A detailed Review on Public Health, the Right to Health and Global Health

Mohd Nizam Ashraf Khan, Assistant Professor, Department of Law, Galgotias University

ABSTRACT

Public health, the right to health and global health offer interesting frameworks for rethinking solidarity since certain regulatory claims for health have been made. Health is regarded as a universal human value, while solidarity is regarded as a key health value. Prainsack and Buyx explicitly addressed how solidarity is relevant to the various contexts of applied health and bioethics and outlined a three-tier approach to solidarity, defining it as 'shared practises that reflect a collective effort to bear the cost (financial, social, emotional or otherwise) of helping others.' These three These Thirds are: I interpersonal solidarity; (ii) group solidarity practises and (iii) contractual and legal demonstrations of solidarity.

KEYWORDS: Review, Public Health, Global Health

INTRODUCTION

Public health and global health are governance domains that have developed somewhat independently from rights as the context for the third stage of contractual-juridical solidarity as defined by Prainsack and Buyx[1-3] and from the foundations of the political and legal rights framework. Public health developed to address the social and medical challenges of industrial and colonial capitalism in the nineteenth century and to deal with scientific, medical disease problems. Public health focuses on the aggregate populations, rather than individuals, assuming responsibility that goes beyond what is presumed to be non-interference by liberal-individual concepts of human rights[4]. As such, liberal right-wing theorists often regard public health as problematic because of its paternalistic, even coercive nature. As public health is predictive and focuses on the reduction in harm in a context of uncertainty and risk, it is different from conventional medical and legal frameworks that tend to seek adequate remedies for a harm that is already evident. Public health is 'public' in two ways: through targeting a social entity—a public entity (the population, the community or the group)—to interfere and by requiring a certain type of collective action in the public mode of intervention[5].

Global health has evolved from global health, an area that has changed independently of human rights. However, its development had significant structural impacts on global governance and the interpretation of the health agenda. Global health governance is based upon the World Health Organisation's agency, but it has its historical roots at the beginning of the twentieth century in non-state, global philanthropical foundations. At the beginning of the twentieth century, the Rockefeller Foundation created the field of international health and the Gates Foundation rejuvenated global health in the face of its "midlife crisis" in the 20th century. This aligns global health with the MDGs, which concern health either directly or indirectly. The Rockefeller programmes define the international health agenda and content, define

principles, practises and institutions and primarily work through governmental agencies. Its newer counterpart favours mixed health systems with a greater role for the corporate private sector. Despite its technical and 'neutral' scientific claims, Birn's history of global health shows that it was a profoundly political project[6-8]. A global health agenda set by private philanthropy is undoubtedly a benevolent expression of global solidarity for the benefit of collectively promoting solidarity transfer from the wealthiest to the most disadvantaged of the world's poorest. Such transfer from philanthropists to beneficiaries is however highly asymmetric and circumvents the social contract, perpetuating the "no-to-be-politics" even though they support collective commodities, including the eradication of diseases and the improvement of extreme health inequalities.

At the Alma-Ata Conference in 1978, the WHO attempted to unite the fields of public health, global health and rights. This conference raised the possibility that differentiated medical and social justice concerns could converge in the context of the right to health. The expansive rights-based aim of "the highest achieved health standard" has been balanced with the reality of resource constraints through a primary health approach. This promised an inclusive and multi-level approach, horizontal and bottom-up, involving government action, health care activity and civil society mobilisation. A rights-based approach focuses on the priority for the worst-off and "mindsome core obligations" as the basis for "cost-effectiveness" understanding. The Alma-Ata agenda aligned economic and justice criteria.

Philosophical and sociological understanding

The right to health is 'a vague and complex idea, with a moral nucleus' which calls for a philosophical and sociological understanding of the provisions of international law[10]. The framework of rights is different from the framework of public health because it sets criteria for non-discrimination, directs interventions to the pressing key needs and prioritises those most discriminated against or stigmatized[11]. The former Special Rapporteur on the Right to Medical Care, Paul Hunt, has promoted the Right to Health as a way to improve the efficiency, integration and fairness of health policies, considering it as an effective means of enabling the disadvantaged to take responsibility for them, through the framework of global standards, national obligations and international surveillance. These assertions, in turn, depend on the existence of agreed bases for thinking about "effectiveness," "inclusion" and "equity," as well as theory and information to support and guide the availability and fair distribution of resources[13].

