PHRGE 2012 INSTITUTE

“Human Rights and the Social Determinants of Health”

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Northeastern University School of Law

A Summary of Remarks and Discussion

By Mariah McGill and Jessica Brokaw
Program on Human Rights and the Global Economy (PHRGE)
INTRODUCTION

The Program on Human Rights and the Global Economy (“PHRGE”) hosts an annual, two-day Institute at Northeastern University School of Law on a cutting edge topic related to economic, social and cultural rights (“ESCR”). Discussion focuses on domestic application and implementation of these rights. Each Institute brings human rights advocates, scholars and practitioners together to discuss the topic and explore the ways that human rights can inform analysis and advocacy.

The topics of recent Institutes include “Framing Economic, Social and Cultural Rights for Advocacy and Mobilization: Towards a Strategic Agenda in the United States” and “Beyond National Security: Immigrant Communities and Economic, Social and Cultural Rights.”

This year, the PHRGE Institute explored “Human Rights and the Social Determinants of Health.” The Institute was held in collaboration with the Health Policy and Law Program at Northeastern University School of Law and Bouvé College of Health Sciences at Northeastern University. The Institute theme was developed and organized by Professor Wendy Parmet, Director of the Health Policy and Law Program; Professor Martha Davis, PHRGE Faculty Co-Director; Kevin Murray, PHRGE Executive Director; and Gillian MacNaughton, PHRGE Senior Research Fellow.

The purpose of the 2012 Institute was to provide a forum for practitioners and scholars to engage in discussion on the role of the human rights framework as a tool to support initiatives to address the social determinants of health in the United States. Health care reform has been a major priority at the state and federal level in recent years, but less attention has been paid to the circumstances in which people are born, live, work, play and age and the impact these circumstances have on people’s health.

In 2008, the Commission on the Social Determinants of Health, created by the World Health Organization, issued a report identifying the factors that play important roles in supporting a healthy population. These include nutritious food, early education, secure housing, clean water, adequate sanitation, decent work, universal and equitable health care, and universal social protection with sufficient income for healthy living. While relatively little attention has been devoted to these factors -- called the social determinants of health -- they may have a greater impact on the health and well-being of individuals and communities than the health care system.

The social determinants of health correlate closely to ESCR recognized in various international treaties. As Paul Hunt, former United Nations Special Rapporteur on the right to the highest attainable standard of health (2002-2008) has noted, human rights are a tool that can help deepen the analysis of social determinants and provide avenues for accountability as a means to achieve social justice. Applying an ESCR approach to the social determinants of health has the potential to reduce inequities and disparities in health outcomes. Similarly, the holistic approach and strong evidence of the social determinants of health perspective could help human rights advocates advance ESCR.
Although both the rights-based and public health advocacy communities can benefit from working more closely together to advance ESCR and improve health outcomes, this connection has proven elusive. The 2012 PHRGE Institute was designed to bring these two communities together to discuss advocacy approaches that might build on the strengths of the two approaches.

Specifically, participants were encouraged to begin to develop strategies and tools to address health outcome disparities that are prevalent in the United States. In doing so, participants looked at the wide-range of socio-economic factors that promote conditions for healthy lives. This Institute was particularly timely given the lingering effects of the recent economic recession which have resulted in massive spending cuts and job loss, affecting the basic living conditions for many people in the country.

The Institute opened on November 1st with panel presentation and a keynote address, both open to the public. On Friday November 2nd, the Institute brought a distinguished group of academics, activists, attorneys and health care practitioners together for a series of closed-door workshops to engage with these issues more deeply. This report is a brief summary of both days of the Institute.

**EXPERT PANEL: HUMAN RIGHTS AND HEALTH OUTCOMES**

The Human Rights and Health Outcomes panel, moderated by PHRGE’s Executive Director Kevin Murray, focused on linking a human rights approach to the social determinants of health. Panelists articulated many perspectives on the role of human rights in improving health, from macro-level strategies focused on the participation of government and transnational corporations, to community-focused efforts to change social norms and ignite grassroots activism.

*George Annas* of Boston University Schools of Public Health, Medicine and Law opened the panel with a presentation focused on the evolution of human rights movements. Drawing from his research on combining bioethics, health law and human rights, Professor Annas outlined a compelling case for viewing human rights as a critical social determinant of health. “Health and human rights are inextricably linked. You really can’t be healthy without having human rights,” Professor Annas explained. “Human rights are universal, they are based on universal principles and are actually enforceable.”

