

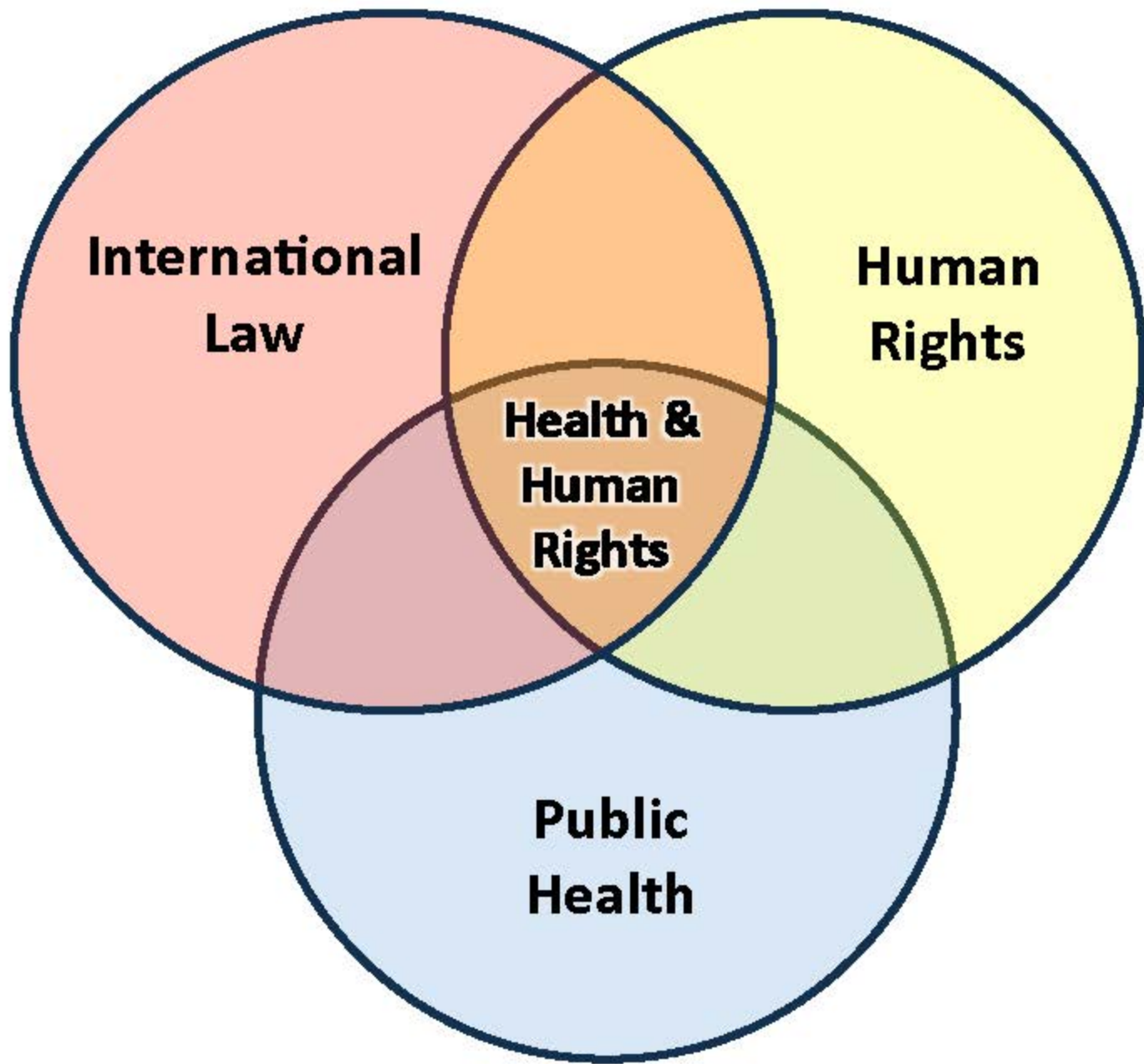
U.S. Efforts to Realize the Right to Health: The 2010 Patient Protection and Affordable Care Act

Benjamin Mason Meier, JD, LLM, PhD
Assistant Professor of Global Health Policy
University of North Carolina – Chapel Hill

