

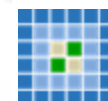
Evolution of a Human Right to Health: An Incomplete Success

Benjamin Mason Meier, JD, LLM, MPhil
IGERT-International Development &
Globalization Fellow
Columbia University
APHA Meeting
November 6, 2007



Columbia University
MAILMAN SCHOOL
OF PUBLIC HEALTH

Eva Kaplan
Jocelyn Getgen



The Program in
International Development and Globalization
at Columbia University

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



Health Theories



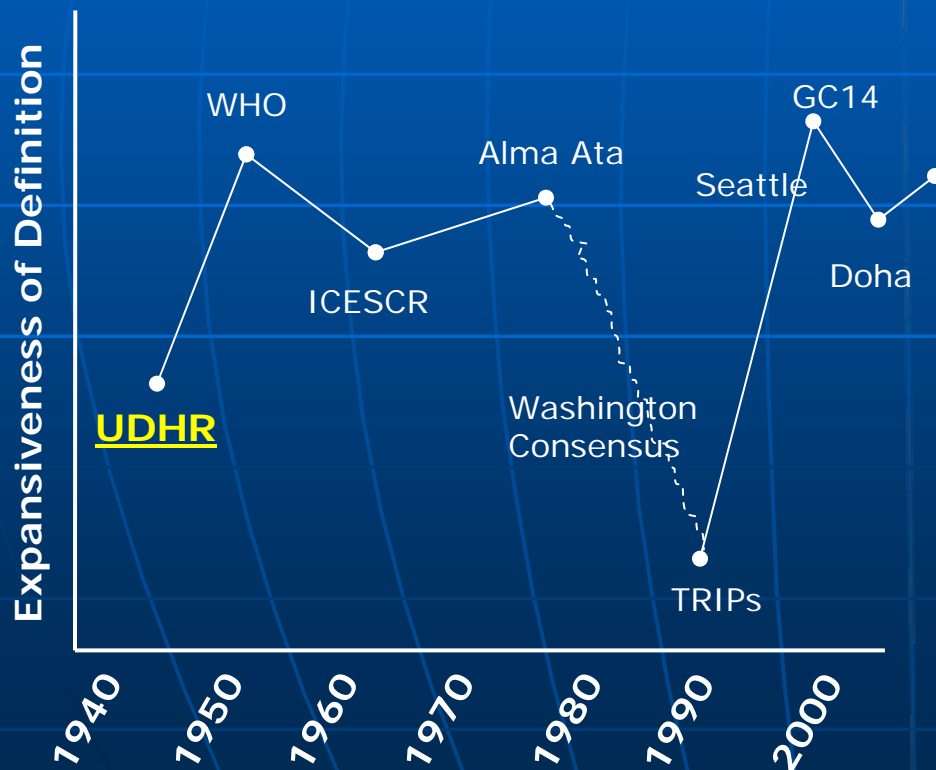
Health
Technologies



**Expansiveness of the
Right to Health
(Dependent Variable)**

An Evolving Right to Health?

Universal Declaration of Human Rights (1948)



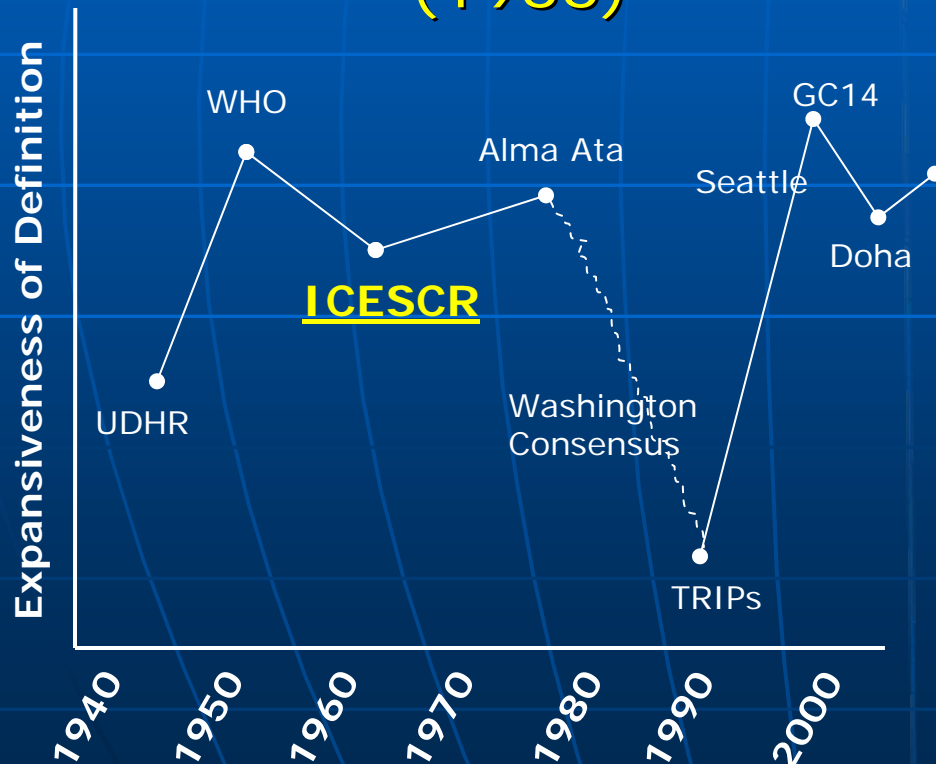
- Art. 25
 - (1) Everyone has the right to a *standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care*

An Evolving Right to Health?

