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The Right to Health and Global Health



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Point of departure for conversation

- Health equity is caused not just by the daily conditions of life but its structural drivers - inequitable distributions of power, money and resources enabled by inequitable policies, governance, and norms ... Health equity is a pressing question of social justice that invokes ethical and human rights imperatives rooted in the right to health. (Commission on Social Determinants of Health 2009)
- The 'global political determinants of health' require global governance rooted in commitments to global solidarity and shared responsibility through rights-based approaches ... (Lancet-Oslo Commission on Global Governance for Health 2014)

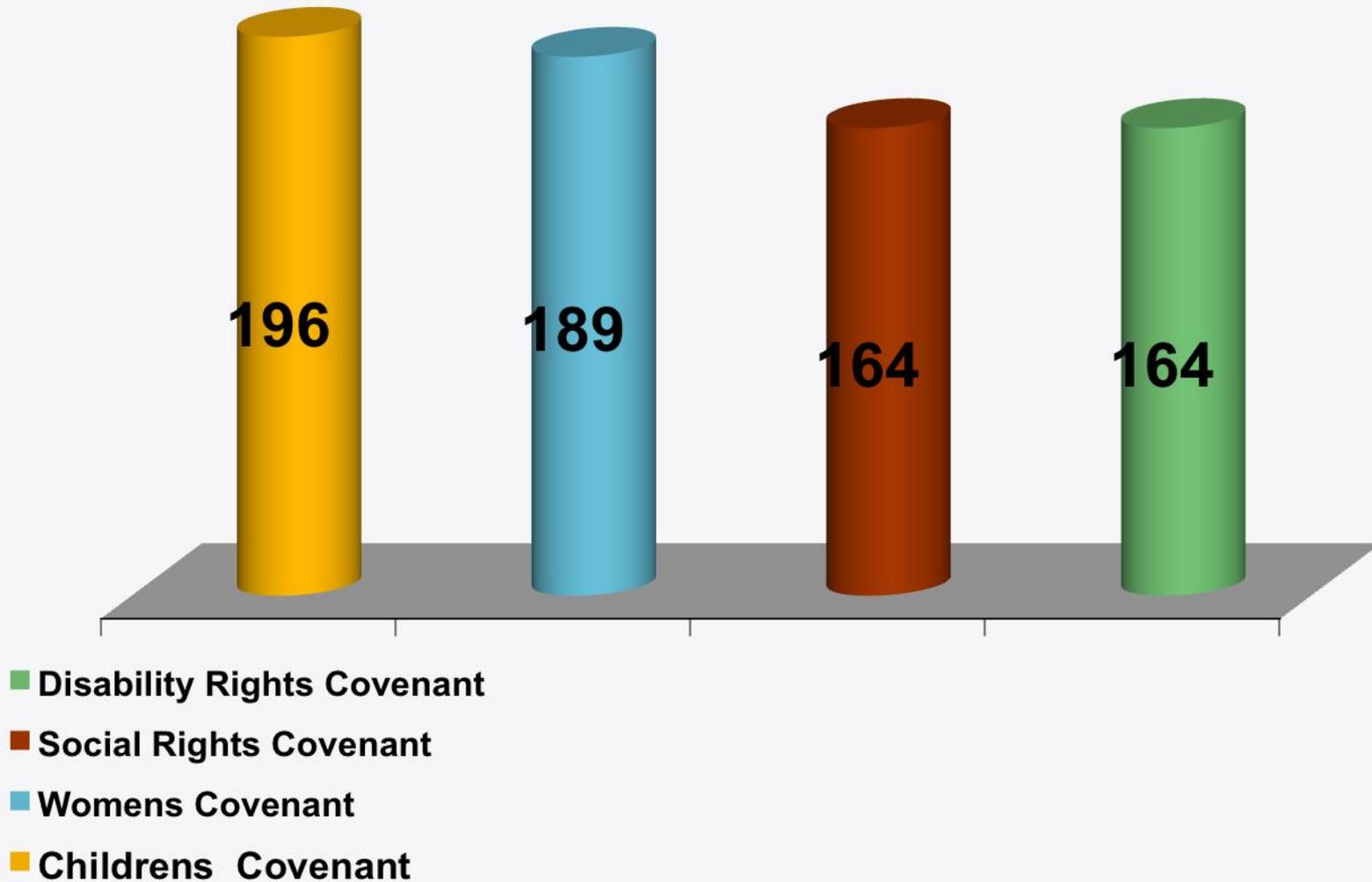
Structure

- (1) Right to health in law, theory and practice
- (2) Case-studies of AIDS treatment and Sustainable Development Goals (SDGs)
- (3) Implications for GHRI research and education

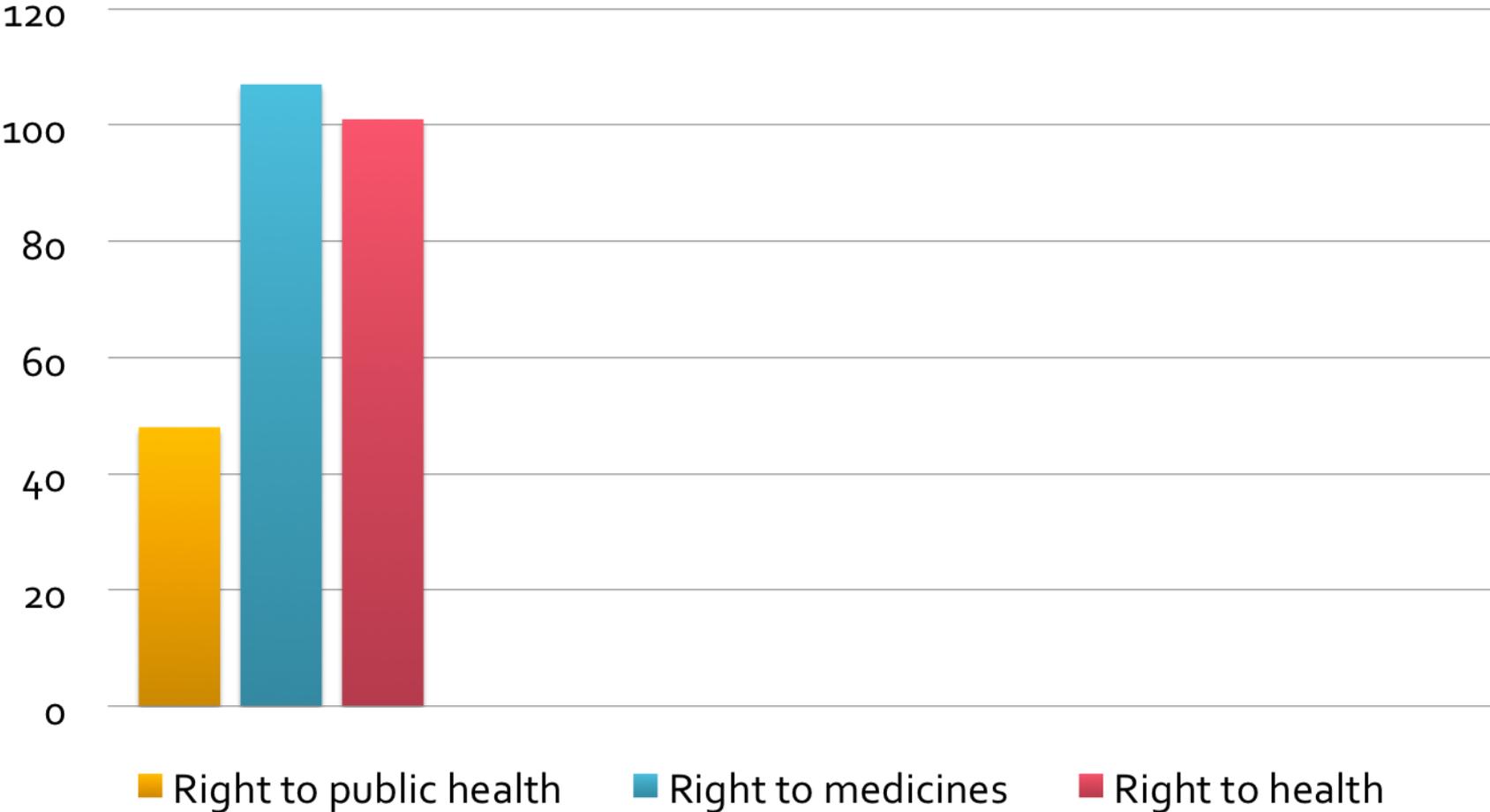
International & regional instruments with right to health

