

## VIEWPOINT

# Paradigm Under Threat: Health and Human Rights Today

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Health is both a window and a door: a window into the challenges facing societies, and a door of opportunity for change.

When I look out the window, I see the health and human rights paradigm getting squeezed on both sides: squeezed from the right by populists who trounce on the very individual freedoms, democratic norms, and guarantees of equality that are essential for human health and well-being; and squeezed from the left by critics who question the legitimacy and impact of the human rights paradigm, particularly in relation to economic inequality and globalization.

When I look through the door, I see immense opportunity to improve public health outcomes by working for a better, more rights-respecting world—and vice versa. This opportunity lies neither in doubling down on the human rights paradigm nor in rejecting it. Rather, it lies in augmenting human rights with new approaches and understandings that capture the nature and urgency of the moment.

We face today a toxic mix of xenophobia, misogyny, climate denial, deregulation, right-wing evangelicalism, and state-sponsored violence that is not only darkening today's political landscape, but is also exacting a devastating toll on public health. Yet critics question whether human rights work is political enough for a moment like this. By appealing to evidence, facts, and universal norms, does human rights exempt itself from political struggle and underestimate the reality of power in shaping decisions? Can human rights defenders really afford to appeal to non-partisan norms enshrined in international law, and to avoid any domestic political project?

As someone who came of age in the health and human rights movement at the turn of this millennium, I see both sides of this argument. On the one hand, I often wonder what might have been had the human rights movement fully embraced the challenges of globalization in the early 2000s. The Battle for Seattle, the globalization of ACT UP and the Durban AIDS Conference, the World Conference on Racism, the Millennium Development Goals—all of these seemed to portend a new battleground for human rights that might help to offset the effects of globalization, racism, climate change, and economic exclusion. But after the attacks of September 11, 2001, the human rights movement seemed to retrench—and perhaps necessarily—into combating torture, war crimes, and other violations of first-generation rights.

On the other hand, when I look at the human rights movement in the last 20 years, I see tremendous innovation. I see global human rights organizations thinking, acting, and hiring locally. I see the development of new norms on everything from extreme poverty to the human rights obligations of non-state actors to the role of international financial institutions. I see the deployment of new tools from budget advocacy to forensic investigations of corruption to narrative change.

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Ultimately, I am left thinking that the critique of the human rights framework is sometimes as vulnerable to the same charges of elitism, globalism, and illegitimacy as the movement it takes aim at.

Let me illustrate this with a story. CB are the initials of a member of an HIV support group in Zingo Village in the Lake Chilwa area of Malawi. He began taking anti-retroviral treatment (ART) in 2004 and, until recently, collected his medicines from nearby dispensaries that were accessible only by boat. In the last year, however, the government has stopped regularly supplying these dispensaries with HIV medicines due to climate-induced dryness in the lake. CB now needs to collect his ART from a health center that is only accessible by road, at a cost of 6,000 Malawian kwacha (about US\$8) per return trip. He reports that he misses his dose on some days when he is unable to afford transportation for travel.

Three health and human rights organizations in Southern Africa came together in 2019 to document many cases like CB's.<sup>1</sup> Although they made many useful recommendations, they concluded that the link between environmental degradation and HIV risk was not something they could address through legal action. Whose fault is it after all that the lake is drying up? Is the cost of a motorcycle included in the constitutional guarantee of right to health? In a context where rural people live long distances from health care all over the world, what exactly is the source and remedy for CB's vulnerability?

Some may see defeat in this story. I see opportunity.

## Equity and justice

The first opportunity I see is in bringing a stronger equity and justice lens to our work on health and rights. If human rights theory is rooted in the inherent dignity and freedom of all people, justice is rooted in the historical oppression, dispossession, and exploitation of people that is built into and effected through political and legal structures—and public health must be understood as a facet of the multigenerational effects of this oppression.<sup>2</sup> Such

injustices may include the impact of environmental degradation on lake-dwelling people in Malawi. They are large-scale social processes, not reducible to individual human rights violations, that differentially shape human health and well-being over time.

Thus, if human rights practice is focused on the identification and analysis of specific violations or infringements for which redress is then sought, then practices of justice are directed to radical or transformative change of the structures and systems of economic and social life. Such practices may include community organizing to rehabilitate coastal areas affected by drought, or to bring affected communities into closer contact with health providers. These are collective practices of local residents, not traditional human rights campaigns aimed at a single policy, population, or service intervention.

The theories and practices of justice are closely related to the concept of equity. In moral philosophy, equity is sometimes considered the practical application of distributive justice: the idea that benefits and burdens should be fairly distributed across members of a free and equal society, and that no one should be denied opportunity for belonging to a disadvantaged group.<sup>3</sup> In public health, equity demands that we look at the factors that prevent certain populations from having the same opportunities for health and well-being as other populations. Some define justice as the actions and activism necessary to achieve health equity: so an equitable society is one in which justice has been served—and conversely, justice is served when health disparities are not associated with social advantage or disadvantage.

## Intersectionality

A second, related framework I want to explore is intersectionality.

