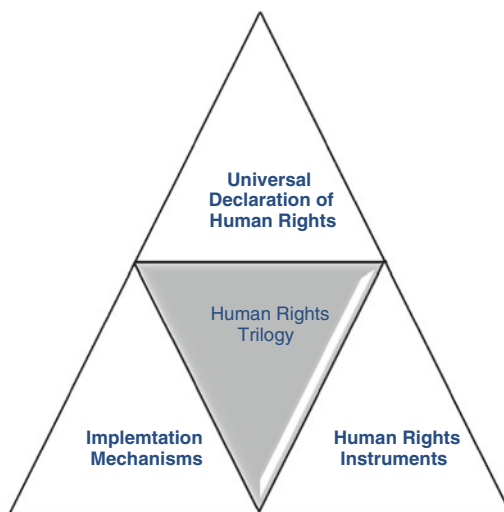
Values	Rights research approach
Dignity, Worth, Respect, Intrinsic of the Person	<ul style="list-style-type: none"> • Participant treated as experts of their own experience • Participants are viewed as having equal value to the research team • Respectful and “humanizing” language is used to interact with and describe participants (e.g., incarcerated person versus “prisoner”) and describe rights as opposed to needs
Responsibility of Duty Bearers to Rights Holders	<ul style="list-style-type: none"> • All precautions are used to protect participant’s safety and rights • Research reports clearly document the protections (research ethics) followed to conduct their study • Research team has a responsibility to design and disseminate their findings to improve individual, family, and/or community well-being • Research team shares their findings for the purposes of public awareness and advocacy
<i>Principles</i>	
Universality & Nondiscrimination	<ul style="list-style-type: none"> • The research team includes members who represent those individuals most affected by a “problem” or population under investigation • Groups that are commonly marginalized (e.g., women, racial/ethnic minorities) are included in research studies • Available published works include a description of the efforts used to include commonly marginalized groups
Indivisibility and Interdependence of Human Rights	<ul style="list-style-type: none"> • Efforts are made to include one more domains of rights: political, civil, social, economic rights, and/or cultural rights and their relationship to individual, family, and community well-being • Published research includes a description and analysis of how the presence or absence of one domain of human rights may impact other domains (e.g., This information may included as part of a problem statement or discussion or recommendations section)
Participation	<ul style="list-style-type: none"> • Efforts to ideally include all key stakeholders in all aspects of the research design (e.g., design of study, implementation, dissemination, and action steps)
Accountability	<ul style="list-style-type: none"> • The research team views themselves as the duty bearers and study participants are rights holders • Publications include a description of how human rights informed their study and apply their research findings to the implications and applications for advancing human rights
Transparency	<ul style="list-style-type: none"> • Human rights instruments (e.g., UDHR) and reports are consulted in research design and referred to the sharing of findings and designing recommendations for an action plan • The research team designs and describes in publications all aspects of the research design, especially the involvement of research participants, for public knowledge and scrutiny. • Avenues for dissemination include access to the information for the general public, practitioners, and policy makers
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- (1) The principle of *universality* states that human rights belong to everyone and there are NO exceptions for any individual. Just by the mere fact that of being human, everyone human is entitled to the collection of political, civil, social, economic, and cultural rights.
- (2) The principle, *nondiscrimination*, underscores access to rights for everyone. In an ideal world, there should be no intended or unintended discrimination of international laws, policies, or practices.
- (3) The principle, *indivisibility and interdependence*, guides governments, as duty bearers, to ensure political and civil rights as well as social, economic, and cultural rights to its citizens, the rights holders. For example, if a government does not recognize a social right, such as the right to health and well-being, it challenges rights holders' access to achieving these other areas of rights, such as the right to education and safety and protection from violence and discrimination.
- (4) The principle of *participation* refers to everyone's rights, especially those most affected, have the right to participate in decisions that may infringe upon the protection of their rights. In the most ideal situation, governments should engage, support, and provide a platform for the participation of civil society on political, civil, social, economic, and cultural issues.
- (5) The principle of *accountability* suggests that governments are responsible for creating a mechanism of accountability for the enforcement of equal rights, which includes monitoring and evaluating the implementation of laws and policies to protect rights.
- (6) The principle of *transparency* means that governments should communicate to civil society about all information and decision-making processes affecting human rights. Society's members should be educated to be part of the informed decision-makers about how major decisions affect their rights. This includes not only the national and international levels but also at the institutional level, such as public institutions, such as how hospitals and schools are structured and managed, which are needed to protect such rights, such as the right to health and education (IJRC 2014; NESRI 2014, UN 2015). Table 2.1 illustrates how a human rights framework can serve as a guideline to design and implement a research or evaluation study that is consistent with a human rights framework and thus a rights research approach.

