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English Edition

## ● Martín Abregú

Human rights for all: from the struggle against authoritarianism to the construction of an all-inclusive democracy - A view from the Southern Cone and Andean region

## ● Amita Dhanda

Constructing a new human rights lexicon: Convention on the Rights of Persons with Disabilities

## ● Laura Davis Matta

Legal recognition of sexual rights – a comparative analysis with reproductive rights

## ● James L. Cavallaro and Stephanie Erin Brewer

The virtue of following: the role of Inter-American litigation in campaigns for social justice

## RIGHT TO HEALTH AND ACCESS TO MEDICAMENTS

## ● Paul Hunt and Rajat Khosla

The human right to medicines

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Medicines for the world: boosting innovation without obstructing free access

## ● Jorge Contesse and Domingo Lovera Parmo

Access to medical treatment for people living with HIV/AIDS: success without victory in Chile

## ● Gabriela Costa Chaves, Marcela Fogaça Vieira and Renata Reis

Access to medicines and intellectual property in Brazil: reflections and strategies of civil society



HUMAN RIGHTS  
UNIVERSITY NETWORK

SUR

A project of Conectas Human Rights

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**SUBSCRIPTION AND CONTACT**

Sur - Human Rights University Network  
Rua Pamplona, 1197 - Casa 4 São Paulo/SP - Brasil -  
CEP: 01405-030 Tel.: (5511) 3884-7440 - Fax (5511) 3884-1122  
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SUR - HUMAN RIGHTS UNIVERSITY NETWORK is a network of academics working together with the mission to strengthen the voice of universities in the South on human rights and social justice, and to create stronger cooperation between them, civil society organizations and the United Nations. Conectas Human Rights, a not-for-profit organization founded in Brazil, is home to Sur. (See website <[www.conectas.org](http://www.conectas.org)> and portal <[www.conectasur.org](http://www.conectasur.org)>. To access the online version of the journal, please go to: <[www.surjournal.org](http://www.surjournal.org)>.)

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## PRESENTATION



With the aim of seeking out different perspectives and dealing with subjects of a specialized nature, Conectas Human Rights has been creating partnerships with non-governmental human rights organizations in diverse parts of the world. In this issue of *Sur – International Human Rights Journal*, which is principally focused on access to medicines, a new cooperative partnership was formed with the Brazilian Interdisciplinary AIDS Association – ABIA.

Founded in 1987, it is the mission of ABIA to promote access to treatment and assistance to persons living with HIV and AIDS. Along these lines, ABIA has been monitoring public policies and developing projects regarding education, prevention, and access to information about HIV/AIDS. ABIA has also been coordinating the Working Group on Intellectual Property of the Brazilian Network for the Integration of Peoples – GTPI – REBRIP, in order to enrich and enlarge the debate over the harmful impacts of the rigid rules regarding intellectual property in the area of access to essential medicines, in addition to contributing to the construction of alternatives to the present model.

This eighth issue of the *Sur Journal* is divided into two parts: the first specifically examines access to medicines, while the second deals with questions that evaluate the present state of human rights in general.

Beginning with the discussion over access to medicines, the main problems related to the often conflicting interaction between human rights and international trade are debated. Those questions deal with the conflict between the human right to health and the protection of pharmaceutical innovations; efforts at making businesses responsible and breaking away from the protective framework initially confined to the sphere of the State; and the developing of the public debate over the political use of judicial power.

In the article by Chaves, Vieira and Reis the system for the protection of intellectual property is discussed, taking as a starting point the situation in Brazil. The relevance of the Brazilian case is based on Brazil's adoption of a policy of universal access to medicines for the treatment of AIDS as well as its recent adoption of a compulsory license for the supply of antiretroviral medicines. The model of universal access and the adoption of a compulsory license represent important benchmarks for the recognition of the preference of human rights over economic interests. The article also presents the main action strategies adopted by a Brazilian group of activists that has had a profound effect on the area. The description of these strategies is important because it enhances the possibility of exchanging experiences with other activist groups in the South.

