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Human Rights in Global Health: Rights- Based Governance for a Globalizing World edited by Benjamin M. Meier and Lawrence O. Gostin1

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Book Review

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Abstract

THIS GROUNDBREAKING COMPILATION, edited by two scholars who helped to establish the "health and human rights" field, systematically explores the structures and processes of human rights implementation in global health institutions while arguing that a rights-based approach to health governance advances global health. The 640-page volume brings together forty-six experienced scholars and practitioners who have contributed to twenty-five chapters organized into six thematic sections. This "unprecedented collection of experts" provides unique, hands-on insights into how the "institutional determinants of the rights-based approach to health" facilitate—or hinder—the "mainstreaming" of human rights into global health interventions. The institutional determinants, which—in the contributors' view—promote the effective integration of human rights implementation into global health governance are: governance (formal commitments, human rights leadership, and member State support), bureaucracy (institutional structure and human rights culture), collaborations (inter-organizational partnerships and civil society participation), and accountability (internal monitoring and independent evaluation).

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Book Review

Human Rights in Global Health: Rights-Based Governance for a Globalizing World edited by Benjamin M. Meier and Lawrence O. Gostin[1]

REGIANE GARCIA AND KRISTI HEATHER KENYON[2]

THIS GROUNDBREAKING COMPILATION, edited by two scholars who helped to establish the "health and human rights" field, systematically explores the structures and processes of human rights implementation in global health institutions while arguing that a rights-based approach to health governance advances global health. The 640-page volume brings together forty-six experienced scholars and practitioners who have contributed to twenty-five chapters organized into six thematic sections. This "unprecedented collection of experts"[3] provides unique, hands-on insights into how the "institutional determinants of the

1. Benjamin M Meier & Lawrence O Gostin, eds, *Human Rights in Global Health: Rights-Based Governance for a Globalizing World* (Oxford University Press, 2018) [Meier & Gostin].
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rights-based approach to health" facilitate—or hinder—the "mainstreaming"[4] of human rights into global health interventions. The institutional determinants, which—in the contributors' view—promote the effective integration of human rights implementation into global health governance are: governance (formal commitments, human rights leadership, and member State support), bureaucracy (institutional structure and human rights culture), collaborations (inter-organizational partnerships and civil society participation), and accountability (internal monitoring and independent evaluation).[5]

The book's first section offers: (1) an overview of the origins of human rights, (2) the evolution of human rights-based approaches to health, (3) the ways in which human rights is framed in global health governance, and (4) the prospects for effective global health governance. Gostin and Meier introduce this section by taking on the ambitious task of writing the history of the health and human rights field and pinpoint the book's intended contribution. In doing so they present objectives and underlying assumptions, depicting the field of health and human rights as a venn diagram of international law, human rights, and public health.[6] While reflecting dominant contributors, this tri-partite structure under-represents the interdisciplinarity of the field (or "fields" as contributors Yamin and Constantin suggest). If "medicine is a social science, and politics nothing but medicine at a larger scale,"[7] we might anticipate the inclusion of political science, sociology, social medicine, and particularly international development, which is examined in some detail in later chapters.

This section also presents important and challenging concepts that could usefully be revisited in later chapters. In Chapter 2, for example, authors Yamin and Constantin focus on power and contestation, arguing that "[t]he history of how human rights have been applied to health is, as all histories are, deeply

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4. The term "mainstreaming" refers to the various efforts, such as staff capacity building and evaluation of legislation, policies, and projects, to ensure that human rights principles and standards are central to all activities, sectors and phases of research, advocacy, cooperation, legislation, financial and technical assistance, policy development, implementation, and monitoring within and across the United Nations system. For a concise description of mainstreaming, see, for example, United Nations Office of the High Commissioner for Human Rights, "Mainstreaming Human Rights" (last retrieved April 26, 2018), online: <http://www.ohchr.org/EN/NewYork/Pages/MainstreamingHR.aspx>.
5. Meier & Gostin, *supra* note 1 at 558-67.
6. Lawrence O Gostin, "The Origins of Human Rights in Global Health" in Meier & Gostin, *supra* note 1, 21 at 24.
7. Rudolf Carl Virchow, "Report on the Typhus Epidemic in Upper Silesia" in *Archiv für pathologische Anatomie und Physiologie und für klinische Medicin*, vol 2 (George Reimer, 1848) 143, cited in Gostin, *supra* note 6 at 22.

