

Human Rights Litigation for Global Health Advancement

Mapping Health-Related Rights Through the Development of the Global Health and Human Rights Database

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Health Law Professors Conference

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World Health
Organization

O'NEILL
INSTITUTE
FOR NATIONAL & GLOBAL HEALTH LAW
GEORGETOWN LAW



LAWYERS
COLLECTIVE



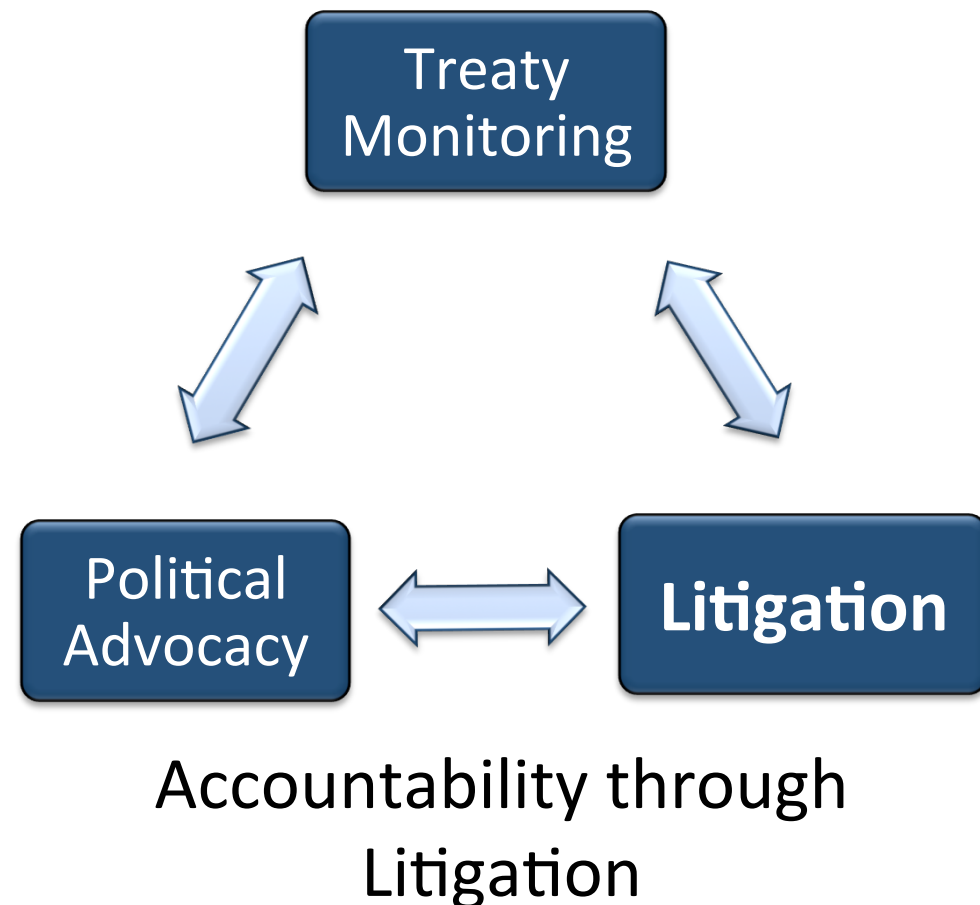
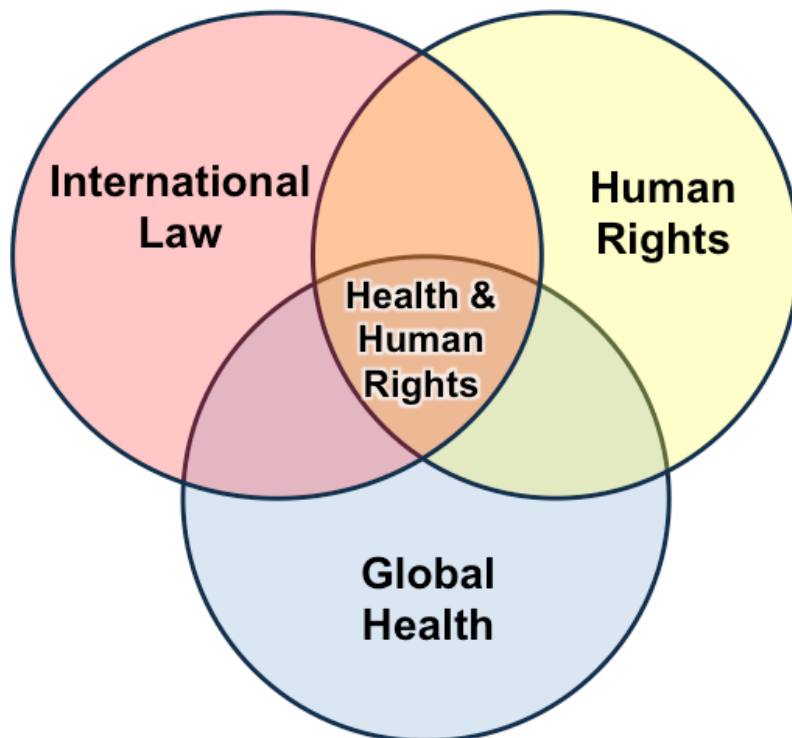
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Outline