*Patricia Illingworth* of Northeastern University School of Law and Department of Philosophy and Religion, argued that the right to health is also a solidarity right, a third generation of human rights such as rights to development in a healthy environment. Illingworth described how viewing health as a solidarity right would impose obligations on many entities, including: nations, pharmaceutical companies, transnational organizations, civil society, community, individuals, and philanthropists. “Solidarity rights seem to have more explanatory power with respect to who we want to hold
responsible for health,” Illingworth pointed out. Solidarity rights are moral rights universally possessed by all human beings, existing outside of civil and political rights.

*Sofia Charvel* of Instituto Tecnológico Autónomo de México (“ITAM”) shared her unique perspective on the state of health care and human rights in Mexico. Professor Charvel, who as an attorney directs the ITAM’s public health program, discussed the disconnect between the human rights guarantee in the Mexican Constitution and the living conditions of many Mexicans. Professor Charvel suggested that, although human rights protections find firmer constitutional ground in Mexico as compared to the United States, health care statistics illustrate that the protections for health, education, nutritious food, and housing are largely non-existent. Charvel also provided a synopsis of the current state of the universal health care system in Mexico, explaining that coverage expansion is a pressing issue within the country.

*Anja Rudiger* of the National Economic & Social Rights Initiative closed the expert panel with her presentation of a human rights perspective on the social determinants of health. Dr. Rudiger focused her discussion on the role of the markets in producing health outcomes. “Rights are indivisible, as are the social determinants of health,” Rudiger explained. Dr. Rudiger stressed how privatization of core public functions that affect human rights undermines accountability for the status of these rights and suggested that if health care, education, housing, food and water were treated as public goods, human rights principles would prioritize these basic needs.

**KEYNOTE ADDRESS BY DR. ICHIRO KAWACHI**

*Dr. Ichiro Kawachi*, Chair of the Department of Society, Human Development and Health at the Harvard School of Public Health, delivered the Institute’s keynote address. Dr. Kawachi opened his address to the Institute by making the case for the relevance of the notion of the social determinants of health. Dr. Kawachi described a public health system, paddling upstream against the force of the social determinants of health. For Kawachi, the social determinants perspective offers the prospect of “upstream intervention” that is both compelling and extremely challenging.

Dr. Kawachi began with two examples to illustrate the impact the social determinants have on health. He first pointed to the obesity epidemic in the United States to illustrate the impact of the built environment on the health of individuals and communities. Transportation policy and urban planning can actually be drivers of sedentary life styles and, hence, obesity. For example, American society is very car oriented, leading to an abundance of drive-through restaurants, banks, post offices and so on, with fewer opportunities to walk. This, in turn, raises the risk of obesity. American dependence on the automobile is rooted in economic and transportation policy decisions that promote driving, whereas countries in Europe are pursuing policies to deter their populations from driving. These policies have undeniable public health implications.

Dr. Kawachi also discussed how the food environment is an upstream condition impacting obesity rates. The difference between having a local supermarket that sells
fresh produce, and accessing highly-processed food in a local convenience store is dramatic and has real implications for public health.

Kawachi offered participants several concrete strategies for targeting the social determinants of the obesity epidemic, including regulating junk food advertising and zoning restrictions aimed at limiting eating establishments in certain areas. Perhaps most importantly, policies aimed at changing social and environmental conditions need to be inter-sectoral. The real drivers of health are non-health policies.

Having made the case for a focus on the social determinants of health, Dr. Kawachi offered insights as to why real change in this arena comes only with great effort and why public health policy does not garner the attention and support enjoyed by direct care-oriented policies. “When I was practicing medicine, I could point to individual patients that I helped,” Kawachi explained. “In public health, we’re working on upstream policies and conditions; I can’t identify who I am helping.” He used his career transition from medical practice to public health to illustrate the large problem facing public health reform efforts: the identifiable patients that benefit from medical care offer a measure of success that the unidentifiable beneficiaries of preventative public health policies do not. In addition, the interval of time between paying the costs of prevention and realizing the benefits of those measures can be significant. Benefits from prevention measures often fall outside of the political cycle, Kawachi pointed out, so politicians see little incentive to pursue such policies.

