

China and the Human Right to Health: Selective Adaptation and Treaty Compliance

Pitman B. Potter

Abstract

The international community has devoted considerable energy to dialogue and exchanges with China on issues of treaty compliance in areas of trade and human rights, and while many improvements are evident in China's legal regimes for trade and human rights, problems remain. Further, academic and policy discourses on China's trade and human rights policy and practice are all too often conflicted by normative differences, and illusions about them. The paradigm of "selective adaptation" offers a potential solution by examining compliance with international trade and human rights treaties by reference to the interplay between normative systems associated with international rule regimes and local socio-cultural norms that affect treaty interpretation and application.

This paper will focus on China's human rights discourse on human rights to subsistence and development, and China's practices around the human right to health, as these provide useful examples of the selective adaptation paradigm. China's official policies on the right to subsistence and development reveal the power and resiliency of official norms of governance and their capacity to temper international standards on human rights, while questions about China's compliance with international standards pertaining to human rights in health warrant particular attention both because of the global implications of China's handling of infectious diseases and the effects on the wellbeing of the Chinese people.

The paradigm of selective adaptation suggests that questions about China's compliance with international standards on human rights to health cannot be explained by reference to normative conflict or to the particularities of China's socio-historical conditions. Rather, the problems seem primarily political and institutional. This in turn can help share local and international responses. Government commitments to greater transparency in reporting on infectious disease, increased government financial support for public access to health care, and a greater level of cooperation with international organizations charged with implementing human rights to health will be essential components of China's effort to improve its record of compliance with international human rights standards concerning health.

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