

PERSPECTIVE

Human Rights in Public Health: Deepening Engagement at a Critical Time

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ON BEHALF OF THE AMERICAN PUBLIC HEALTH ASSOCIATION'S HUMAN RIGHTS FORUM

This year marks the 70th anniversary of both the birth of human rights law through the Universal Declaration of Human Rights (UDHR) and the birth of global health governance through the World Health Organization (WHO). Over the past 70 years, human rights have developed under international law as a basis for public health, providing a foundation for human rights realization through public health practice. Yet this “health and human rights” movement now faces unprecedented threats amidst a shift toward populism—with the populist radical right in ascendance in the United States and in countries throughout the world.

Commemorating these twin anniversaries for human rights and global health, it is imperative—now more than ever—that scholars, practitioners, and advocates engage with human rights in public health policies, programs, and practices. Within the American Public Health Association (APHA), the newly established Human Rights Forum seeks to build the capacity of public health professionals to mainstream human rights in public health. Reflecting on the evolving engagement of health professionals to advance health and human rights, this essay examines the changing role of human rights in public health policy over the past 70 years and analyzes the continuing promise of human rights in framing public health practice into the future.

In this perspective, we seek first to explore the development of human rights under international law and the implementation of health-related human rights through public health policies. We then examine the contemporary operationalization of human rights in public health efforts, through which human

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rights standards seek to provide normative clarity in health policy and legal accountability for public health outcomes. Addressing APHA's unfolding efforts to mainstream human rights in public health practice, we recognize the importance of professional organizations in building capacity for a rights-based public health workforce. It will be crucial to extend this model across health-related disciplines in responding to contemporary health and human rights threats. This perspective ends by examining the threat that the populist radical right poses to the advances of the past 70 years, concluding that the public health workforce must deepen engagement with human rights-based approaches to health in responding to these existential threats to health and human rights.

Developing health-related human rights

Human rights offer a universal framework to advance justice in public health, elaborating the freedoms and entitlements necessary to realize dignity for all. With international law evolving to address threats to health, a rights-based approach transforms the power dynamic that underlies public health. Rather than passive recipients of governmental benevolence, individuals are recognized as rights-holders, with human rights imposing corresponding obligations on governmental duty-bearers.¹ Human rights law is now understood to be central to public health policies, programs, and practices. International human rights standards have been shown repeatedly to play a key role in public health over the past 70 years, framing health concerns within a legal context, integrating core principles into policy debates, and facilitating accountability for realizing the highest attainable standard of health.²

In developing human rights law for public health promotion through the United Nations (UN), the WHO Constitution conceptualized for the first time that “the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being,” defining health positively to include “a state of complete physical, mental, and social well-being and not

merely the absence of disease or infirmity.”³ With human rights framing a healthier world out of the ashes of the Second World War, nations adopted the UDHR on December 10, 1948, embracing within it a set of interrelated economic and social rights by which:

*[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widow-hood, old age or other lack of livelihood in circumstances beyond his control.*⁴

Seventy years ago, the UN proclaimed the UDHR as “a common standard of achievement for all peoples and all nations,” holding that the human right to health includes both the fulfillment of necessary medical care and the realization of underlying determinants of health—including food, clothing, housing, and social services.⁵

However, the rapidly escalating Cold War would limit international opportunities to advance human rights for health in the UN system, with the 1966 International Covenant on Economic, Social and Cultural Rights providing only for “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”⁶ From the human rights system to global health governance, WHO would work with advocates in the 1970s to revitalize health-related rights in its “Health for All” campaign, which culminated in a rights-based approach to “primary health care” in the 1978 Declaration of Alma-Ata.⁷ Extending these human rights advancements in the years after the Cold War, the UN Committee on Economic, Social and Cultural Rights formally clarified state obligations regarding the right to health in 2000, finding that the right to health depends on a wide variety of interdependent and interrelated human rights through public health systems—including both preventive and curative health care and encompassing underlying social, political, and economic determinants of health.⁸

Given the dramatic development of these

health-related human rights, the human rights system has now shifted from the development of human rights under international law to the implementation of those rights through national governance. Policy makers have been pressed to implement rights through national policies, assuring that determinants of health are available, accessible, acceptable, and of sufficient quality.⁹ Each country has codified a unique set of constitutional obligations, laws, and regulations that implement international law through national policy, with contextually specific social movements rallying to assure that “health is a human right.” Even in the United States, which has long resisted international human rights obligations—especially for economic, social, and cultural rights—there are expanding areas where health policies reflect human rights norms and increasing calls to realize the right to health.¹⁰

Operationalizing human rights in public health

The operationalization of these human rights standards has provided normative clarity in public health policy and legal accountability for public health outcomes.