Intersectionality has taken on many meanings since the legal scholar Kimberle Crenshaw coined it in 1989.<sup>4</sup> What began as a Black feminist critique of anti-discrimination discourse has become a rallying cry for building alliances across identities,

issues, and movements.

In public health, intersectionality is powerful in its mandate to reorient us from specific population cohorts to larger, often invisible forces of marginalization and oppression. For example, the HIV field still often targets “key affected populations” such as LGBT communities, sex workers, people who use drugs, prisoners, and migrants. Intersectionality urges us instead to lift our gaze to the social forces that oppress these groups—and indeed all of us—in the first place. This allows us to easily see how multiple forces can oppress a single individual at the same time.

For example, rather than targeting people who use drugs as a discrete category, intersectionality invites us to confront the universal impact of the “war on drugs”—its ideologies, power arrangements, and structures of law and policy—and the ways in which it affects different people differently. Rather than targeting transgender people as a category, intersectionality invites us to examine the universal impact of the gender binary—another system of power that is designed to hold certain institutional arrangements in place, and that is repeatedly invoked to stall social change.

This move towards intersectionality might also help us with the Malawi case I mentioned. After all, is CB a victim of identity-based discrimination? He is Black, but in most legal systems this is not sufficient for a claim of racial discrimination in health care. Perhaps, on the basis of his HIV status, one could argue for a legal remedy. Perhaps if CB were a woman, one could construct a legal case on the bases of gender equality. But it seems far more apt to understand CB as a victim of intersecting forms of oppression—of rural neglect, global inequality, HIV stigma, and the profound injustice of bearing the burden of climate emissions for which he bears no responsibility.

## Systems transformation

The third and final paradigm I want to discuss is systems transformation.

The idea of “systems transformation” starts from the premise that individual countries and the

planet are in deep crisis. Systems thinkers argue that economic inequality, racial injustice, and climate change are all symptoms of a larger sickness, of deep patterns in our economic and political order and underlying institutional arrangements that work in concert to produce these results. Such patterns are “systemic” and thus require “changing the system” and thinking boldly about a new vision of the kind of world we want.<sup>5</sup>

Arguably the most prominent example of systems-change thinking in the United States today is the Green New Deal.<sup>6</sup> The Green New Deal seeks to mobilize every aspect of American society at a scale not seen since World War 2 to achieve net-zero greenhouse gas emissions and create economic prosperity for all. Similarly, the European Green Party, for example, envisions a Europe that not only champions the greening of the economy, but that also pursues social and generational justice, inclusive democracy, citizen empowerment, diversity, the rule of law, international peace, and the Sustainable Development Goals.<sup>7</sup> In Canada, the LEAP Manifesto envisions a country that is not only powered entirely by renewable energy, but where the jobs and opportunities of the energy transition are designed to systematically eliminate racial and gender inequality, and where caring for one another and caring for the planet are the economy’s fastest growing sectors.<sup>8</sup>

The case of CB in Malawi is amenable to systems thinking. At a simple level, this case shows how environmental degradation can directly interfere with access to health care, especially for people who are highly marginalized and vulnerable in the first place. More fundamentally, this case shows how climate change and denial of health care are both products of global economic system that unfairly distributes burdens across populations, countries, and regions. A bold alternative to this system must include both an end to greenhouse gas emissions, as well as universal health care for all.

In conclusion, each of these frameworks—justice and equity, intersectionality, and systems transformation—moves us beyond the rights of specific individuals or groups, envisioning a society in which power—and the advantages that accrue

from it—is fundamentally redistributed. Each of them locates health within a larger political project that seeks to reverse the multi-generational effects of oppression. Each of them seeks a society that is governed not only by the rule of law, but by ideals of fundamental fairness.

Perhaps, in the end, this is precisely what the human rights paradigm was always meant to do.

The Universal Declaration of Human Rights declares simply that the inherent dignity and the equal and inalienable rights of all members of the human family are the foundation of freedom, justice and peace in the world. Much criticism of the modern human rights movement can be traced to a subsequent cleavage between civil and political rights—as enshrined in the US Constitution—and economic and social rights, as enshrined in some Constitutions, most notably South Africa's. The Green New Deal is explicit in reviving President Roosevelt's idea of a "second Bill of Rights" that recognizes everything from jobs to education to health care.

If such a vision is adopted, perhaps the legacy will be not only a new political era, but also a new human rights era.

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## References

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2. My thanks to Joanna Erdman for helping me develop this argument.
3. See Kris Putnam-Walkerly and Elizabeth Russell, "What the Heck Does 'Equity' Mean?," *Stanford Social Innovation Review*, September 15, 2016.
4. Kimberle Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," *University of Chicago Legal Forum*, Volume 1989, Issue 1, Article 8.
5. See Next System Project, <https://thenextsystem.org/>.
6. H. Res. 109, *Recognizing the duty of the Federal Government to create a Green New Deal*, 116<sup>th</sup> Congress of the United States, 1<sup>st</sup> Session.
7. *EGP Priorities for 2019: What European Greens Fight For*, 29<sup>th</sup> Council of the European Greens, November 23-25, 2018.
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