



GLOBAL CENTER FOR  
**LEGAL INNOVATION ON  
FOOD ENVIRONMENTS**  
An Initiative of the O'Neill Institute at Georgetown Law

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GEORGETOWN LAW

# Developing Tobacco Control Legislation in the Caribbean

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# Scope of the problem

## 2000:

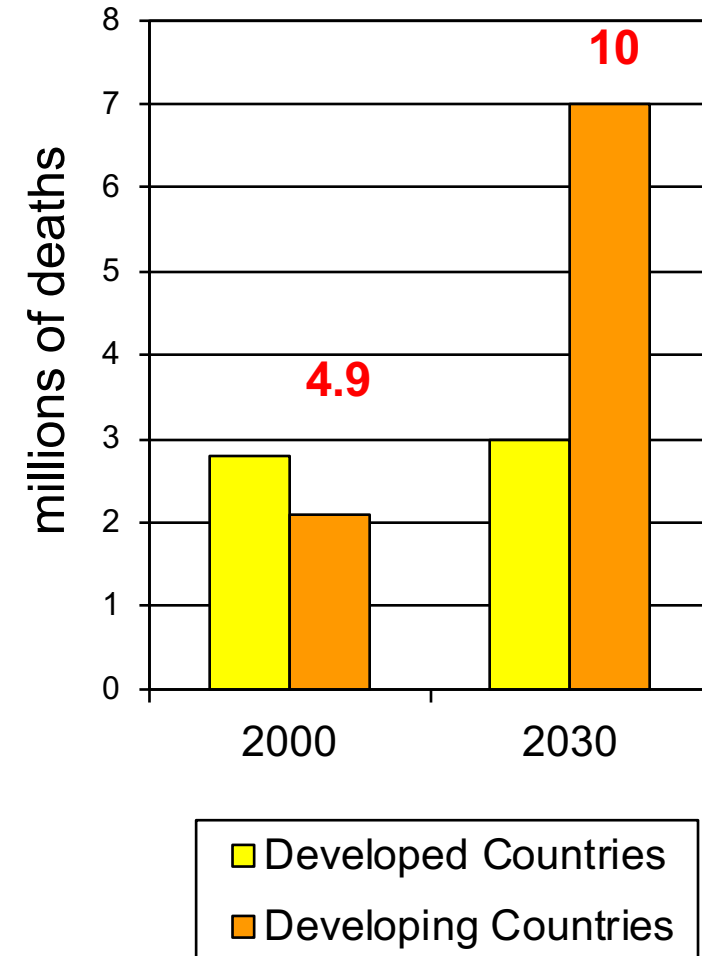
- 4.9 million people die per year

## 2006:

- 5.4 million deaths (1/10 adults)

## By 2030:

- 10 million people will die per year
- 80% of those deaths will occur in developing countries
- Entirely **preventable** illness and death





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# The Role of Law in Health



# Why use the law?

## Law has the ability to affect external environments:

- **physical environment:** i.e. planning law that permits the availability/convenience of fast food outlets
- **economic environment:** i.e. tobacco excise taxes increase unaffordability of tobacco products
- **social environment:** i.e. alcohol supply laws restrict access to alcohol for young people, and the supply of alcohol to young people by adults.



# Law and NCDs Risk Factors Regulation

- ***What* are we trying to do? Why do we use the law in NCDs?**
- **At what *level* should we legislate?**
- **What *activities* should we regulate?**
- **What *legal tools* should we use? What will be effective and appropriate?**
- **Upon *whom* should we impose legal obligations?**
- **What *sanctions* should we impose to ensure compliance and in the case of non-compliance?**
- **Which *government authority* or *agency* should be given powers of monitoring and enforcement?**