Dr. Kawachi concluded his presentation by offering the Institute his suggestions for the “best buy” initiatives for tackling the social determinants of health. Kawachi first stressed the importance of investing in early education. Studies from across many disciplines show that early childhood education interventions have long-term implications for brain development, the acquisition of important life skills and health and well-being. Studies have demonstrated that disadvantaged children provided with high-quality early childhood education are less likely to receive special education services, are more likely to graduate from high school and are less likely to be on welfare as an adult. There are also a whole realm of health behaviors that were correlated with this early intervention including lower obesity rates and a higher likelihood of seatbelt use.

Dr. Kawachi’s second best buy recommendation for tackling the social determinants of health was targeting the intergenerational transmission of poverty. “Children born into poverty enter adulthood without the ‘basic capabilities’ to escape poverty,” he noted. Kawachi pointed out that anti-poverty programs struggle to make it feasible for impoverished parents with few resources to invest in their children. Kawachi argued that what we should really care about is providing economic support to parents to allow them to invest in the human capital of their children. For the speaker, this would hold out the possibility of breaking the intergenerational chain of poverty. Conditional cash transfer programs, such as Mexico’s, Oportunidades and New York City’s Opportunity NYC, provided families living below the poverty line monetary support conditioned on children receiving medical treatment and regularly attending school. Kawachi closed his presentation by sharing the encouraging results of these programs, and suggesting that
these programs work to prevent the intergenerational transfer of poverty. However, in the question and answer period after Dr. Kawachi’s talk, Professor Charvel noted that the Oportunidades program in Mexico has met with challenges in the realm of education. Professor Charvel noted that the cash transfers designed to encourage parents to send their children to school were not successful due to the poor quality of many schools and the fact that it was difficult for many children to access the schools that do exist. Dr. Kawachi agreed and stated that an adequate infrastructure was an important pre-requisite of any successful cash transfer program.

Kawachi’s presentation sparked a lively debate about how a human rights approach fits in with a data-based approach to the social determinants of health. Human rights advocates urged the group to consider how a human rights framework could bolster the statistical case for focus on the social determinants of health.

**DAY 2 OF THE INSTITUTE**

The second day of the Institute included three panels designed to promote discussion of the issues raised. PHRGE Assistant Director, Mariah McGill began the day with a summary presentation of the day’s agenda and goals.

Panel 1, *Right to Health: Universal Healthcare*, was moderated by Kristin Madison of Northeastern University School of Law. Jennifer Prah Ruger of Yale Schools of Medicine, Public Health and Law, opened the discussion by making the case for the right to health as an ethical demand. Dr. Ruger suggested that treating the right to health as a demand for equity in health would require individuals, states and non-state actors to internalize these norms. Dr. Ruger hypothesized that internalizing these norms will help with compliance and enforcement, thereby driving domestic policy. Development of an agreed upon or shared standard of health would provide more legitimacy to the notion of universal healthcare.

Robert Restuccia of Community Catalyst asked participants to grapple with why the United States is the only major industrialized country that doesn’t consider health care a human right. Restuccia suggested that the fundamental problem is that special interests drive domestic health care policy and the political influence of those interests is such that the government is unable to regulate and focus on the public good. He pointed to the need to build a stronger consumer voice to correct the imbalance of power in the health care arena. Mr. Restuccia also emphasized the need to connect the very different constituencies supporting an access to health care and community/public health agendas.

Renee Landers of Suffolk University provided a constitutional context to the health care crisis, pointing out that the United States Constitution doesn’t create many affirmative duties on the government besides the right to counsel and the right to vote. The lack of affirmative rights to other forms of social and economic well-being is problematic for the establishment of universal health care as a recognized right. The few health care rights recognized by the law today have largely been created for special categories of people who society has deemed worthy of special care in health. The Affordable Care Act
(“ACA”) represents progress towards universal health care, but Landers made clear that she believes the ACA legislation faces many obstacles and that the United States is still a long way from establishing universal health care as a human right.

During the discussion following Panel 1, participants raised the issue of allocating health care resources during tough economic times. Dr. Ruger opined that fairly prioritizing health needs requires a framework based on principles that people believe are fair for allocating resources. Another point raised during the discussion is the apparent incongruence between the social right to health and the priorities of domestic health care reform. Several participants echoed the sentiment that efforts should focus on connecting the advocacy community working on entitlements with the grassroots organizations working to address the social determinants of health.