1. Theory – Rights-Based Accountability for Health
2. Methods – Developing the Global Health & Human Rights Database
3. Results – The Database Takes Shape
4. Discussion – Database Applications
 - a. International Precedent
 - b. Comparative Analysis
 - c. Empirical Research

Rights-Based Accountability for Health

Health & Human Rights



Litigation as Accountability

- General Comment 14 (2000)
 - State Health Obligations:
 - Health Care
 - Underlying Determinants of Health
 - Accountability Under National Law
 - Policy Gaps
 - Implementation Gaps

WHO Engages
Accountability for
Health-Related Rights



Specificity of
Obligation



Increase in
Litigation

Cooperative Efforts to Address Human Rights Litigation

From Actors to Litigation



The screenshot shows the WHO website interface. At the top, there are navigation links in multiple languages: عربي, 中文, English, Français, Русский, and Español. Below this is a search bar and radio buttons for 'All WHO' and 'This site only'. The main content area is titled 'Health and Human Rights' and features a sidebar with navigation options like Home, About WHO, Countries, Health topics, Publications, Data and statistics, Programmes and projects, Health and Human Rights (highlighted), News, Activities, Information Resources, Databases, Key Instruments, and Links. The main text describes the 'Database on Health and Human Rights Actors' and includes a search filter for 'Country' set to 'All countries'. A small logo of the Harvard School of Public Health is visible on the right side of the page.

Global Health & Human Rights Database



WHO

+

O'Neill Institute

+

Lawyers Collective

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Academic Oversight

Developing the Global Health & Human Rights Database

- Advantages of a Database
 - Strategies for Litigation Success
 - Effects on Health Systems
 - Economic and Social Implications
- Contours of a Database
 - Three Interconnected Sections
 - Judgments
 - International and Regional Instruments
 - Constitutions
 - Expert Review



Judgments Section Criteria

- **Sources**

- Articles
- NGO Announcements
- Global Partners
- Westlaw/Lexis



- **Case Identification**

- Adjudicated by an international, regional or domestic court
- Implicates health topics
- Argues a right of individuals or groups or an obligation of duty-bearers

- **Case Categorization**

Judgments Section Categorization

- **Rights**

- Right to Health
- Right to Life
- Right to Bodily Integrity
- Right to Water
- Right to Food
- Right to Social Security
- Right to Work
- Right to Privacy
- Right to Due Process
- Right to Education
- Right to Housing
- Right to Development
- Right to Clean Environment
- Freedom from Torture
- Right of Access to Information
- Freedom from Discrimination

- **Health Topics**

- Health Services
- Infectious Diseases
- Non-communicable Diseases
- Health throughout the life course
- Environment Health
- Public Emergencies
- Health Technology and Pharmaceuticals
- Health Systems
- Cross cutting issues
- Population groups
- Reproductive and Sexual Health
- Tobacco/Substance abuse
- Mental Health
- Occupational Health





