

Book Review



Social Medicine
Health For All

Global Health Law

by Lawrence O. Gostin (Harvard University Press, 2014)

Reviewed by Rebecca Arden Harris, MD

Lawrence Gostin is a distinguished Professor of Law at Georgetown University and a leading figure in the global health movement. He has written a timely book about the movement's history and current struggles with a focus on the legal frameworks that are necessary to advance its progress. He argues for large-scale reforms to the existing network of treaties, agreements, and practice norms that shape global health efforts, many of which have arisen through the work of the World Health Organization (WHO).

Even more audacious is his argument for a comprehensive international health treaty that will uphold the basic value of "health for all, justice for all,"^{p.439} a binding treaty that will give all the peoples of the Earth an enforceable right to health. And that is just the beginning.

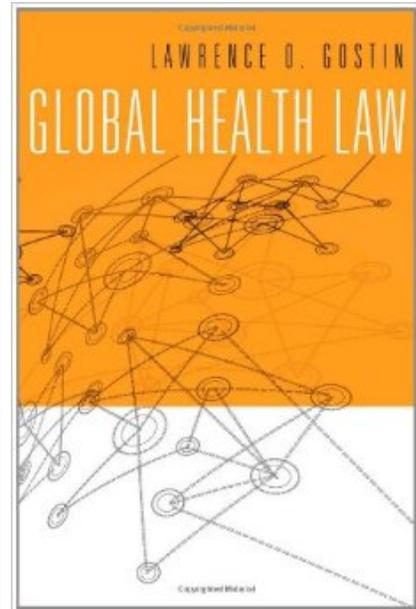
Gostin's rationale for a global health treaty derives from the staggering health differences between rich and poor countries.

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On this point, personal observation and statistics tell a consistent story: while many of those in wealthier countries enjoy decent nutrition, housing, employment, and health care, those in the poorest countries experience entrenched poverty and perilous insecurity – women and children in particular. The 2013 child and maternal mortality figures are illustrative. Child mortality rates ranged from 2.3 per 1,000 live births in Singapore to 152.5 per 1,000 in Guinea-Bissau, a 66-fold difference. Maternal deaths ranged from 2.4 per 100,000 live births in Iceland to 956.8 per 100,000 live births in South Sudan, a 399-fold difference.¹ The status quo is morally unacceptable. The question is how to mobilize for change to build a just, accountable, and enduring global health system – in Gostin's words, "what would it take to achieve global health with justice?"^{p.413}

Gostin's blueprint for change starts with recognition of the socio-economic causes in the distribution of health, meaning that closing the health gap requires a population-based approach and one that is wide-ranging in scope. An effective program must encompass all of



the drivers of public health, including food, water, and clean air, as well as hygienic conditions, injury prevention, and habitable communities. Ultimately, in Gostin's formulation, each nation would be called upon to adopt policies and actions across the full spectrum of government departments to ensure education, employment, housing, clean energy, civil liberties, and environmental safety to meaningfully address the social determinants of health. Clearly, this is a monumental undertaking. An international commitment to this mission would constitute one of the

largest – and most enlightened – efforts in human history.

But moral exhortations do not move everyone. Not surprisingly, those expected to pay the largest share – the wealthier nations – would often find it the least palatable. Some might assert that there is no duty to alleviate the suffering of others, or that inequalities are not inherently problematic, or that the third- and second-world cultures resist change and intervention; these arguments are made even by the well-intentioned. Consequently, for Gostin, the legal right to health must attain a strong foothold in civil society as well as in the collective conscience, much as the human rights movement has done.

Nominally, a global right to health already exists. It comes from several international agreements, chiefly Article 12 of the International Covenant on Economic, Social and Cultural Rights (“*The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*”).² It is also expressed in Article 25 of the Universal Declaration of Human Rights, as well as in other international legal instruments. To translate these lofty sentiments into authentic commitments, the global health movement needs to strengthen its alliance with civil society as well as the private sector, government, academia, cultural institutions, and even the military.

Gostin’s strategy for building alliances is a WHO Framework Convention on Global Health (FCGH), similar to the UN Framework Convention on Climate Change and the WHO Framework Convention on Tobacco Control. He proposes “*a binding treaty using an incremental process whereby states negotiate a framework with key normative standards.*”^{p.436} Included would be a health financing accord and an accountability system with robust standards, monitoring, and enforcement. National governments would be held to rigorous standards of good governance, namely inclusive participation, transparency, accountability, and efficiency. The FCGH would empower marginalized groups to claim their right to health.

Although global leaders such as Ban Ki-moon (UN Secretary-General) and Michel Sidibé (UNAIDS Executive Director) support a FCGH, the political feasibility of this venture is open to question. A sampling of concerns:

- states may try to water down ambitious proposals in order to undermine the treaty’s bold vision
- states may try to shirk genuine financial commitments and/or accountability for outcomes
- private actors such as the alcohol, food, and tobacco industries may try to weaken the treaty, contending that strong regulations impose higher costs.

Gostin is mindful of these challenges, but argues that the risks can be mitigated or even turned into opportunities. The value of community participation from the bottom up could balance the cost of a difficult negotiation process. Coalitions of civil society could be organized around the FCGH, just as they were in the case of the Framework Convention on Tobacco Control. If civil society is included in official state delegations, as has been the practice in other progressive treaties, or even as informal advisers, they would have better access to, and influence upon, government officials. Although the implementation of the Framework Convention will take time and considerable effort, the process itself has value as it involves broad participation, information and knowledge sharing, and greater visibility for the global movement for health justice.

The last decade has seen a record number of private and public actors with unprecedented funding enter the global health arena. Gostin views the convergence of interest and resources as a positive signal that now is right time for the FCGH. The present moment offers a space where governments and civil society can reason out a new global health structure and a pathway for its eventual approval. Gostin’s book provides us with a map and compass, a way forward to unify the promise of global health and international law with

the legitimate aspirations of marginalized people for social justice and universal social protection.

In the conclusion to this seminal work, Gostin warns of losing focus and of missed opportunity. Best to hear it from him directly:

But this is certainly no time for complacency: the international community's concern for global health could dissipate as quickly as it formed. If the global health movement stalls in its progress, there is every reason to believe that af-

fluent states, philanthropists, and celebrities will simply move on to another cause. And if they do, the vicious cycle of poverty and endemic disease among the world's least healthy people will continue unabated.^{p.440}

References

1. Wang H, Liddell CA, Coates MM, Mooney MD, Levitz CE, Schumacher AE, et al. Global, regional, and national levels of neonatal, infant, and under-5 mortality during 1990-2013: a

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2. Committee on Economic, Social and Cultural Rights, General Comment 14, The right to the highest attainable standard of health (Twenty-second session, 2000), U.N. Doc. E/C.12/2000, reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, 2003 U.N. Doc. HRI/GEN/1/Rev.6 at 85 (2003).

