Evolution of a Human Right to Health: An Incomplete Success

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Rights-Based Development: A Right to Health

- What are Human Rights?
- The Health & Human Rights Movement
- A Right to Health

International Covenant on Economic, Social and Cultural Rights (1966)

- Art. 12
  1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
An Evolving Right?: Methods

Health Discourse (Independent Variables)

Health Threats \(\rightarrow\) Expansiveness of the Right to Health (Dependent Variable)

Health Theories \(\rightarrow\) Health Technologies

Health Technologies
An Evolving Right to Health?

- **Art. 25**
  - (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care ....

**Universal Declaration of Human Rights (1948)**
An Evolving Right to Health?

International Covenant on Economic, Social and Cultural Rights (1966)

- Art. 12
  1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the **highest attainable standard of physical and mental health**.
  2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right...
An Evolving Right to Health?

Declaration of Alma Ata (1978)

- Essential Aspects of Primary Health Care
  - Individual Medical Care
  - Preventive Public Health

Expansiveness of Definition

- UDHR
- ICESCR
- Washington Consensus
- TRIPS
- WHO
- Alma Ata
- GC14
- Seattle
- Doha
An Evolving Right to Health?

General Comment 14 (2000)

- Obligations for Public Health within the Individual right to health
- “States parties are bound by both the collective and individual dimensions of article 12. Collective rights are critical in the field of health; modern public health policy relies heavily on prevention and promotion which are approaches directed primarily to groups.”
Rights-Based Development: A Right to Health

- Individual Rights & Public Goods
- **Incomplete Success of the Right to Health**
- Millennium Development Goals

- “The Highest Attainable Standard” – Origins as Right to Medicine
  - Autonomy
  - A right to treatment
- Progressive Realization – Resource Constraints
- Contemporary Jurisprudence: General Comment 14
Forget Rights: Enter Development

Millennium Development Goals (2000)

- Voluntary Standards – Not Law
- Use public health as a means to promote economic development

- Health
  - Maternal & Infant Mortality
  - Prevention of HIV
  - Eradication of Hunger

- Focus on Specific Health Goals - Not Underlying Determinants or Public Health Systems
Public Health vs. Individual Health

- **Individual Health** = Doctor/Patient
- **Public Health** = Underlying Determinants of Health
- **Individual Health Services vs. Public Health Systems**

### Underlying Determinants of Health

- **Poverty**
- **Infectious Disease**
- **Nutritional Deficiencies**
- **Water-borne illness**

**Result**

*Poverty is a fundamental underlying cause of disease, operating at a societal level and having effects on health status, no matter the disease or the mechanism.*
Collective Rights: Rights for the Public’s Health

- The Individual Right to Health Is Inapplicable to the National Harms of Neoliberal Development
- Collective Rights Would Compel States to Address Societal Inequities in Underlying Determinants of Public Health Through Public Health Systems
“The law must remain stable, but it cannot stand still.”

- Roscoe Pound


