Reviewer’s report

Title: Limitations on Universality: The "Right to Health" and the Necessity of Legal Nationality

Version: 1 Date: 27 September 2009

Reviewer: lucie lamarche

Reviewer’s report:

Debate addresses an important problem for a new (biomedical non legal) audience;

Piece is well argued, meaning that argument is compelling for those who never considered the problem raised.

Piece is well written enough BUT corrections suggested and clarifications required:

1) what’s a statelessness person? Statelessness results when nationality is lost under the laws of one state without acquisition of new acquisition of nationality based on the law of another state (Dorothy Jean Walker, 3:1 (1981) Human Rights Quarterly 106 and A Peter Mutharika: Regulation of Statelessness under international and national law, Oceana Publications 1977). Examples offered in the paper are sometimes confusing and confused (ex: undocumented workers are not statelessness persons). Clarify.

2) Careful, European situation is different, more generous, re: European Convention on Nationality 1997 and 2006 Convention on the Avoidance of Statelessness in relation to State Succession. See also: European Human Rights Courts decisions: Slivenko (June 2005 and January 2007) and Smirnova v Russia (October 2003): namely about Romas. Conventions provide for the positive obligation of States to provide nationality and to guarantee rights without discrimination with nationals; Progress has to be explain in paper. Serve as a model; also underline tension. Some Human Rights activists (Italy and Romas, as example) believe that statelessness as a status should be acknowledged. What would be the consequences?

3) P. 3, bottom of page: an implicit assumption … is that nation state is the guarantor of first resort for the social rights: does not mean that state has to deliver it self health services but certainly means that Staet has a positive obligation to make sure that every person on territory is protected. Please clarify.

4) P. 6: end if 1st paragraph: Approaching health through a human rights framework then ultimately serves to elevate healthcare from a market commodity to a basic entitlement: clarify: market can (in theory) guarantee right to health according to Comm. on Economic Social and cultural Rights, General Obs. No 14, The right to the highest attainable standard of health (article 12 of the

5) P. 7: using the paradigm of rights' generations is not very useful since Vienna Declaration on Human Rights of 1993 at http://www.unhchr.ch/huridocda/huridoca.nsf/(symbol)/a.conf.157.23.en

6) P. 8: vulnerable populations: key concept for the analysis. Core violations of all human rights concern first and above all vulnerable populations (immediate obligations for States to protect)

Level of interest: An article whose findings are important to those with closely related research interests

Quality of written English: Acceptable

Statistical review: No, the manuscript does not need to be seen by a statistician.

Declaration of competing interests:

'I declare that I have no competing interests’