While health is essentially expressed in individually distinct bodies, expressing unique DNA, it is the insight of health sociology that the social circumstances and forces which determine how a person will live and die strongly influence life and health status from birth to death. Individual bodies or 'social body' are embedded in the social context. "Illness, death, health and well-being have been produced in large part socially" [14]. On the one hand, the social determinants of health and the 'long causal chains' that determine ill health play an increasingly important role[15]. The current trend in public health programming, however, is to emphasise individual personal responsibility and behaviour in the lifestyle. An important social change that focuses on personal behaviour is the "epidemiological transition," from high infant mortality and infectious disease to a long life and chronic non-communicable disease. The

turn to personal responsibility, however, has evoked careful scepticism as far as global health justice is concerned [16]. Not all choices are under individual control, and most are influenced socially and economically.

In setting out the scope for public health ethics, Dawson argues that the view that human interest in health is inherently social and that public health ethics should be "substantial"[17] should be taken into consideration. His argument against a liberal medical ethics framework also applies to the liberal human rights framework. Public health is more about public or public health as a whole and population health than the sum of the individual's "health." The overall level of health prevention, health risk and precautionary work that cannot be broken off in order to assign individuals responsibilities and results symmetrically. Substantial public health views call for group, community, people, public goods, commons, solidarity, reciprocity, welfare, well being and justice to consider bioethics and human rights[18].

NATURE OF HUMAN LIFE

The biological nature of human life makes human organisms less than simple to deal with fairly and effectively using 'one-size fits all' methods and ethical assumptions and responsibilities. Absolute equality in health is neither achievable nor perhaps desirable, as for biological or social reasons, different individuals have different status in health. Moreover, these changes over time. Health equity is an alternative concept to address systemic health inequalities and social determinants, focusing solely on unfair inequalities, as not all disparities in health are unfair — it is not unfair for girls born to have lower birth weights than boys or for women to have a greater life expectancy than men [19]. It is unfair to do nothing when women 'attain' equal living expectancy by discriminating. In order to erode their biological advantage, their life expectancy is thus reduced to that of men. It is not "unfair" that it is only women that can bear children, but it is unfair that there is no preventing the vast majority of prevented perinatal deaths and injuries, leading to hundreds of thousands of preventable excessive deaths and injuries each year among women[20].

CONCLUSION

The limits of the usual legal conceptions of the 'person' implied by the messy, dependent and imbricated nature of human life are recalled by health. In addition, the mission of public health requires a different kind of expressive justice than is best known in law. There is also limited relevance to the retributive concerns, which are so important in criminal justice. The physical and social embodiment of health obviously disturbs fundamental assumptions that underlie liberal human rights, democracy and markets. The illumination project treats people as discreet, autonomous, rational and assumes that egalitarian relations between individuals must be symmetrical. As embodied beings, however, we are involved in the fundamental asymmetries of bodies and care — the state of personal autonomy is not an initial condition for people and a social achievement.

The case of one of the most important interventions in public health, vaccination, illustrates the collective embodiment of health with population effects that cannot be reduced to individual benefits. "Black immunity" occurs when a sufficient percentage of the population is vaccinated, thus reducing the risk of disease in the entire community by protecting a non-vaccinated body in the population by vaccinated bodies. Some people are unvaccinated by no fault of themselves: children who are too young, who have impaired immune systems and who have missed vaccination