The Human Rights Trilogy: Human Rights Instruments and Implementation Mechanisms

The second aspect in understanding and applying a human rights lens involves the human rights trilogy, which consists of human rights instruments and implementation mechanisms (Wronka 2007). As illustrated in Fig. 2.1 the human rights

Fig. 2.1 The human rights trilogy: guidance for a rights research approach. ©2015 Tina Maschi



trilogy consists of the Universal Declaration of Human Rights (UDHR), other human rights instruments, and implementation mechanisms.

The top triangle of the trinity is the Universal Declaration of Human Rights (UDHR) that provides an authoritative definition of human rights standards (UN 1948). The UDHR consists of the five crucial notions: (1) human dignity, (2) nondiscrimination, (3) civil and political rights, (4) economic, social, and cultural rights, and (5) solidarity rights (Wronka 2007). After the signing of the Universal Declaration of Human Rights in 1948, additional instruments, such as covenants, conventions, and treaties, were developed to further operationalize and monitor the implementation of human rights. The bottom right triangle represents these “instruments” (e.g., treaties, covenants, declarations, and/or other reports). In a rights research approach, ideally these documents are consulted to identify how to conceptualize research problems and/or to developing and evaluating micro, mezzo, or macro interventions.

The bottom-left triangle represents the implementation mechanisms or structure charged with some aspect of advancing specific human rights using research and evaluation. Under the large umbrella of the United Nations Generally Assembly there are committees or commissions (that Wronka (2008) and others (UN 1994) refer to as implementation mechanisms) that carry out realizing the human rights outlined in these instruments. For a more detailed description of the implementation mechanisms please refer to Policy Analysis book in this series by Gatenio Gabel (2015). As illustrated in Table 2.2 examples and the human rights instruments and associated committees are listed. These committees’ major roles include to initiate research studies and make recommendations based on these findings. For example, the Commission on Human Rights conducts studies, makes recommendations, and develops human rights instruments related to civil and political rights. The Committee on Crime Convention conducts research and prepares recommendations

Table 2.2 United Nations Human Rights Instruments and Associated Committees

Human Rights Instruments Monitored/Year	Associated Committees
International Covenant on Civil and Political Rights (ICCPR, 1996a)	Human Rights Committee
International Covenant on Economic, Social, and Cultural Rights (CESC, 1966b)	Committee on Economic, Social and Cultural Rights
Convention on the Rights of the Child (CRC, 1990b)	Committee on the Rights of the Child
International Convention on the Elimination of All Forms of Racial Discrimination (CERD, 1968)	Committee on the Elimination of Racial Discrimination
Convention on the Elimination of Discrimination Against Women (CEDAW, 1979)	Committee on the Elimination of Discrimination Against Women
Convention Against Torture (CAT, 1987)	Committee Against Torture
Standard Minimum Rules for the Treatment of Prisoners (SMRTP, 1977)	Committee on Crime Convention
Standard Minimum Rules for the Administration of Juvenile Justice ("Beijing Rules," SMRAJJ, 1985)	Committee on the Rights of the Child
Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. (CPR-MWF, 1990c)	Committee on Migrant Workers
Convention on the Rights of Persons with Disabilities (CPD, 1990a)	Committee on the Rights of Persons with Disabilities
Houses Open-ended Working Group on Aging for the purpose of strengthening the protection of the human rights of older persons and the possible development of a Convention on the rights of older persons: http://social.un.org/ageing-working-group/desa-ageing.shtml	UN Department of Economic and Social Affairs