In the article by Pogge, the author discusses the argument that patents stimulate pharmaceutical innovation. For the author, this system strengthens monopolies and the

concentration of research on the symptoms, and not the causes, of chronic illnesses. At the same time the treatment of specific illnesses of poorer populations is relegated to a secondary position because it is less profitable, thus increasing the rate of avoidable deaths. The author goes beyond simply spelling out the problem. He presents a proposal that would complement the patent system: a Health Impact Fund, financed by governments. This Fund would stimulate the development of new medicines with the promise of re-compensating successful innovators in proportion to the impact of the medicine on the global burden of illness.

The article by Hunt and Khosla deals with the responsibility of pharmaceutical businesses, along with the presentation of normative guidelines for health rights. In this sense, the article written by the Rapporteur of the United Nations on the right to health could be interpreted almost as “soft law”, assisting in the structuring of this right in regard to the access to medicines.

In the last article of this first part of the Journal, which was authored by Contesse and Lovera, the question of access to medicines is analyzed beginning with individual cases that depict the perspective of those that lack access to medicines in Chile. The authors show how the litigation process can be used politically to create a public debate to sensitize the executive and legislative branches of the government to enact new public policies.

In the second part of this issue of the Sur Journal, the following issues are discussed: the justiciability of economic, social, and cultural rights (Cavallaro and Brewer); the growing consolidation of sexual rights as autonomous rights (Mattar); the participatory preparation and adoption of a new international treaty on rights of persons with disabilities (Dhanda); and the challenges that have to be overcome by non-governmental human rights organizations (Abregu).

We would like to thank the following professors and partners for their contribution in the selection of articles for this issue: Alejandro Garro, Bernardo Sorj, Carlos Correa, Denise Hiraó, Frans Viljoen, J. Paul Martin, Jeremy Julian Sarkin, Juan Amaya, Julieta Rossi, Mustapha Al-Sayyed, Richard Pierre Claude, Roberto Garretón, Roger Raupp Rios, and Vinodh Jaichand.

Finally, we would like to announce that the next edition of Sur Journal will be a special issue in commemoration of the sixtieth anniversary of the Universal Declaration of Human Rights. The next issue will be published in partnership with the *International Service for Human Rights*.

## ANNEX

### HUMAN RIGHTS CENTERS

HUMAN RIGHTS AND PEACE CENTRE (HURIPEC)  
FACULTY OF LAW, MAKERERE UNIVERSITY, UGANDA

**Contact information:**

Site: [www.huripec.ac.ug](http://www.huripec.ac.ug)

Email: [info@huripec.ac.ug](mailto:info@huripec.ac.ug) or [webmaster@huripec.ac.ug](mailto:webmaster@huripec.ac.ug)

Address: HURIPEC, Faculty of Law, Makerere University, P.O. Box 7062, Kampala, Uganda

Tel: +256-414-532-954, Fax: +256-414-543-110

**Teaching:** Several undergraduate and masters courses; Diploma in Forced Migration & Refugee Studies; Annual school on International Criminal Law (2008+); student academy on Economic, Social and Cultural Rights

**Research:** Decentralization, Governance and Economic, Social and Cultural Rights

**Publications:** East African Journal of Peace & Human Rights

The Human Rights and Peace Centre at the Faculty of Law, Makerere University is devoted to both teaching and research in human rights, democratic governance and the protection of vulnerable groups, in Uganda specifically, and the wider African continent generally. HURIPEC has pioneered the interdisciplinary teaching of human rights and ethics, leading to the adoption of new curricula in several faculties at Makerere where such subjects were not traditionally taught. It has also implemented projects on child survival, public legal education, minority rights and the specific situation of Northern Uganda.

