

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

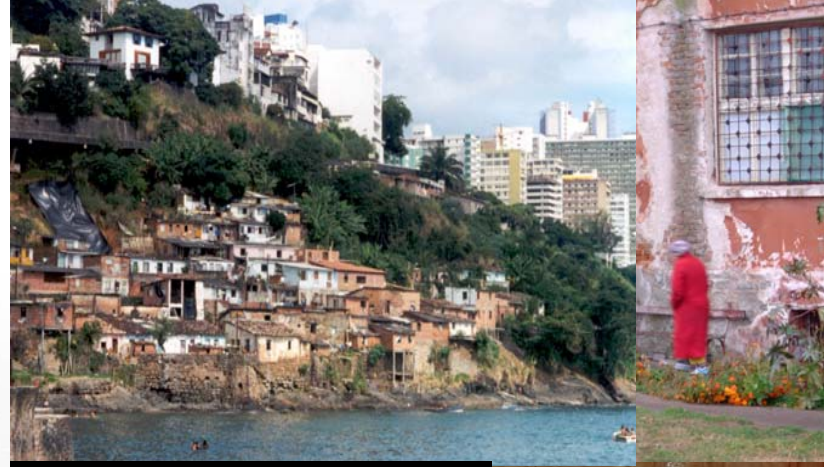
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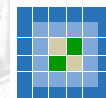
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Columbia University
MAILMAN SCHOOL
OF PUBLIC HEALTH



The Program in
International Development and Globalization
at Columbia University

Development & Health

□ Poverty

- Public Goods & Public Health Systems
- Neoliberal Development Policy

- Underlying Determinants of Health

Underlying Determinant

Poverty



Mechanisms

Infectious Disease
Nutritional Deficiencies
Water-borne illness



Result

Ill Health

- Economic Development for Health

Development & Health

□ Poverty

□ *Public Goods*
& Public
Health
Systems

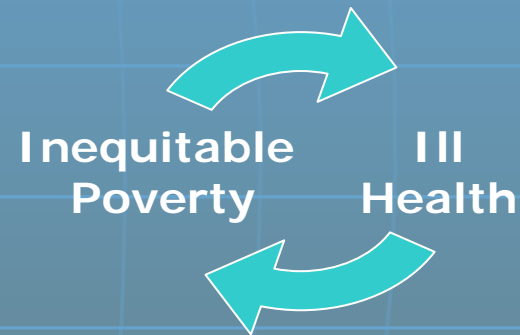
□ Neoliberal
Development
Policy

- 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



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

Indicators		Definition	Examples
Structural Indicators:	Conduct	<i>Legal frameworks & institutions to oversee implementation of rights.</i>	<ul style="list-style-type: none"> -Signatory to the ICESCR -R2H codified in National Constitution -Functioning MOH
Process Indicators:		<i>Government's effort towards achieving development and health goals.</i>	<ul style="list-style-type: none"> -Resources budgeted towards health -Strategy for poverty alleviation -Progressive action towards targets
Outcome Indicators:	Result	<i>Achievement of actual health outcomes of interest.</i>	<ul style="list-style-type: none"> -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

Intra-National vs. International Enforcement Compared

Intra-national Enforcement		International Enforcement	
Direct	Indirect	Direct	Indirect
IFIs & MNCs held to host country's human rights standards	Individuals/groups sue government for adopting development policies that violate R2D	Organizations Bound by International HR Law	Obligation of states to abide by human rights norms when voting / participating in IOs
States refuse IFI policy conditionalities that violate R2D		HR norms embedded in Founding Documents	Trade Treaties and Dispute Resolution Mechanisms bound by R2D

Development for Health

Complementarity of Right to Development and Right to Health

