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2019

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The Journal of Global Health Science, Vol. 1, No. 1.

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Editorial



OPEN ACCESS

Received: May 9, 2019

Accepted: May 9, 2019

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Conflict of Interest

No potential conflict of interest relevant to this article was reported.

The *Lancet* commission on global health law: the transformative power of law to advance the right to health

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In my book, *Global Health Law* I offer an expansive definition of global health law, capturing the field's mission, sources of law, key participants, and ethical foundations:

Global health law is the study and practice of international law—both “hard” law (e.g., treaties that bind states) and “soft” instruments (e.g., codes of practice negotiated by states)—that shape norms, processes, and institutions to attain the highest attainable standard of physical and mental health for the world's population. Normatively, the field seeks innovative ways to mobilize resources, set priorities, coordinate activities, monitor progress, create incentives, and ensure accountability among a proliferation of global health actors. The value of social justice infuses the field, striving for health equity for the world's most disadvantaged people.¹

Now a new report by *The Lancet-O'Neill-Georgetown University Commission on Global Health and the Law*² shows how law can fulfill the global pledge of the human right to health, while “leaving no one behind.”³ I call this “global health with justice.” We need both health and justice. By global health, I mean ever increasing indicators of good health and increased longevity in all countries around the world. By justice I mean that the global “good” of health must be fairly distributed both within and among countries. The *Lancet* Commission report offers a comprehensive roadmap towards realizing the law's power to make us healthier and safer, describing how principles—like fairness, participation, and wielding evidence—can shape policies throughout government. It also vividly illustrates how good governance and the rule of law can advance both health and justice.

We tend to think of science and medicine as the major drivers of good health. And, of course, these disciplines are vital to develop, implement, and improve healthcare, including pharmaceuticals, vaccines, and medical supplies. Yet, professional medical and nursing services make only a relatively small contribution to population health. More important are population-based interventions that modify core risks to health, such as diet, smoking, alcohol, and physical activity. These interventions are not the product of medicine or healthcare systems. Rather they are driven by law. In other words, what is the wonder drug that could save millions of lives? It is the law, enacted on the floors of national legislatures.

Here, I will show why law is an important, maybe most important, tool for addressing each of the major problems in national and global health. What are the most urgent and consequential health hazards facing countries and the globe? These include infectious

diseases and health security; non-communicable diseases (NCDs), such as cancer, diabetes, cardiovascular disease, and respiratory disease; and injuries at home, in the workplace, and on the roads. At the same time, the United Nations Sustainable Development Goals (SDGs) view Universal Health Coverage (UHC) as critical to advancing health. And the SDGs promise to “leave no one behind.” That pledge is essential to assure health equity, that is fairness in the distribution of good health. International law and domestic legislation/regulation are crucial to achieving all this.

INFECTIOUS DISEASES: LEGAL NORMS TO STRENGTHEN GLOBAL HEALTH SECURITY

The origins of public health law were in infectious diseases, interwoven with the great contagious maladies of leprosy, syphilis, and pest. Inspections and sequestration of lepers dates to biblical times, while quarantine laws were found in the early Middle Ages. Modern public health is often linked to the heroic story of the British physician John Snow. Snow was credited with ending the great cholera epidemic in Soho, London in 1854.⁴ By obtaining legal authority to shut the Broad Street pump, he removed the contaminated water source. Here was a characteristic case where “upstream” interventions to prevent a health hazard was far more important than treating patients with cholera.

Today, virtually all countries have infectious disease laws that include sanitation/hygiene, vaccination, contact tracing, quarantine, and vector control. Health authorities, for example, are using vaccination requirements in response to measles outbreaks in Europe and North America. Public health powers were utilized for severe acute respiratory syndrome, Influenza H1N1, and Ebola. In the Republic of Korea, health authorities turned to infectious disease laws to control a major Middle East respiratory syndrome outbreak in 2015.

At the international level, the World Health Organization (WHO)'s International Health Regulations govern global health security. The WHO Director-General (D-G) has declared public health emergencies of international concern (PHEIC) for Influenza H1N1 (2009), polio (2014), Ebola (2014), and Zika with associated congenital risks (2016). While WHO has not declared a PHEIC for the 2018-19 Ebola epidemic in the Democratic Republic of the Congo, the D-G has assembled 2 International Health Regulations Emergency Committees.⁵

Anti-microbial resistance is reducing the effectiveness of society's most coveted pharmaceuticals, such as antibiotics and antivirals. Laws prohibiting non-therapeutic antibiotics in farm animals and which regulate physician prescribing could slow the spread of anti-microbial resistance.

