



## **Theoretical Perspectives on Global Health and Human Rights**

**15<sup>th</sup> November 2007  
Edinburgh Training Centre  
Edinburgh**

Co-convenors: Dr Maria Stuttaford, University of Maastricht  
Professor Gillian Lewando Hundt, University of Warwick  
Professor John Harrington, University of Liverpool

### **Seminar Background and Aims**

This seminar was the second in a series of three seminars on "Global Health and Human Rights" funded by the U.K. Economic and Social Research Council (ESRC). The series was established to provide a forum for scholastic, multi-disciplinary debate on health and human rights. The aims of the series are to:

- ✍ Contribute to current debates on health and human rights
- ✍ Foster links between the Academy, policy and practice
- ✍ Support new and emerging researchers in health and human rights
- ✍ Identify capacity building priorities in the field of health and human rights

### **Participants and Programme**

There were 51 participants during the one-day programme which comprised formal presentations, questions and answers and time for networking and socialising. Six participants were PhD students, one was a Masters student and five were student doctors. Nine participants were from the voluntary sector and one was from the public sector. The academic disciplinary backgrounds of participants included law, anthropology, geography, political science, health policy, development studies, medicine, pharmacy and nursing. The following civil society groups were represented: Amnesty International, Basic Needs, Deprivation Interest Group, National AIDS Trust, Mental Health Europe, Initiative for Health Fund, and the European Public Health Alliance.

Abstracts of the presentations can be found at:

[http://www2.warwick.ac.uk/fac/cross\\_fac/healthatwarwick/research/currentfundedres/healthandhumanrights/edinburgh/](http://www2.warwick.ac.uk/fac/cross_fac/healthatwarwick/research/currentfundedres/healthandhumanrights/edinburgh/)

## **Report**

This brief report does not attempt to capture the content of each of the presentations and the discussions. Rather, we attempt to present to you key themes that emerged overall from the seminar. The presenters have had an opportunity to comment on the summary and we thank them for assisting in the challenging task of drawing out these key themes.

### ***Overview of Seminar 2***

Our first seminar, held at Liverpool, had a strong theoretical focus, bringing together leading commentators on ethics, rights and law as they relate to issues of global health. This series seeks to go beyond theoretical discussion, however. The second seminar, at Edinburgh, therefore focussed on the means by which the human right to health is invoked and deployed in practical contexts. It was pleasing to see again a number of participants, including speakers, from the first seminar. In their presentations and contributions from the floor they actively integrated their critical responses to the earlier theoretical discussions in considering the concrete problems of advancing the right to health in institution building, monitoring and campaigning.

### ***Key Themes***

#### **Institutions and Networks**

Given that the seminar was followed on the 16<sup>th</sup> by a workshop of the European Public Health Alliance (EPHA), it was fitting that **Caroline Bollars** of the Alliance should open the discussion. She explained the work of EPHA in representing a diverse range of health NGOs from across Europe in the institutions of the European Union. EU initiatives affect health across a wide range of sectors. The ascendant neo-liberal mentality in the EU means that trade and markets tend to be privileged over health rights and interests unless challenged by NGOs. EPHA's task in monitoring and responding to these developments is increased by the diverse interests of its member organizations. Perspectives vary depending on the particular area of activity and the particular member state in which they are located. Caroline noted that EPHA often relies on its members to begin the lobbying process at national level.

The importance of institutional dynamics in developing the right to health were also made clear in **William Onzivu's** presentation on the work of the World Health Organization (WHO). Drawing on his experience as a (former) legal officer at WHO he noted that the Organization had itself pioneered the recognition and development of the right in its own Charter. Human rights are mentioned in the WHO's revised International Health Regulations and in the Framework Convention on Tobacco Control. But the right to health as such has not been prominent in this. William mentioned that the 'Westphalian' nature of treaty making meant that states had a veto over progress in this

regard. For some states the right to health, as a social and economic right, would not be acceptable as a normative orientation for WHO's work. Speakers from the floor, active in health-related NGOs, agreed that the WHO could give a much greater lead on the promotion of the human rights as part of public health strategies.

**Fiona Haigh's** contribution was informed by her training in law and in public health and by her work on health impact assessments (HIAs) in the UK. HIA methodology can vary from 'desk surveys' to in depth consultations 'on the ground'. The method adopted needs to be adequate to a model of health which is not simply biomedical, but one which also integrates social and environmental determinants. Fiona noted the important procedural components of the HIA and laid great emphasis on its democratic features. This extends not simply to the measures to be taken to protect and improve health, but also and more fundamentally to the very definitions of health interests and health impacts themselves. In the following debate there was some discussion of the usefulness of law in this process. Fiona argued that while the right to health might be useful in compelling state and non-state actors to undertake HIAs, legal forms of deliberation promoted hierarchies, limited democratic participation and curtailed the flow of relevant information.

## **Economic Rights and Civil Rights**

A number of speakers considered the origins and scope of the right to health as recognized in Article 12 of the International Covenant on Economic, Social and Cultural Rights. All acknowledged the philosophical and political controversy attending this recognition. The first two speakers of the afternoon presented evidence of the practical implications of this controversy in the work of NGOs and health professionals in majority world countries.

