Legal and Ethical Aspect of Public Health Practice

Yonsei University
SOHN Myongsei

Overview

- Legal Aspect of Public Health Practice
- Globalization of Public health issues and Law
- Public Health Issues & Legal Aspect of ROK
Legal Aspect of Public Health Practice

National Health System:
Components and relationships to health status
Economic Support

Management

Managerial Processes

Step 1. Planning

Step 2. Administration
- Organization staffing and budgeting, supervision, consultation, procurement and logistics, records and reporting, coordination, evaluation

Step 3. Regulation
- Environmental Conditions
- Pharmaceuticals
- Health Personnel and Facilities
- Personal Health Services

Step 4. Legislation
- Facilitating Resource Production
- Authorization of Programs
- Social Financing of Health Care
- Quality Surveillance
- Prohibiting Injurious Behavior
- Protecting Individual Rights
**Legal Aspect Of Public Health Practice**

- **Public Health Law Definition**
  - The government’s legal powers and duties, in collaboration with its partners, to ensure the conditions for people to be healthy, and limits on the government’s power to constrain individual rights.
  - Public health pursues high levels of health, consistent with social justice.
Core values of Public Health Law

**Government/Governance**: Power and duty to protect the public’s health and safety

**Police Power and Limits**: Coercive measures to protect the public’s health, balanced with respect for individual rights

**Partners**: The “public health system”, comprising health care, business, the community, media, and academe

**Populations**: Shared-risk, large-scale interventions to protect the community’s health and well-being

**Communities**: Health social interactions, mutual support, and civic participation

**Prevention**: Interventions to reduce risk or overt harm from injury disease

**Social Justice**: Fare and equitable treatment of groups and individuals, with particular attention to the disadvantaged

Law as a tool for the public’s health

- Seven Models Of Legal Intervention
  - Direct Regulation
  - Indirect Regulation Through The Tort System
  - Alteration Of The Built Environment
  - Alteration Of The Socioeconomic Environment
  - Alteration Of The Informational Environment
  - Taxation And Spending
  - Deregulation
Trade-offs between public benefit and private interests and right

- Surveillance
- Case Finding
- Medical Intervention
- Youth and Access Restrictions
- Nuisance Abatement
- Personal Control Measures
- Prohibition of Behavior
- Required Behavior
- Product Design
- Informational Constraints and Required Disclosures
- Regulation of Businesses, Professionals, Food, Drugs, and Medical Devices
- Environmental Regulation
- Occupational Health and Safe
- Taxation

GLOBALIZATION OF PUBLIC HEALTH ISSUES AND LAW
Background of multilateralism in public health

- ‘Peace of Westphalia’, 1648
  - Internal political boundaries

- Need to unify action against spread of diseases
  - Outbreaks of cholera in mid-19th century Europe
  - The industrial revolution → exponential growth of international trade

- International Sanitary conferences, 1851
  - First international convention organized in Europe to deal with the arrival and spread of pestilent diseases, particularly cholera

Vulnerability of Multilateralism

- Definition
  - An threat to throw away the international and multilateral consensus which are intended to prevent the spread of disease across borders in the inter-dependent world (Aginam, 2005)

- Causes of Vulnerability
  1. Disagreements on political and philosophical issues
  2. Failure to reach an agreement on ‘real’ issues like administration and funding, which Fidler named microbialpolitik (1998)
  3. Confusion or Ignorance about the causes of disease
  4. Improper use of legal and normative approach to prevent diseases crossing the borders
  5. Lack of power to implement
Genesis of multilateral Organizations

1. The Pan American Sanitary Bureau (PASB, 1902)
2. The Office Internationale d’Hygiène Publique (OIHP, 1907)
3. The Health Organization of the League of Nations (HOLN, 1923)
4. The Office International des Epizooties (OIE, 1924)
5. The World Health Organization (WHO, 1948)

*Constitution of the World Health Organization (1946, entry into force 1948)

- The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition. 
- The extension to all peoples of the benefits of medical, psychological and related knowledge is essential to the fullest attainment of health.