NCDs: LAW ADDRESSING BEHAVIOR RISK FACTORS

With an epidemiologic transition from infectious to NCDs, attention has turned to law's role in NCD prevention. NCDs were responsible for 71% of deaths globally in 2016.⁶ The WHO's Framework Convention on Tobacco Control (FCTC)—adopted in 2003—ushered in a modern era of tobacco control legislation.⁷ A suite of legal measures—taxes, minimum purchase age, smoking bans in public places, and marketing bans (including graphic warnings and “Plain Packaging”) transformed culture and behaviors relating to tobacco. A decade of support for

tobacco control laws by the Bloomberg Initiative to Reduce Tobacco Use led to law reforms in 59 countries that, collectively, will save 30 million lives.⁸

Similar measures could have equally profound impacts on alcohol consumption, one of the world's greatest threats, causing diseases like cancer and cirrhosis, unintended injuries by impaired driving, and intended injuries through violence and spousal abuse. Many cultures celebrate drinking alcohol, even encouraging it through sponsorships and advertising. Scotland's world-leading minimum pricing per alcohol unit illustrates how to tackle unhealthy drinking.

Sugar, Tobacco, and Alcohol Taxes (STAX) are cutting-edge legal strategies. The Task Force on Fiscal Policy for Health estimated that one tool alone—higher taxes on tobacco, alcohol, and sugary drinks that raised prices by 50%—could prevent 50 million premature deaths over the coming decades. Evidence grows on the effectiveness of sugary drink taxes.⁹ Mexico's 10% tax, which took effect in 2014, led to a 14% reduction in purchases in its first 2 years—with the greatest reductions in lowest socioeconomic classes.¹⁰ The effect was even larger in Berkeley, California, where sugary drink consumption fell in half three years after implementation of a penny-per-ounce tax in 2014.¹¹ The UK's sugar levy—a multi-tiered soft drink levy charging soda manufacturers different levels based on the amount of sugar, with no charge for < 5 g per 100 mL—led the beverage industry to actually reformulate soft-drinks, with a 10% sugar reduction even before the levy took effect in 2018.¹²

Taxes are hardly the limit of legal interventions to prevent NCDs.¹³ Laws can ban trans-fat or excess saturated fat, salt, and sugar; restrict marketing junk food to children; and require healthy school lunches. City planning and zoning laws can encourage physical activity, like bike and walking paths, parks and playgrounds, and mass transit. Subsidies could be directed to fruits and vegetables.

Pollution is a leading killer, with outdoor pollution causing 8.8 million deaths globally annually.¹⁴ Environmental laws, say on vehicle emissions and cleaner energy, would save countless lives. Meanwhile, carbon taxes, carbon markets, clean energy tax credits, and other legal schemes would mitigate health threats linked to climate change—malnutrition, malaria, extreme heat, diarrhea, and cataclysmic weather events.

INJURIES: A LEADING CAUSE OF DISABILITY AND DEATH THAT ARE NOT “ACCIDENTS”

Most people refer to injuries as “accidents.” They are not! Injuries are among the most preventable of all health threats. Think how powerful firearms control can be—bans on assault weapons or carrying concealed weapons, universal background checks, trigger locks, “smart” guns. Gun deaths plummeted in Australia after introducing such legislation. Firearm ownership rates in Switzerland are among the world's highest, yet with stringent regulation gun-related injuries and deaths are virtually non-existent. Japan has such rigorous gun ownership rules, that virtually no resident is in possession of a firearm. The United States is the outlier, with among the highest global firearms death rates.¹⁵

Workplace injuries are devastating. Predominately men are disabled or die from working in hazardous industries such as mining or factory work. Women toil in an unsafe garment industry. Occupational health and safety laws protect laborers from workplace hazards. If

such laws were rigorous and well enforced, then we would see a major drop in workplace injuries. Law can create healthier and safe workplaces, but governments need the political will to enact and enforce the law.

In many lower-income countries particularly women are at grave risk of injuries at home. For example, cooking on unsafe open stoves lead to horrific burns. Law could require manufacturers to develop safe appliances, as well as safe toys and household goods. Laws can set fire safety standards for all homes and offices. It is not too much to ask that government take active steps to make people feel secure in their own homes and in the workplace.