- 1946 – Constitution of the World Health Organization
- 1948 – Universal Declaration of Human Rights
- 1961 – European Social Charter
- 1965 – Convention on Elimination of Racial Discrimination
- 1966 – Covenant on Economic Social and Cultural Rights
- 1979 – Convention on Elimination of Discrimination against Women
- 1981 – African Charter of Human and People's Rights
- 1988 – American Protocol of San Salvador
- 1989 – Convention on the Rights of the Child
- 1990 – Cairo Declaration on Human Rights in Islam
- 2002 – Convention on the Protection of the Rights of Migrants Workers
- 2008 – Convention on the Protection of People with Disabilities

Ratifications of treaties with rights to health



Constitutional protections of right to health



Contrasting views of social rights

We should only accept a small set of indispensable rights such as free speech, movement, rights to vote, prohibitions on torture

Wolff 2011

We do not want freedom without bread, nor do we want bread without freedom ... A denial of such claims would be to accept the dehumanising effects of deprivation and mass poverty as the lot of the majority of our people

Nelson Mandela 1993

UN Committee on Economic, Social and Cultural Rights General Comment 14 (2000)

- Right to health includes rights to health care and underlying determinants of health (food, housing, access to water and adequate sanitation, safe working conditions, and healthy environment)
- Right creates obligations to ensure adequate health care and health conditions at home
- Where possible, to provide international assistance and cooperation to realize essential health needs

Critiques of right to health

- Ratification of right to health treaties not associated with population health outcomes (Palmer et al 2009)
- Right to health is overly individualist (De Cock 2002)
- Right empowers wealthy to skew public resources (Easterly 2009)

