

Law and Bioterrorism – Film Review
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The Constant Gardener



Film Synopsis

A bullet cracks through the air like the sound of thunder, sending birds in flight to cross the African Savannah. On the dried, crackled bank of the small Kenyan Lake, two bodies are left for the elements, slaughtered by African mercenaries. The scene advances to two men, Justin Quail (Ralph Fiennes) and his attorney, Sandy Woodrow (Danny Huston), who are summoned by the Kenyan authorities to the city morgue to identify what seems to be an English woman who was brutally raped and murdered, and an African man who had been tortured and crucified. Justin identifies the woman as his wife, Tessa Quail (Rachel Weisz), and the man as Doctor Arnold Bluhm (Hubert Kounde). Through his grief and confusion, Justin, an ambassador for the British High Commission, fails to realize that his wife's death was no accident, but was only one act of many in a meticulously planned scheme spanning past Northern Kenya and across the globe.

“The Constant Gardener” is a dramatic film that plays out like a mystery, placing suspicion and suspense at every turn. The main character, Justin Quail, makes it his personal mission to investigate and discover the plot behind his wife's brutal murder. What he stumbles upon throughout the film turns into a continent-hopping search that leads him into a twisted tail of deception, conspiracy, and murder.

Tessa Quail, an extreme civil rights activist, came to Africa in hopes of aiding her ambassador husband, Justin, advocate for improving the Kenyan public health system. Tessa

befriends Doctor Arnold Bluhm and together they begin monitoring the disbursement of vaccinations and drugs for the growing AIDS population. Tessa and Arnold soon stumble upon a dead woman, named Mwanza Kibulu, who was given a drug called Dipraxin, which was manufactured by KDH Pharmaceuticals and distributed by Three Bees Pharmaceuticals to test the drug's effectiveness against Tuberculosis. As the film flashes to the past between scenes, the pulse-racing music and the dimly-lit backgrounds begin to suggest to the viewer that something horrible is about to be unearthed. When looking further into the drug, Tessa and Arnold begin to discover a tangled web of lies, deception, bribes, and human sacrifice between the British and Kenyan government that would eventually end both of their lives.

As the scene flashes back to the present, Justin, in hopes of discovering the truth about his wife's brutal murder, begins to unravel the secret Tessa and Arnold had been hiding from the world. Justin, approached by Mwanza's family at Tessa's funeral, begins to get suspicious as to why the family had become so attached to Tessa. As the scene switches to an intense expedition, Justin tracks down Mwanza's brother and discovers that in order for Mwanza's family to receive the medical attention and free drugs they received from Three Bees, Mwanza had to consent to taking the test drug, Dipraxin, created by KDH Pharmaceuticals and distributed by the Three Bees mobile health units. Justin discovers that Three Bees units would screen families free for HIV and Tuberculosis, giving out the drug Navorpine (helps with AIDS victims), but the families first must consent to trying the drug, Dipraxin. Justin learns that Mwanza took Dipraxin, and died shortly thereafter; however, there was no record or body to confirm her death. The Kenyan Health Authority, seeing Justin's suspicions arise, quickly remove Justin from talking with Mwanza's brother or anyone else about Mwanza, leaving Justin confused. At this point in

the film, the viewer is beginning to see the first few pieces of the delicate framework underlying a dangerous and deadly conspiracy.

Unsure of what to do and how to continue, Justin flies home to England to meet with Tessa's cousin, Arthur Hammond. There, he discovers that Tessa had written a report about the drug Dipraxin, disclosing that KDH and Three Bees had united with the Kenyan Government to test the drug on innocent Africans. The report exposed that there was a flaw in the drug, causing deadly side effects which resulted in many African deaths that had gone unrecorded and unrecognized, and accused the companies of testing unsafe drugs on innocent, non-consenting Africans as a cheap alternative to incurring the cost of having to redesign the drug to correct the flaw. It is revealed to Justin that Tessa had submitted the report to Sir Bernard Pellegrin, a member of the British High Commission, in hopes that he would submit the report to the United Nations to stop the illegal human testing. Justin quickly determines that someone within the British High Commission wanted Tessa silenced, exposing that the British Commission was in league with the Pharmaceutical companies and the Kenyan Government to cover up the greatest conspiracy of human drug testing the world had yet to see. The film follows Justin through England, Germany, Sudan and Kenya as he attempts to unravel the conspiracy behind the deadly human testing and ultimate cause of his wife's murder.

This film is a wonderful thriller with twists and turns, leaving the viewer at the edge of their seat, guessing, until the very last minute. The director, Fernando Meirelles, did an excellent job of portraying the landscape, the people, and the desperation of the issue of human rights. This film illuminates the power struggle between the need for medical research, which inadvertently comes from the testing and market research of pharmaceutical companies who may

or may not have ill-intent in providing the research, and the power struggle for the individual to retain his right to freedom over his own body.