Of all the success stories in injury control, put traffic regulations near the top. Traffic fatalities have plummeted in high-income countries thanks to laws mandating safer vehicles (seatbelts, airbags, collision crumple zones), roads (speed limits, traffic calming, lane markings), and driving (drivers licenses, prohibiting impaired driving and texting). Car safety laws could transform chaotic, dangerous road conditions, say in Delhi or Kampala. In Vietnam, a nation of motorbikes, legislation increased helmet use from 30% to 93% with serious head injuries and deaths avoided.¹⁶

Legal interventions can be highly cost-effective. While laws have implementation and enforcement costs, the Bloomberg Initiative required less than \$700 million to support countries in passing laws that will save 30 million lives.⁸ Sugary-sweetened beverage taxes will save about \$30 in health care costs alone for every dollar spent administering the tax.¹⁷ Revenue from sugar taxes, moreover, could be directed to public health services.

INDUSTRY OPPOSITION

Why, then, has law not been used even more if it is so effective? One central reason is industry opposition.¹⁸ Tobacco, food, and alcohol companies vigorously lobby government, threaten lawsuits, pump-out misleading health claims, and support faux grassroots organizations. In other spheres—energy, chemicals, autos—resistance to regulation is equally robust. “Big” food, tobacco, and alcohol raise the specter of the “nanny state” (also called “paternalism”), the idea that eating, drinking and smoking are personal choices, when in fact big corporations manipulate consumer preferences through slick marketing. Paternalism claims would have us consuming deadly and unhealthy products. Yet would so many children clamor for sugar-laden cereals if cartoons had not told them how great these cereals were? How many of people would choose to put a toxin-filled smoke-emitting stick in our mouths if we had not been inculcated in the idea that this was somehow cool?

In fact, disclosure laws (warnings and labeling) ensure accurate consumer information, promoting informed decisions, critical for free choice. Advertising restrictions simply counter misleading marketing that shapes consumer preferences. Even laws more directly impacting consumers—taxes, reformulations, or portion size limits—do little more than counter a toxic environment that industry created, distorting people's sense of their needs and desires.

Other claims of impaired freedom are similarly misguided. Parents' decisions not to vaccinate their children is fueled by false information and conspiracy theories in social media. Failing to vaccinate a child discounts the freedoms of other children to be free from disease, especially those who cannot be vaccinated such as the immune-suppressed. In other

realms, discriminatory attitudes can block vital legal protections for lesbian, gay, bisexual, transgender and intersex (LGBTI) communities, persons with disabilities, migrants, and more—all notwithstanding the principle of non-discrimination. They may then be fired from their jobs, excluded from housing, or denied access to social benefits vital to their health, while experiencing destructive levels of stress—or even driven to suicide.

Industry frequently claims that health regulations cost jobs and stagnate GDP, but creating healthier populations does the opposite. Health laws reduce absenteeism, increase worker productivity, and reduce healthcare costs. Even if regulation does dampen economic output, health and wellbeing have enormous intrinsic value. Health impact assessments, with community participation, could identify and mitigate any adverse impacts—but only if governments prioritize health and take seriously human rights commitments.

STRENGTHENING LEGAL CAPACITY

One basic step to maximize law's impact, as the *Lancet*/O'Neill Institute Commission emphasizes, is to strengthen legal capacities: health law training for attorneys, legislators, and judges; investing in legal research to create and assess the empirical evidence of laws' cost-effectiveness; dissemination of “best” practices so that we learn about the laws that work or need to be improved. For laws, as in health systems, we need a virtuous quality improvement loop: enact laws based on the best available evidence; evaluate performance; and improve interventions.

Legal capacity building would not simply make it more efficient to enact and enforce evidence-based health laws and regulations. It would also strengthen institutional governance and the rule of law. Good governance includes setting clear targets, monitoring outcomes, transparency, civil society participation, non-corruption, and accountability. The rule of law assures that government sets clear norms guided by the public interest. No one is beyond the rule of law, no matter how influential, rich or powerful.

Most people think of good governance and the rule of law as essential for justice. Enacting anti-discrimination laws and dismantling harmful punitive laws (such as criminalizing same-sex behavior or risking transmission of human immunodeficiency viruses) are clearly needed to achieve equity and justice. But governance and the rule of law also promote health. When marginalized communities find their voice and participate meaningfully in health policy debates, the results are stronger. When people feel empowered, they are more likely to seek health services. When corruption is banned, unscrupulous officials cannot syphon scarce resources from the health sector. When officials are required to disclose facts fully and are held accountable, we all benefit. Thus, good governance and the rule of law can help achieve health with justice, leaving “no one behind.”

Not many of us can develop wonder drugs in the laboratory, but we all can advocate for the wonder drugs that emerge from legislatures and government agencies. The Commission's report opens up a door of opportunity. Let's walk through it.

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