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

■ Art. 12

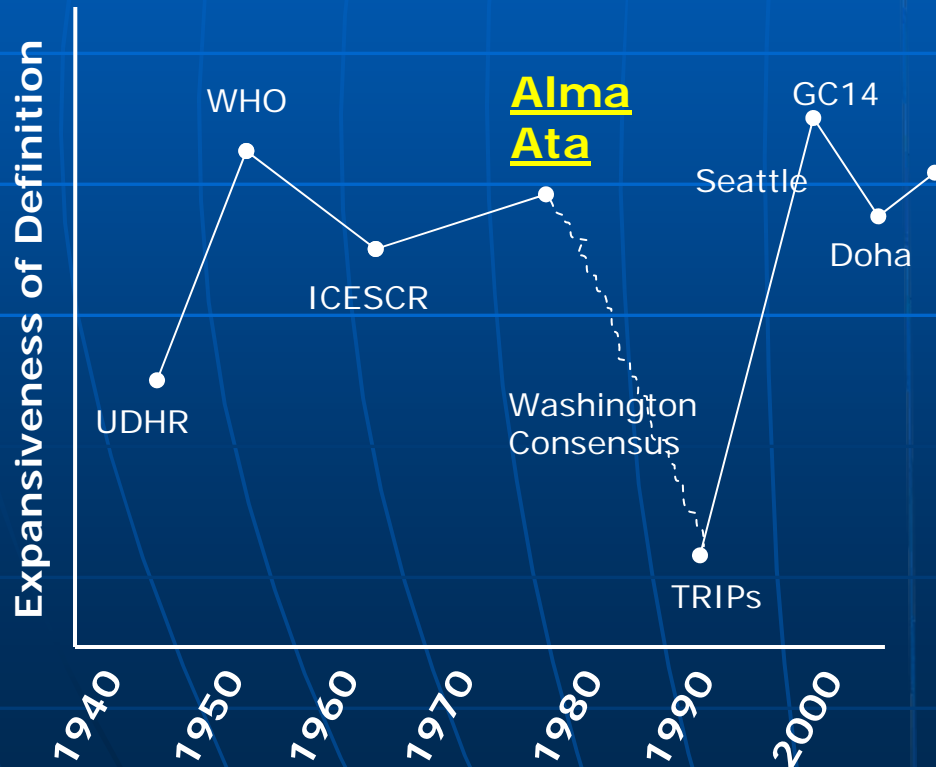
1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of *the highest attainable standard of physical and mental health.*
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right...



An Evolving Right to Health?

Declaration of Alma Ata (1978)

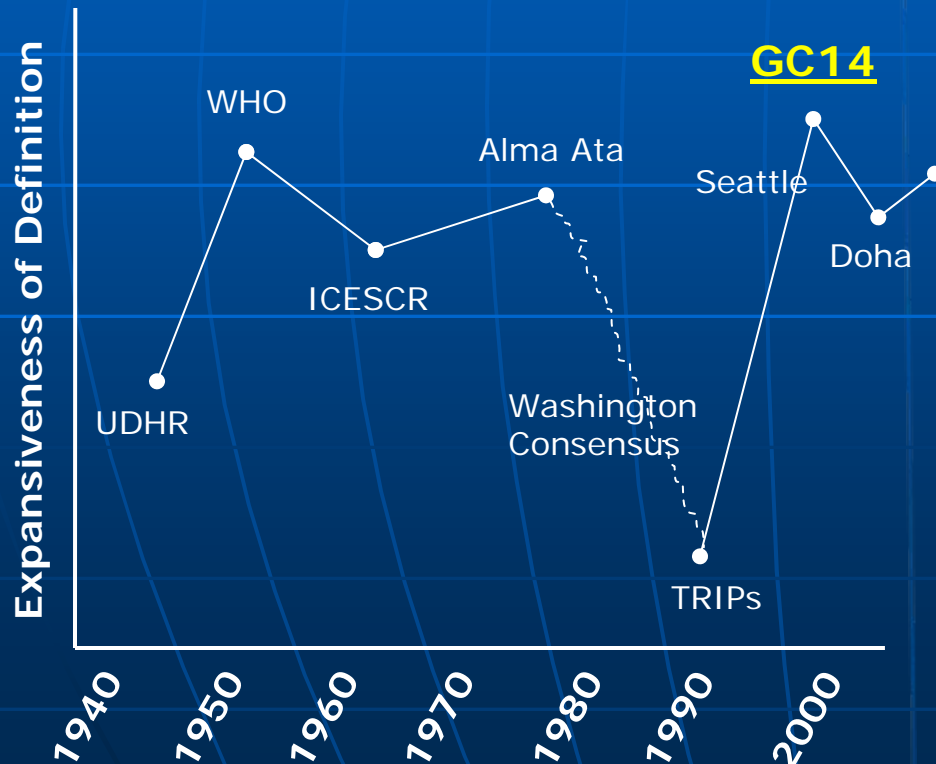
- Essential Aspects of Primary Health Care



- Individual Medical Care
+
■ Preventive Public Health

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

Underlying Determinant

Poverty



Mechanisms

Infectious Disease
Nutritional Deficiencies
Water-borne illness



Result

Ill Health

* 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

- *The Highest Attainable Standard: Advancing a Collective Human Right to Public Health*, 37 Columbia Human Rights Law Review 101 (2006).
- *Employing Health Rights for Global Justice: The Promise of Public Health in Response to the Insalubrious Ramifications of Globalization*, 39 Cornell Int'l Law Journal 711 (2007).
- *Advancing Health Rights in a Globalized World: Responding to Globalization Through a Collective Human Right to Public Health*, Journal of Law, Medicine & Ethics (forthcoming 2008).
- *Developing Public Health Systems: Employing the Collective Right to Development to Achieve the Goals of the Individual Right to Health*, Human Rights Quarterly (forthcoming 2008).