Ethics Around the Table
Parr Center for Ethics
April 1, 2015



THE UNIVERSITY
of NORTH CAROLINA
at CHAPEL HILL



- **Health in America**

 - More Money for Less Health

- **Evolution of Health Care**

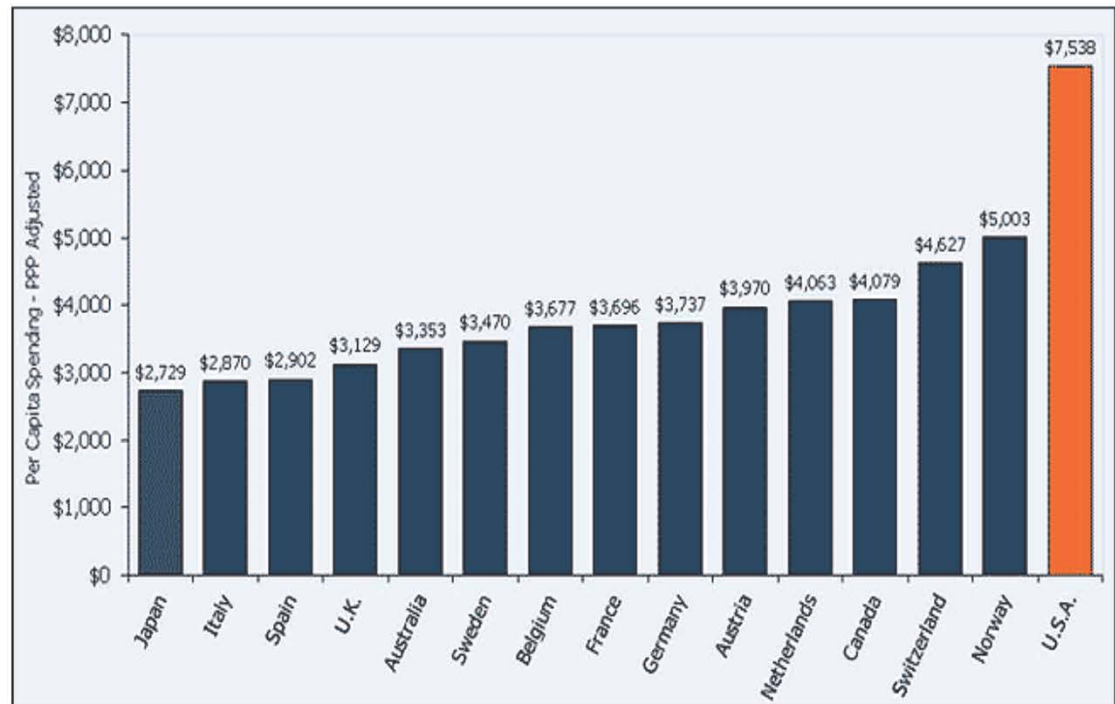
 - Human Rights in the U.S. Health Care Debate