contested terrain,"[8] and that claims of "objective" or "comprehensive" accounts are consequently problematic. Meier and Gostin cite UN Secretary-General António Guterres as "urging the UN system" to focus more "on people and less on process,"[9] and they note—in reference to the Sustainability Development Goals (SDGs)—that "the ultimate measure of success is whether the poorest, most marginalized, and most vulnerable [people] benefit."[10] In a sub-section titled: "Priority Setting by People for People," Meier and Gostin cite Amartya Sen as saying "progress on the SDGs is not about numbers. It requires a rich human conversation about how to reach the SDGs,"[11] adding "[w]ho gets to participate in this conversation, where it takes place, and on what terms will be determining factors for success."[12] As these excerpts indicate this section has a strong focus on people and power.

Sections 2 through 4 focus on specific institutions. Section 2 examines the implementation of the human rights framework within the World Health Organization (WHO). Describing WHO's shift from technical support in the 1950s to its contemporary influential normative contribution to human rights for health, Meier and Kastler underscore the influential role of leadership and external factors (the threat of the AIDS pandemic in early 1980s) in sparking WHO's turn to human rights. This section might be augmented with the ways in which social movements supported this human rights turn.[13]

Thomas and Magar describe the Unit of Support (Gender Equality and Human Rights – GER Unit), a health and human rights team inside the WHO Secretariat, as providing positive "strategic directions" and staff training for institutional mainstreaming.[14] They argue that the Guideline Review Committee Secretariat has led to substantial accountability improvements in internal evaluation processes. This section also outlines positive efforts to improve country support, including minimum standards tool-kits (evidence and data collection),[15] Innov8 (review process related to underserved populations),[16] and MiNDbank (a resource platform).[17] Fruitful collaborations are also discussed, including "Youth Engage,"[18] and WHO leadership with the Framework Convention on Tobacco

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8. Alicia Ely Yamin & Andrés Constantin, "The Evolution of Applying Human Rights Frameworks to Health" in Meier & Gostin, *supra* note 1, 43 at 43.
14. Rebekah Thomas & Veronica Magar, "Mainstreaming Human Rights across WHO" in Meier & Gostin, *supra* note 1, 133 at 134-35 [Thomas & Magar].
15. Flavia Bustreo et al, "The Future of Human Rights in WHO" Meier & Gostin, *supra* note 1, 155 at 162-63.
16. Thomas & Magar, *supra* note 14 at 140.
17. *Ibid* at 142.
18. Bustreo et al, *supra* note 15 at 160.

Control.[19] Section 2 praises the adoption of Universal Health Coverage (UHC) as a current leadership priority of WHO and presents the view that WHO has been successful in mainstreaming human rights in UHC strategies. This positive account could be balanced with attention to concerns that UHS promotes public-private partnerships and performance-based evaluations, which arguably affect poor communities' access to care.

Focusing on Inter-Governmental Organizations (IGOs), section 3 includes chapters on the United Nations Children's Fund (UNICEF), the International Labour Organisation (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Population Fund (UNFPA), the Food and Agriculture Organisation (FAO), and the Joint United Nations Program on HIV/AIDS (UNAIDS). Section 3 concludes with a chapter discussing "The Future of Inter-Governmental Organization Partnerships for Health and Human Rights." The organizational chapters provide detailed historical background, highlighting the diverse ways in which these organizations came to work on health and human rights. The parallel structure of these chapters facilitates comparison between IGOs like UNICEF, the ILO, and UNFPA that have, respectively, shifted from "needs-based," "technical," and "population-based" approaches to human rights, and UNAIDS and UNESCO who have been explicitly rights-oriented from the outset. Chapman and Teraras's chapter on UNESCO is particularly interesting as "global health is not an explicit area of UNESCO intervention."[20] Illustrating the breadth of health issues, Chapman and Teraras describe UNESCO's work on bioethics, health promotion, water security, physical education, and scientific progress but, interestingly, not on the role of culture in health. With the exception of Filmer-Wilson and Mora's chapter on UNFPA, politics are understated in these accounts, with the histories told as an uncontested sequence of events. Nygren-Krug's discussion of personnel within UNAIDS and Michel Sidibé's "human rights prize" for staff action that results in human rights protection is a rare account of the dynamics between the people that populate these organizations, with most focusing on processes and structures.