Reversing a political neglect for human rights during the Cold War and a policy focus on medical care within WHO, the global response to AIDS in the 1980s clarified the inextricable linkages between human rights and public health, as scholars and advocates looked explicitly to human rights in framing HIV prevention, care, and support.¹¹ Where governments responded to an emerging AIDS crisis through traditional public health policies—including compulsory testing, named reporting, travel restrictions, and isolation or quarantine—human rights activism both questioned intrusive infringements on individual liberties and revealed the inadequacy of government responses.¹² Focusing on the individual and structural factors underlying HIV transmission, activists demanded a public health response that recognized the inherent dignity of people living with HIV, recognizing the importance of human

rights protection to public health promotion and giving birth to a “health and human rights” movement.¹³ With the advent of antiretroviral treatment in the 1990s, human rights thereafter framed demands for access to medicines—in the streets and in the courts—establishing the normative, and in many settings judicially enforceable, socioeconomic right to health.¹⁴ A global movement mobilized human rights to challenge the patent system and secure access to generic medicines in the Global South, driving down the cost of HIV treatments by up to 99%.¹⁵ This human rights framework—which demanded agency, dignity, and access—has since been expanded far beyond the HIV/AIDS response.

Into the 21st Century, this movement has brought human rights to bear in the context of disease prevention and health promotion efforts throughout the world. Litigation to enforce health-related rights has extended across tuberculosis in prisons in South Africa, maternal mortality in Uganda, the health insurance system in Colombia, and the regulation of medicines in India.¹⁶ In the United States, activists have utilized the right to health to frame health policy reforms in Vermont.¹⁷ While some have questioned whether a rights-based framework is too individualistic to address public health, the right to health has been seen to bring about lasting societal improvements, with empirical evidence beginning to show how countries that implement human rights see a benefit to population health.¹⁸

This national implementation of human rights in public health provides a basis to facilitate accountability for the progressive realization of health-related human rights. As governments have implemented human rights in health policy, scholars, practitioners, and advocates have sought to create accountability mechanisms to assess the progressive realization of rights, with these mechanisms committing governments to health-related rights, maximizing available resources through health policy, and improving programmatic results in health outcomes through:

- Political advocacy: *Social movements engage in political advocacy to analyze and assess public policy; to shape public awareness on*

national policies; and to press governments to comply with their health-related human rights obligations (whether by advocating human rights principles or by “naming and shaming” recalcitrant governments).¹⁹

- Litigation: *With individuals enforcing human rights obligations through the courts, litigation empowers the judiciary to remedy rights violations—setting legal precedents to define government health obligations—and provide rights-based accountability in national, regional, and international courts and quasi-judicial bodies.²⁰*
- Treaty monitoring: *UN human rights treaty bodies monitor national implementation of treaty obligations—reviewing periodic reports, engaging in “constructive dialogue,” and issuing concluding observations—with these treaty bodies complemented in the past decade by the Universal Periodic Review, through which the UN Human Rights Council assesses the human rights performance of all UN member states.²¹*

Mainstreaming human rights across public health practice

The links between public health and human rights have been established in international law, national policy, and now public health practice. Over the past few decades, the academic literature has reflected a steady increase in work linking international human rights law, the right to health, and rights-based approaches to the field of public health—and the *Health and Human Rights Journal* is a testament to the growing strength of the field. Whereas only three schools of public health offered a course in health and human rights at the turn of the century, scores of courses now exist throughout the world, and human rights analysis is now considered a core competency of the master of public health (MPH) curriculum.²² Where both the fields of public health and human rights share a focus on marginalized populations, health professional organizations have increasingly addressed rights-based approaches to public health, emphasizing individual empowerment, community participation, and government accountability.²³