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# NCDs and Human Rights



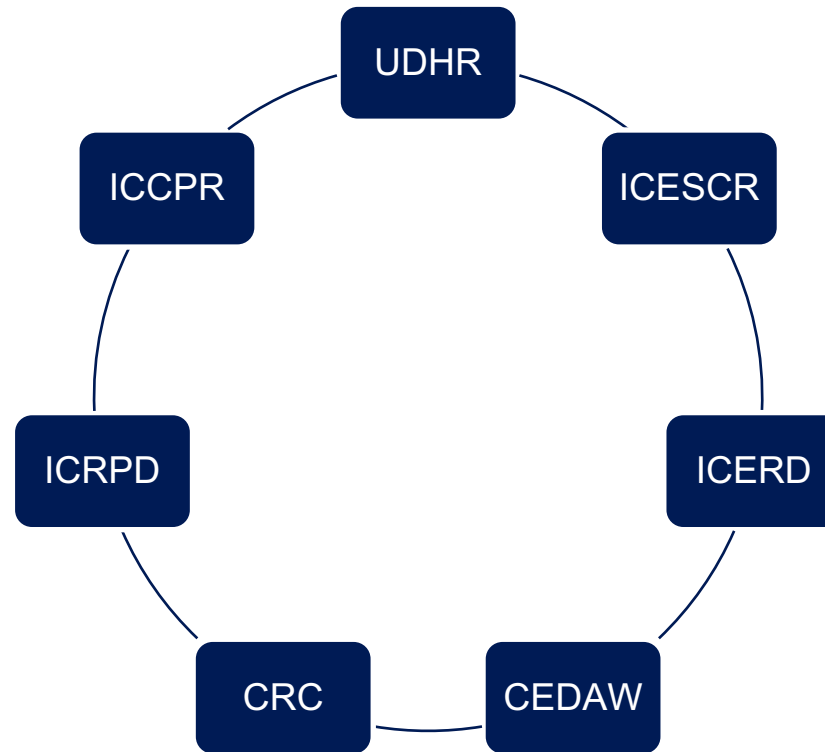
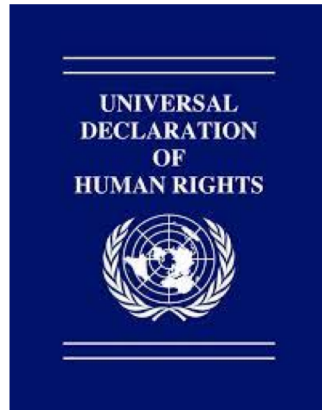
# Why human rights?

## Human rights can be a powerful tool...

- At both domestic and international levels
- To influence political discourse and policy debates
- For clarifying government action
- To provide avenues for claiming rights
- For monitoring and enforcing rights.



# International Legal Standards



International Covenant on  
Economic Social and Cultural Rights



CEDAW





# Human Rights Obligations

States have legal obligations to respect, protect and fulfill the human rights and individual freedoms of all persons.