and report on the global status and the promotion of the fair treatment of incarcerated people or what the United Nations refers to as prisoner rights (UNODC 2009). For example, in an article my colleagues and I published about the international crisis on incarcerated elders in prison and make reference to just some of the human rights issues raised and referencing sections of relevant human rights instruments. See Table 2.3 or refer to Maschi et al. (2013) for a more detailed description. Readers also are referred to Gatenio Gabel's (2015) policy analysis book in this series to explore the policy implications of research.

For the purposes of research and evaluation, social workers also have access to resources provided by specialized agencies housed in the United Nations. These agencies provide information, including reports related to the human rights issues in which they are charged to monitor their implementation. Specialized agencies such as, the International Labour Organization, Educational, Scientific and Cultural Organization, assist with realizing human rights, such as the right to health, work, education, and culture. For example, the World Health Organization (WHO 2007) is a specialized agency that deals with matters related to the right to health and well-being as originally outlined in Article 25 of the UDHR and further detailed in

Table 2.3 Summary of a Published Journal Article Human Rights Instruments and Reports to the Human Rights Crisis of the Overgrowth of Mistreatment of Older Adults in Prison

Universal Declaration of Human Rights (1948). Universal Declaration of Human Rights. Ratified in 1948 as a response to the atrocities of World War II, the Universal Declaration of Human Rights (UDHR; UN 1948) provides the philosophical underpinnings and relevant articles to research questions that apply human rights approach to research and evaluation

For example, the UDHR preamble underscores the norm of “respect for the inherent dignity and equal and inalienable rights” of *all human beings*, which in this case includes older adults in prison. Of the 30 articles, five of them are of particular relevance to addressing the aging prisoner crisis. Article 25 states that “Everyone has the right to a standard of living adequate for the health and well-being” (UN 1948, p. 5). These guarantees are relevant to older adults before, during, and after prison, include housing, medical, mental health, and social services as well as the right to security in case of unemployment, sickness, disability, or old age (UN 1948). Research questions for descriptive studies can provide a profile of what are the characteristics or profile of a population of incarcerated adults aged 50 and older? Program evaluation questions can address research questions in regard to extent to which they advance the health and well-being of older adults in prison or after their release

See Maschi et al. (2013) for a detailed human rights explanation of the experiences of older people in prison that warrant further research and program development and evaluation.

Also, see Gatenio Gabel’s (2015) policy analysis book in this series to explore the policy implications of research

the Covenant on Economic, Social, and Cultural Rights. The WHO compiles the Global Health Report on global public health and key statistics. They also engage in global health campaigns and technical assistance related to public health. Their web site has a host of other resources on global health (<http://www.who.int/en/>).

Vulnerable or Special Needs Populations

Additionally, the United Nations commonly classifies socially disadvantaged groups as “vulnerable” or “special needs” populations that are often an interest of social workers conducting research and evaluation (e.g., UNODC 2009). The United Nations recognizes vulnerable populations, such as children, women, older adults, persons with physical and mental disabilities, LGBT persons, prisoners (including older prisoners), detainees, migrants and their families, refugees and political asylees, individuals with HIV/AIDS, victims of genocide and torture (UN 1994). These groups may be at a heightened risk that may include living in poverty, stigma, and discrimination in all areas of violence and abuse and a lack of access to

services and justice (Maschi and Aday 2014). Applying a rights research approach social workers should understand this classification because many human rights guidelines and reports are issued for these populations (e.g., women) or the themes or issues (e.g., gender discrimination) that impact them.