Panel 2 entitled the Social Determinants of Health, was moderated by Emily Spieler of Northeastern University School of Law. Dr. Neil Maniar of Brigham and Women’s hospital opened his presentation by providing a working definition of the social determinants of health. The social determinants of health are really those conditions in which we live, work, play but more importantly social determinants are the conditions into which we are born. Dr. Maniar suggested that a focus on the social determinants of health goes beyond access to care to combat social inequity. Health outcomes are dictated by influences at the macro level, community level, family level and individual level. Dr. Maniar made the case for addressing the “built environment” as a key social determinant. Focusing on the built environment requires a life-cycle approach that takes into account the many conditions that impact an individual’s health across a lifetime.

Dolores Acevedo-Gariá of Brandeis University offered her perspective on what a health system approach would look like if it addressed human rights. Professor Acevedo-Garcia argued that a rights framework can be enhanced by the social determinants of health framework. She pointed out that the social determinants of health framework places a lot of influence on population health whereas the human rights framework takes on a more individual approach. Professor Acevedo-Garcia examined different frameworks for improving children’s health including the rights of the child, civil rights and disability rights. She then questioned whether a rights approach is effective within the United States given the fact the United States has not ratified many documents on the rights of the child. Her discussion shed light on the weakness of the rights framework in the United States in comparison to current economic and political frameworks.

Thomas Kieffer of Jamaica Plain Health Center offered a clinical context to the conversation by providing participants with an inside look at Jamaica Plain Health Center. Mr. Kieffer explained that tackling health inequity within Jamaica Plain has been a longtime focus of his center. SJP HC has decided to focus its efforts on work with youth and has developed a long-term strategy to engage young people in a discussion about inequities in their community and their impact on health. This has helped local youth develop their own vocabulary to describe the social determinants in their community. Mr. Kieffer emphasized that coming to understand that health care is health,
education is health, and employment is health is crucial to getting organizations that are traditionally health care focused to actively address health disparities.

Rishi Manchanda of HealthBegin, RxDemocracy, National Physicians Alliance, and Charles R. Drew University of Medicine and Science closed the second panel by sharing his experience bridging the gap between clinical medicine and the social determinants of health. During patient intake, Dr. Manchanda’s urban health clinic patients are asked what is the one word they think of when they hear the word “health.” Dr. Manchanda explained that this question has become a great way to ignite a more open conversation between doctors and patients at the clinic. By doing this, doctors have an avenue for identifying social conditions underlying each patient’s health care needs. Doctors are often in the best position to recognize an environmental condition posing harm to an individual patient, yet physicians are not equipped to provide support outside of clinical medicine. Dr. Manchanda also offered a compelling argument for why civic participation should be considered a crucial social determinant of health. For Dr. Manchanda, when we overlook the health sector as potential site to affect the social determinants via civic participation, we miss a great opportunity. His organization, RX Democracy, has run multiple voter registration campaigns out of health care institutions.

Open discussion following the second panel focused on how multiple sectors such as housing, education, and health care can work together to address the social determinants of health. Several participants pointed to the problem that these sectors are often competing for the same funding. At least one participant suggested that advocacy communities should work together to bridge gaps between the sectors. The idea of using social capital and established networks to strengthen and unify the movement to address the social determinants of health garnered wide support among participants.

Leo Beletsky of Northeastern University School of Law moderated Panel 3, Health and the Human Rights Framework in Practice. The Panel discussion focused on a hypothetical case study, which provided participants the opportunity to offer practical frameworks to address the social determinants of health. The case study detailed the experience of a young family living in a low-income community and explored the intersections between poverty and health. Panelists were asked to explore whether and how a human rights approach could resolve many of the issues that the family and the community faced.