- **Affordable Care Act**

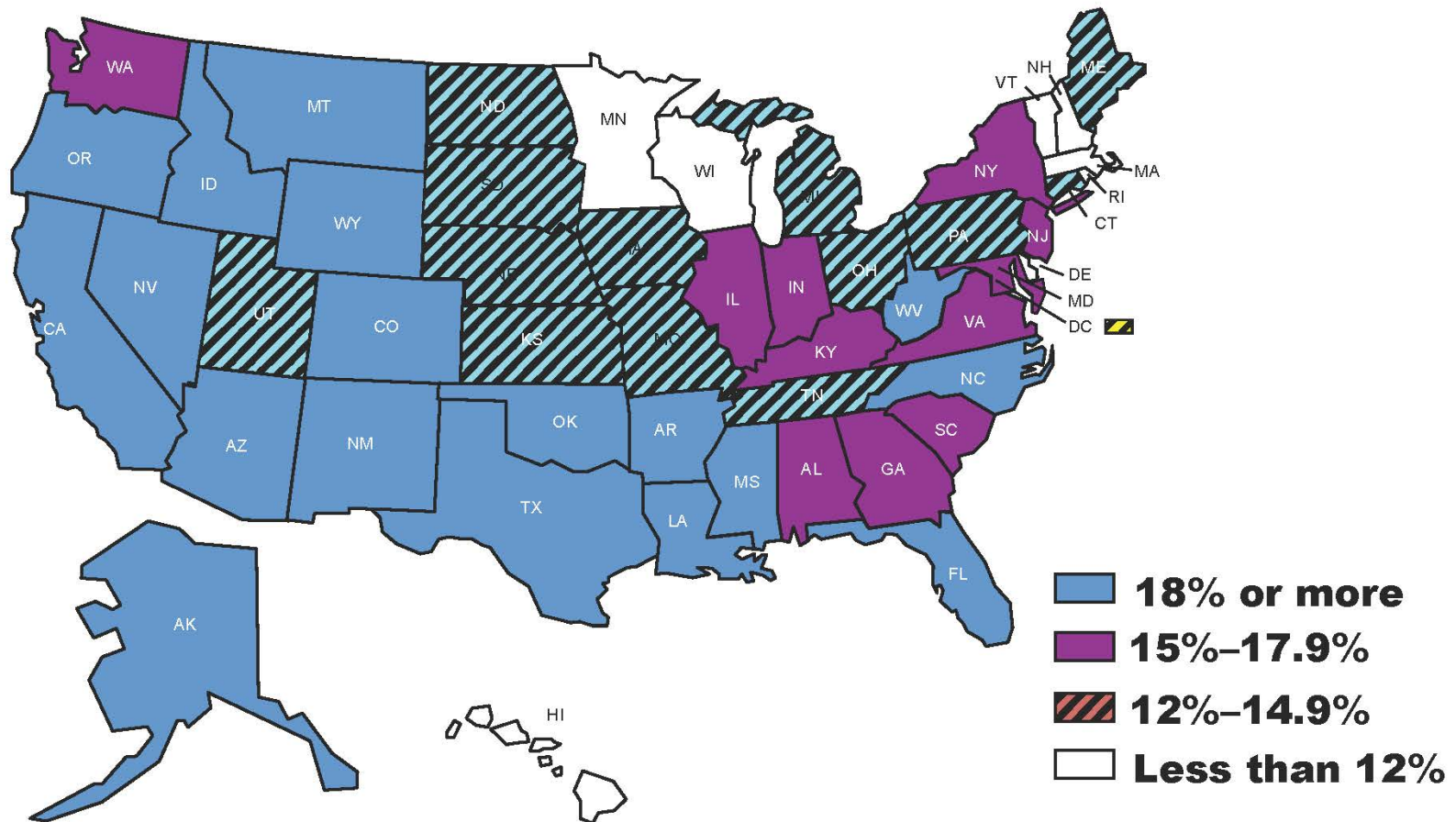
 - A New Path for the Right to Health?

More Money, Less Health

- US spent a total of \$2.5 trillion on healthcare or approximately 18% of GDP (2009).
- 37th among all nations due to race and income disparities
- 17% of Americans did not have health insurance coverage