Other sources of information relevant to the design of a research or evaluation project that addresses human rights include nongovernmental organizations. Examples of such organizations are: Human Rights Watch (<http://www.hrw.org/>), Amnesty International (<http://www.amnesty.org/>), and the American Civil Liberty Union (<http://www.aclu.org>) These organizations have publicly available information that describe a social problem or human rights condition and recommendations for solutions as well as opportunities for social workers and other citizens to participate in advocacy campaigns.

Central Constructs of a Rights Research Approach

A third aspect of understanding and applying a human rights lens involves being familiar with it the constructs or “variables” often under investigation in a research or evaluation project. These four central constructs are: human rights, social justice, well-being, and cultural relativism. As illustrated in Fig. 2.2, *human rights* have been conceptualized as a necessary condition for achieving, *social justice* and the *well-being* of all individuals, families, and communities and are shaped by culture and cultural relativism. The two-sided arrows in the diagrams suggest that there is a mutually influential relationship between them. In theory, this conceptual diagram

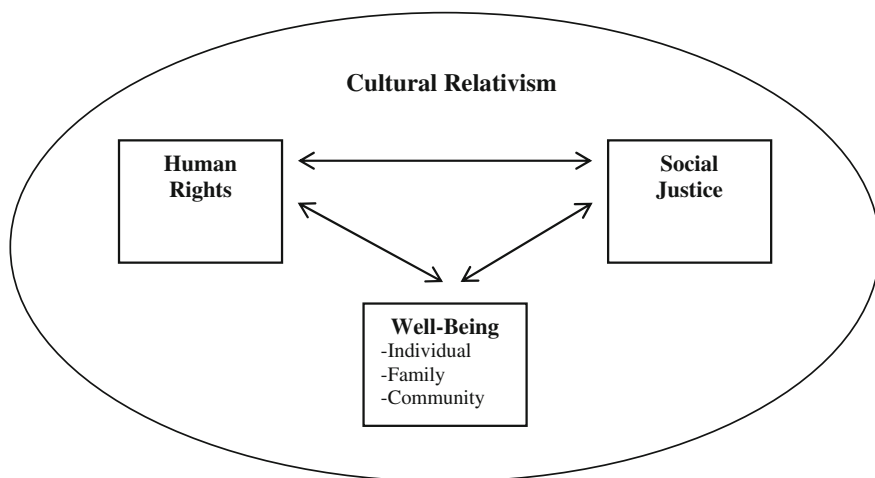


Fig. 2.2 Central constructs of a rights research approach: human rights, social justice, well-being, and cultural relativism. ©2015 Tina Maschi

suggests that human rights are a mechanism to promote social justice and individual, family, and community well-being and consistent with the mission of social work (Wronka 2007).

For the purposes of research, these central constructs also can be operationalized as core indicators or variables for investigation and are briefly described below. These variables include *root “causes”* (i.e., independent variables, such as economic insecurity or education), *moderators* (i.e., moderating variables, such as age, race/ethnicity, gender, or country of origin), *mediators* (i.e., mediating variables, such as social support, social inclusion, or access to healthcare), and *correlates or consequences* (i.e., relational or dependent variables, such as health and justice disparities; Maschi and Aday 2014; Maschi and Youdin 2012).

Cultural relativism is an overarching consideration in conceptualizing, implementing, and evaluating research from a rights research approach. In essence, cultural relativism basically says that cultures differ on how they understand and respond to human rights. Donnelly (1984) referred to cultural relativism as a global doctrine holds that some cultural variations are exempt from legitimate criticism by outsiders and supersede some human rights. For example, the cultural practice of female genital circumcision in some African countries may be perceived by as a human rights violation (Reichert 2011). Cultural relativism is grounded in notions of communal autonomy and self-determination in which a culture’s or community’s right to autonomy may trump human rights. For example, there are culture variation on how define what constitutes “cruel and unusual punishment” and “torture” (UN 1948). When conducting a rights research study, cultural relativism should be a consideration on how participants from diverse backgrounds and cultures perceive human rights, social justice, and well-being. When evaluating a research study or program, they can be assessed to what extent cultural relativism was taken into account and ideally are documented in publications about the study.