Elmer Freeman of the Center for Community Health Education Research and Service offered insightful remarks based on his career in social work. The family depicted in this case study has been impacted by the social determinants of health and there is little optimism that the children will grow up to be healthy adults, Mr. Freeman explained. Mr. Freeman offered his experience with racial struggles growing up as an African American in Boston, and his first-hand account of the impact racism has on access to the health care system. He argued that efforts must focus on market reform as well as consumer education. Mr. Freeman emphasized the need for a stronger consumer voice in the health care market in order to invoke real reform.
Daniel Manning of Greater Boston Legal Services focused particularly on one aspect of the hypothetical that mirrored the current situation facing many families in Massachusetts. The hypothetical included a description of how restrictive shelter eligibility guidelines resulted in families with young children sleeping on the street and transit stations. “In fact this is not a hypothetical,” Manning told the group. “This is the situation in Massachusetts today and there are many women and children just like those in the hypothetical sitting in my office today.” These families, like the one in the hypothetical have literally nowhere to sleep at night. Although restrictive shelter eligibility guidelines are currently being debated in Massachusetts, Manning noted that a human rights dialogue is not part of the discussion. Mr. Manning suggested that if human rights became part of the conversation, arguments for reform could potentially be more effective though not necessarily. Mr. Manning suggested that if a right to housing existed as a constitutional right in the United States, it could potentially help the family in the hypothetical get housing. However, no such right has been recognized in this country. Mr. Manning closed by pointing out that it has been about 25 years since there was a state-wide effort in Massachusetts to create a constitutional right to housing.

Wendy Parmet of Northeastern University School of Law, revisited a central question of the Institute: How can our awareness of the social determinants of health advance human rights? “One of the biggest impediments to the advancement of human rights is what I like to call the illusion of individual agency,” Parmet said, “the belief that we are individual agents and individually we have great control over our fate, our choices.” This is the notion that bad things happen when people make bad choices. In reality, people are situated in an environment that makes it more likely that certain choices are made, Parmet shared. Professor Parmet explained she sees the challenge of how to get our legal and political systems to see that the problems of individuals such as those in the hypothetical are not only of their own making.

Elizabeth Tobin Tyler of Roger Williams University School of Law & the Warren Alpert Medical School of Brown University was the final presenter on Panel 3. Dr. Tobin Tyler identified what she perceived to be the most valuable resources available to the individuals in the hypothetical. The mother in the hypothetical has an asset in that she has a health care provider, Dr. Tobin Tyler noted. What if her health care provider had asked her at her most recent visit how her housing was, or how her job was going? If physicians got answers to these questions, they would be able to refer patients in need to attorneys or local support organizations. Dr. Tobin Tyler emphasized the critical nature of a health care provider’s role in documenting the social determinants of health. She also urged participants to consider the important role community movements can play in changing local environments.

Following the conclusion of the third panel, participants embarked on a lively discussion about the Institute’s central issues. Many commented on how data and statistics could strengthen human rights-based approaches while others noted that compelling personal narratives could strengthen public health policy proposals. The benefits of integrating these two perspectives were seen as evident, but the fact that this integration has not
occurred suggests that there are also stubborn obstacles. Time did not allow a full exploration of these obstacles, but that remains high on the agenda for future discussions.

**Conclusion**
Professor Martha Davis offered concluding remarks to close the 2012 Institute. Professor Davis returned to the “best buys” theme from Dr. Kawachi’s address and gave her perspective on the best buys for human rights such as grassroots organizing. The participants at the 2012 PHRGE Institute successfully raised many issues related to human rights and the social determinants of health and sparked a conversation that we hope to continue in the months to come. In addition to this short report of the Institute, PHRGE faculty and staff are engaged in deeper research and analysis on this issue and will be releasing a scholarly article on this topic in the 2013.
BIBLIOGRAPHY

George J. Annas, Boston University Schools of Public Health, Medicine, and Law

Elmer Freeman, Center for Community Health Education Research and Service

Dolores Acevedo Garcia, Brandeis University, The Heller School for Social Policy and Management

Patricia Illingworth, Northeastern University School of Law and Department of Philosophy and Religion

Ichiro Kawachi, Professor of Social Epidemiology, and Chair of the Department of Society, Human Development and Health at the Harvard School of Public Health

Renee M. Landers, Suffolk University Law School, Health and Biomedical Law Concentration

Rishi Manchanda, Health Begins, RxDemocracy, National Physicians Alliance, Charles R Drew University of Medicine and Science

Mariah McGill, Program on Human Rights and the Global Economy

Wendy Parmet, Northeastern University School of Law

Anja Rudiger, National Economic & Social Rights Initiative

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