

## Paul Hunt – 8<sup>th</sup> International HIA Conference

Good afternoon... the landscape of human rights is changing. In the past the main features of human rights have included things like letter writing campaigns, taking test cases in the courts, uttering slogans, campaigning in the streets, naming and shaming, those remain extremely important elements of the human rights landscape. They have been typified by for instance Amnesty International in its extremely important work but in recent years there has been a shift and other human rights features are now emerging in the human rights landscape. One way of labelling them are those associated by the what some writers call the policy approach, that is to say insisting that human rights including the right to the highest attainable standard of health, insisting that human rights are integrated into policy making processes at the community level, the national level and at the international level. The idea is that if human rights are integrated early in policy making processes the policies will be more equitable, more participatory, they will deliver better outcomes for those living in poverty. The idea is that they'll be policies that are shaped by human rights will be more robust and sustainable. It is not suggested that the amnesty approach that I mentioned at the outset should be jettisoned and replaced with this policy approach, but what is suggested is that both approaches are needed. If you accept the validity of the policy approach then there are a whole raft of implications and let me just mention two of them; One is that the policy approach for the vindication of human rights, for the vindication of the right to health requires the closest collaboration with a wide range of health workers, health professionals. Human rights have to learn from the health workers and may I respectfully suggest that health professionals may learn from those working in human rights. In effect the health professionals become human rights professionals, that is one implication of the policy approach. The second implication, there are many, the second that I will mention is this... for the policy approach to work we need new skills, new techniques, new tools, that is those that are new in the human rights context but are not new to health workers, you see the policy approach requires that we are able to measure the progressive realisation of the right to the highest attainable standard of health and that means we need right to health indicators and right to health benchmarks. The policy approach means that we have to be able to engage in the tough decision about prioritisation given the fact that budgets are finite. How can a minister of health or other person working in health related sectors choose between different priorities when there is a finite budget? Which trade-offs, which are part and parcel of the policy making process, which trade-offs are permissible from the human rights point of view and which are impermissible from a human rights point of view. So we need new tools, new skills, new techniques, new in the human rights field not new to you, we need indicators and benchmarks and one of the new tools that we need in my opinion is right to health or health impact assessments. In the last five years or so in my view, the health and human rights movement has matured a great deal and those of us working in the health and human rights community are now actively working on the development of these new skills, new tools and new techniques and can I say that I hope that you will join us and help us in developing them. Alex mentioned that I am UN Special Rapporteur in the right to the highest attainable standard of health, I was appointed in 2002, I was nominated by the government of New Zealand, I am a New Zealander, once nominated however I am independent, I don't take instructions from New Zealand nor do I take instructions from the United Nations Secretariat, they support me but I am independent of the UN Secretariat, I am not given any significant

resources but I am given a platform and I am given independence, which is my best asset. I am required to write general reports on right to health issues, I have written a report on the skills drain looking at it from the right to health point of view, I also am invited to countries and examine countries from the point of view of the right to health and critique the health systems in those countries through the prism of the right to health and I also receive complaints from many people about alleged violations of their right to health. My first report was in February 2003 to the United Nations and in that first report I argued that it was vital for the human rights community in collaboration with the health community to develop a right to health or health impact methodology it seemed to me that this was an essential part of what was of the growing health and human rights movement. I wrote that report it came out in February 2003 and I was gratified that shortly afterwards the United Nations passed a resolution urging me to continue that line of inquiry looking at the right to health and impact assessments. A little later I raised some money from UNESCO, if I can just note my gratitude to UNESCO for providing me with a small sum of money enabling me to hire a researcher, can I note my gratitude to her Gillian McNaughton, she and I worked closely together trying to figure out a methodology for right to health impact assessments, and we produced that report in 2006. It sets out for discussion a methodology for right to health impact assessments, it runs to some 60 pages I am not going to go through it in any detail now. I have reported to the General Assembly of the United Nations on that report and in writing and next week I am in the General Assembly and I will orally report to the third committee of the General Assembly about the crucial importance of health impact assessments in relation to the right to health. I am also in parenthesis presenting some draft human rights guidelines for pharmaceutical companies but I think that is probably a separate talk. When I am on country mission for instance to Sweden last year, there I urged countries to develop a methodology for right to health impact assessments. Now time doesn't permit me to go through in any detail the methodology that Gillian and I have set out in our report may I encourage you that if you are interested to take a look at that report, very briefly it explains as succinctly as possible the added value of a human rights approach to these issues, it explains what the right to health includes, it includes the points that Matthias referred to, the right to the highest attainable standard of health is not just about access to medical care it is about access to the underlying determinants of health; safe drinking water, adequate sanitation, freedom from discrimination and so forth and so on. The right to health includes the requirement of progressive realisation, sometimes the right to health is written off as being very idealistic, it is not idealistic at all. The right to health in international law is subject to progressive realisation, there is a duty on a state to progressively work towards the realisation to the right to health not to introduce it tomorrow and moreover the obligations are to paint it upon the maximum available resources. The right to health demands that health policies are formulated in a participatory way, the right to health demands that particular attention be given to vulnerable groups, marginal groups, disadvantaged groups, those living in poverty and the right to health also requires that there are effective, transparent and accessible mechanisms of monitoring and accountability to ensure that those who have promised to do things deliver them. In this report we set out in a little more details these key features of the right to health, the report also sets out seven principles for rights based impact assessments, it also sets out six practical steps by which the right to health can be integrated into existing impact assessment. The report sets out ideas for future work for instance the piloting of country case studies and the report also seeks to be as accessible and practical as possible providing