Section 4 discusses the complexities of global health funding, the political implications and barriers of different funding approaches, and the institutional factors influencing donor structures and options. In their examination of human

19. Thomas & Magar, *supra* note 14 at 141.
20. Audrey R Chapman & Konstantinos Tararas, "The United Nations Educational, Scientific and Cultural Organization: Advancing Global Health through Human Rights in Education and Science" in Meier & Gostin, *supra* note 1, 221 at 221.

rights across the World Bank (WB), Shawar and Ruger describe significant institutional hindrances such as the lack of explicit legal obligations to consider human rights implications and potential social harm of sponsored projects, as well as an institutional human rights culture. Shawar and Ruger draw attention to the important impact of external actors, pointing to the Nordic Trust Fund—an internal training and evaluation project led by Nordic country members—as critical in fostering human rights culture within the WB. Interestingly, while Moon and Balasubramaniam find the World Trade Organization (WTO) has no institutional focus on human rights, they identify important steps the WTO has nonetheless taken to integrate human rights into informal and formal norms, as well as adjudicated cases.[21] Moon and Balasubramaniam link these changes to external pressure and power from labour, environmental, and public health organizations.[22] The case of the WTO appears to identify factors that facilitate health and human rights mainstreaming beyond Meier and Gostin's "collaboration" factor, such as the role of external pressure, the way pressure is exerted, and the level of influence.

Hammonds and Ooms's chapter on Overseas Development Assistance (ODA) raises critical monetary and structural questions. They ask: What kind of obligation is international assistance? When is ODA neutral and when is it political, and which is appropriate when? Who sets the priorities when donor and recipient nations disagree? Hammond and Ooms specifically examine the human rights challenges borne of divergent priorities where, for example, recipient nations resent donor-prioritization of marginalized and/or criminalized populations, or donors focus on health security in lieu of health systems strengthening.[23] While acknowledging that these challenges require "far more than a new definition of ODA,"[24] the authors make the critical observation that "none of the language found in the 1948 Universal Declaration of Human Rights (UDHR) or the two covenants is reflected in the definition of ODA."[25] Jürgens et al similarly interrogate the alignment between human rights mandates and funding structures, noting that the Global Fund to Fight AIDS, Tuberculosis and

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21. Suerie Moon & Thirukumaran Balasubramaniam, "The World Trade Organization: Carving Out the Right to Health to Promote Access to Medicines and Tobacco Control in the Trade Arena" in Meier & Gostin, *supra* note 1, 375 at 379.
22. *Ibid* at 389.
23. Rachel Hammonds & Gorik J Ooms, "National Foreign Assistance Programs: Advancing Health-Related Human Rights through Shared Obligations for Global Health" in Meier & Gostin, *supra* note 1, 397 at 404.
24. *Ibid* at 415.
25. *Ibid* at 400.

Malaria (GFATM) did not take on human rights objectives until 2011. Ooms and Hammonds's final chapter proposes a series of possible models to better suit the changing international health landscape. They favour a Global Fund for Health building on commitments in the International Covenant on Economic, Social and Cultural Rights and modeled loosely on the GFATM.

Section 5 addresses "Global Health in Human Rights Governance" including an analysis of the United Nations High Commissioner for Human Rights (UNHCHR), UN Special Procedures, and UN Treaty Bodies. This section is refreshingly personal, with a person-by-person analysis of High Commissioners that examines their particular strengths and impacts, highlighting right to health "champion" Mary Robinson who wrote the preface to this volume. Robinson established the first health-focused OHCHR position in the form of the Advisor on Human Rights and HIV/AIDS in 2001.[26] In their examination of the role of independent monitoring experts, Murphy and Müller similarly place people at the centre, using phrases such as "peopling human rights" and "peopling global health."[27] They describe the Special Procedures as a "missing population" that is often overlooked by those promoting health and human rights at the global level,[28] and whose omission results in the misrepresentation of human rights law.[29]

