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## EDITORIAL

# Human Rights for Health across the United Nations

BENJAMIN MASON MEIER AND LAWRENCE O. GOSTIN

## Introduction

The United Nations (UN) plays a central role in realizing human rights to advance global health. Looking beyond state obligations, the UN has called on all its specialized agencies to implement human rights across all their activities. With globalization compelling these UN institutions to meet an expanding set of global challenges to underlying determinants of health, human rights are guiding these international organizations in addressing public health. These international organizations within the UN system are actively engaged in implementing health-related human rights—in both their mission and their actions to carry out that mission. Through this mainstreaming of human rights, global health institutions have embraced human rights treaty obligations as a framework for global governance. Given the dramatic development of human rights law through the UN and the parallel proliferation of UN institutions devoted to global health and development, there arises an imperative to understand the implementation of human rights in global health governance. This special section analyzes the evolving focus on health and human rights in global governance, examining an expansive set of UN institutions that employ human rights in responding to public health challenges in a rapidly globalizing world.

To understand the ways in which human rights are implemented, this special section examines the role of institutions across the UN system in the realization of human rights for public health. Drawing from our recent Oxford University Press volume on *Human Rights in Global Health: Rights-Based Governance for a Globalizing World*, this special section brings together several of the contributors to analyze ongoing efforts to reform UN institutions to mainstream human rights. These contributors—from academia, nongovernmental organizations, and the UN system—explore (1) the foundations of human rights as a framework for global governance, (2) the work of UN organizations across a range of health-related human rights, (3) the influence of rights-based economic governance on public health, and (4) the advancement of health through UN human rights institutions. Looking beyond the chapters in *Human Rights in Global Health*, this special section examines how international institutions are changing to meet the Sustainable Development Goals (SDGs), with sweeping implications for the mainstreaming of human rights for health across the UN.

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## Human rights in global health governance

Institutions of global governance matter for the advancement of human rights in global health. In codifying a normative foundation for global governance in the aftermath of World War II, states came together under the auspices of the UN to develop human rights under international law.<sup>1</sup> Human rights law, establishing international norms to ensure global health with justice, has evolved to become a universally accepted framework, and the past 70 years have witnessed the expansive development of international human rights law to define the highest attainable standard of health.<sup>2</sup> Conceptualizing health injustices as rights violations, these health-related human rights offer universal standards to frame government responsibilities for the progressive realization of health and facilitate legal accountability for rights-based health policy.<sup>3</sup> As globalizing forces have pressed international organizations to meet changing global health challenges, human rights have come to guide these institutions of global health governance.<sup>4</sup>

To ensure that lawyers are prepared for the future challenges of human rights in global health governance, Thérèse Murphy's contribution to this special section, "Health and Human Rights' Past: Patinating Law's Contribution," seeks to elucidate the history of health and human rights. Murphy argues that the history of the health and human rights movement has thus far been "monochrome"—focusing primarily on a few specific events (such as the HIV/AIDS pandemic in 1990s), instruments (such as General Comment 14), judgments (such as access-to-medicines cases from South Africa, India, Brazil, Colombia, and Venezuela), UN organizations (such as the World Health Organization), and specific individuals. Looking beyond these traditional histories, Murphy suggests that a complete understanding of the field requires an understanding of other histories, including regional human rights systems and regional offices of UN organizations. Her article proposes that crucial gaps in the history of the field should be filled by focusing on (1) health and human rights law "favorites," including the right to health and human rights-based

approaches to health, and (2) "neglected areas," including the right to science and the relationship between international human rights law and ethics.

As human rights law has evolved to become foundational to global health governance, the expansion of global governance institutions has warranted a wider sharing of human rights responsibilities for health across the UN. These international organizations are seen not only as instrumental to the development of international human rights law but also as essential to assuring the implementation of human rights obligations in a rapidly globalizing world.<sup>5</sup> The UN has sought to formalize these human rights implementation responsibilities across the entire global governance system, with the interconnected nature of the SDGs facilitating the coordination of these multisectoral actors, catalyzing rights-based partnerships across the UN's health-related organizations.<sup>6</sup> Translating international law into global governance, UN organizations seek to mainstream human rights across their policies, programs, and practices.

## UN organizations mainstream health-related human rights

Following the end of the Cold War, the 1993 World Conference on Human Rights declared a new global consensus on human rights, calling for increased coordination on human rights across the UN. The resulting Vienna Declaration and Programme of Action established "the foundation for a holistic and integrated approach to human rights not only by the human rights machinery but also by the entire United Nations system."<sup>7</sup> Given the Vienna Declaration's post-Cold War consensus on the centrality of human rights in global governance, the UN Secretary-General called for the enhancement of human rights as a "cross-cutting" approach to all of the UN's principal activities and programs, seeking to "mainstream" human rights into the full range of UN activities.<sup>8</sup> Various international organizations took up this call to mainstream human rights, and this special section explores how health-related human rights have been integrated across the UN, beginning with the World Health