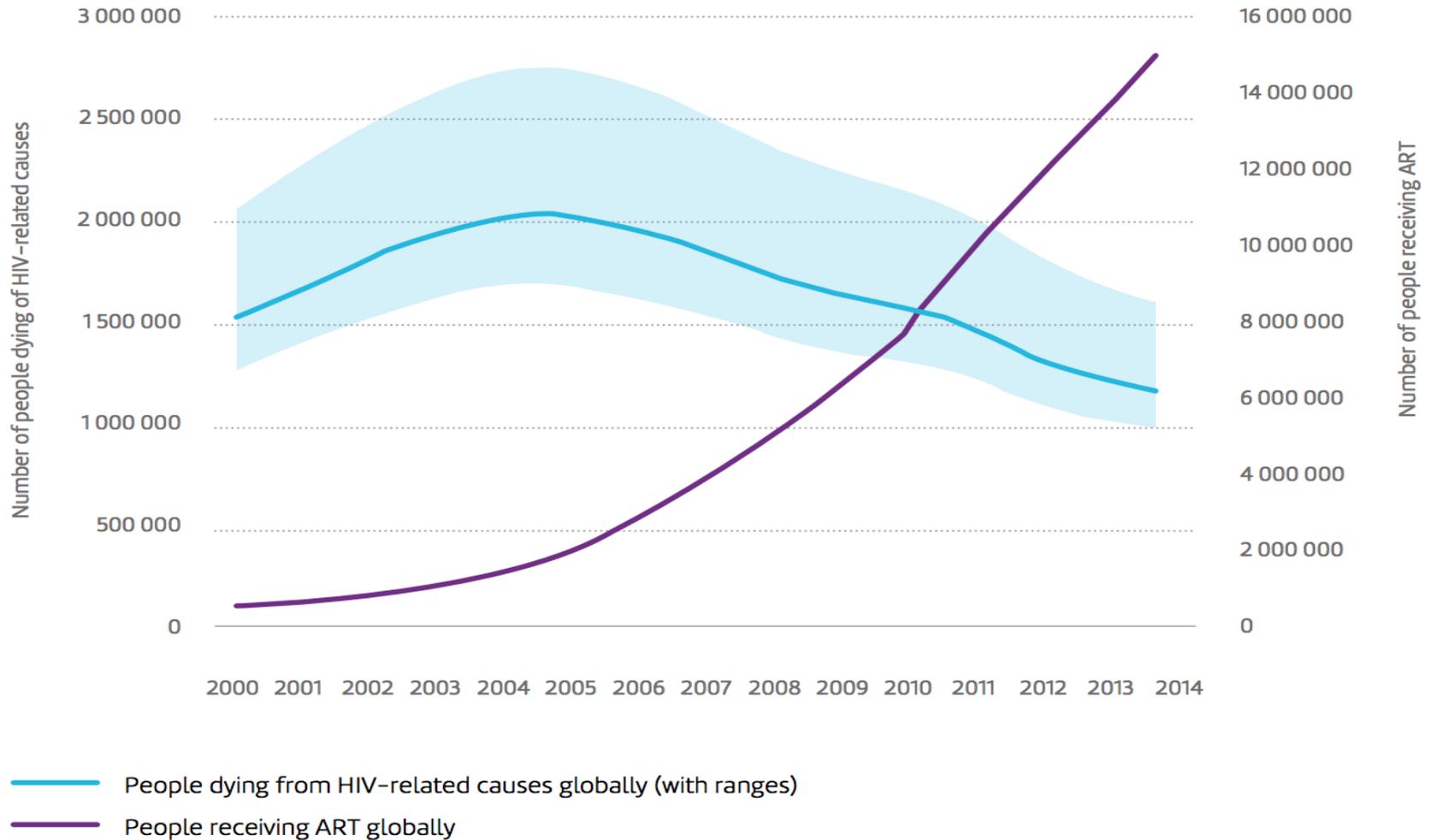
Litigation gives force to ratified rights

- Dramatic growth in right to health litigation (Gloppen 2008, Hogerzeil et al 2006, Yamin & Gloppen 2011)
- Cases on antiretroviral treatment, medicines, reproductive rights, water, food
- Consistent variables in successful litigation are ICESCR ratification and constitutional entrenchment (Hogerzeil et al 2006)

Theories of human rights change

- Koh 1998, Finnemore and Sikkink 1998, Risse, Ropp & Sikkink 1999
- Commonalities across theories
 - Norms advanced by norms entrepreneurs and transnational social networks
 - New rules emerge
 - Rules become internalized as collective understandings and are no longer debated

Fig. 2.5. Number of people dying from HIV-related causes annually and numbers of people receiving ART globally, 2000–2014



Source: WHO estimates (11)

A constructivist view on rights language

- Language may be stage in emergence of new rules being adopted as collective understandings (Koh 1997, Finnemore and Sikkink 2001, Risse et al 1999)
- Language connects actors with deeper paradigms that influence how they think and talk about global health problems (Rushton and Williams 2012).



Rights Language in the Sustainable Development Agenda: Has Right to Health Discourse and Norms Shaped Health Goals?



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Abstract

While the right to health is increasingly referenced in Sustainable Development Goal (SDG) discussions, its contribution to global health and development remains subject to considerable debate. This hypothesis explores the potential influence of the right to health on the formulation of health goals in 4 major SDG reports. We analyse these reports through a social constructivist lens which views the use of rights rhetoric as an important indicator of the extent to which a norm is being adopted and/or internalized. Our analysis seeks to assess the influence of this language on goals chosen, and to consider accordingly the potential for rights discourse to promote more equitable global health policy in the future.