Searching for accountability and examining the injustices of the world is required for a viewer of this film, and will come naturally as the film lays out the brutal plot it so desperately seeks to display. Although the film tends to downplay some of the larger issues that one would easily recognize in the film, such as the Kenyan government's role in the death of the innocent Africans, it makes a strong showing of the underlying problem with Africa's medical crisis and the Western perception of that crisis, which to some is pure indifference. This film takes you through an intense adventure that spans the globe, making the viewer feel that they are the detective in an underground conspiracy they themselves have the chance to solve. This film was very well directed and I would recommend it to anyone with legal or social interest in the fields of human rights and/or governmental power.

Legal Issues Displayed

This film brings to light the present day ethical issues of drug testing, specifically the hot topic of international human testing. In order to get specific drugs approved by the FDA in the United States, and by other regulatory agencies in other countries, drug companies must put their products through rigorous testing to prove its safety and effectiveness. With certain disease states, it has been determined by drug companies that human testing is necessary to determine the effectiveness of the drug. Especially with diseases that are endemic outside the United States, such as plague, vaccines and countermeasures must be tested to be approved, and the best way to conduct final testing is on humans. However, this brings up the idea of informed consent on human testing. It is illegal in most countries, if not all, to force humans to act as "guinea pigs" in order to test the effectiveness, side effects, or resistance of medications. However, when the

drugs are offered to humans for testing and the individual gives informed consent, in most countries this practice is permissible. For instance, in the United States, people may sign up with drug companies to try phase II or phase III drugs if their bodies have become resistant to prior medications. A practice that would not be permissible, however, would be forcing individuals to take drugs or vaccines against their consent, especially when there is not a medical or social emergency involved. The movie brings to light this issue of forced human testing and how it could present itself in the international community.

In the film, the main character Justin, through his wife Tessa's research, is able to expose that the Kenyan government has joined leagues with KDH, a pharmaceutical company, and Three Bees, a medical testing and distribution company, to test innocent Africans with a drug, Dipraxin, without their true consent or understanding of the drug. The film points out two very important and highly controversial issues: (1) informed consent of medical testing and (2) government police powers to mandate public health. I will address each one separately.

In the film, the director illuminates the underground conspiracy of uninformed and involuntary human testing. In the film, the Kenyan government cooperates with two pharmaceutical companies to test a trial tuberculosis drug on Africans to determine the human side effects of the drug. The drug ultimately ends up killing many Africans, which are quickly and secretly disposed of, keeping the drug trial testing out of the public eye. The pharmaceutical companies refuse to redesign the drug because the companies determine that it is cheaper and easier to dispose of the African casualties rather than to pay the costs of redesigning the drug and possibly exposing the human testing. The film highlights the hotly-debated topic of voluntary and involuntary human testing and exposes the idea that medical advances and research will come with a price. In this current day and age, medical advances are critical as

threats of viruses, bacteria, and bioterrorism can infect the public with little warning. It is difficult to determine how antibiotics, vaccinations and other remedies will affect the human body when these situations arise, because under current laws around the world, involuntary human testing is prohibited in most countries. But is that always the case? Do we have an unconditional right to consent to medical testing or medical treatment? The film does a brilliant job of illuminating the legal issue of involuntary human testing and how that premise is affected when the economy, corporations, and public health become involved. This demonstrates that an individual's right to consent may or may not be honored depending on the external factors involved and who controls the power.

In the film, the director intentionally highlights the roles of foreign and national governments and the way they handle the public health of their people. In the film, the Kenyan Health Ministry plays an intentional and vital role in the human drug testing of the trial drug, Dipraxin. The ministry and its enforcers affirm and impose on its citizens the task of submitting their bodies to this drug as a condition of receiving other medications and medical attention. This situation, depicted by the film, is a current issue today and raises many questions such as: does the government have the right to make an individual consent to medications, vaccinations, or medical testing, and if so, on what authority does the government act? It is well established case law in America that States are allowed to mandate certain public health measures in times of emergency when it involves the greater good of the public health. *See Jacobson v. State of Massachusetts*, 197 U.S. 11 (1905). But how far is the government allowed to go? The film demonstrates the extreme invasion of civil liberties and the inherent danger of the government's police power when used against the individual in the name of "public health".

The film approaches the legal community in a variety of different ways and has been acclaimed as stirring the conscience for international issues such as extreme governmental power and the deprivation of human rights for African people. Illuminating the struggle between individual rights and the need for medical advances, the film demonstrates that this is not just a fictional, hypothetical problem but that it could very well become a reality, if it is not already. A legal mind would find this film invigorating and enjoyable because the film produces the legal arguments of its case in a very powerful and convincing manner, yet still allows the viewer to weigh the social and legal issues of the dichotomy between the individual's rights versus the public health as a whole.