Meier and Gostin conclude this section with an effort to distill what they term "institutional determinants" and assess the critical factors that support human rights mainstreaming in global health.[30] They argue that the multitude of global health institutions discussed in this volume do not, in fact, "undercut efforts to mainstream human rights."[31] In their view, these institutions are each addressing a broad array of health determinants "with the interconnectedness across these determinants of public health reflecting the inter-dependence of health-related human rights."[32] However, Meier and Gostin do acknowledge the ongoing gap between 'talk' and 'walk.'[33] The book's afterword references the current "populist age"[34] and appeals for optimism. The authors argue that public

26. Gillian MacNaughton & Mariah McGill, "The Office of the United Nations High Commissioner for Human Rights: Mapping the Evolution of the Right to Health" in Meier & Gostin, *supra* note 1, 463 at 478.
27. Thérèse Murphy & Amrei Müller, "The United Nations Special Procedures: Peopling Human Rights, Peopling Global Health" in Meier & Gostin, *supra* note 1, 487 at 487.
28. *Ibid*.
29. *Ibid* at 501.
30. Meier & Gostin, *supra* note 1 at 557.
31. *Ibid* at 569.
32. *Ibid*.
33. *Ibid* at 570.
34. *Ibid* at 573.

health partnerships conducting "rights-based diplomatic advocacy" are a way to support global governance and "resist[] the populist challenges facing global health and human rights."[35]

This book carefully delineates the complex pieces of the puzzle that make up health and human rights governance. It is perhaps unfair then, that our principal critique of such a comprehensive volume is that it could include even more. No book can do everything, and we highlight the gaps left by this comprehensive volume to suggest where complementary readings may be useful, particularly where assigning this text. This collection could be supplemented, for instance, with works that engage more extensively with the development framework, and critical analysis of the impetus for human rights mainstreaming. In this instance, as scholars of civil society, we would recommend buttressing this text with readings that engage with perspectives of populations and organizations affected by these structures. In addition to the high-level organizational focus this volume offers, it would be useful to learn more about the perspectives of the personnel who make up these organizations.

Given the volume's international-level focus, this book does not have specific Canadian content. Issues that are of particular importance in Canada, such as Indigenous rights and health are referenced in passing. The volume provides useful guidance (and argumentation) with respect to ODA, framing it as a human rights obligation under article 2 of the ICESCR which could provide an angle for advocates seeking to increase Canada's action in this area. Emerging bioethical dimensions of health and human rights such as the recent addition of "genetic characteristics" as a protected ground under the Canadian Human Rights Act are unexplored, but the authors do highlight UNESCO as an unexpected actor in this field.

Human Rights in Global Health promises to be a reference staple for health and human rights scholars. As with any pioneering endeavor, this compilation will spark debate and, in some instances, incite intense disagreements. This volume is well-suited for classroom use for courses in law, public health, and human rights, but also courses on IOs, organizational development, and international development. The near uniformity of chapter length facilitates the division of readings over a syllabus, also making it easy to pair chapters with supplementary materials. Contributors provide helpful reference lists at the end of each chapter that readers can use as a resource. Pairing this text with materials on governance and traditional legal values and the role of lawyers could enrich

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35. *Ibid* at 573-74.

classroom discussions.[36] To highlight the "contestation," "rich conversations," and focus on "people over process" and marginalized groups called for in section 1, we also recommend supplementing this encyclopedic resource with readings from texts such as Farmer's *Pathologies of Power*,[37] and, in terms of Canadian content, Maureen Lux's *Separate Beds*[38] and Olena Hankivsky's *Health Inequities in Canada.*[39]

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36. See, for example, Grainne de Burca, Robert Keohane & Charles Sabel, "New Modes of Pluralist Global Governance" (2013) 45 NYUJ Intl L & Pol 723; Orly Lobel, "Setting the Agenda for New Governance Research" (2004) 89 Minn L Rev 498; Carrie Menkel-Meadow, "Lawyer's Role(s) in Deliberative Democracy" (2004-2005) 5 Nev LJ 347.
37. Paul Farmer, *Pathologies of Power: Health, Human Rights, and the New War on the Poor: With a New Preface by the Author* (University of California Press, 2004).
38. Maureen K Lux, *Separate Beds: A History of Indian Hospitals in Canada, 1920s-1980s* (University of Toronto Press, 2016).
39. Olena Hankivsky, ed, *Health Inequities in Canada: Intersectional Frameworks and Practices* (UBC Press, 2011).