Organization (WHO) and expanding to encompass a larger set of international organizations that address health determinants. Contributing authors to this special section analyze WHO's contemporary efforts to reassert health-related human rights for vulnerable populations to support universal health coverage (UHC). As a basis for securing UHC, human rights are seen as a way of advancing a more equity-oriented approach to health, centered on reaching the most marginalized under the SDGs.<sup>9</sup>

UHC has become a unifying rights-based platform in global health governance. With UHC articulated in global health policy through a number of UN General Assembly and World Health Assembly resolutions, these resolutions increasingly reference human rights—specifically the right to health—as an overarching framework for achieving UHC goals. Despite this high visibility of UHC, Helena Nygren-Krug contends in her article, “The Right(s) Road to UHC,” that the potential for UHC is limited “by its own ambiguity”: the scope and content of UHC is not consistent, and it remains unclear how UHC and human rights relate to each other. Concluding that UHC is a human rights imperative that requires national laws, policies, and practices to align with human rights norms and principles, Nygren-Krug addresses five areas that require specific attention to ensure that a human-rights based approach is used to help countries achieve UHC.

In bringing human rights specificity to UHC, Flavia Bustreo and Curtis Doebbler have developed a commentary, “Universal Health Coverage: Are We Losing Our Way on Women’s and Children’s Health?,” to highlight the specific failure of UHC to prioritize women’s and children’s health, moving UHC further away from achieving health for all. While UHC goals are commendable, Bustreo and Doebbler argue that it is unclear whether these goals are an accurate expression of the right to health given the apparent failure to meet commitments to women’s and children’s health. Where WHO has expressed its continuing investment in implementing the right to health, as evidenced by the WHO-OHCHR Framework of Cooperation, Bustreo and Doebbler argue that this type of rights-based part-

nership could be an important step for prioritizing women and children in UHC strategies.

Despite these WHO initiatives to advance the human right to health, there is a need to look beyond WHO to address multisectoral efforts to implement human rights for public health across the entire UN system. Where WHO continues to face obstacles to implementing human rights for health, it will be necessary to look to collaboration across international organizations to foster global solidarity and bolster institutional efforts to mainstream human rights in addressing underlying determinants of health.

### Funding agencies incorporate human rights in international health assistance

In an expanding global health landscape limited by scarce resources and increased competition among a growing number of stakeholders, funding agencies can provide crucial international support for the realization of health-related human rights. Human rights mainstreaming is often presented in the context of “development cooperation.” Multilateral economic governance agencies have sought to implement a rights-based approach to development cooperation for health, breaking the vicious cycle linking economic poverty with morbidity and mortality. Increasingly relevant in global health governance, these institutions have been driven either (1) to address public health as a means to economic development or (2) to address economic development as a means to realize health.<sup>10</sup> With the latter approach aligned with a rights-based approach to health, this special section highlights the role of human rights in economic governance and international funding for global health. Contributing authors explore how the international structures of economic governance, through financial support for global health, have influenced the realization of health-related human rights.

Shifting from the MDG to the SDG era, Rachel Hammonds and colleagues focus on how UHC financing should be delivered, examining whether ongoing efforts to achieve UHC are in line with the realization of the right to health and

the right to health care. Their article, “UHC2030’s Contributions to Global Health Governance that Advance the Right to Health Care,” contends that it is necessary to examine how key global governance institutions such as WHO and the World Bank interact with civil society. In examining the influence of the International Health Partnership for Universal Health Coverage 2030 (UHC2030)—a multi-stakeholder partnership focused on coordinating and amplifying efforts by WHO, the World Bank, governments, civil society organizations, and the private sector—Hammonds and colleagues analyze how human rights have been neglected in the journey toward UHC. Offering a preliminary assessment of UHC2030’s contribution to global health governance and national health participation, they find that there has been little attention to shared responsibility for advancing the right to health in UHC definitions and programming, concluding that the right to health must be acknowledged in policy documents and that domestic and international financing must be increased.

The Global Fund to Fight AIDS, Tuberculosis, and Malaria has explicitly sought to integrate human rights principles into its institutional funding practices, and Ralf Jürgens and Diederik Lohman, as part of our human rights across the UN project, conducted a review of Global Fund policies and policymaking processes to determine whether they reflect human rights considerations. Their resulting article, “Integrating Human Rights Considerations in All Policies and Policymaking Processes: Realizing Another Objective of the Strategy of the Global Fund to Fight AIDS, TB and Malaria” (forthcoming, but not included in this special section), finds that while the Global Fund has made progress in its rights-based practices, this funding agency has not yet reached its potential for advancing human rights priorities. Concluding that the Global Fund must take further steps to fulfill its human rights objectives, Jürgens and Lohman recommend scaling up programs to reduce human-rights related barriers, strengthening protections to guard against negative human rights impacts, and requiring internal standards to mandate human rights considerations

in policymaking processes.

