

# Health and Human Rights Journal

DECEMBER 2023, VOLUME 25, NUMBER 2

## SPECIAL SECTION

### ECONOMIC INEQUALITY AND THE RIGHT TO HEALTH

#### GUEST EDITORS

Gillian MacNaughton, Matt McConnell, A. Kayum Ahmed, and Sylvain Aubry

#### *Publishers*

Harvard FXB Centre for Health and Human Rights and  
Dornsife School of Public Health, Drexel University

#### *Editor-in-Chief*

Joseph J. Amon

#### *Executive Editor*

Carmel Williams

#### *Student Essay Editors*

Gillian MacNaughton and Audrey Chapman

#### *Copy Editor*

Morgan Stoffregen

#### *Designer*

Catlin Rockman

## ABOUT THE JOURNAL

*Health and Human Rights Journal* began publication in 1994 under the editorship of Jonathan Mann, who was succeeded in 1997 by Sofia Gruskin. Paul Farmer, co-founder of Partners In Health, assumed the editorship in 2007 until his sudden death in February 2022. *Health and Human Rights Journal* is an open access online publication and a leading forum of debate on global health and rights concerns. The journal maintains a tradition of critical scholarship and also provides an inclusive forum for action-oriented dialogue among human rights practitioners, with peer-reviewed articles focusing rigorous scholarly analysis on the conceptual foundations and challenges of rights discourse and action in relation to health.

*Health and Human Rights Journal* is listed in PubMed, the database of the National Library of Medicine. It is also included in the Directory of Open Access Journals <https://doaj.org/>.

## PUBLICATION POLICY

*Health and Human Rights Journal* welcomes unsolicited manuscripts on an ongoing basis. Submissions should not exceed 7000 words, while submissions to the Perspectives section should not exceed 2000 words. Book reviews and Letters to the Editor are also welcome. More information on submissions is available at <http://www.hhrjournal.org/submissions>.

Please submit manuscripts through the website or by email to [HHRSubmissions@hsph.harvard.edu](mailto:HHRSubmissions@hsph.harvard.edu). Author guidelines are available on the *Health and Human Rights* website (<http://www.hhrjournal.org>). Views expressed in the journal are those of the authors and do not necessarily reflect the views of the publisher, editors, editorial board members, or other members.

## COPYRIGHT POLICY

*Health and Human Rights Journal* applies the Creative Commons Attribution-Noncommercial 3.0 Unported License to all articles, with the philosophy that there should be no financial barriers to access information. The Attribution-Noncommercial license (<http://creativecommons.org/licenses/by-nc/3.0/>) lets people freely copy, distribute, remix, and build upon contributors' work, provided it is not used to make a profit and the original authors and *Health and Human Rights Journal* are appropriately acknowledged. These conditions can be waived if author, as copyright holder, grants potential users explicit permission. Copyrighted material may be included in articles provided authors provide proof of written permission for such use from the copyright holder.

## OPEN ACCESS POLICY

*Health and Human Rights Journal* does not charge authors article processing fees unless authors can utilize an institutional open access publishing grant. Many institutions and research facilities have funding grants available to support publication in open access journals. If authors cannot access OA grants, article processing fees are waived by HHR. Authors are asked whether they can pay this fee only after a paper is accepted for publication, and inability to pay will not impact publication. When authors are able to use open access funds the article processing fee is US\$2,000.

## BACK ISSUES

As an open access publication, the *Health and Human Rights Journal* is not available by subscription. All content is available free of charge at [www.hhrjournal.org](http://www.hhrjournal.org), including back issues since Volume 1, Number 1 (1994). Back issues are also available through JSTOR, the not-for-profit online digital archive. Users at institutions that participate in JSTOR's Arts & Sciences Complement Collection can access back issues directly by visiting the *Health and Human Rights Journal* information page at JSTOR. For more information on JSTOR, please visit <http://www.jstor.org>.