Summary

This chapter reviewed the first theme-based strategy of a rights research approach, understanding and applying a human rights lens. Four aspects were identified which where: (1) the values and principles of a human right framework (UN 2015), (2) guidance from relevant human rights instruments, such as the Universal Declaration of Human Rights, (3) familiarity with human rights implementation mechanisms, and (4) knowledge and application of the central constructs for research that advances human rights and the mission of social work. These four aspects are important considerations for social workers who are seeking guidance on how to apply a human rights lens to design and implement research and evaluation projects that advance human rights and individual, family, and community well-being. The next chapter reviews the second theme-based strategy, “research that makes a difference” and provides examples of social workers who have

implicitly and explicitly used research and evaluation to advance human rights and individual, family, and community well-being.

Exercises

The following individual or group experiential exercises can be used as an individual writing assignment or small group or discussion thread experiential exercises.

1. Pick a population of interest, such as immigrants or migrants, incarcerated people, persons with disabilities, racial/ethnic minorities, women, or children.
 - (A) Review the Universal Declaration of Human Rights to identify at least 2–3 of the most salient human rights impacting this population. As an individual exercise, write a one–two page essay or give a class presentation about your key findings that describe that rights outlined in regard to this population. Make at least one recommendation for a research study that can be conducted using one or more of these rights. As a group exercise, form a team of 3–5 people to research your findings. Present these findings to the large group.
 - (B) Review the list of United Nations Core Human Rights Instruments to identify a human rights instrument that speaks to that population by visiting this link <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>.

An example is the Convention on the Rights of the Children for a population of children.

As an individual exercise, write a one–two page essay or give a class presentation about your key findings that describe that rights outlined in regard to this population. Make at least one recommendation for a research study that can be conducted to explore one or more of these rights. As a group exercise, form a team of 3–5 people to research your findings. Present these findings to the large group.

2. Choose a human rights issue, such as child maltreatment, elder abuse, mass incarceration, or LGBT or women’s rights. For parts A or B, as an individual exercise, write a one–two page essay or give a class presentation about your key findings that describe what rights outlined in regard to this population. Make at least one recommendation for a research study that can be conducted to explore one or more of these rights. As a group exercise, form a team of 3–5 people to research your findings. Present these findings to the large group. Identify two to three research studies from different countries.
 - (A) Identify and read two to three research studies from different countries. Assess the extent to which the study adopts a human rights framework as outlined in Table 2.1.

- (B) Identify one research study from a country of choice. Assess the extent to which the study addresses one or more of the central constructs of a rights research approach: human rights, social justice, well-being (individual, family, and community well-being), and culture (cultural relativism) (See Fig. 2.1).

3. The **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** (commonly known as the **United Nations Convention against Torture** or **CAT**) is a core human rights instrument or treaty. It is the most noted prohibition against torture and other acts of cruel, inhuman, or degrading treatment or punishment. It has influenced international law widely and is one of the three core treaties the U.S. has ratified. The CAT has been used in advocacy campaigns for the treatment of prisoners and to end solitary confinement. Reviewing the CAT, identify a prison or criminal justice issue and apply the CAT to it. See examples and additional information about CAT at:

CAT text: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment, Juan Mendez: <http://www.ohchr.org/EN/Issues/Torture/SRTorture/Pages/SRTortureIndex.aspx>

US Human Rights Network: <http://www.ushrnetwork.org/our-work/project/cat-convention-against-torture>

