



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

**19<sup>th</sup> to 20<sup>th</sup> April 2007**  
**Institute of Medicine, Law and Bioethics**  
**Liverpool Law School**  
**University of Liverpool**

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

### **Seminar Background and Aims**

This seminar was the first 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 47 participants during the two day programme which comprised formal presentations, questions and answers, workshops and time for networking and socialising. 6 participants were PhD students, 1 was a Masters student and 3 were student doctors. 2 participants were from the voluntary sector and 2 were from the public sector. The academic disciplinary backgrounds of participants included law, anthropology, geography, political science, moral philosophy, medical ethics, medicine, pharmacy and nursing.

Presentations were as follows (available at: [http://www2.warwick.ac.uk/fac/cross\\_fac/healthatwarwick/research/currentfundedres/healthandhumanrights/liverpool/presentations/](http://www2.warwick.ac.uk/fac/cross_fac/healthatwarwick/research/currentfundedres/healthandhumanrights/liverpool/presentations/)):

**Professor Paul Hunt** (UN Special Rapporteur on the Right to Health)

*Reflections on Implementing the Right to Health*

**Professor Upendra Baxi** (University of Warwick)

*The Place of the Human Right to Health and Contemporary Approaches to Global Justice: Some Impertinent Interrogations*

**Dr Lisa Forman** (University of Toronto)

*The Minimum Core, South African Socioeconomic Rights Jurisprudence and the Rights to Health: Theoretical and Practical Implications*

**Professor Udo Schüklenk** (Glasgow Caledonian University)

*The 10/90 Gap in International Health Research and Drug Research and Development. Whose Moral Responsibility is it?*

**Professor Simon Caney** (University of Oxford)

*Global Justice, Health and Climate Change*

**Dr Brigit Toebes** (University of Aberdeen)

*Taking a Human Rights Approach to Health Care Commercialisation*

**Professor Roger Brownsword** (King's College London)

*The Ancillary-Care Responsibilities of Researchers: Reasonable But Not Great Expectations*

**Professor John Harris (University of Manchester)**

*Transplantation, Retained Organs and the Duty to Others*

## Key Themes Presented and Discussed

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.

## Operationalising Rights While Continuing the Theoretical Debate

In the opening presentation, Paul Hunt argued that while human rights do not provide magic solutions to complex problems, they have a constructive contribution to make to social justice at global, national and sub-national levels; there is a need to move from a general discourse about economic, social and cultural rights to theorising about, and operationalising, specific rights, such as the right to health. In contrast, Upendra Baxi's paper emphasised that rights based approaches should not be overstated and must take into consideration established

debates on global justice. Udo Schuklenk questioned the usefulness of rights based approaches for addressing the issue of pharmaceutical patents on drug research and development in which there is an ongoing tension between access to essential medicine and the pharmaceutical aim of profit. This critical but engaging juxtaposition of debates continued throughout the seminar. There is a need to continue to work with ethicists and political philosophers and continue to ask: what is the value added by a rights based approach to health? Theorising rights can assist in guarding against solely state-based notions of human rights.

## **Context and Time**

Simon Caney's presentations illustrated the importance of context and time in rights to health, especially with the current changes in our global climate. Roger Brownsword set out how the context in which research takes place is important. While it is agreed that researchers should do no harm to people who participate in research, there is less agreement on the extent to which researchers have ancillary-care responsibilities. He argued that in so-called 'developing' countries, researchers do have such responsibilities.

Lisa Forman illustrated how there are temporal and contextual influences on rights to health. While the minimum core is widely accepted alongside the progressive realisation of human rights, there is some debate as to when and how the minimum core is realised in particular contexts, such as South Africa.

John Harris questioned posthumous rights and the right to remain intact after death. He called for geopolitically defined areas for trade in human organs.

## **Measuring Impact on Human Rights**

With states parties responsible for respecting, protecting and creating conditions for the fulfilment of human rights, there are a multitude of potential actors for actually operationalising rights to health. An example of this is the mix of public and private sector provision of health care. Brigit Toebe set out a human rights impact assessment framework to measure the impact of commercialisation on health.

## **The Role of the Judiciary**

Roger Brownsword concluded that courts are not well equipped for ensuring ancillary-care responsibilities in developing countries are fulfilled. Lisa Forman concluded similarly that realizing the minimum core could not only be achieved through the judiciary. Individual and collective expectations, discourse, advocacy and mobilisation need to work alongside and together with the judiciary to operationalise rights to health.

## Further Dissemination

In addition to the presentations available on the website and this note of key themes, a book and/or special journal issue are being investigated by the co-convenors. Further details of these will be made available on the website and at forthcoming seminars.

## Next Seminar

The second seminar in the ESRC seminar series on "Global Health and Human Rights" will focus on process. It will be held in Edinburgh from **15<sup>th</sup> to 16<sup>th</sup> November 2007**. Topics to be covered include:

- ✍ The intersections of international, regional, national and local processes for invoking rights to health
- ✍ International Health Regulations
- ✍ Regional processes in the European Union and African Union
- ✍ The role of international non-government organisations
- ✍ Local and global processes in health equity
- ✍ Individual and collective agency for invoking rights to health
- ✍ Equality and human rights in the UK
- ✍ The role of patient's rights charters
- ✍ Invoking rights to maternal health
- ✍ Methods for researching health and human rights

There will be fully subsidised places for 3 voluntary organisations and 3 post graduate 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!**