At the forefront of health professional organizations, APHA has sought to facilitate this

mainstreaming of human rights in public health practice over the past 70 years. Laying a foundation for the birth of WHO, it was at the 1944 APHA Annual Meeting where practitioners first advocated for the development of a post-war public health mandate under the mantle of human rights.²⁴ Since 1973, APHA’s Governing Council has voted to adopt 84 policies that directly address human rights violations or explicitly reference human rights principles.²⁵ As a central actor in the budding health and human rights movement, the APHA Executive Board in 1983 established the International Human Rights Committee (IHRC) to provide an impartial platform to examine, discuss, and take action on human rights issues that have an impact on public health. The IHRC worked over three decades to introduce human rights into public health discourse and apply human rights through public health practices.²⁶ Recognizing the importance of human rights in public health education, APHA convened a 2002 working group on teaching human rights, culminating in the report “Health and Human Rights: The Educational Challenge.”²⁷ In supporting these educational initiatives, IHRC members developed a 2010 public health textbook, *Rights-Based Approaches to Public Health*, advancing human rights analysis across a range of public health issues.²⁸ APHA has facilitated these rights-based discourses for public health professionals, organizing its 2006 Annual Meeting under the theme “Public Health and Human Rights” and its 2016 Annual Meeting under the theme “Creating the Healthiest Generation: The Right to Health.”

Yet none of these efforts proved sufficient to mainstream human rights throughout public health practice.

The development of APHA’s Human Rights Forum, launched in 2015, has sought to support human rights capacity-building across the public health workforce, providing a model for other health-related professional associations to mainstream human rights in health practice. While many public health practitioners work under the mantle of human rights, they lack the capacity to engage with the formal legal frameworks necessary to realize human rights in public health practice.

To build human rights capacity across APHA's membership, the Human Rights Forum welcomes members from all 31 APHA sections, and its membership has grown across all professional categories (students, early career professionals, regular members, and retirees). The Forum now represents more than 1000 APHA members, and this increased engagement—alongside capacity-building publications, trainings, and conferences—has given practitioners the tools necessary to realize human rights in public health at this critical time.

A critical time for human rights in public health

With human rights developed, operationalized, and mainstreamed over 70 years, the realization of these rights is now imperiled by the populist radical right, threatening the protection of human rights and the advancement of public health. This right-wing populism seeks to undo the progress of past struggles, and it remains unclear how this opposition will affect the continuing evolution of human rights in public health.

In challenging the shared goals of human rights in public health, right-wing populism—abetted by the resurgent horrors of racism, xenophobia, anti-Semitism, and Islamophobia—seeks a nativist definition of the rights of citizenship. Populist politicians have thus sought to define ethnic nationalism to the exclusion of the common humanity first proclaimed in the UDHR.²⁹ Politicians have advanced radicalized responses to the harms of a globalizing world, stirring mass fear about global “elites” and collateral anger toward international migration. This ethnic nationalism, viewing human rights as anathema to national identity, has subverted the universality of rights, undercutting the very foundation of the health and human rights movement.³⁰ With liberal democratic values in retreat, populist governments have violated human rights principles, restricted civil society advocacy, repressed minority populations, attacked gender equality, ignored scientific evidence, and neglected public health.³¹ Where these human rights challenges have largely been met with silence by the

global community, with national governments avoiding international sanctions for human rights violations, there are concerns that this unchecked repression of human rights will lead to a “post-human rights world.”³²

This right-wing populism also seeks to retrench nations inward, with rising nationalist movements directly threatening the cosmopolitan vision underlying global health and spurring isolationism in international affairs. As a direct response to the increasing interconnectedness of a globalizing world, populist nationalism has come to challenge the globalized world order and collective international decision-making.³³ This backlash against “globalism” has led to nationalist attacks on the legitimacy of global institutions. Populist nationalism has thus sought to erect walls to re-divide an integrated world, with states abandoning the multilateral institutions that govern public health and human rights. This poses an existential threat to the global health governance system first established under WHO.³⁴ The resurgence of national sovereignty is isolating national governments in addressing common health challenges. Undercutting the efforts of international organization to implement human rights in global health, such national retrenchment could lead to a rejection of both global governance and human rights as a basis for public health advancement.³⁵

Conclusion

Human rights have increasingly brought the world together in unprecedented public health cooperation over the past 70 years; however, the current populist age casts doubt on many of these governance successes and raises obstacles to future progress. Threats from the populist radical right have subverted the universality of human rights, rejected the science of public health, and threatened health cooperation within global governance. Where the development of WHO and the UDHR gave birth to a revolution in global governance for public health—binding the world together around shared rights-based values—the populist counter-revolution threatens to undo decades of progress

and return us to a far less healthy world. Public health practitioners have a crucial role in responding to the populist radical right, pursuing political advocacy to assure the future of human rights in public health. Reflecting on the progress of human rights at this critical time, there is a need for health professionals associations to support the rights-based public health workforce necessary to realize the highest attainable standard of health.

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