Respect



Protect

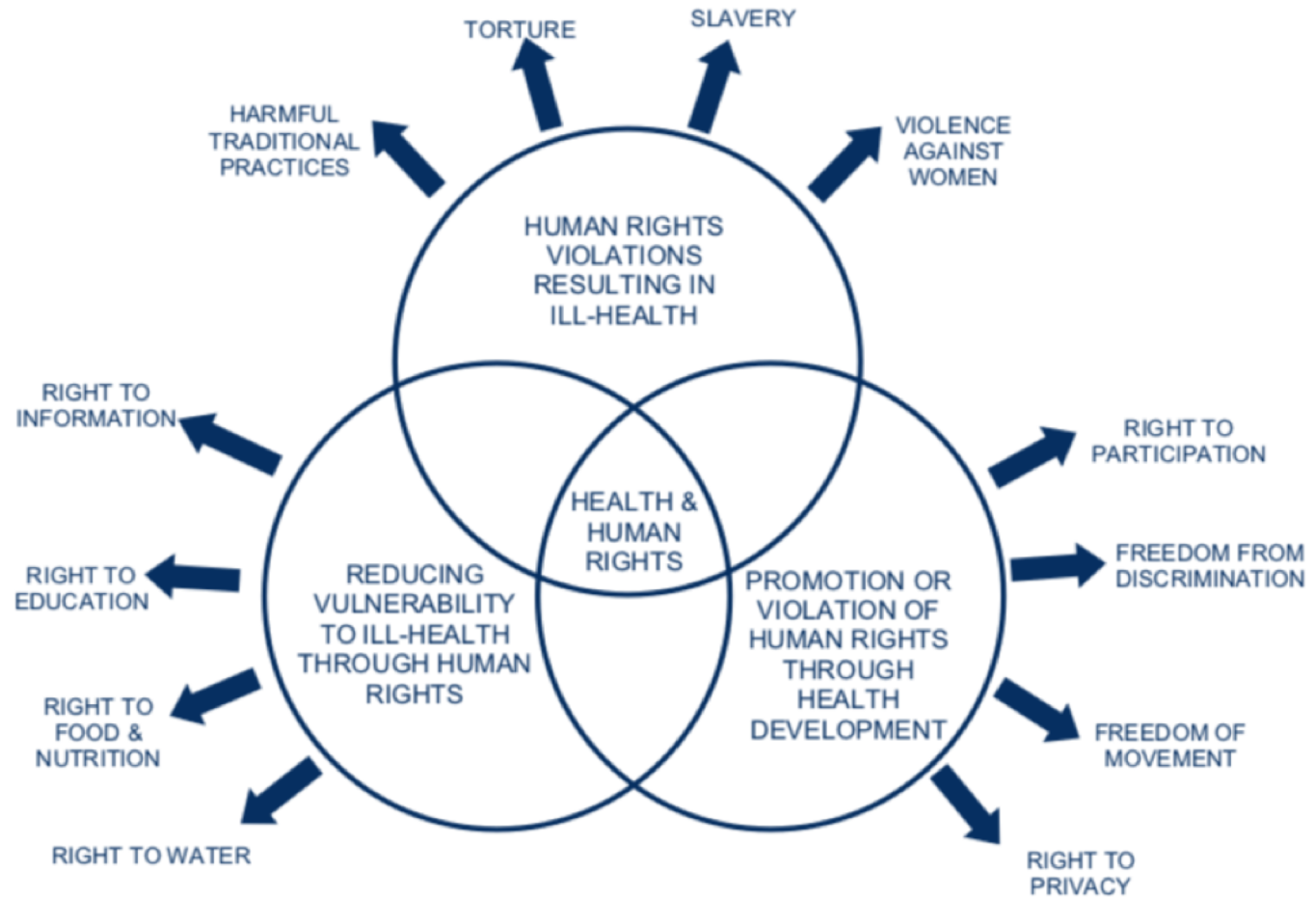


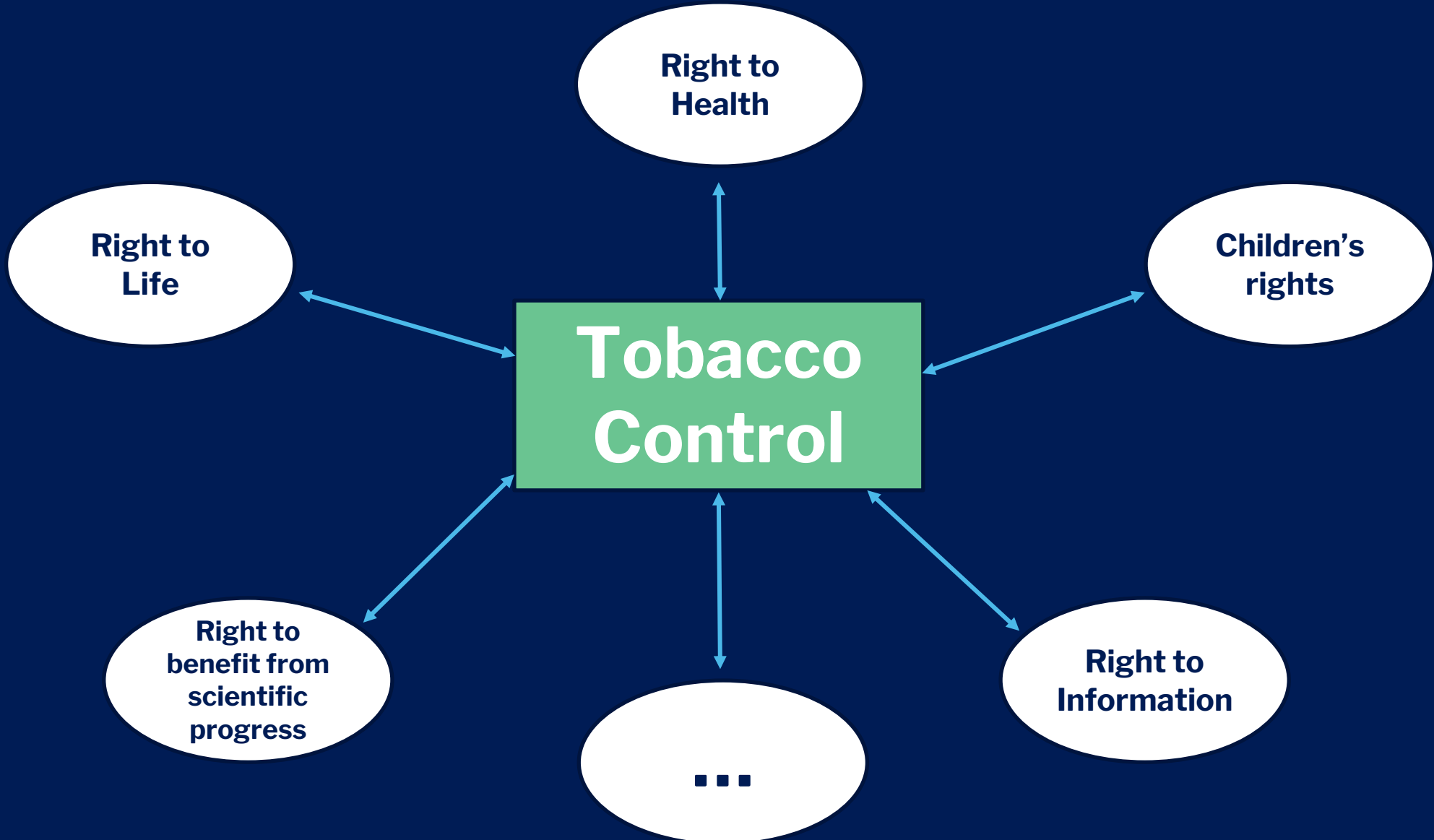
Fulfill



# NCDs as a human rights issue

The right to health and health-related rights







# Regulating NCDs risk factors as a human rights issue



## **Statement by the UN Special Rapporteur on the right to health on the adoption of front-of-package warning labelling to tackle NCDs**

*Non-communicable diseases (NCDs) are a major challenge of this century highly rooted on overweight, obesity and unhealthy diets. As part of their right-to-health duties, States should address the diet-related NCDs preventable risk factors and promote frameworks whereby the food and beverage industry convey accurate, easily understandable, transparent and comprehensible information on their products. Front-of-package warning labelling regulations are much needed in this regard.*

27 July 2020 - The global burden of non-communicable diseases (NCDs), including cardiovascular and chronic respiratory diseases, cancers, and diabetes, constitutes one of the major challenges of the twenty-first century that cause detrimental societal, economic and health effects. Common NCDs risk factors, including overweight and obesity, have reached concerning levels in much of the world and are becoming increasingly prevalent in developing countries.<sup>[1]</sup> Unhealthy diets have a direct impact on overweight and obesity and are key contributing factors to NCDs and to their related premature morbidity and mortality in all regions. Consequently, it is critical that States proactively and comprehensively address the diet-related NCDs preventable risk factors and that they do it in line with the right-to-health framework.