*Health and Human Rights Journal* (online) ISSN 2150-4113

## MASTHEAD

### Publisher

FXB Center for Health and Human Rights, Harvard University and Dornsife School of Public Health, Drexel University

### Editor-in-Chief

Joseph J. Amon

### Executive Editor

Carmel Williams

### Founding Editor, 1994-1996

Jonathan Mann

### Editor, 1997-2007

Sofia Gruskin

### Editor-in-Chief, 2008-2022

Paul E. Farmer

### Executive Editorial Committee

Varun Gauri  
Anand Grover  
Tlaleng Mofokeng  
Sharifah Sekalala

### Editorial Board

Maame Efua Addadzi-Koom  
Pamela Andanda  
Philip Alston  
Jacqueline Bhabha  
Agnès Binagwaho  
Oscar Cabrera  
Audrey Chapman  
Brian E. Concannon Jr  
Martha Davis  
Sheila Davis  
Lawrence Gostin  
Sofia Gruskin  
Aart Hendriks  
Howard Hu  
Paul Hunt  
Stephen P. Marks  
Moses Mulumba  
Chidi Odinkalu  
Jacqueline Pitanguy  
Thomas Pogge  
Dainius Pūras  
Haun Saussy  
Margaret A. Somerville  
Eric Stover  
Gavin Yamey  
Alicia Ely Yamin

---

## HHR CONSORTIUM MEMBERS

HHR's open access policy is made possible through the generous support of The FXB Center for Health and Human Rights, Dornsife School of Public Health, Drexel University, and our institutional consortium members.

## EDITORIAL OFFICE

*Health and Human Rights Journal*  
François-Xavier Bagnoud Center for Health and Human Rights  
Harvard School of Public Health  
651 Huntington Avenue, 7th Floor  
Boston, MA 02115, USA  
Tel: (1) 617.432.0656  
Fax: (1) 617.432.4310  
Website: <http://www.hhrjournal.org>  
Email: [hhrjournal@hsph.harvard.edu](mailto:hhrjournal@hsph.harvard.edu)

# Table of Contents

## GENERAL PAPERS

- 1 EDITORIAL  
Realizing the Right to Health: A Long and Winding Road  
*Joseph J. Amon*
- 15 Assisted Regulation: Argentine Courts Address Regulatory Gaps on Surrogacy  
*Patricio López Turconi*
- 29 Reproduction as Work: Addressing a Gap in Current Economic Rights Discourses  
*Lauren Danielowski*
- 43 Building a Progressive Reproductive Law in South Africa  
*Donrich Thaldar*
- 53 Using Ethics Committees to Justify Force-Feeding Political Prisoners in Israel  
*Zohar Lederman and Ryan Essex*
- 67 Why Has a Progressive Court Failed to Protect the Prison Population against COVID-19? Mass Incarceration and Brazil's Supreme Court  
*Daniel Wei Liang Wang, Luisa Moraes Abreu Ferreira, Paulo Sergio Coelho Filho, Matheus de Barros, Julia Abrahao Homs, Mariana Morais Zambom, and Ezequiel Fajreldines dos Santos*
- 83 PERSPECTIVE  
Justice in Transitioning Health Systems  
*Lucas Miotto and Himani Bhakuni*
- 91 STUDENT ESSAY  
Locked Up and Left Behind: Addressing Cruel and Unusual Punishments among Senior Inmates during COVID-19 across US Prisons  
*Sabba Salebaigi*

- 103 LETTER TO THE EDITOR  
Climate Change as a Risk Factor for Food Insecurity in Spain  
*Juliette Duffy*

## SPECIAL SECTION ECONOMIC INEQUALITY AND THE RIGHT TO HEALTH

- 105 EDITORIAL  
Economic Inequality and the Right to Health: On Neoliberalism, Corporatization, and Coloniality  
*Gillian MacNaughton and A. Kayum Ahmed*
- 111 The COVID-19 Pandemic as a Tipping Point: What Future for the Right to Health?  
*Ted Schrecker*
- 125 Assessing the Human Rights Framework on Private Healthcare Actors and Economic Inequality  
*Rossella De Falco, Timothy Fish Hodgson, Matt McConnell, and A. Kayum Ahmed*
- 141 Are Development Finance Institutions Meeting Their Human Rights Obligations in Health?  
*Anna Marriott, Anjela Taneja, and Linda Oduor-Noah*
- 155 Economic Inequality, Social Determinants of Health, and the Right to Social Security  
*Joo-Young Lee*
- 171 PERSPECTIVE  
The Equity Effect of Universal Health Care  
*Anja Rudiger*

- 177 Equality Restricted: The Problematic  
Compatibility between Austerity Measures  
and Human Rights Law  
*Michael G. Marcondes Smith*
- 191 PERSPECTIVE  
Climate Change and Economic Inequality:  
Are We Responding to Health Injustices?  
*Thalia Viveros-Uehara*
- 199 PERSPECTIVE  
Pharmaceutical Patents and Economic  
Inequality  
*Thomas Pogge*
- 205 The Legal Determinants of Scarcity:  
Expanding Human Rights Advocacy for  
Affordability of Health Technologies  
*Luciano Bottini Filho*