Maximizing the Available Resources: The Intersections of the Individual Human Right to Health and Collective Right to Development

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Unite for Sight Conference
April 14, 2007
Development & Health

- Poverty
- Public Goods & Public Health Systems
- Neoliberal Development Policy

Underlying Determinants of Health

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

Result

Economic Development for Health
Development & Health

- Poverty
- **Public Goods & Public Health Systems**
- Neoliberal Development Policy

- Public Goods
- Public Health Systems as a Public Good
  - Individual Health Services vs. Public Health Systems
Development & Health

- Poverty
- Public Goods & Public Health Systems

**Neoliberal Development Policy**

- Inequitable Development Impoverishes Health

Inequitable Poverty Ill Health

Neoliberal Policy

Public Health System

Deterioration
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.
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
- Progressive Realization – Resource Constraints
- Contemporary Jurisprudence: General Comment 14
Right to Development

- **Background**
  - Declaration on the Right to Development
  - Vienna Declaration

- **Normative Development**
  - Vector of Rights
  - Collective Rights-Bearer

- **Enforcement of the Right**
  - Development Processes
  - International Assistance & Cooperation
Applying a Right to Development to the Preservation of Public Health Systems

- **Theoretical Justifications**
  - What Can the Right to Development Do for Public Health?

- **Programmatic Considerations**
  - How Can Public Health Use the Right to Development?
Theoretical Justifications—What Can the Right to Development Do for Public Health?

1. Underlying Social Determinants of Health necessitate Collective Rights
2. Easing of Resource Constraints
   - Progressive Realization of Health Rights
3. Vector of Rights
   - Enables horizontal, intersectoral approaches,
   - Development of health systems as public goods.
4. Equity-based Development
   - Encourages Pro-poor growth,
   - Equitable, inequality-reducing development.
Programmatic Considerations—How Can Public Health Use the Right to Development?

1. Public Health Indicators to identify fulfillment and violations of rights

2. Enforcement Mechanisms
   1. Intra-national
   2. International
### Indicators – Measuring Fulfillment of Public Health under the Right to Development

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Definition</th>
<th>Examples</th>
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| **Structural Indicators:** | **Definition:** Legal frameworks & institutions to oversee implementation of rights. | - Signatory to the ICESCR  
- R2H codified in National Constitution  
- Functioning MOH |
| **Process Indicators:**   | **Conduct:** Government’s effort towards achieving development and health goals. | - Resources budgeted towards health  
- Strategy for poverty alleviation  
- Progressive action towards targets |
| **Outcome Indicators:**   | **Result:** Achievement of actual health outcomes of interest.             | - DALYs  
- Life Expectancy at Birth  
- Infant and Maternal Mortality Ratios |
Measures of Public Health as Outcome Indicators of the Right to Development

- Health Outcome Indicators redefine Economic Development as Human Development

- Equity-based Development
  - Measuring and Reducing Health Disparities

- Limitations of Indicators
  - Blaming & Shaming
Intra-national and International Obligations

- **Intra-national Obligations** - Individual Rights Against States

- **International Obligations** - Collective Rights of States/Peoples During Development
Intra-national Obligations - Individual Rights Against States

- **Direct:**
  - IFIs & MNCs working in countries held directly to the human rights standards set forth in the countries’ constitution/laws.

- **Indirect:**
  - Citizens may sue their governments for adopting development policies that violate the right to development.
    - Argentina
    - South Africa
International Obligations - Collective Obligations of the Global Community

- **Direct**
  - IFIs bound as Organizations
  - Human Rights embedded in founding documents

- **Indirect**
  - Obligation of states to abide by human rights norms when voting/participating in these organizations.
  - WTO: Insert human rights norms into trade treaties or the jurisprudence of dispute resolution mechanisms
<table>
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<tr>
<th>Intra-national Enforcement</th>
<th>International Enforcement</th>
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<td><strong>Direct</strong></td>
<td><strong>Indirect</strong></td>
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<tr>
<td>IFIs &amp; MNCs held to host country’s human rights standards</td>
<td>Individuals/groups sue government for adopting development policies that violate R2D</td>
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<td>Obligation of states to abide by human rights norms when voting/participating in IOs</td>
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<tr>
<td>States refuse IFI policy conditionalities that violate R2D</td>
<td>HR norms embedded in Founding Documents</td>
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<td>Trade Treaties and Dispute Resolution Mechanisms bound by R2D</td>
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Complementarity of Right to Development and Right to Health