GLOBAL HEALTH AND HUMAN RIGHTS DATABASE

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Forthcoming Summer 2012

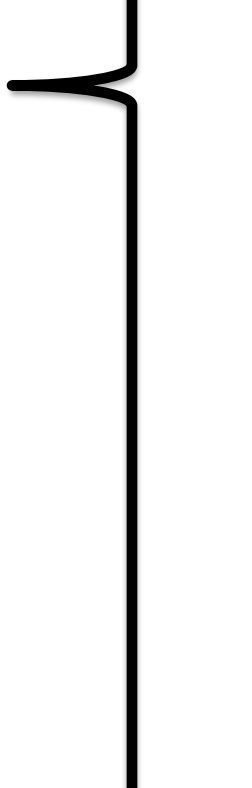
To enter the Database, please enter the password:

ENTER

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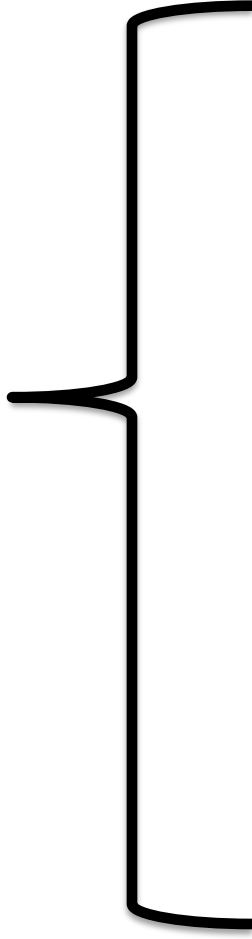


An Imperative for Interdisciplinary Analysis

- **Transnational Precedent**
 - Comparative Analysis
 - Empirical Scholarship
- 
- Translating jurisprudential reasoning
 - Identifying successful claims
 - Facilitating consistency across countries

An Imperative for Interdisciplinary Analysis

- Transnational Precedent
- **Comparative Analysis**
- Empirical Scholarship

- 
- Identifying commonalities across judgments
 - Understanding approaches to similar goals
 - Assessing determinants of litigation

An Imperative for Interdisciplinary Analysis

- Transnational Precedent
- Comparative Analysis
- **Empirical Scholarship**

- Assessing the multivalent effects of judgments on the public's health
 - Policies Impacted
 - Populations Affected
 - Outcomes Achieved



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Bridging international law and rights-based litigation: Mapping health-related rights through the development of the Global Health and Human Rights Database

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Abstract

The O'Neill Institute for National and Global Health Law at Georgetown University, the World Health Organization, and the Lawyers Collective have come together to develop a searchable Global Health and Human Rights Database that maps the intersection of health and human rights in judgments, international and regional instruments, and national constitutions. Where states long remained unaccountable for violations of health-related human rights, litigation has arisen as a central mechanism in an expanding movement to create rights-based accountability. Facilitated by the incorporation of international human rights standards in national law, this judicial enforcement has supported the implementation of rights-based claims, giving meaning to states' longstanding obligations to realize the highest attainable standard of health. Yet despite these advancements, there has been insufficient awareness of the international and domestic legal instruments enshrining health-related rights and little understanding of the scope and content of litigation addressing these rights. As this accountability movement evolves, the Global Health and Human Rights Database seeks to chart this burgeoning landscape of international and regional instruments, national constitutions, and judgments for health-related rights. Employing international legal research to document and catalogue these three interconnected aspects of human rights for the public's health, the Database's categorization by human rights, health topics, and regional scope provides a comprehensive compilation of health and human rights law. Through these categorizations, the Global Health and Human Rights Database serves as a basis for analogous legal reasoning across states to serve as precedents for future cases, for comparative legal analysis of similar health claims in different country contexts, and for empirical research to clarify the impact of human rights judgments on public health outcomes.

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