



The Intersection of Law and Public Health: Legal Responses to Pandemics

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Abstract

In the domain where, public health and law coexist, pandemic response marks a turning point. Public health policies like quarantine, vaccine requirements, and emergency declarations are shaped and enforced in great part by legal systems. These rules not only specify the extent of government power but also protect individual liberties among demands of public health. The junction emphasizes the need of public health against civil freedoms in balance and calls for careful methods to guarantee efficient disease management without unnecessary intervention. Legal reactions change with the dynamic character of pandemics to reflect continuing scientific knowledge, social conventions, and international collaboration to reduce world health risks.

Keywords: Public Health Law, Pandemic Response, Quarantine Regulations, Vaccination Mandates, Emergency Declarations

Introduction

It is the political and moral duty of states to protect their citizens against health risks. Governments can greatly benefit from public health policy and public health law as tools to aid in this area. There are several interrelated functions of legislation and policy in protecting the public health. By "public health law," we mean both the scope of the state's duty to ensure its citizens' physical and mental well-being and the limits placed on that power by existing





protections against governmental intrusion into people's lives and businesses. This idea encompasses the state's strategic public health policy in relation to its responsibilities and roles in promoting the health of its population as well as its functional policies outlining the interventions it is prepared to undertake to put its strategy into action.

Definition and Boundaries of Policy and Law

Public Health Policy

A plan of action describing a vision of acknowledged public health goals is the end product of public health policymaking, which includes research, consultation, and negotiation. Within the context of public health policy, the political or executive arm of the state typically determines the policies to be implemented, while private public health institutions may also develop policies that align with their own public health objectives. As an example, a business strategy describing the aims, limitations, and methods of the Terrence Higgins Trust's (THT) AIDS programs has been developed by the British AIDS charity. An objective of private agency policy, similar to that of THT, is to impact the formulation of public policy. An official policy statement will include the stated goals and the beliefs that the government has regarding the appropriateness of the methods to achieve these goals. Within the context of public health, governments have developed and refined policies that, when combined, offer a unified and focused reaction to certain public health concerns. Issues such as communicable diseases, contaminated food, environmental harm, and smoking dangers are addressed by the majority of states through laws that range in complexity. New public health concerns, like the obesity epidemic, prompt the development or revision of policies to address them.

A policy may be descriptive, outlining a course of action to address a public health issue, or prescriptive, requiring further action.

Public Health Law

Rules or norms governing health interventions or health habits are outlined in public health legislation, which can be either enacted by parliament or enforced by the courts. The public domain is the natural home of law. The written materials that make up legislation spell out the rules of conduct for public and private entities as well as the powers and limitations of public





bodies and the personal liberties that are subject to those powers and constraints. A written document such as this may be called a code in some legal systems or a law, act of parliament, or ordinance in others. Along with the statute, act, ordinance, or code may come "secondary" legislation, which has less power but lays out the rules for the law's execution more clearly. This body of secondary legislation may be known by several names, including regulations, codes of practice, decrees, or circulars. The characteristics that distinguish these written agreements from policies are their process of development and the state's authority to enforce their provisions.

The people's parliamentary representatives have a say in the final form of laws in democracies through a formal legislative procedure. Any loophole in the process of lawmaking will render the legislation null and void and unenforceable because of how clearly laid out the procedure is. The legitimacy of the legislative body and the public's belief in legislation to have been decided in accordance with the legislative process are the two defining characteristics of legislation's authority. When state officials in a nondemocratic environment do not involve the public or follow established procedures when making laws, the rule of law takes a back seat to the power of the military in enforcing those laws. "Legislation contains the entire body of law in certain legal systems, particularly those that take their cues from the Napoleonic Code. In a common law system, which is derived from the British legal system, legislation is supplemented by case law decided through a judicial procedure that allows interested parties to state their case. This system is prevalent in the United States, Canada, Australia, New Zealand, and India. In a common law system, legislation that has been adopted by a legislative process takes precedence over judge-made law. However, in cases when legislation is inadequate or ambiguous, judge-made law may take on the weight of legislation. As an example, in England and Wales, the age at which a minor may provide their informed consent to engage in sexual activity is regulated by law (the Sexual Offences Act 2003), but in relation to medical care, the age at which a minor can give their informed consent is regulated by case law. Case law cannot be included in a final legal document; instead, it is the result of a synthesis of court rulings that produce legal concepts.

Good policy is the starting point for good legislation, which is typically shaped after the policy meeting has concluded. Legislation can be based on policies that political or economic





organisations have taken over, and while it would be foolish to say that the core of the law is immune to entrenched interests, the goal of both the legislative and judicial processes is to provide a fair and balanced view. Any judicial challenge to a statute must focus on the statute's procedure rather than the principles upon which it is based; the law will reflect values rather than overtly announce them. If people have moral objections to a piece of legislation, they should look at the policy behind it instead than the law itself.

Law and Functional Public Health Policy

Instead than laying forth grand plans, the law is a better tool for making sure everyone follows specific, detailed, and practical norms of conduct. A public executive body, a private body, or an individual may be subject to laws that enforce functional policy. By enlisting the help of other branches of law, such as public law (especially judicial review), licencing law, taxation law, and criminal law, they establish the parameters for the application of laws, prohibit certain actions, and prescribe specified behaviours. The establishment and execution of efficient public health policies constitute a significant portion of public health law.

Particularly, individuals and government entities may be obligated by law. If the implementation of public health policy necessitates proof of completion of an action or activity, the law is the best instrument for achieving performance: Public health regulations impose reporting requirements on diseases in many countries, and statistics on the frequency and severity of illnesses are crucial for controlling communicable diseases.

