

Carmel Williams, PhD, is a Research Fellow at the Centre for Development Studies, University of Auckland, New Zealand and a Fellow at the FXB Center for Health and Human Rights, Harvard School of Public Health. She is also the Executive Editor of *Health and Human Rights*.

Competing interests:

None declared.

Copyright: © 2013 Williams. This is an open access article distributed under the terms of the Creative Commons Attribution Non-Commercial License (<http://creativecommons.org/licenses/by-nc/3.0/>), which permits unrestricted non-commercial use, distribution, and reproduction in any medium, provided the original author and source are credited.

EDITORIAL: THE POST-2015 DEVELOPMENT AGENDA, HUMAN RIGHTS, EVIDENCE, AND OPEN-ACCESS PUBLISHING

Carmel Williams

In the current planning phase for the post-2015 development agenda, there is guarded optimism that human rights will occupy a more central role than they did in the Millennium Development Goals (MDGs). The United Nations Development Programme (UNDP) facilitated global consultations in 2012 to shape the post-2015 development agenda. Nineteen UN Task Team “thematic think pieces” resulted, most of which specifically refer to the importance of integrating human rights into development goals. The UNDP acknowledged an emerging global endorsement of human rights-based approaches to development, based on the principles of participation, accountability, non-discrimination, empowerment and the rule of law, and that it must be the core of the post-2015 agenda.¹

The 19 thematic think pieces made such comments as: “Goals and the strategies to pursue them should be rooted in human rights principles and standards, which in turn should influence the identification of specific development outcomes that drive the rights for all.” (*Addressing inequalities: The heart of the post-2015 agenda and the future we want for all*).

Commentators from the *Towards Freedom from Fear and Want Think Tank* observed: “Compared with previous approaches to development, this represents a true paradigm shift. Indeed, some of the most celebrated ‘MDG success stories’ since 2000 are now sites of mass protest decrying wide-spread deprivation, repression and inequalities masked by the narrow models of economic analysis that have characterized development approaches in the pre-2015 period. Their message is clear: economic growth is not an adequate measure of development. Rather, equality matters, the environment matters, and human rights matter.”¹

Some of the thematic pieces explain the relevance of human rights to their sector. For example, the piece on macroeconomic stability, inclusive growth and employment stated, “A post-2015 development agenda should reaffirm international commitments in regard to work as a fundamental human right.” The health thematic piece stated that the progressive realization of civil, cultural and political, as well as economic and social rights, is a prerequisite for sustainable growth and human development. Furthermore, it observed that being healthy and having access to quality and effective health care services is not only of fundamental importance for all people, but is essential for the advancement of human development, well-being, and economic growth.

The High Commissioner for Human Rights, Navanethem Pillay, in acknowledging the prominence of human rights in the thematic consultations, as well as in the reports from the *High-Level Panel of Eminent Persons on the Post-2015 Agenda*, and the General Assembly’s *Open Working*

Group on Sustainable Development Goals, cautioned that this does not mean adding a disconnected “human rights goal” to the framework.² In a letter to world leaders, Pillay entreated them to have “the courage to break from the limited approaches of the past, and the vision to chart a new course, based on fundamental human rights.”²

This is encouraging to advocates of human rights-based approaches to development. Many human rights advocates have critiqued the MDGs for their failure to incorporate human rights, even though rights were acknowledged as central to development in the Millennium Declaration.³ The Special Rapporteur on the Right to Health stated in 2004: “While the Millennium Development initiative is highly commendable, it exhibits some of the features of the old-style, top-down, non-participatory approach to development. A greater recognition of the right to health will reduce these technocratic tendencies, enhance the participation of disadvantaged individuals and communities, and thereby improve the chances of achieving the health-related Millennium Development Goals for all.”⁴

Given this apparent re-emerging recognition of the importance and value of human rights in development, and the proximity of 2015, one might expect to find human rights and rights-based approaches occupying a central position in development programmes and policies in the countries that provide development assistance. Recent literature searches conducted by the author indicate otherwise.