Normative functions of WHO

- International Conventions and Agreements

- Regulation
  - The Nomenclature Regulation
  - International Health Regulation (IHR)
    - Plague, cholera, yellow fever
    - Prevention of the spread of diseases with minimizing interference with traffic in goods and persons
    - Predicated upon the core obligations for Member States to immediately report to WHO
Legal Basis for the IHR  
- the WHA

• Article 21 of the WHO Constitution:
  – The Health Assembly shall have the authority to adopt regulations concerning:
  – (a) sanitary and quarantine requirements and other procedures designed to prevent the international spread of disease;

• Article 22 further provides:
  – Regulations adopted pursuant to Article 21 shall come into force for all Members after due notice has been given of their adoption by the Health Assembly except for such Members as may notify the Director-General of rejection or reservations within the period stated in the notice.

International Health Regulation  
(IHR 2005)

1 Serious and unusual disease events are inevitable
2 Globalisation - problem in one location is everybody’s headache
3 An agreed code of conduct PROTECTS against:
   1 the spread of serious risks to public health
   2 the unnecessary or excessive use of restrictions in traffic or trade for public health purposes
### Public Health Legislations in Asia (DoPPHL)

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<td><strong>Tasmania</strong></td>
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<tr>
<td><strong>China</strong></td>
<td>Law of the People’s Republic of China on Prevention &amp; Control of Infectious Diseases</td>
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<td><strong>Vietnam</strong></td>
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### Public Health Legislations in DoPPHL

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<td><strong>India</strong></td>
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<td><strong>Iran</strong></td>
<td>Regulation and Circulations on Tobacco Control in the Islamic Republic of Iran</td>
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<td><strong>Latvia</strong></td>
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<td>Regulations Banning the Advertisement of Tobacco and Tobacco Products in the Maldives</td>
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<td><strong>Singapore</strong></td>
<td>Smoking (Prohibition in Certain Places) Act</td>
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<td><strong>Solomon Islands</strong></td>
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Public Health Issues & Legal Aspect of ROK

Public Health Laws in ROK through the National Health System

- FRAMEWORK ACT ON HEALTH CARE SERVICE
- MEDICAL SERVICE ACT
- REGIONAL PUBLIC HEALTH ACT
- MEDICAL TECHNICIANS, ETC. ACT
- PHARMACEUTICAL AFFAIRS LAW

- NATIONAL HEALTH INSURANCE ACT
- MEDICAL AID ACT

- NATIONAL HEALTH PROMOTION ACT
- MOTHER AND CHILD HEALTH ACT
- SCHOOL HEALTH ACT

Resources

Economic support

Organization

Management

Delivery service

- FRAMEWORK ACT ON HEALTH CARE SERVICE
- MEDICAL SERVICE ACT
- REGIONAL PUBLIC HEALTH ACT
- BLOOD MANAGEMENT ACT
- EMERGENCY MEDICAL SERVICE ACT
- MEDICAL AID ACT
- PREVENTION OF CONTAGIOUS DISEASE ACT
- PREVENTION OF ACQUIRED IMMUNODEFICIENCY SYNDROME ACT
- MENTAL HEALTH ACT, QUARANTINE ACT
- NATIONAL HEALTH PROMOTION ACT, SCHOOL HEALTH ACT
National Health System: Legal aspects

- MOTHER AND CHILD HEALTH ACT
- NATIONAL HEALTH PROMOTION ACT
- SCHOOL HEALTH ACT
- MENTAL HEALTH ACT
- PREVENTION OF ACQUIRED IMMUNODEFICIENCY SYNDROME ACT
- MENTAL HEALTH ACT
- QUARANTINE ACT

But How About Legal Aspects on Other Public Health Issues?
Thank you