

VIEWPOINT

Health and Human Rights at a Crossroads

RAJAT KHOSLA

Reflecting on the 25th anniversary of *Health and Human Rights* (HHRJ) is in a way a reflection on the history of health and human rights. It is an opportunity to pause and reflect on past and present challenges. On the one hand, human rights in health have become institutionalized with an array of norms and standards and professionalised with senior roles in key global institutions, and on the other, the global paradigms seem to have become increasingly dislodged from the movements that inspired the global reckoning of health as a human right.

As a lecturer in human rights and health, I used to talk about three moments when human rights in health started to be taken “seriously” at the global level. The first moment was in 1993 when Professor Jonathan Mann, the founding editor, together with his colleagues set up the François-Xavier Bagnoud Centre on Health and Human Rights at the Harvard School of Public Health and HHRJ was launched. Since then, the journal has played a critical role in educating and raising awareness about health and human rights and situating health and human rights squarely within the movements that demand global recognition of health as a human right. Mann and colleagues, in the *Health and Human Rights: A reader*, explain that “Modern human rights is a civilizational achievement, a historic effort to identify and agree upon what governments should not do to people and what they should assure to all.”¹

The second moment, also in 1993, was the World Conference on Human Rights, held in Vienna which sent out a call for the universality, indivisibility, and interdependence of all human rights and fostered a global deepening of the discourse on economic and social rights. This was followed by then UN Secretary General Kofi Annan’s plea, to integrate human rights across the UN system. Together, these two developments fostered a global recognition and institutionalization of economic and social rights, and the right to health in particular. Since then, desk officers on human rights have been appointed at WHO, UNFPA and other entities, and normative unpacking of these issues has been undertaken by UN Treaty Monitoring Bodies (for instance the UN CESCR General Comment 14 (2000)) and at the national level.

The third moment was the appointment of the first UN Special Rapporteur on Right to Health in 2002, which spurred advances in the normative development of health as a human right. Similar trends can be seen outside the multilateral system with the establishment of the People’s Health Movement in 2000, numerous national level litigations on claims based on the right to health (e.g. *Minister of Health v. Treatment Action Campaign* (2002), *Paschim Banga Khet Mazdoor Samity and Ors v State of West Bengal* (1996), *K.L. v Peru* (2003) and others) and the mainstream human rights organisations, such as Amnesty International and Human Rights Watch, who expanded their mandates to include health and human rights.

RAJAT KHOSLA, Global Expert Health and Human Rights. Email rajat.khosla@gmail.com

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The Health and Human Rights “movement” has been and remains many movements covering a variety of health areas, working in different arenas and with distinct and occasionally overlapping trajectories. Regardless of what is happening at the global level, local actors around the world are mobilizing and struggling to claim their rights in the most challenging contexts. Their efforts are often unrecognized and failed by the human rights mechanisms that have been put in place.²

In the past 25 years there have been significant, though uneven, advances in health and human rights. Understanding of discrimination and inequality have been recognized as critical for people to attain and maintain their human right to health.³ There is a general acceptance, at least discursively, that an individual’s ability to manifest their human rights has a direct bearing on their health and vice versa.⁴ Major strides have been made in the development of normative aspects, for instance in access to medicines, sexual and reproductive health, mental health and also in terms of the development of tools for monitoring health and human rights through indicators, impact assessments and in other areas.⁵

These advances, however, have been paralleled by regressive tendencies. The operationalization of health as a human right within countries has been undermined by arguments that the specificities of national contexts justify the abdication of human rights responsibilities, resulting in policy incoherence and an uneven implementation of international norms and standards. Furthermore, macro-level politics and ruling ideologies have been demonstrated to have a profound impact both on an individual’s realization of their health and human rights and on the provision of services. Patterns of financing and funding for global health have also had a significant bearing on both the normative developments as well as the implementation of interventions on the ground.

This uneven evolution of health and human rights is visible in a number of different ways, for instance:

- It is clear that some human rights are more acceptable and palatable than others, with social

and political forces affecting the normative and operational aspects of health and human rights.

- *Ad hoc* and variable transnational conversations on human rights and how national ideologies play into these geopolitical conversations have consequences on our ability to assert human rights in health and health in human rights.
- Much global health work is couched in the discourse of human rights, appearing to address global and national development priorities, but it does not embrace health and human rights as intrinsic to the capability of individuals to achieve a life they value.⁶

Reflections for the future

Firstly, Ruth Levine wrote that “The identification of what’s wrong must come from those who are experiencing those wrongs. People working on the “evidence agenda”—academics, think tank researchers, experts in official statistics—should do work that is informed by and complementary to social movements.”⁷ We in the health and human rights “movement” have failed on this point. Our work, that is, those working on health and human rights within global arenas, has increasingly become top down and any meaningful connections with social movements, have tapered. This is our biggest challenge and our ability to reconnect with the social movements will determine our future collective success. As Levine concludes, “the fastest and longest-lasting progress will come from connecting organized outrage about the infringement of rights—work done by social movements that authentically represent and give voice to people whom the system is failing—to people who understand and influence the levers for change within the system.”

Secondly, we need to actively safeguard against regression and retrogression. The internal and external pressures against health and human rights are enormous and unprecedented. Today’s world sees new pandemics threatening global health combined with a rise in regressive policies that are eroding the gains made in global health

norms over the last three decades.⁸ As David Sanders et al summarized recently, it is one step forward and two steps backward.⁹ As we move forward with implementing the UHC agenda, Sanders reminded us that we must not compromise the progress made on global health standards; we need to focus on efforts to reform public health and address the social determinants of health whilst keeping community and social participation at the heart of human rights work. I agree there is a need for a bolder and more honest model to inspire those working in the field of human rights and health to make health equity a reality.

Thirdly, social justice is inherent to health as a human right. Paul Farmer, reflecting on how a social justice approach can be used to address disease and suffering, emphasized that “A truly committed quest for high-quality care for destitute sick starts from the perspective that health is a fundamental human right.”¹⁰ Our pathway for the future indeed needs to build on this idea of social justice and as Amartya Sen argued, “In seeing health as a human right, there is a call to action now to advance people’s health in the same way that the 18th-century activists fought for freedom and liberty.”¹¹ He elaborated, this requires, “...political, social, economic, scientific, and cultural actions that we can take for advancing the cause of good health for all.” Seen through this lens, health and human rights becomes the nucleus of social justice, both as the means to an end and also as an end in itself.

Finally, there is a need to foster a collective voice to demand recognition that health is a human right. One of the biggest challenges today is the absence of a collective moral outrage and a deafening silence on massive violations of health and human rights. From climate change to sexual and reproductive health and rights, the litany of violations is too long and the response is often far from adequate. We lean on the underfunded, under-resourced human rights defenders, local movements, and civil society organizations to fight these battles while global institutions stand in silence. Romila Thappar famously asked: “Are we all being co-opted too easily by the comforts of conforming? Are we fearful of the retribution that questioning may

and often does bring? Do we need an independent space that would encourage us to think and act, and to think and act together?”¹² The answers to these questions are central to our reflections for our collective future. It is certainly possible to generate a global common cause. Indeed, the success of our present and future endeavours may depend on such a collective call for health as a human right.

Rights alone are not panacea for global health and never will be. But they are a reflection of our collective common conscience. The time is now to rebuild a health and human rights movement that exercises not just our collective conscience, but also our collective responsibility. To conclude with the words of Jonathan Mann, the time is now for us to come together as “equal partners in the belief that the world can change.”¹³

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