One might also expect to find a surfeit of scholarly literature examining the impact of human rights-based approaches to development. Again, this is not apparent. A recent WHO monograph identified a scarcity of research on, and evaluation of, the impact of a human rights-based approach on women’s and children’s health.⁵ It suggested there might be a number of reasons for this scarcity, including that there are the various interpretations of what constitutes a human rights-based approach and the “conceptual uncertainties may discourage researchers from undertaking impact evaluations.”

In the themed section of this issue (Human Rights in Patient Care), authors Tamar Ezer and Judith Overall make a similar observation: “A major gap ... is the

dearth of scholarly research and writing on health and human rights from Eastern Europe and Central Asia countries... An important step forward for human rights in patient care as a vibrant field would be for it to serve as the subject of serious scholarly inquiry in these countries.”

Scholarly publication is needed to address both the conceptual uncertainties and the lack of evidence of the impact of rights-based approaches to health. Many UN agencies, donors, and rights-based NGOs are in agreement over the principle attributes of rights-based approaches. In her letter imploring countries to adopt a rights-based approach to the post-2015 agenda, The UN High Commissioner on Human Rights described the approach as, taking seriously the right of those affected to free, active and meaningful participation. It means ensuring the accountability of duty bearers to rights-holders, especially the most vulnerable, marginalized and excluded. It means a focus on non-discrimination, equality and equity in the distribution of costs and benefits. And it means explicitly aligning the new development framework with the international human rights framework – including civil, cultural, economic, political and social rights, as well as the right to development.⁶

In health, a rights-based approach means focusing on the health system as a core social institution, and employing the key human rights principles (participation, equality and non-discrimination, accountability, amongst others) at all stages of design, implementation, and monitoring of programs.⁷ Tools are becoming increasingly available to operationalize the right to health; for example, the “Technical guidance on the application of a human-rights based approach to the implementation of policies and programmes to reduce preventable maternal morbidity and mortality.”⁸ These approaches offer strategies and tools to address the root causes of health inequities and morbidities, including poverty, gender inequality, and structural violence against women, rather than simply promoting short-term technical fixes.⁹

There is a growing consensus on the meaning of the right to health and practical guides to its implementation. As the world moves closer to 2015 and the next development agenda, there is a pressing need for those working in health and development to use these concepts, definitions, and tools to gather

and publish evidence to demonstrate the impact of rights-based approaches. Publication of this evidence has been the *raison d'être* of *Health and Human Rights* since it commenced publication in 1994.

In this issue the value of applying a rights-based perspective to challenging health scenarios is produced from various locales around the world.

Elizabeth Tobin Tyler points a right-to-health lens at the social determinants of health in the United States. While optimistic about recent developments including the acknowledgment of international human rights laws in state and federal courts, Tobin Tyler stresses the pivotal role that individuals and communities must play to “give voice to the indignities and rights violations that occur every day across the US and to challenge the social conditions that harm their health.” Social determinants are also examined by Kelsey McGregor Perry and Lindsay McEwing in their systematic literature search to identify contributing causes of human trafficking in South East Asia. In their paper, they find 21 social determinants which increase the vulnerability of women and children to trafficking. As trafficking results in a denial of human rights with serious health consequences, the authors link trafficking to State obligations to address inequities in social determinants. Jamie Lim and his co-authors examine one particular underlying determinant of health: clean air. In a paper that reflects on the impact of indoor air pollution on the three billion people who use rudimentary, open-fire cook-stoves, the authors draw on the State’s role as a human rights duty-bearer and position clean air as fundamental to the realization of the right to health. They describe Nepal’s “Clean cooking solutions for all by 2017” as a government-led, rights-based approach that could be a leading approach to addressing indoor air pollution.