draft checklists, draft timetables, draft questionnaires and so forth. Now I am not going to try and unpack all that here, if interested please take a look at that report and right now I confine myself to just four points. One is, the approach that Gillian and I took in that report was to focus on ex-ante impact assessments that is a methodology for ensuring that before a draft policy, a draft programme, a draft project was introduced someone went away and reflected on the likely impact of this policy, project or programme on the enjoyment of the right to the highest attainable standard of health in particular for those living in poverty. It is an ex-ante assessment, I understand there are other forms of assessment and they are extremely important, our focus was ex-ante, that's my first point. The second point was that our focus was the assessment of government policies, government projects, government programmes, of course it is really important that we also have methodologies for assessing the impact of international financial institutions, the impact of multi-national corporations but in our report we elected to, we decided to focus on the assessments of government initiatives, that is my second point. My third point is this, that we favour in that report the integration of human rights including the right to the highest attainable standard of health into existing health impact assessment methodologies. If that proves impossible, if for some reason that we don't yet understand that human rights and the right to health cannot be integrated into all the brilliant work that you and others are doing, if that proves impossible well then we'll have to think about a discreet self standing right to health impact assessment methodology but I really hope that that won't be necessary, that was my third remark. My fourth point emerging from the report that Gillian McNaughten and I wrote is this, and in a way it is the most important one, every country on the planet has ratified one or more human rights treaties which include the right to the highest attainable standard of health. It includes the United Kingdom, it includes the Republic of Ireland, I was at a talk recently and this point was made that both the UK and the Republic of Ireland have ratified treaties that include the right to the highest attainable standard of health and someone got up and said gosh that is the best kept secret in Ireland, but it happens to be true. All countries have binding, international legal obligation to take all reasonable measures to implement the right to health, additionally some countries have placed the right to health in their domestic law. Some of you will know about the debate going on presently in Northern Ireland about the Bill of Rights and the possible inclusion or not over the right to the highest attainable standard of health but whether it is in the domestic law or not all states have as a minimum, international human rights obligations to progressively implement the right to the highest attainable standard of health subject to the availability of resources. Now I cannot see how a government can honour this legally binding commitment without having in place some sort of health impact assessment methodology, some sort of right to health impact assessment methodology. A government it seems to me has an international legal duty to progressively realise the right to health including for the poor and other disadvantaged populations and how can it be sure it's doing that without first subjecting all major governmental initiatives to an impact assessment. Without an impact assessment what is the government going to do? Is it going to make a guess and cross its fingers, is it going to look in the tea leaves is it going to flip a coin? Is it going to base itself purely on ideology regardless of the health implications of those living in poverty? From the human rights perspective such approaches clearly are unacceptable, they are negligent but they are also and this is my point, they are also inconsistent with human rights binding legal obligations. From the point of view of human rights health impact assessments are not just common sense, they are not just good practice, they

are not just good management they are legally binding requirements arising from binding international human rights law. Of course international human rights law does not specify in any detail what form the impact assessments should take, nor does human rights specify all the initiatives demanding an impact assessment, those are issues, the specifics, the details, those are issues for experts such as yourselves and I have no doubt that international human rights law leaves considerable discretion to states to formulate a health impact assessment methodology that it judges to be contextually appropriate. But the point is that a government must have in place an effective health impact assessment methodology, this is not an optional extra it is a human rights legal requirement. The right to health can be understood as a human right to an effective integrated health system that is accessible to all. The health system must encompass medical care and the underlying determinants of health, it must encompass national health priorities and local health priorities. Now if we look at a health system through the prism, through the lens of the right to health we see that the health system must have certain features, so from the right to health perspective the health system, for instance, must have a sufficient number of nationally trained health workers who receive adequate terms and conditions of employment, that is a human rights issue that is a right to health issue, the health system must also have a comprehensive national health plan with objectives, timeframes, benchmarks, indicators, a budget and so forth, that too isn't just good management it is a human rights issue, the health system must have in place an effective system for co-ordination between health related sectors a point that Matthias was making, not just the Department of Health but also finance, co-ordination with the environment, co-ordination with transport, Ministry for Women and so on and so forth an effective co-ordination mechanism is a human rights issue, it must the health system to be consistent with the right to health, must have in place a system for ensuring as much public participation as possible in the formulation of health policies, participation is a human rights issue and I listened carefully to what Joan was telling us earlier, that resonates with a human rights approach. Look, there are many other key right to health features of a health system and one of them is a health impact assessment methodology, that too is a right to health issue, without such a methodology a state cannot be in conformity with it's international human rights and right to health obligations. In closing our conference today and yesterday is a health conference but it is also it seems to me, a human rights conference. You are not only it seems to me health professional but if you are willing to accept the title human rights professionals. The right to health cannot be realised without the benefit of your indispensable experience and expertise and as you go about your professional lives may I urge you to use the right to the highest attainable standard of health to reinforce your work and not least in relation to health impact assessments. And lastly may I thank the patient organisers of this conference for inviting me to join you and thank you very much and good luck with your work.