# Regulating NCDs risk factors as a human rights issue

“(...) States should ensure that marketing and advertising do not have adverse impacts on children’s rights by adopting appropriate regulation to ensure these industries use clear and accurate product labelling and information that allow parents and children to make informed consumer decisions.”



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# TAXES, MARKETING, LABELING, ...



Per serving (30g):

Energy 1046KJ 250Kcal	Sugar 9g	Fat 3g	Saturates 0.1g	Salt 0.1g
12%	10%	2%	4%	1%

% based on the daily value of 2000 calories of adult's reference intake.  
Typical values per 100g: Energy 4530KJ/750Kcal

Each serving contains:

Calories 218	Sugars 6.3g	Fat 3.2g	Saturates 1.4g	Salt 0.2g
11%	7%	5%	7%	3%

of an adult's guideline daily amount





## Why is a human rights approach relevant for tobacco control?

- To shift a trend: the tobacco industry has more effectively used human right arguments.
  - Such as freedom of speech
- To strengthen a political position: human rights law has a prominent role in political and policy discourses.
  - Once a relevant societal issue acquires the status of a human right, it has special consideration in public policy.
- To link FCTC provision with existing human rights obligations
  - Strengthening the FCTC implementation



# Tobacco Control Litigation

- Types of Litigation

- Defensive: Protect tobacco control regulations  
(i.e. against industry attacks)

- Philip Morris v. Uruguay*

- Offensive: Lawsuits against the State for failing to comply with the duty to protect (i.e. when the minimum standards for the protection of the right to health are not met)

- Amparo against the General Law for Tobacco Control in Mexico.*

- Bauducco (Brazil)*





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# Thank you

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