Making the Case for Human Rights in Global Health Education, Research and Policy

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ABSTRACT

If the 2010 CPHA conference is a bellwether of mainstream Canadian public and global health practice, its dearth of human rights papers suggests that, outside a small scholarly cohort, human rights remain marginal therein. This potential 'rights gap' conflicts with growing recognition of the relationship between health and human rights and ergo, the importance of human rights education for health professionals. This gap not only places Canadian health research outside the growing vanguard of academic research on health and human rights, but also ignores a potentially influential tool for achieving health equity. I suggest that human rights make a distinctive contribution to such efforts not replicated within other social justice and equity approaches, making human rights education a crucial complement to other ethical training. These contributions are evident in the normative specificity of the right to health in international law and its legally binding nature, in the success of litigation, the successful advocacy for AIDS treatment and the growing adoption of rights-based approaches to health. Canadian academic and research institutions should take up their rightful place within health and human rights research, education and practice globally, including by ramping up human rights-oriented education for health professionals within Canadian universities.

Key words: Human rights; public and global health; Canada

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The 2010 CPHA conference brought 533 researchers to Toronto to explore public and global health. Yet only four papers at this conference explicitly addressed human rights (two of which were presented by the author). Certainly there is a small and important cohort of Canadian scholarship on health and human rights.¹ Nonetheless, the low representation of human rights-based papers at the CPHA conference and indeed, within the pages of this journal, suggest that, beyond this cohort, human rights remain relatively marginal within the mainstream of Canadian public and global health research.² This marginality suggests a significant misalignment with the growing recognition globally of the inextricable relationship and distinctive contribution of human rights to public and global health. To the extent that this gap reflects unawareness or resistance to human rights, this comment attempts to 'make the case' for why human rights should be viewed as essential components of public and global health research, education and practice.

The relationship between human rights and public and global health

The idea that human rights and health are in an inextricable relationship was first advanced by Jonathan Mann, who argued that if human rights are not protected, health will suffer, and that if health programs, policies and research do not assess their impact on human rights, their health outcomes will suffer.³ This thesis has undergirded a growing health and human rights scholarship aimed at exploring these interdependent relationships.⁴ Human rights are now widely seen as critical to health-practitioner education across a range of disciplines,⁵ with curricula adopted globally at schools of public health and medicine, law and policy studies.⁶ While the

paucity of rights at the CPHA conference may reflect unawareness of or opposition to human rights,⁷ it may also reflect a belief that human rights are adequately subsumed within other ethical approaches to public and global health (a hypothesis supported by the strong focus on equity at the CPHA conference). While human rights and public health ethics may operate synergistically when it comes to health inequities, neither approach alone may be sufficient to achieve their goals.⁸ It is therefore worthwhile both to recognize that human rights may reinforce claims made through public health ethics, and to specify the distinctive contributions of human rights and particularly the right to health toward achieving health equity (understood as systematic disparities in health judged to be avoidable by reasonable action, and therefore unfair).⁸

The normative and legal contribution of international human rights law on health

International human rights law focuses on protecting the inherent dignity and equal and inalienable rights of all people, with health viewed as integral to this vision. This body of law contributes a normative specificity to public and global health research, education and practice, and an analytical framework grounded in law. This contribution is apparent in General Comment 14, an extensive interpretation of the right to health, issued in 2000 by the UN Committee on Economic, Social and Cultural Rights.⁹ The com-

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ment clarifies that individual entitlements under this right are not absolute, and can be limited by the availability of resources and progressive realization, implicitly requiring decision-makers to balance individual and collective needs when realizing this right. General Comment 14 identifies the essential elements of this right that all governments must provide irrespective of economic ability, including health care goods, facilities and services like essential drugs, clinics and health workers which must be: *available* in sufficient quantities; physically and economically *accessible* without discrimination; medically, ethically and culturally *appropriate*; and of good *quality*. These elements (known as the 'AAAQ framework') are increasingly recognized to assist in identifying health disparities and inequities, including by disaggregating (and ergo, identifying) the goods, facilities, services and populations that health policy and programs seeking equity should appropriately focus on. General Comment 14 also specifies state duties corresponding to essential and other elements of the right to health, including minimum core duties that states must comply with irrespective of resources, and duties to respect, protect and fulfil access to adequate, affordable health and health care more generally. These duties have important implications for how alternative political or commercial interests are balanced in health-related decision-making at all levels, particularly given the health and developmental impacts of globalization.¹⁰

Moreover, the duties imposed by the right to health often hold the force of binding law. Rights to medical care and health are extensively entrenched in international law: from the *Universal Declaration on Human Rights*, which recognizes medical care as a component of every person's right to a standard of living adequate for their health and well-being, to the *International Covenant on Economic, Social and Cultural Rights*, where state parties recognize everyone's right to the enjoyment of the highest attainable standard of health and agree to take a number of steps to achieve this.¹¹ Numerous other international and regional instruments protect rights to health, some of which have been ratified by a majority of states globally.¹²