National Religious Campaign Against Torture: <http://www.nrcat.org>

References

- Council on Social Work Education [CSWE]. (2015). *2015 Educational policy standards*. Retrieved September 1, 2015, from <http://www.cswe.org/File.aspx?id=69943>
- Donnelly, J. (1984). Cultural relativism and human rights. *Human Rights Quarterly*, 6(4), 400–419.
- Gatenio Gabel, S. (2015). *A human rights approach to policy analysis*. New York: Springer.
- Ife, J. (2012). *Human rights and social work towards rights-based practice* (3rd ed.). London: Cambridge University Press.
- International Justice Resource Center [IJRC]. (2014). Overview of a Human Rights Framework. Retrieved April 1, 2015 from <http://www.ijrcenter.org/ihr-reading-room/overview-of-the-human-rights-framework/>
- Maschi, T., & Aday, R. (2014). The social determinants of health and justice and the aging in prison crisis: A call to action. *International Journal of Social Work*, 1(1), 1–15.
- Maschi, T., & Youdin, R. (2012). *Social workers as researcher: Integrating research with advocacy*. Boston: Pearson Publishers.
- Maschi, T., Viola, D., & Sun, F. (2013). The high cost of the international aging prisoner crisis: Well-being as the common denominator for action. *The Gerontologist*, 53(4), 543–554. doi: 10.1093/geront/gns125, first published on October 4, 2012.

- National Economic and Social Rights Initiative [NESRI]. (2014) What are the basic principles of a human rights framework. Retrieved May 9, 2015 from <https://www.nesri.org/programs/what-are-the-basic-principles-of-the-human-rights-framework>
- Reichert, E. (2011). *Social work and human rights: A foundation for policy and practice* (2nd ed.). New York: Columbia University Press.
- United Nations (1966a). *International Covenant on Civil and Political Rights*. Retrieved May 9, 2011 from <http://www2.ohchr.org/english/law/ccpr.htm>
- United Nations (1966b). *International Covenant on Economic, Social, and Cultural Rights*. Retrieved May 9, 2011 from <http://www2.ohchr.org/english/law/cescr.htm>
- United Nations. (1969). Convention on the Elimination of All Forms of Racial Discrimination (CERD, 1969). Retrieve June 1, 2012 from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>
- United Nations. (1977). *Minimum Standard Rules for Treatment of Prisoners*. Retrieved May 9, 2011 from <http://www2.ohchr.org/english/law/treatmentprisoners.htm>
- United Nations. (1978). Convention on the Elimination of Discrimination Against Women (CEDAW, 1978). Retrieve June 1, 2012 from <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>
- United Nations. (1985). Standard Minimum Rules for the Administration of Juvenile Justice. Retrieved May 1, 2014 from: <http://www.unrol.org/doc.aspx?d=2670>
- United Nations. (1987). Convention Against Torture. Retrieved May 1, 2012 from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>
- United Nations. (1990a). Convention on the Rights of Persons with Disabilities. Retrieved May 1, 2014 from: <http://www.un.org/disabilities/convention/conventionfull.shtml>
- United Nations. (1990b). Convention on the Rights of the Child. Retrieved May 1, 2014 from: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- United Nations. (1990c). International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Retrieved May 1, 2014 from: <http://www2.ohchr.org/english/bodies/cmwf/cmwf.htm>
- United Nations [UN]. (2015). Human Rights Framework. Retrieved May 9, 2015 from <http://www.ohchr.org/EN/Issues/Migration/Pages/HumanRightsFramework.aspx>
- United Nations Office on Drugs and Crime [UNODC]. (2009). *Handbook for prisoners with special needs*. Vienna, Austria: Author.
- United Nations. (1948). *The Universal Declaration of Human Rights*. Retrieved from September 1, 2011 from <http://www.un.org/en/documents/udhr/>
- United Nations. (1994). *Human rights and social work: A manual for schools of social work and the social work profession*. Geneva: United Nations Centre for Human Rights.
- World Health Organization [WHO] (2007). *The world health report 2007 - A safer future: global public health security in the 21st century*. Retrieved September 15, 2011 from <http://www.who.int/whr/2007/en/index.html>
- Wronka, J. (2007). *Human rights and social justice: Social action and service for the helping and health professions*. Thousand Oaks, CA: Sage Publications.
- Wronka, J. (2008). Human rights. In T. Mizrahi & L. E. Davis (Eds.), *Encyclopedia of social work* (pp. 425–429). Washington, DC: National Association of Social Workers.

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Research and Evaluation

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