

## BOOK REVIEW

# Advancing Global Health and Human Rights in the Neoliberal Era

GILLIAN MACNAUGHTON

*Global Health, Human Rights and the Challenge of Neoliberal Policies*

*Audrey R. Chapman, published by Cambridge University Press, 2016*

In her latest book, *Global Health, Human Rights and the Challenge of Neoliberal Policies*, distinguished public health and human rights expert Audrey Chapman presents an in-depth examination of the conflicts between neoliberalism, the dominant economic policy framework in the world today, and the international human right to health, an ethical and legal commitment of all members of the United Nations. The book is remarkable for offering both an accessible account and a deep critical analysis of the impacts of current market-based approaches to health care and the social determinants of health. Reflecting a broad and deep knowledge of public health and human rights law and policy, Chapman carefully builds her argument step-by-step, taking the reader from the evolution of the normative framework for the right to health through a sequence of domestic and international policies that directly challenge the realization of this right. Scholars, policy makers, activists, and anyone concerned with public health, human rights, and the well-being of people in the new millennium should read this book.

In chapter one, Chapman presents the right to health as “an emergent human right.” By this she means that health and health care have been recognized relatively recently as human rights in domestic and international instruments, that the right to health has gradually been accepted over time as a “legitimate” human right, and that interpretation and conceptualization of the content of the right and the related obligations is progressing steadily. Nonetheless, implementation of the right to health has been challenged in the last three decades by the global dominance of the neoliberal paradigm. This theme of the right to health as an emergent human right confronted by a hostile policy framework backed up by powerful players informs the text from cover to cover. In this light, Chapman reveals the myriad ways that neoliberal economic and social policies favor the wealthy and powerful, while disadvantaging—literally leaving to suffer

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and die—those most in need of health care and the social determinants of health.

The emerging normative content of the right to health—the foundation on which Chapman builds her argument—is set forth in chapter two, “Evaluating Interpretations of the Right to Health.” Chapman draws on article 12 of the International Covenant on Economic, Social and Cultural Rights, which recognizes the right of everyone to the enjoyment of the right to health, as well as the state obligations stemming from that right. She then relies on General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which elaborates on the content of article 12. Chapman was, in fact, one of the experts who took part in the discussions leading up to issuance of the general comment in 2000. Viewing the right to health as an emergent right, she believes, like the committee, that the content of the right evolves with developments in human rights (such as a gender perspective), health challenges (such as HIV/AIDS), advances in epidemiological research (such as the importance of preventative strategies), and even changes in the use of language over the past fifty years (such as the change from “industrial hygiene” to “healthy workplaces”). Thus, while relying on article 12 (adopted in 1966) and General Comment No. 14 (adopted in 2000), Chapman questions some of the key concepts in the general comment, such as the minimum core content of the right to health, more fully develops the notion of a collective right to health, and presents an expanded list of areas in need of further conceptualization. Indeed, throughout the book, Chapman explains the accepted norms, presents the current controversies, and then weighs in on the debates.

Chapter 3, “Health and Human Rights in the Neoliberal Era”, frames the conflict that is the crux of the book. In this chapter, Chapman describes and juxtaposes the post-World War II welfare state, based on ideals of social citizenship, solidarity, and human rights, with the neoliberal state dominant over the last three decades, based on the ideal of the market as the fundamental organizing principle for economic and social life. In light of this compari-

son, Chapman explains the normative dissonance of neoliberal and human rights-based approaches, concluding that the two ideologies are fundamentally incompatible. With respect to health, she maintains:

A human rights approach rests on a conception of health and health care as social or public goods of special importance that are designed to benefit the whole population. In contrast, neoliberalism tends to promote the view of health care as a commodity whose price, availability, and distribution, like other consumer goods, should be left to the marketplace.<sup>1</sup>

The commodification of health care, Chapman explains, transforms health care into a consumer good—like a candy bar or a television—and the relationship of health care provider and patient into a mere commercial transaction. The rationale for market-based approaches to health and health care is that competition will make the system more efficient and thus improve well-being. Chapman, however, discusses a wealth of research that demonstrates to the contrary that market-based approaches lead to greater inequality, reduced access, institutional corruption, and a host of other ills that result in weakened health systems and poorer health at an overall greater cost.

