

Paul Hunt lecture March 22nd 2007, Utrecht, The Netherlands

Background

In 2002 Paul Hunt was appointed the Special Rapporteur by the Human Rights Commission with a focus of helping states promote and protect the highest attainable standard of physical and mental health. In practice, his work has extended to giving guidance to state and non-state actors on ways to achieve this standard. Hunt, from New Zealand, acts independently, although with support from the United Nations Secretariat. His work is documented in an annual report produced to the Commission, and also by interim reports submitted to the General Assembly.

Having had his term as Special Rapporteur extended in 2004, Hunt spoke of the recent focuses of his reports and the issues which still need more focus.

Themes to investigate

Hunt has been working on investigations and reports regarding issues, which inadvertently effect the *right to health*. The two themes he has focused strongly on are:

- Poverty and the *right to health*
- Discrimination and the *right to health*

Both of these issues effect a persons access to health care, and also have bearing on which factors, physical or non-physical, can influence the *right to health*. Hunt made an example out of access to adequate water and sanitation, and how an environment free from all forms of discrimination can increase the standard of health.

Objectives

Hunt has formed three main objectives through his work:

- To raise the profile of the *right to health* as a fundamental human right
 - In modern terms, it appears there are some fundamental rights that appear more fundamental than others. The *right to a fair trial* for

example, is widely recognized, defined and asserted amongst societies, and rightly so, however, there is no reason why the *right to fair trial* is any more fundamental than the *right to health*. Hunt hopes the right to health will achieve a similar status in societies.

- To make a clear definition of the *right to health*
 - Exactly what effects the *right to health*, either directly or indirectly? What are the obligations that arise from the right to health? The *right to health* is not only influenced by states, but also by non-state actors. The role of pharmaceutical companies is also imperative.
- To make a contribution to operationalize the *right to health*
 - Merely having the *right to health* defined clearly in legislation is only part of the process, and can often make no difference to a state in practice. The *right to health* needs to be put into force, and monitored to assure the highest attainable standard is upheld. Hunt hopes that through his work more states are ensuring the right to health works in practice and not just in theory.

Consistent with these objectives Hunt finds it necessary to address three key questions:

- What are national authorities doing in their own country to contribute?
- What are international actors doing to assist the national authorities?
- Are high income countries accepting their obligations of international assistance and cooperation to help lower income states?
 - Hunt suggests that high income countries are not fulfilling this obligation, however, this needs to be monitored and high income states should be held accountable

Role of the Special Rapporteur

Hunt's role as Special Rapporteur is to a large extent, defined by the Human Rights Commission as:

- Providing general reports to the Human Rights Commission and the General Assembly
- To investigate and complete country reports

- Hunt has so far completed reports on Mozambique (2003), Peru (2004), Romania (2004), Uganda (2005), and most recently on Sweden
 - § The report on Sweden was also focused on SIDA, and what Sweden is doing to assist Uganda.
- His work has also extended to compile reports on the World Trade Organisation, Gauntanamo Bay, and on the Israeli and Lebanon conflict (2006)
 - § It is interesting to note that after being denied access to talk to current detainees, the Gauntanamo Bay report was completed based on released prisoners
- Sending letters of communication
 - These letters are usually a form of complaint against a country for violating the *right to health*
 - While sent to states, Hunt will also address' non-state actors, such as UNMIK (United Nations Interim Administration Mission in Kosovo) and The Global Fund (HIV/AIDS)
 - Such letters may receive non response, a response with a focus to a future meeting, or an invitation to investigate the violations
- Country visits are also undertaken, to help ensure the *right to health* is being effectively monitored and upheld
 - The process involves identifying a country to visit, making informal contact to see if this will be possible, and if this is a positive experience, then a formal request is submitted

The relationship with Economic, Social and Cultural Rights

The stance of the *right to health* compared to other fundamental human rights is where it becomes evident that it is not yet widely enough recognized. In no way is the value and importance of other human rights being questioned, they are merely being used as a measure of the *right to health* in society.

- **A definition of the *right to health***

Hunt discussed how the *right to health* is put in doubt by professionals as being a right which is too vague, and unclear for a definition. While this may in some ways be

true, with different values being placed on different factors, it is not the only human right that appears vague. The right to be free from torture or cruel, inhumane or degrading treatment has been questioned many times at an international level in regards to its meaning and application in society. There is no express list of what makes up the *right to health*, however, such a clear definition may also be seen to hinder the expansion of the right.

- **The value added to the *right to health*?**

Hunt also discussed the continued questioning of what is the value added to the *right to health*? Firstly, it is of concern that such a question is asked. As noted earlier, there are continued efforts to increase the awareness of the *right to health* as a fundamental right, and this is only an indication that this is not yet achieved. As Hunt argues, the *right to a fair trial*, which is promoted and respected as a fundamental human right, never has its value questioned. It is merely accepted to exist. Nevertheless, there is value added by having an express *right to health*. Being recognized internationally, and in most cases regionally and nationally, it helps provide shape to a system. Furthermore, it gives direction for policy on a national, and also local level.

Without an express right, there would be no requirement for the right to be part of legislation, and hence, even less would be done in practice. As it stands currently, with the right entrenched in international legislation, there are still violations and questions of concern, how fundamental would it be if it were not in legislation?

Having an express *right to health* also allows for a more sophisticated and practical system of accountability. Without a system of accountability in place then the right would be as good as non-existent. Having an express right under pins all systems.

- **Health and Human Rights Organisations**

Hunt is considerably concerned by how much is being done by health and human rights organizations to promote and protect the *right to health*. While specific organisations such as IFHHRO and SIM are continually working on such issues, there are also much larger organizations, with greater influence and voice, which are not focusing on health rights. Hunt makes focus to the issue of women maternal mortality, especially in the African and Asian regions where about 95% of the associated deaths occur. It is estimated to be over 500,000 deaths each year. In spite of that, there has been no specific attention regarding this issue from the Human rights

Commission. Hunt makes reference to the issue of capital punishment, where it is estimated there are roughly 25,000 people on death row around the world. While this is 25,000 too many, and of course an issue which is highly important, when looking at the size of the figures, it is hard to believe how much attention the death penalty receives compared to maternal mortality rates. Hunt is not condemning the focus given to abolish the death penalty, he merely finds it astonishing, as the figures portray, at how little reference is made by organisations to address maternal mortality. One of the main issues which needs to be further developed is an effective way to measure maternal mortality, so that progress being made in this area is measurable. The issue has recently been included in the Millennium Development Goals and is being promoted by the WHO, UNICEF and UNFPA. However, the need for action by international organisations is paramount to achieving a reduction in the rate of maternal mortality.

Conclusion

Hunt will continue as the Special Rapporteur for the remainder of 2007, and the Human Rights Commission may again extend his term. His work will continue towards achieving the status and recognition the *right to health* needs and deserves, to be effectively administered and monitored across the world. Whether this requires an express definition of the *right to health*, or merely just more promotion and ways to operationalise the right, Hunt will work to assure it becomes internationally recognized as a fundamental human right.