Through international public health financing, multilateral funding partnerships for health can either enhance economic governance to realize health-related human rights or advance economic ends in ways that damage public health. While these international organizations do not universally view human rights as part of their institutional mission, they continue to have a disproportionate influence on the ways in which policy makers raise and spend resources on health, and as a consequence of their influence, these international funding institutions will remain central to mainstreaming human rights in global health, especially where they have embraced human rights in their funding processes.

### Human rights agencies advance the right to health

Where human rights have been instrumental in global health governance, health-related human rights are also advanced where health considerations are incorporated into human rights governance. The UN human rights system has an essential role in assuring the implementation of human rights, collaborating with global health institutions to “welcome, encourage, foster, support and scrutinize” human rights mainstreaming efforts.<sup>11</sup> This special section identifies ways in which institutions that are part of the UN human rights system have proven crucial to advancing the human right to health, with contributing authors examining how health has increasingly become relevant to human rights efforts across the UN.

Gillian MacNaughton and Mariah McGill examine “The Challenge of Interdisciplinarity in Operationalizing the Right to Health,” analyzing the interorganizational collaborations of the Office of the UN High Commissioner for Human Rights (OHCHR). As the UN agency charged with mainstreaming human rights across the UN system, MacNaughton and McGill recognize that the OHCHR “faces considerable challenges in moving beyond legal conceptualization to operationalization of the right to health in practice.” Based on



interviews across the UN, they conclude that the full operationalization of the right to health will require the OHCHR to move toward a greater interdisciplinary approach to human rights, necessitating that it include health professionals in mainstreaming efforts; promote understanding of the right to health as a broad right that includes social determinants of health; enable and support the development of deep expertise on the right to health; and enhance appreciation for the right to health across all UN agencies.

Yet, human rights efforts would mean little without mechanisms to ensure accountability for their implementation. Established in 2006 and overseen by the UN Human Rights Council, the Universal Periodic Review (UPR) provides a critical new accountability mechanism in the UN's global human rights architecture. Judith Bueno de Mesquita's article, "The Universal Periodic Review: A Valuable New Procedure for the Right to Health?," presents an analysis of the right to health in UPR processes, examining the prominence of health in UPR recommendations, the types of health issues covered, and the actions required by states. With UN member states undergoing assessments every five years, UPR recommendations facilitate state accountability for improving compliance with human rights obligations. While finding that the right to health appears increasingly in UPR recommendations, Bueno de Mesquita concludes that the quality and specificity of the recommendations remains insufficient, advocating greater engagement by health stakeholders with UPR processes to ensure that health-related recommendations provide specific guidance for states seeking to realize the right to health.

Beyond its support for mainstreaming human rights in global health governance, the UN human rights system is mainstreaming public health in human rights governance, with human rights institutions independently implementing human rights for global health and assuring accountability for state efforts to realize the highest attainable standard of health.<sup>12</sup>

## Expanding efforts to mainstream human rights for health across the UN

Human rights norms and principles increasingly provide legitimacy to institutions of global governance, as this special section demonstrates, yet there remains no consistent, universal approach to human rights mainstreaming for public health across the UN. As a consequence, international organizations have demonstrated varied approaches to human rights implementation through their institutional structures. These decentralized institutions of global governance have mainstreamed human rights in their organizational policies, programs, and practices; however, the fragmentation of these uncoordinated human rights initiatives raises a comparative research imperative to assess the institutional structures that are conducive to human rights implementation. This imperative for comparative analysis is taken up in *Human Rights in Global Health*, which systematically examines the role of global institutions in operationalizing human rights for global health.<sup>13</sup>

These institutions matter for the advancement of health-related human rights across the UN. Drawing from *Human Rights in Global Health*, the scholarship highlighted in this special section identifies the evolving rights-based actions of global institutions and analyzes the facilitating and inhibiting factors for human rights mainstreaming in global governance for health. Where international organizations across the UN continue to face challenges to mainstreaming human rights, it becomes clear from this comparative analysis that the development of multisectoral partnerships, coordination of rights-based approaches, and collaborations across institutions and stakeholders can facilitate the implementation of health-related human rights. As these global governance actors push ahead to meet the SDGs, it is necessary to look across the UN to examine the continuing role played by international organizations in operationalizing human rights for global health.<sup>14</sup>

Such comparative institutional analyses can assure that human rights mainstreaming in global governance can realize human rights in global

health. While this special section does not present a comprehensive overview of the myriad of stakeholders that have a role in an expanding global health governance landscape, this initial scholarship recognizes how each institution is engaging human rights in unique ways and through distinct structures. The contributions to this special section emphasize the paths through which an expanding number of international organizations—despite challenges—are actively seeking to address interconnected health-related human rights in ways that reflect interrelated determinants of health. As these organizations are only just beginning to develop institutional structures to mainstream human rights in their policies, programs, and practices, it will be necessary to continue to look across the UN to understand evolving multisectoral efforts to translate human rights into global governance—identifying good practices for human rights implementation as a foundation to advance global health with justice.

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