Certainly ratification alone does not assure positive population health outcomes.¹³ Nonetheless ratification produces important downstream legal consequences not reliant on state benevolence, particularly where active social movements can lodge claims with independent judiciaries whose orders are implemented by government. Indeed, the last decade has seen an exponential rise in right to health litigation globally, where social actors have sued governments on the basis of ratified international human rights treaties and domestic laws.¹⁴ Notably, wherever legal action has been successful, countries have both ratified the *International Covenant on Social, Economic and Cultural Rights* and entrenched the right to health in domestic constitutions.¹⁵ Certainly 'successful' cases that favour individual claims at the expense of collective interests may not be conducive to good public health. Yet, as the South African case on perinatal HIV transmission described in reference 15 attests, individual claims can benefit collective health interests and potentially assist in reducing systematic disparities in health care access.¹⁶

The practical contribution of rights: Access to AIDS medicines and rights-based approaches to health

While successful litigation, at its best, provides a fairly concrete indication of how human rights can effectively remediate isolated

health inequities, it does not necessarily illustrate whether human rights can improve population health outcomes. I argue that this impact is evident in the AIDS treatment movement, where social movements used rights-based approaches to challenge refusals by the pharmaceutical industry, their host governments and international institutions, to advance access to affordable antiretroviral treatment in Sub-Saharan Africa (the vast epicentre of the global HIV/AIDS pandemic). These efforts not only achieved a dramatic global reduction in the price of AIDS drugs, but saw corporations, governments and international organizations shift towards advocating universal access to antiretroviral treatment. As a result, access to these drugs in Sub-Saharan Africa has increased from under 1 percent to over 40 percent in just six years. Moreover, declining mortality from AIDS is evident in Sub-Saharan Africa for the first time. The AIDS medicines experience therefore illustrates how rights-based methods can effectively challenge economic and political interests that may sustain gross health inequities, and in so doing, positively impact upon population health. The question remains whether this success can be replicated in other areas, including gross global disparities in maternal and infant mortality. Certainly the AIDS experience illustrates how social movements could use rights-based litigation, advocacy and social action to advance health equity. However, I argue that rights can work more systematically to advance health equity than the intermittent incidence and narrow ambit of litigation or even issue-based advocacy may permit.

Rights-based approaches which seek to operationalize the concepts and standards of human rights offer guidance to policy and programs seeking health equity. Rights-based approaches mandate the incorporation of core human rights principles like non-discrimination, participation and accountability, demand a focus on the poor and marginalized and require explicit reference to international human rights instruments. Backman et al. suggest that just as the right to a fair trial has advanced a well-functioning court system, the right to health "can help to establish health systems that are reasonably equitable."¹⁶ Accordingly, Backman and colleagues have identified the right to health features of health systems, proposing 72 indicators to guide researchers and policy-makers in achieving health equity, strengthening health systems and realizing the right to health. These indicators exemplify how human rights can pragmatically assist efforts to achieve health equity globally.

CONCLUSION

I do not suggest that human rights can single-handedly resolve widening health disparities, simply that there is increasingly strong recognition of their contribution as complementary powerful principles to drive the public and global health project. For the majority of Canadian public and global health researchers to ignore these contributions needlessly silos these disciplines and restricts potentially powerful tools available to them. This 'rights gap' places Canadian health research outside the growing vanguard exploring the contribution of human rights to public and global health-related work. Canadian academic and research institutions should take up their rightful place within health and human rights research, education and practice globally, including by, as a first step, ramping up human rights-oriented education for health professionals within Canadian universities as a core complement to other ethical approaches to public and global health.

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6. See for example, Harvard School of Public Health. Health and Human Rights Database. Available at: http://www.hsph.harvard.edu/pihhr/resources_hhrdatabase.html (Accessed July 12, 2010).
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RÉSUMÉ

Si la conférence de 2010 de l'ACSP est un indicateur du courant dominant parmi les praticiens canadiens de la santé publique et de la santé mondiale, le manque criant de communications sur les droits humains montre qu'en dehors d'une petite cohorte d'universitaires, c'est un sujet qui reste en marge. Or, on admet de plus en plus qu'il existe un lien entre la santé et les droits humains, d'où l'importance que les professionnels de la santé soient sensibilisés à cet enjeu. Non seulement la recherche en santé au Canada demeure-t-elle à l'écart du mouvement croissant de la recherche universitaire sur la santé et les droits humains, mais elle néglige un outil potentiellement influent pour atteindre l'équité en santé. J'avance que les droits humains apportent un élément distinctif à la lutte pour l'équité en santé, non couvert par d'autres approches de justice sociale et d'équité; cela fait de l'éducation sur les droits humains un complément essentiel aux autres formations déontologiques. L'importance de l'approche des droits humains se voit dans la spécificité normative du droit à la santé en droit international, dans son caractère juridiquement contraignant, dans les jugements favorables qui ont été rendus, dans la promulgation efficace du traitement du sida et dans l'adoption croissante d'approches fondées sur les droits en matière de santé. Les établissements d'enseignement et de recherche devraient prendre la place qui leur revient au sein de la recherche, de l'enseignement et des pratiques sur la santé et les droits humains dans le monde, notamment en privilégiant une formation orientée sur les droits humains pour les professionnels de la santé dans les universités canadiennes.

Mots clés : droits homme; santé publique; santé mondiale; Canada