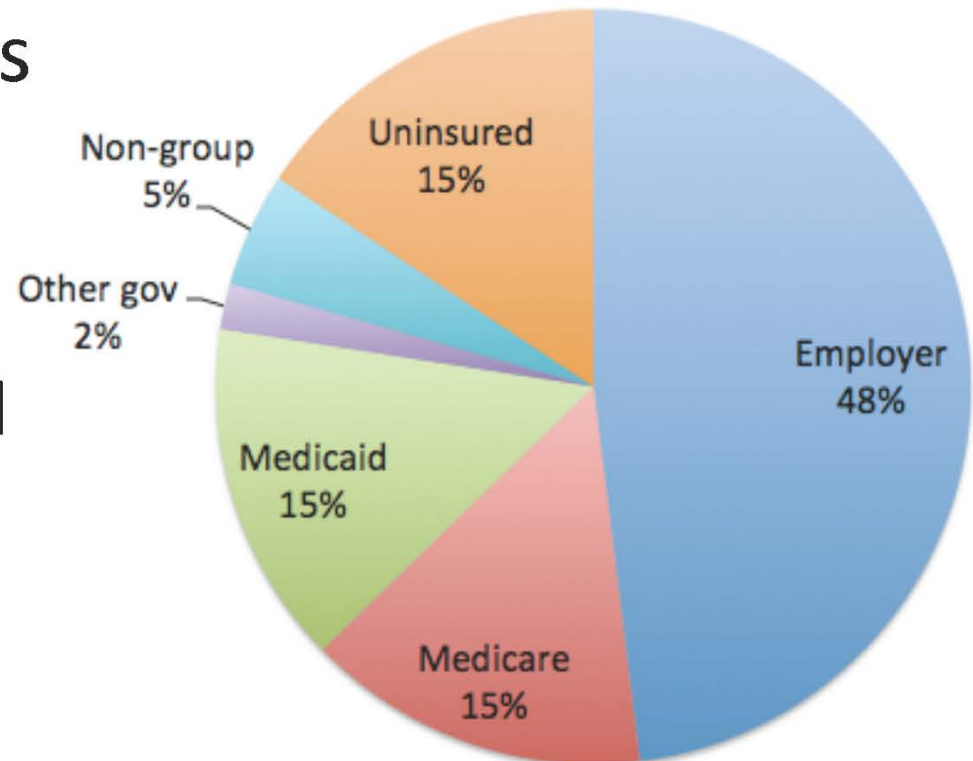


Percent of Nonelderly Uninsured Population Varied Widely (2004)



There is No U.S. Health Care System

- Financing and insurance mechanisms are divided into...
 - Private (largely employer-based)
 - Public (Medicare and Medicaid)
 - Single Payer (Veterans)



Uniqueness of the U.S. System

- Lack of a central agency
- Lack of universal access
- An imperfect market
- The presence of third-party insurers and multiple payers



- Progressives supported the idea of national health insurance.
- Link between health of nation and health of its people.
- First credible movement towards a rights based approach.



Rex Hospital Operating Room, 1909
North Carolina State Archives

A New Deal?

- Great Depression
- Social Security Bill of 1935
- Organised opposition by the AMA