In chapter 4, “Private Sector Provision, Health, and Human Rights,” Chapman focuses on privatization, one tenet of neoliberalism. International human rights law is neutral, in principle, with regard to the type of economic system a state pursues, provided that it is consistent with democracy and the realization of human rights.<sup>2</sup> Nonetheless, several human rights treaty bodies have expressed concern over the privatization of health care and have explicitly put states on notice that they remain accountable for the right to health and health care in the private sector. In this light, Chapman argues that privatization has a detrimental impact on the right to health. As she explains, “Privatized health care affects both the values on which effective realization of health rights depend and the institutional capacity of the government to implement a right to health approach.”<sup>3</sup> First, she contends that pri-

vatization challenges the ideals of social solidarity necessary to realizing the right to health and may also result in unequal, tiered health care systems providing different levels of health care based on income. Additionally, ensuring accountability—a core human rights principle—is more complex for private or mixed health care services, as it requires regulation, licensure, and monitoring of a wide range of personnel, facilities, goods, and services. As private health care providers and insurers often have incentives to reduce expenses to increase profits, accessible mechanisms for monitoring and accountability are serious concerns. Privatization also results in fragmented health care systems, which complicate efforts to develop and implement national health plans. “Importantly, data do not support claims often made by private sector advocates that private health sector institutions are more efficient, accountable, or effective than public sector institutions.”<sup>4</sup> In the end, Chapman calls for the human rights community to pay greater attention to research on the impacts of private provision and financing of health care on the realization of the right to health.

Chapter 5, “Globalization, Health, and Human Rights,” paints a bleak picture in which the global economic system promotes “market fundamentalism and a form of super capitalism” that “reorders social and political priorities away from social welfare.”<sup>5</sup> As Chapman describes it, the World Bank imposes policy conditions on loans, including reduced public spending and user fees for health care and the underlying determinants of health, which negatively affect economic and social rights, especially for the poor. The World Trade Organization is authorized to impose sanctions for violations of international trade agreements, often preventing governments from protecting their people against transnational corporations. And transnational corporations wield tremendous economic power that often exceeds the influence of states that host them. Even the unprecedented rise in international aid to health has been detrimental in some respects, as it has promoted disease-specific vertical interventions and has fragmented and weakened

health systems in recipient countries. In this global neoliberal environment, it is difficult for states to engage in people-centered, human rights-based policymaking, and human rights mechanisms simply do not have the power and influence of the World Trade Organization to impose trade sanctions and the World Bank to deny loans. Further, the advice offered by international human rights mechanisms to overcome conflicts between trade and human rights has not been widely adopted. Chapman concludes that “the hope for the future is that human rights will inspire more effective civil society efforts to counter the deleterious impacts of globalization on health.”<sup>6</sup>

Next, in chapter 6, “Achieving Improved Access to Medicines,” Chapman provides an in-depth analysis of the impact of neoliberal policies on the right to medicines as a component of the right to health. Here, Chapman details the complexities of the conflict between the right of access to medicines (as defined in international human rights law) and the intellectual property regimes operating in domestic and international spheres. In particular, the chapter focuses on the World Trade Organization’s Agreement on Trade-Related Aspects of Intellectual Property (TRIPS) and TRIPS-Plus agreements, pointing out the detrimental roles played by the pharmaceutical industry and the United States in ensuring that essential medicines remain beyond the reach of two billion people around the globe. The chapter also refutes the argument that intellectual property laws serve an important role in providing incentives for drug research and development, explaining that pharmaceutical companies consequently focus on developing drugs that are the most profitable rather than those that address the greatest health needs of the population. On a more optimistic note, Chapman points to several alternatives that would provide incentives to develop medicines that are needed in low-income countries, as well as examples where the human rights community has been successful in mobilizing people to pressure governments into improving policies on access to medicines. The chapter concludes with an explicit list of recommended policy reforms to

counter the neoliberal approach to development and provision of medicines, beginning with the adoption of an explicit human rights framework for law and policymaking on access to medicines.