REFERENCES

1. Ĉesnakas, G. (2013). Energy security challenges, concepts and the controversy of energy nationalism in lithuanian energy politics. *Baltic Journal of Law and Politics*, *6*(1), 140–162. https://doi.org/10.2478/bjlp-2013-0006
2. Coman-Kund, F. (2012). Assessing the role of eu agencies in the enlargement process: The case of the european aviation safety agency. *Croatian Yearbook of European Law and Policy*, *8*(2012), 335–368. https://doi.org/10.3935/cyelp.08.2012.148
3. Dai, L. (2014). Tackling diffuse water pollution from agriculture in China: Drawing inspiration from the European Union. *Utrecht Law Review*, *10*(2), 136–154. https://doi.org/10.18352/ulr.274
4. Donders, Y. (2015). Exploring the cultural dimensions of the right to the highest attainable standard of health. *Potchefstroom Electronic Law Journal*, *18*(2), 180–222. https://doi.org/10.4314/pelj.v18i2.05
5. Giesen, I. (2015). The use and incorporation of extralegal insights in legal reasoning. *Utrecht Law Review*, *11*(1), 1–18. https://doi.org/10.18352/ulr.308
6. González-Santos, S. P. (2017). Shifting the focus in the legal analysis of the first MST case. *Journal of Law and the Biosciences*, *4*(3), 611–616. https://doi.org/10.1093/jlb/lsx022
7. Hloušek, V. (2014). Is the Czech Republic on its way to semi-presidentialism? *Baltic Journal of Law and Politics*, *7*(2), 95–118. https://doi.org/10.1515/bjlp-2015-0004
8. Ikemoto, L. C. (2016). Egg freezing, stratified reproduction and the logic of not. *Journal of Law and the Biosciences*, *2*(3), 112–117. https://doi.org/10.1093/jlb/lsu037
9. Lelieur, J. (2013). "Transnationalising" ne bis in idem: How the rule of ne bis in idem reveals the principle of personal legal certainty. *Utrecht Law Review*, *9*(4), 198–210. https://doi.org/10.18352/ulr.250
10. Lukyanova, E. (2015). On the rule of law in the context of Russian foreign policy. *Russian Law Journal*, *3*(2), 10–36. https://doi.org/10.17589/2309-8678-2015-3-2-10-36
11. Mangiaracina, A. (2014). A new and controversial scenario in the gathering of evidence at the European level: The proposal for a directive on the European investigation order. *Utrecht Law Review*, *10*(1), 113–133. https://doi.org/10.18352/ulr.260
12. McGonigle, I. V, & Herman, L. W. (2016). Genetic citizenship: DNA testing and the Israeli Law of Return. *Journal of Law and the Biosciences*, *2*(3), 469–478. https://doi.org/10.1093/jlb/lsv027

13. Meixner J.B., J. (2016). The use of neuroscience evidence in criminal proceedings. *Journal of Law and the Biosciences*, *3*(2), 330–335. https://doi.org/10.1093/jlb/lsw028
14. Millbank, J. (2017). Reflecting the "human nature" of IVF embryos: Disappearing women in ethics, law, and fertility practice. *Journal of Law and the Biosciences*, *4*(1), 70–93. https://doi.org/10.1093/jlb/lsw058
15. Moreno, P. G., Feze, I. N., & Joly, Y. (2017). Does the end justify the means? A comparative study of the use of DNA testing in the context of family reunification. *Journal of Law and the Biosciences*, *4*(2), 250–281. https://doi.org/10.1093/jlb/lsx012
16. Muñoz, H. S., & Fiodorova, A. (2014). DNA and law enforcement in the European Union: Tools and human rights protection. *Utrecht Law Review*, *10*(1), 149–162. https://doi.org/10.18352/ulr.262
17. Murrow, G. B., & Murrow, R. (2016). A hypothetical neurological association between dehumanization and human rights abuses. *Journal of Law and the Biosciences*, *2*(3), 336–364. https://doi.org/10.1093/jlb/lsv015
18. Perea, J. F. (2014). Doctrines of delusion: How the history of the G.I. Bill and other inconvenient truths undermine the supreme court's affirmative action jurisprudence. *University of Pittsburgh Law Review*, *75*(4), 583–651. https://doi.org/10.5195/lawreview.2014.344
19. Vytopil, L. (2012). Contractual control and labour-related csr norms in the supply chain: Dutch best practices. *Utrecht Law Review*, *8*(1), 155–169. https://doi.org/10.18352/ulr.186
20. Zijlmans, J. M. I. J., & Woldendorp, H. E. (2014). Compensation and mitigation: Tinkering with natura 2000 protection law. *Utrecht Law Review*, *10*(2), 172–193. https://doi.org/10.18352/ulr.277