Human Rights & the U.S. Debate

Four
Freedoms

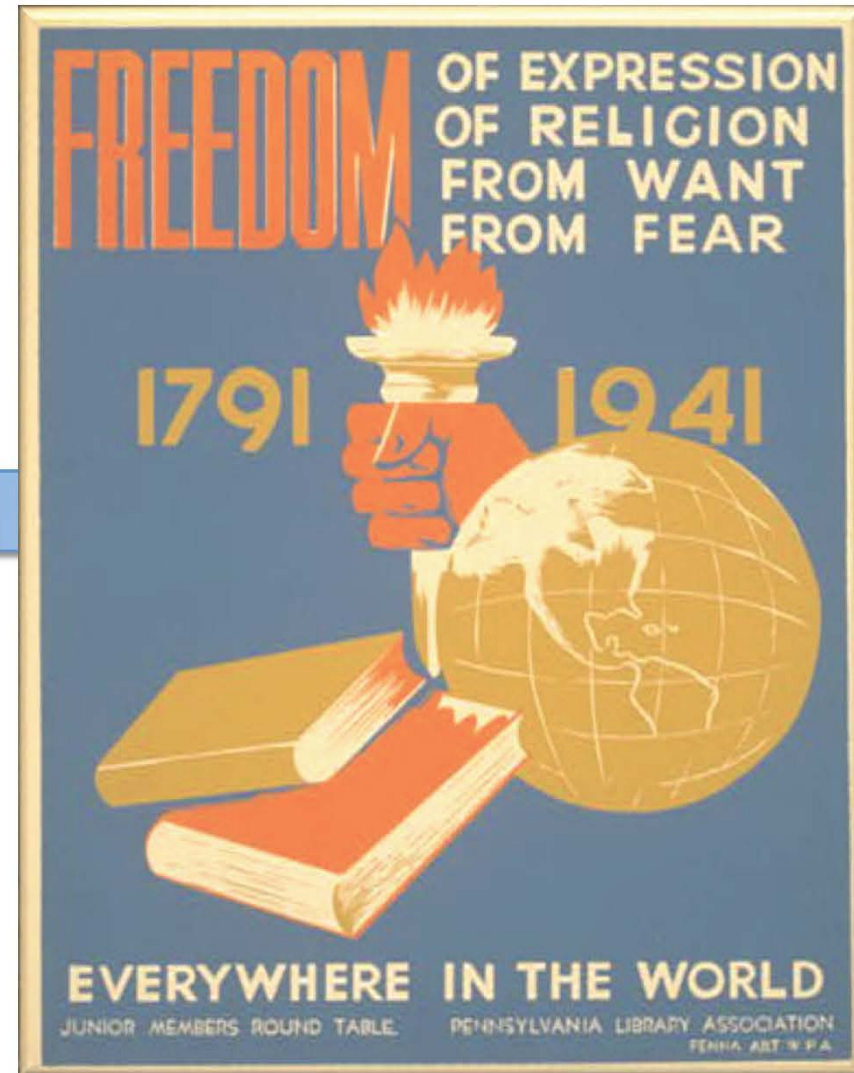
1940

1960

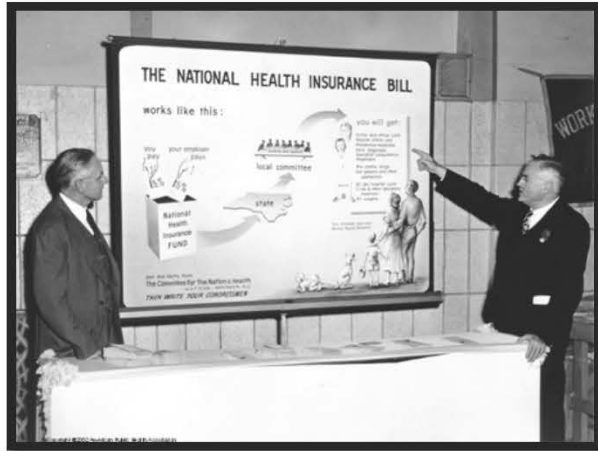


*“a necessitous
man is not a
free man”*

- FDR



Human Rights & the U.S. Debate



1940

1960

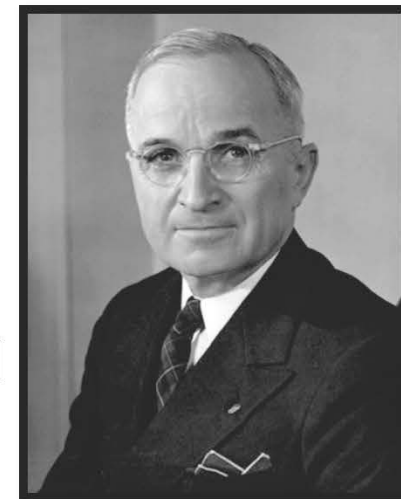
1980

2000

Emergency Maternal
& Infant Care Act
Hospital Survey &
Construction Act

“We must spare no effort to raise the general level of health in this country. In a nation as rich as ours, it is a shocking fact that tens of millions lack adequate medical care.”

- President Harry Truman



Human Rights & the U.S. Debate

Universal
Declaration of
Human Rights

1940

1960

1980

2000

“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 and necessary social services...” UDHR, Art. 25



Human Rights & the U.S. Debate

“Let a just nation throw open to them the city of promise to the elderly, by providing hospital care under social security...to those struggling to maintain the dignity of their later years.” — LBJ



1940

1960

1980

2000

- Connection between health and dignity

Medicare & Medicaid

- Central legislation was universal healthcare. Failed like its predecessors.

Human Rights & the U.S. Debate

ICESCR

1940

1960

1980

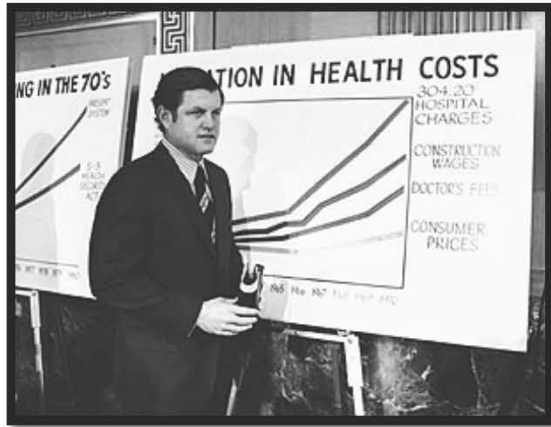
2000



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.