The contrast between economic and social rights on the one hand and civil and political rights on the other was put into sharp focus by **Jim Welsh's** paper. Jim is Health and Human Rights Co-ordinator for Amnesty International (AI). He explained that the reasons that lead AI to expand its campaigning from more traditional concerns like torture, execution and wrongful detention to denial of the right to health. AI members supported this move in 2001, by a majority, but not unanimously. The catalyst was a shift from a list-based definition of AI's objectives to a broader mission-statement. The latter focussed on 'grave abuses of rights to physical and mental integrity'. Since then AI has taken a more holistic approach to rights as indivisible and interdependent, an approach also enshrined in international human rights law. Two important areas of AI campaigning are HIV/ AIDS and maternal mortality. Responding to questions Jim pointed out that AI was concentrating on extreme violations of the right to health, situations of dire need and flagrant abuses. He acknowledged the practical tensions and conceptual difficulties created by this approach, in particular the possibility of overstressing the well-known and respected AI 'brand'.

The enduring importance of civil and political rights in the context of global health was highlighted by **Peris Jones**. He presented empirical findings from an intensive study of access to treatment for HIV/ AIDS at health facilities in a former South African 'homeland'. Access to anti-retrovirals has increased dramatically in Sub-Saharan Africa since 2001. However, a number of paradoxes are evident in the new era: available treatment is often not taken up; rights to consent to and refuse treatment are eroded by authorities keen to maximize treatment; human rights campaigns for drug access have led to the medicalization of HIV/ AIDS, though this is undoubtedly a much broader public health problem. This theme of coercion was taken up in the discussion, with some remarking on the possible continuity with pre-apartheid health governance in South Africa. Attention was drawn to the weakness of health infrastructure in many African countries, which undermines the roll-out of counselling, testing and treatment. Health worker migration to Europe and North America is an important factor in this. The burden on remaining nurses in particular was pointed out. On the other hand one participant with direct experience of AIDS care in Malawi was able to inform the meeting of the relatively more successful provision of treatment in that country.

## Race and Migration

The day's final session focussed on the enduring salience of race discrimination and the precarious situation of migrants for enjoyment of the right to health. **Dabney Evans** reminded participants of the continuing racial inequalities in life expectancy and health status in the United States. There is no right to health in American constitutional law. Notwithstanding this, racial inequalities in health can be addressed as a matter of law through international human rights instruments. Dabney carefully outlined an innovative 'synergistic' approach to human rights law. The right to health is guaranteed in Article 5(e)iv of the Convention on the Elimination of All Forms of Racial Discrimination (CERD). From the outset, however, there has been little explanation of the scope of the right. This interpretative gap can be filled with reference to Article 12 ICESCR which has been subject to considerable elaboration. As well as contributing to the impact of CERD, this synergistic approach offers added focus and normative weight to Article 12 ICESCR. Participants questioned the meaning of terms such as 'race' and 'discrimination' in this context. It was also noted that other axes of discrimination such as class, gender and national origin might be more salient to health inequalities in other countries.

The global focus of the seminar and of the series as a whole was prominent in **Martha Chinouya's** presentation. She drew on extensive fieldwork in Zimbabwe and the UK to map the effect of the HIV/AIDS epidemic on South-North migrants and the communities they leave behind. The spread of HIV among heterosexuals in Britain has been significantly concentrated among arrivals from African countries. Martha showed how attitudes to treatment among migrants are influenced by previous experiences in Zimbabwe and their continuing links with family and community in that country. This transnational understanding is deepened by a historical understanding of Zimbabwe's current political crisis and its roots in the independence and colonial periods. Martha

drew on fieldwork in Manicaland, Zimbabwe to show the importance of church-based NGOs in operationalizing the right to health in the context of HIV/ AIDS.

## Further Dissemination

In addition to the presentations available on the website and this note of key themes, the series organizers are in discussion with leading international publishers in law and social studies. We hope to conclude a suitable agreement by the New Year. We would expect the ensuing publication(s) to be available in 2009, so as to include suitable papers from the final seminar in June 2008. Further details of these will be made available on the website and at forthcoming seminars.

## Next Seminar

The third seminar in the ESRC seminar series on "Global Health and Human Rights" will focus on global health issues. It will be held at the University of Warwick from **5<sup>th</sup> to 6<sup>th</sup> June 2008**. Topics to be covered include:

- ✍ Health equity and collective action
- ✍ Health rights of vulnerable minorities
- ✍ Humanitarian aid
- ✍ Dual Loyalty
- ✍ Neo-liberal governance and the right to health
- ✍ Infectious disease control and the law
- ✍ Methods for researching health and human rights

Participants will include colleagues at the University of Cape Town, whose contributions to the seminar will be facilitated by a live video link.

There will be fully subsidised places for 3 voluntary organisations and 3 postgraduate students.

For Further Information:

[http://www2.warwick.ac.uk/fac/cross\\_fac/healthatwarwick/research/currentfundedres/healthandhumanrights/](http://www2.warwick.ac.uk/fac/cross_fac/healthatwarwick/research/currentfundedres/healthandhumanrights/)

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**We look forward to seeing you there!**