Chapter 7, “The Social Determinants of Health, Health Equity, and Human Rights,” argues that the realization of the right to health will require greater attention to, and investment in, the social determinants of health. In this chapter, Chapman compares the work of the Commission on the Social Determinants of Health (CSDH) with that of the human rights community on the right to health, demonstrating numerous ways in which collaboration between the two communities could improve progress toward realizing the right to health. In particular, she notes that the CSDH rejected, against the advice of the CSDH secretariat, the use of the human rights framework in its report, resulting in a substantially less persuasive rationale for the importance of empowerment, participation, and voice, as well as diminishing the potential role of human rights in holding governments accountable for implementing the many recommendations in the report. On the other hand, Chapman also argues that the human rights community has much work to do on the social determinants of health, including engaging more consistently with research from social medicine and social epidemiology, giving greater emphasis to the collective dimensions of the right to health, adopting a more expansive and substantive conception of equality, and challenging the inequitable distribution of power, money, and resources. She concludes that her recommended menu of changes “would require a fundamental reorientation of the health and human rights field.”<sup>7</sup>

The final chapter of the book, “Right to Health Perspectives on Universal Health Coverage,” examines what Chapman calls “[o]ne of the most hopeful global health policy developments in recent years.”<sup>8</sup> Indeed, from a human rights perspective, the growing interest in and commitment to universal health coverage (UHC) is a welcome development. Most notably, the new health goal in the 2030 Agenda for Sustainable Development includes the target to “achieve universal health

coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines.”<sup>9</sup> Chapman goes as far as to say that “UHC can be considered to be an expression of the right to health.”<sup>10</sup> Nonetheless, she notes, not all paths to UHC are consistent with human rights. In particular, the expansion of health care through private for-profit providers and insurers, favored in the neoliberal paradigm, is ill-suited to ensuring health care coverage for underserved populations or improving their health outcomes. In view of this conflict, Chapman sets out a framework of right-to-health requirements for UHC. Her detailed comparative analysis of health care systems across countries explains and illustrates a human rights-based approach to UHC, discussing features such as health care financing schemes and benefit packages, as well as implementation of the core human rights principles of participation and accountability. The chapter makes a major contribution to the burgeoning new scholarship on pathways to UHC with its recommendations for embedding these pathways in the ethical and legal obligations of the right to health.

Over the past several years, a small group of human rights scholars has addressed the conflict of neoliberalism with economic and social rights generally and the right to health in particular.<sup>11</sup> Yet this is the first monograph to carry out an in-depth analysis of the multiple ways in which neoliberal policies contradict government obligations to respect, protect, and fulfill economic and social rights generally and the right to health specifically. The book draws on examples from around the world to illustrate the adverse impacts of a wide array of neoliberal policies, examining the implications of marketization, commercialization, and privatization in high-, middle-, and low-income contexts. Global in reach, the book also incorporates research from a wide range of academic disciplines, from public health and social policy to domestic and international law. In short, Chapman provides a global, interdisciplinary, and comprehensive examination of the impact of international

and domestic neoliberal policies on health care, the social determinants of health, and, ultimately, the realization of the right to health for all.

The international human right to health is now recognized around the world—except, as Chapman highlights, notably in the United States. However, the legal obligations for the right to health, including health care and the social determinants of health, are compromised by the globally dominant neoliberal policy framework. Chapman details the multiple ways in which governments have implemented neoliberal policies—including privatization, marketization, and commercialization of health care and social determinants of health—consistent with business interests in the global North, at the expense of the enjoyment of the right to health in both developed and developing countries. In light of the conflicts between neoliberal policies and the right to health, Chapman challenges the health and human rights communities to collaborate more fully in efforts to reject market-centered approaches to health policy and engage a people-centered, human rights-based approach, grounded in social epidemiology and social medicine. Her rich exploration of the subject matter reflects her multi-decade scholarship on the right to health and human rights-based approaches to health, and a deep understanding of the challenges that neoliberal policies pose for the realization of this emergent right. Specialists and non-specialists alike will find this book to be a comprehensive evaluation of the potential of the right to health—in view of the challenges of the neoliberal paradigm—to bring about healthier and more just societies in the new millennium.

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