- ICESCR, Art. 12

Human Rights & the U.S. Debate



“I am shocked to find that we in America have created a health care system that can be so callous to human suffering, so intent on high salaries and profits, and so unconcerned for the needs of our people...” – Ted Kennedy

1940

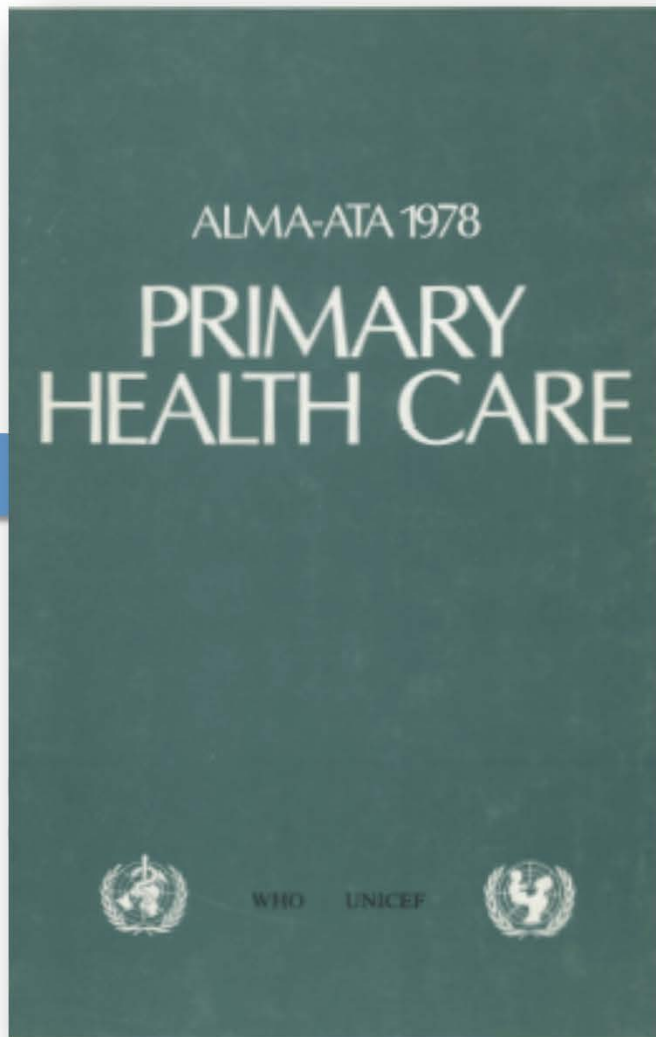
1960

1980

2000

Kennedy
“Single Payer”
Proposal

Human Rights & the U.S. Debate



Declaration
of Alma-Ata

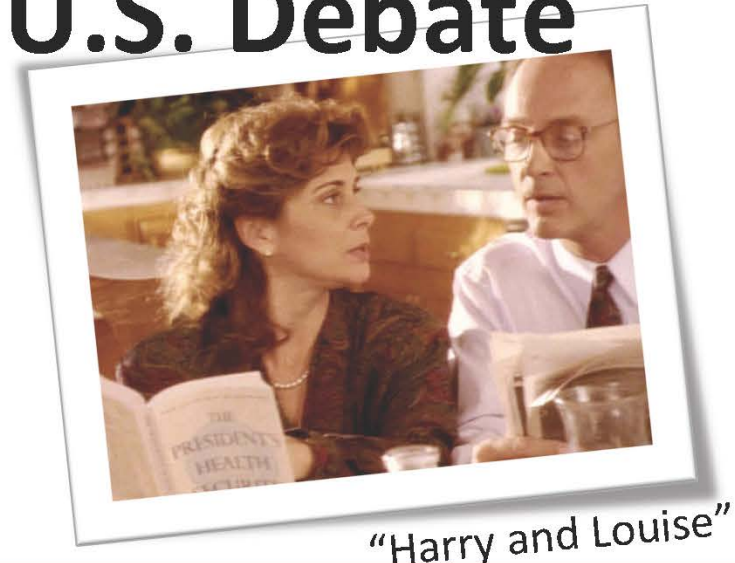
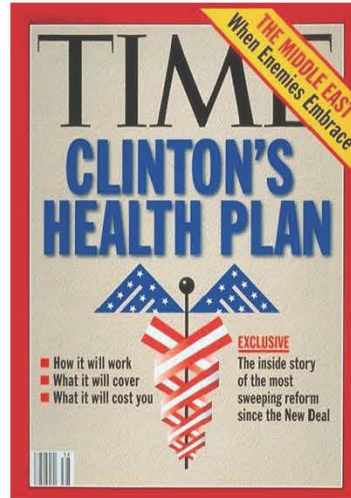
1960