Since 2006, HURIPEC has organized a number of research projects, specifically on: Decentralization and Human Rights; Rights and Democratic Governance, and on Economic, Social and Cultural Rights, leading to the publication of several working papers that are available at [www.huripec.ac.ug](http://www.huripec.ac.ug). Recent books include: *University Human Rights Teachers' Guide*, 2005 (by E. Wamala & G.W. Kasozi) and *Africa's New Governance Models: Debating Form and Substance*, 2007 (by J. Oloka-Onyango & Nansozi Muwanga).

THE GRADUATE PROGRAM IN HUMAN RIGHTS AT THE FEDERAL  
UNIVERSITY OF PARÁ – BRAZIL

Contact information:

Site: <http://www.ufpa.br/ppgd>

Email: [pgdireito@ufpa.br](mailto:pgdireito@ufpa.br)

Address: Rua Augusto Corrêa, n.1 – Campus Universitário – Profissional,  
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Teaching: Graduate Degrees: Master's and Doctorate in Human Rights,  
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in Election Law and Specialization in Criminology

Research: Constitutionalism, Democracy and Human Rights; Human Rights  
and Social Inclusion; Human Rights and the Environment

Publications: Books published/organized and articles: COSTA, Paulo Sérgio  
Weyla. *Direitos Humanos em Concreto*, Curitiba, Juruá, 2008;  
BELTRÃO, J. F. et al. (Org.), *Antropologia e Patrimônio Cultural  
- Diálogos e Desafios Contemporâneos*. Florianópolis - SC: Nova  
Letra/ABA, 2007. v. 1. 353 p.; BRITO Filho, J. C. M., *Direito  
Sindical*, 2. ed. São Paulo: Editora LTr, 2007. v. 1. 374; SCAFF,  
Fernando Facury (Org.), *Constitucionalismo, tributação e direitos  
humanos*, São Paulo: Renovar, 2007. v. 1. 327 p.

The program of Graduate Studies in Human Rights at the Federal University of Pará is structured around the following elements:

a) *Interdisciplinary Study*: Expertise in human rights requires a familiarity with different areas of knowledge. The teaching faculty brings together professors with degrees in law, sociology, anthropology, economics, and philosophy, which gives an interdisciplinary character to projects, areas of research, and curriculum structure.

b) *Focus on vulnerable groups*: The economic globalization that produced work conditions of a precarious nature and growth in unemployment increased the rate of exclusion in societies, affecting the capacity for public policy implementation by the United Nations. Within the program, the activities of teaching, research, and expansion of human rights have a focus on socially and economically vulnerable groups, specifically addressing the social inclusion of indigenous populations of the Amazon. With regard to human rights education, instruction focuses on the study of the living conditions of these groups, with the aim of offering the empirical expertise necessary for the promotion of their rights, as well as the carrying out of research that seeks alternatives to the current situation;

c) *Protection of human rights and the environment*: The set of problems faced in the Amazon Region requires a consideration of environmental factors. The ecological equilibrium of the environment is understood as a human right. In this sense, public policies that are developed for their protection are related in an intrinsic way to the sustainable use of the natural resources of the region. With this in mind, research in the area looks at the relationship between human rights protection and environmental protection in the sense of coordinating

sociocultural systems and the biophysical environment, and even examining the way in which nature is appropriated for use and the resulting transformation of Amazonian space;

d) *Collaboration with organizations for the protection of human rights*: Master's students in human rights will have to complete an internship with a governmental or non-governmental organization for the protection of human rights whose operations and activities will strengthen the empirical material for master's-level research. With regard to this, two goals are sought: the guidance of master's research toward the concrete problems of human rights violations in the region and the application of the experience obtained by the students with an aim to strengthen the actions of these institutions.

**CENTRE FOR COMPARATIVE AND PUBLIC LAW  
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Address: 304 KK Leung Building, The University of Hong Kong, Pokfulam Road, Hong Kong, China or KK Leung and Public Law, Faculty of Law, the University of Hong Kong

**Teaching:** The Centre for Comparative and Public Law ('CCPL') provides institutional support to the LL.M in Human Rights, through which core teaching in international human rights law is conducted. This programme offers places for one year full-time, or two years part-time study (more information below).