Keywords: Right to Health, Global Health Policy, Sustainable Development Goals (SDGs)

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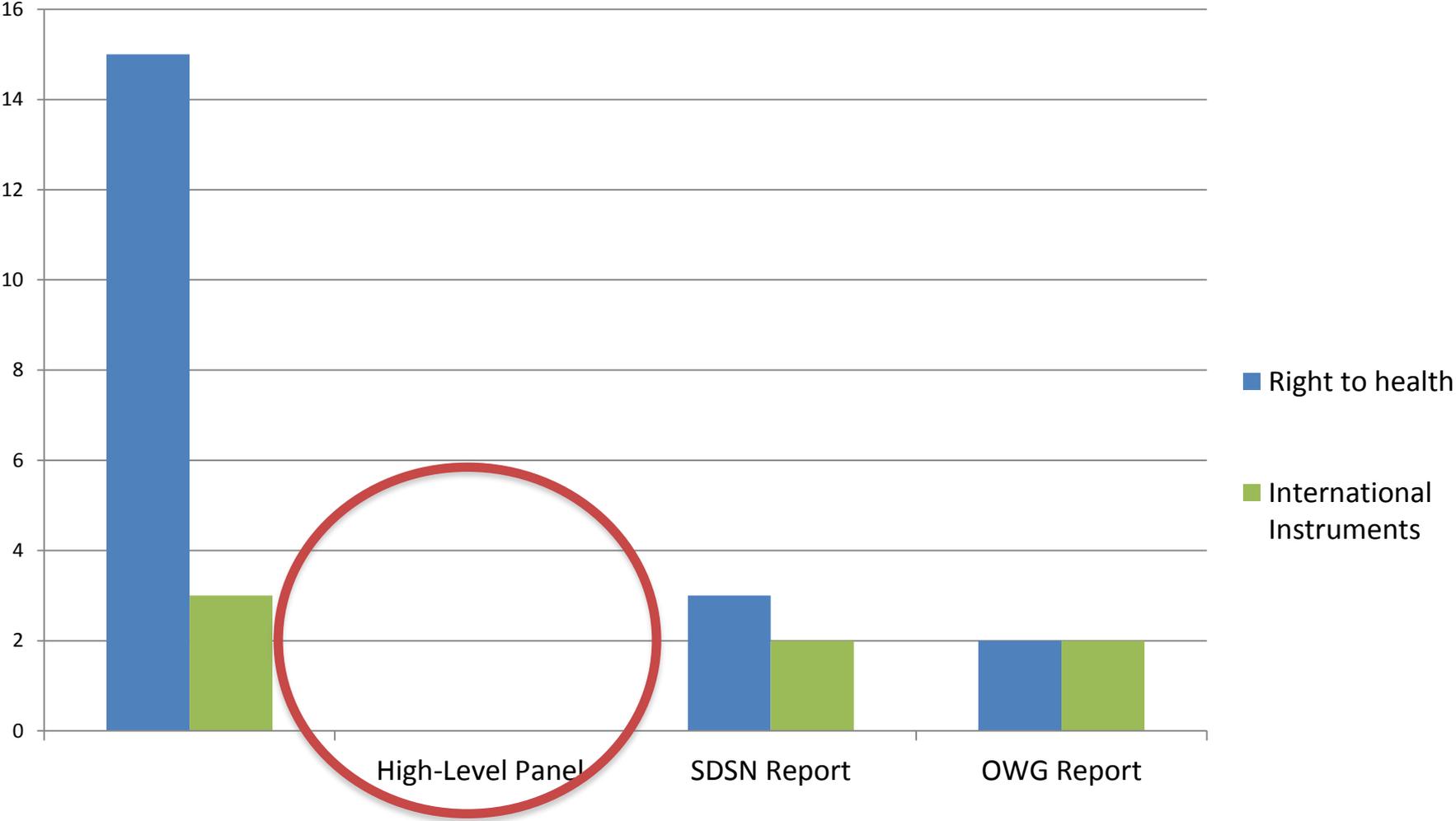
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Right to health language in the reports