1980

2000



Human Rights & the U.S. Debate



"Harry and Louise"

1940

1960

1980

2000

- Abandonment of rights-based framework
- Focus on economic benefits—not health benefits
- Opposed by Insurance Industry
- SCHIP – expanding coverage to children

Clinton Market-Oriented Proposal

Human Rights & the U.S. Debate

General
Comment 14

1940

1960

1980

2000



“The right to health extends not only to timely and appropriate health care but also to the underlying determinants of health...”

Auspicious Beginnings for the Human Right to Health



“Obamacare”: A Rights-Based Approach to Health?

- Declaring Health a Human Right
- Single-Payer vs. Market-Based Approaches
- Comprehensive Reform
 - Mandated Coverage
 - Regulated Marketplaces
 - Expanded Public Insurance
 - Strengthened Public Health



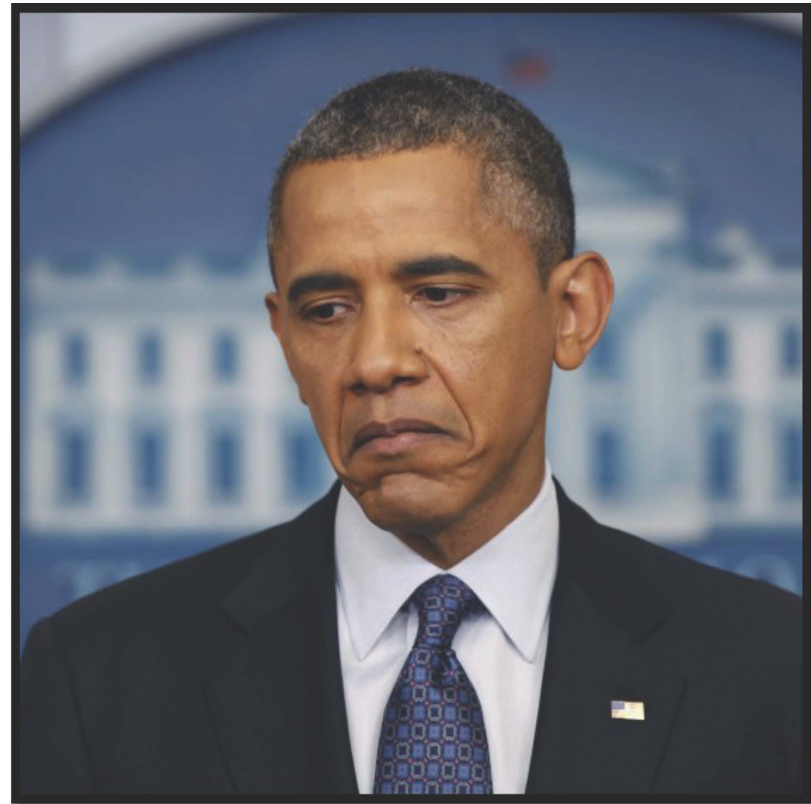
APPROVED

MAR 23 2010

Barack Obama

Constitutional Challenges Overcome?

- Individual Mandate
 - Restricts Individual Liberty
 - Unconstitutional?
- Expansion of Medicaid
 - Limit State Authority
 - Coercive Dynamic



From ACA to AAAQ

Availability	Insurance Marketplace Medicaid Expansion
Accessibility	Subsidies for Insurance Keeping Prices Down
Acceptability	Well...
Quality	Preventative Care Public Health Promotion Examine Doctor Data

From U.S. Health Care Reform to Rights-Based Health Care

- **Lessons from the U.S. Experience**
 - **A Market-Based Approach to**
 - **Expanding Health Care**
 - **Prioritizing Public Health**
 - **A Path to U.S. Engagement in Global Health Debates?**