**Research:** Extensive, focusing on public law, international human rights law and comparative law. Visit [http://www.hku.hk/ccpl/research\\_projects\\_issues/index.html](http://www.hku.hk/ccpl/research_projects_issues/index.html)

**Publications:** Extensive. Some examples include:

A. Books: *Interpreting Hong Kong's Basic Law—the Struggle for Coherence* (2008), edited by Hualing Fu, Lison Harris, and Simon NM Young; *Human Rights in Asia: A Comparative Legal Study of Twelve Asian Jurisdictions, France and the US*, (2006), edited by Carole Petersen, Albert Chen, and Randall Peerenboom; *Hong Kong's Constitutional Debates* (2005), edited by Johannes Chan and Lison Harris; *National Security and Fundamental Freedoms: Hong Kong's Article 23 under Scrutiny*, (2005), edited by Fu Hualing, Carole J Petersen, and Simon NM Young; *Enforcing Equal Opportunities: Investigation and Conciliation of Discrimination Complaints in Hong Kong* (2003), Carole J. Petersen, Janice Fong, and Gabrielle Rush

B. Occasional Papers: Please visit <http://www.hku.hk/ccpl/pub/occasionalpapers/index.html>

C. Submissions to Government: Please visit <http://www.hku.hk/ccpl/pub/submissions/index.html> [ccpl/pub/occasionalpapers/index.html](http://www.hku.hk/ccpl/pub/occasionalpapers/index.html)

CCPL was established within the Faculty of Law of the University of Hong Kong in mid-1995 with the aim of promoting research in the fields of public and comparative law, including human rights law, and to disseminate the results of that research through publications and making materials available on-line. CCPL's research projects include the international law implications of the resumption of Chinese sovereignty in 1997, including the Hong Kong treaty project, immigration law and practice, equality and the law in Hong Kong, the Hong Kong Bill of Rights, human rights protection under the Basic Law and international human rights law.

As noted above, CCPL supports the LL.M in Human Rights. This programme was established at the Faculty of Law in 1999 to meet the increasing demand for practical and theoretical knowledge about human rights throughout the Asia-Pacific region. It remains the only such programme in all of Asia. Professors teaching on the LL.M in Human Rights are experts in their field. The programme is the most internationally diverse in the university. Its students have come from many Asian countries, including the People's Republic of China, Bangladesh, Cambodia, India, Indonesia, Japan, Mongolia, Nepal, Pakistan, the Philippines, South Korea, Sri Lanka, Taiwan, Thailand and Vietnam. The programme has also attracted students from Europe (Czech Republic, United Kingdom, Romania, Turkey, France, the Netherlands), the Pacific (Australia, New Zealand and Fiji) and the Americas (Canada, United States, and Puerto Rico). Students have included high ranking state officials, judges, prosecutors, practicing lawyers, academics, journalists, civil society activists and staff of national human rights institutions.

In addition to the compulsory courses (Public International Law if not already taken; International and Regional Protection of Human Rights; History Theory and Politics of Human Rights; National Protection of Human Rights), the LL.M has offered the following optional courses in recent years: Comparative Constitutional Law, Current Issues in Human Rights, Dealing with Legacies of Human Rights Violations, Economic, Social and Cultural Rights, Equality and Non-discrimination, Ethnicity, Human Rights and Democracy, Human Rights in China, Human Rights in Hong Kong, International Environmental Law, International Criminal Law, International Humanitarian Law, The Rights of the Child in International and Domestic Law. For more details of the LL.M in Human Rights, please see [http://www.hku.hk/ccpl/human\\_rights/index.html](http://www.hku.hk/ccpl/human_rights/index.html)

For more about CCPL's work, find the Centre's annual reports at [http://www.hku.hk/ccpl/about\\_centre/about\\_centre.html](http://www.hku.hk/ccpl/about_centre/about_centre.html).

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