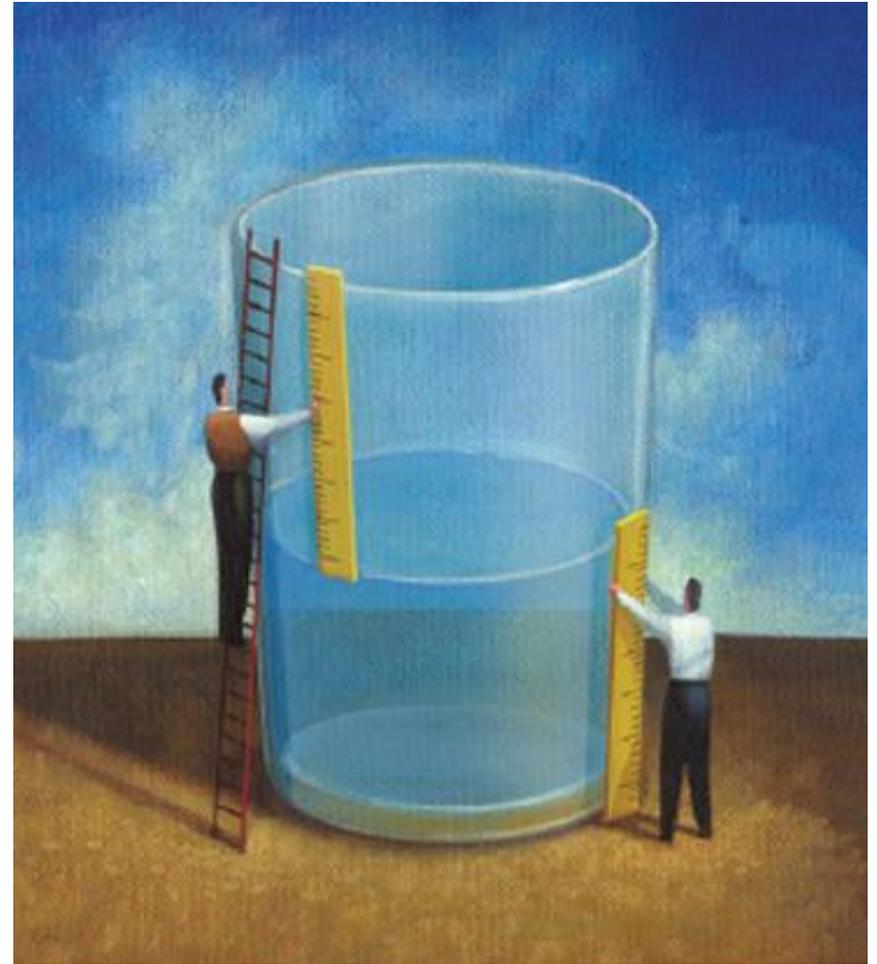


Critique of our analysis

- SDG rights language excludes language of 'obligations', obscuring link to international human rights law and accountability mechanisms (Williams & Blaiklock 2016)

“The philosophers, divided as always between frowning pessimists and smiling optimists, readied themselves to recommence for the thousandth time the ancient dispute over whether the glass was half full or half empty”

Saramago 2005



Limitations of international human rights law

- Continued vagueness of interpretations
- Strength of entitlement versus resources
- Limited application to non-state actors
- Weak application to migrants/refugees
- Weak extraterritorial application

Cutting edge research for the future

- Deepen interpretations of right to health
- Expand applications to non-state actors and migrants/refugees
- Develop extraterritorial legal obligations
- Develop interactions between ethics, right to health and governance
- Ensure right to health literacy for global health PhDs and researchers

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