Oke examines two court cases in Kenya to illustrate the crucial role that incorporating a right to health perspective plays in improving access to medicines. He provides five reasons why courts in developing countries cannot afford to ignore the right to health when adjudicating cases involving patents rights on pharmaceutical products. Access to mental health care in South Africa is examined by Schierenbeck et al., who identify barriers to the fulfillment of the right to health. Importantly their findings have contributed to the development of procedures to

monitor the right to health, especially as it applies to mental health.

Joseph Amon and his colleagues from Human Rights Watch report on compulsory drug detention centers in China, Cambodia, Vietnam, and Laos where people are held long term against their will and without due process. These violations of human rights, including torture and cruel, inhuman and degrading treatment, have severe impacts on health. The paper brings this evidence to light – a crucial step towards ending the violations.

In this issue, we also publish a themed section in collaboration with the Open Society Foundations. Entitled “Human Rights in Patient Care,” six papers examine a conceptual framework that explores the meaning of the right to health as it is applied in law, in health worker education, and in the patient-health provider setting. These papers contribute valuable insights to the translation of human rights into practice, and show that human rights accountability mechanisms must be used vigilantly even after legislation recognizes the right to health.

All of the papers in this issue assist the journal with its purpose of publishing evidence on the right to health – its application and value in the realms of policy, advocacy, practice and legislation. *Health and Human Rights* has an important role as a vehicle to deliver evidence and promote human rights accountability. It takes seriously Gavin Yamey’s contention, voiced in the journal in 1998, that open access publishing is a socially responsive and equitable approach to knowledge dissemination.¹⁰ In his paper, he also argues that subscription fees excluding the poor from health literature is a rights violation in itself.⁹ However, going one step further than standard open access publishing, this journal also removes direct costs to authors and does not charge publication fees, unless covered by research or institutional grants. The new publisher of *Health and Human Rights*, Harvard University Press, supports these endeavors to promote freedom of information, and to make the production of evidence widely accessible to everyone, irrespective of their ability to pay.

It is crucial that the right to health, and all human rights, remain central in the post-2015 agenda. To achieve this, there is a need for evidence that rights-

based approaches improve the impact of health-related interventions. To that end, *Health and Human Rights* is making a call to action to gather evidence and publish expeditiously.

10. G. Yamey, "Excluding the poor from accessing biomedical literature: A rights violation that impedes global health," *Health and Human Rights: An International Journal* 10/1 (2008), pp. 21-42.

REFERENCES

1. UN System Task Team on the Post 2015 UN Development Agenda, Towards freedom from fear and want: Human rights in the post 2015 agenda-Thematic think piece (2012). Available at http://www.un.org/millenniumgoals/pdf/Think%20Pieces/9_human_rights.pdf.
2. Navanethem Pillay, High Commissioner for Human Rights, Human rights in the post-2015 agenda (2013). Available at <http://www.ohchr.org/Documents/Issues/MDGs/HCOpenLetterPost2015.pdf>.
3. Millennium Declaration, G.A. Res 55/2 (2000). Available at <http://www.un.org/millennium/declaration/ares552e.htm>.
4. Paul Hunt, UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, UN Doc. No. A/59/422 (2004).
5. F. Bustreo and P. Hunt, *Women's and children's health: Evidence of impact of human rights* (Geneva: World Health Organization, 2013), p.136. Available at http://apps.who.int/iris/bitstream/10665/84203/1/9789241505420_eng.pdf.
6. Pillay (see note 2).
7. G. Backman, P. Hunt, R. Khosla, et al., "Health systems and the right to health: An assessment of 194 countries," *Lancet* 372/9655 (2008), pp. 2047-2085.
8. United Nations High Commissioner for Human Rights, Technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal morbidity and mortality, UN Doc. No. A/HRC/21/22(2012). Available at http://www2.ohchr.org/english/issues/women/docs/A.HRC.21.22_en.pdf.
9. A. Yamin, "From ideals to tools: applying human rights to maternal health," *PLOS Medicine* 10/11 (2013), p. e1001546.