An individual's freedom to pursue their own interests, even if doing so would violate human rights or other laws, may be justified by a legal precedent. The state must establish legal powers of imprisonment or isolation to enable public health officials to intervene without interference in order to limit the spread of infectious illnesses. In other cases, the illegal detention could be considered a breach of the right to liberty or trespassing. Detaining an HIV-positive man for fear that his health habits posed a public health threat was deemed an overreach by the Swedish government by the European Court of Human Rights. The court found that the detainees' rights to privacy and autonomy had been breached by their confinement, and he was granted compensation for this wrong.





The law also plays a role in outlining the limits of authority. The balance between public benefit and personal rights, as well as the relationship between the state and the individual, are determined by government policy at the strategic level. In a democratic state, those bonds must be formalised. Will the state's long-term plan back mandated healthcare and vaccination programs, even though they help accomplish utilitarian and communitarian aims of reducing disease danger? Given its unique political, historical, and social circumstances, every state has developed its own official or informal policy regarding the extent to which the public good justifies interference with individual freedom and privacy". Without the policy's formal articulation in law, both the public and public health officials will be unsure of where their powers lie in relation to achieving public health goals. Legislation, common law, or the judicial process establishes the rights of individuals and remedies for their violation in the majority of states.

case study

United States – Issues arose during the COVID-19 epidemic due to the fragmented nature of the American justice system. Because public health laws were enacted on a state-by-state basis, responses were diverse. Lockdowns, mask laws, and quarantine controls were implemented at the state level by the federal government through the Public Health Service Act. The validity of these restrictions and questions of public health vs. individual rights prompted contentious court battles. Cases involving business closures and mask restrictions added legal complexity to the response in the United States, drawing attention to tensions between public health needs and individual liberties.

India – Conquering Epidemic Diseases Act (COVID-19): Both the Epidemic Diseases Act of 1897 and the Disaster Management Act of 2005 were followed by India when dealing with the COVID-19 pandemic. People were instructed not to leave their houses and to remain inside while quarantines were instituted nationwide. Legal challenges arose, however, due to the consequences on migrant labour and their access to essentials. The top court in India examined cases involving migrant workers' rights and public health, and it underlined that the government must supply migrant workers with food, shelter, and transportation. While these court actions





did help to contain the infection, they did highlight the fact that public health legislation are applied differently depending on socioeconomic class.

New Zealand – Quick Legal reaction to the COVID-19 Pandemic: New Zealand's use of the Health Act of 1956 was a highly effective legislative reaction to the pandemic. Prime Minister Jacinda Ardern's government imposed strict lockdowns and quarantine measures on all international tourists. Due to the established legal framework, a significant percentage of the populace was prepared to comply with the government's prompt activities. Legislative initiatives successfully slowed the spread of the virus, despite concerns about limitations on human liberties, particularly those related to movement and travel. New Zealand's effective virus containment efforts, which faced few legal obstacles, provide a model of how public health and law may work together to effectively handle pandemics.

Review of literature

(Project, n.d.) studied “The Twin Crises of Public Health and the Rule of Law” Government and private actors are held accountable under the rule of law, which is a long-lasting system of laws, institutions, and community commitments that ensures basic rights are protected, government is transparent and accessible, and justice is accessible. These four principles work hand in hand in rule of law countries to guarantee that people have institutions that can protect their liberty, keep the public safe (including their health), and help the economy thrive. Countries with stronger legal systems tend to have healthier populations overall, with fewer chronic illnesses, higher life expectancies, and lower rates of maternal and newborn mortality. (Daębrowska-Kłosińska, 2021) studied “The Protection of Human Rights in Pandemics—Reflections on the Past, Present, and Future Examining the national reactions, major concerns over unusual human rights constraints and violations, and the distinct roles of courts in public health crises, this special part narrates the narrative of COVID-19. It examines several facets of judicial review that safeguard or fail to safeguard human rights by compiling viewpoints on disease control trends in Brazil, Italy, Poland, Taiwan, the United States, and the European Union. States and areas with high pandemic rates or those that draw criticism for allegedly not prioritising human rights may be found in this report. Public health is usually a national power, and the Articles concentrate on analyses at the state level to encourage comparison results and





more study in the middle of the crisis of multilateralism and the authority of the World Health Organisation (WHO). Moreover, the section makes use of transdisciplinary and diversity. Experts in public health, political philosophy, health law, private law, and human rights law are among the many fields represented in the contributions. This essay provides an overview of the human rights' problemata during pandemics, which serves to introduce the special section.

(Ferguson, 2023) studied Health Justice in the Context of Health and Human Rights Opposition to health care reforms, such as Medicare for All, raises concerns about people's capacity to pay for necessary medical treatment. Alang and Blackstock point out that there have been significant disparities in the availability of therapies aimed at preventing and treating pandemics. One way of looking at these disparities is as violations of people's rights to health, equality, and nondiscrimination, as well as their rights to reap the advantages of scientific advancement. You can't just assume that everyone has equal access to a technology just because it exists. Whether or whether these therapies are really accessible and acceptable depends on a number of factors, including people's historical mistrust of the medical system, the availability of relevant information, the cost, and the biases of health care providers.

(van Dijk et al., 2019) studied Law enforcement and public health: recognition and enhancement of joined-up solutions Auke When it comes to safeguarding and enhancing public health, the vital but sometimes overlooked role of public safety and the police is paramount. Despite the security sector's importance as a partner in several public health programs, it is never acknowledged for its role in the larger public health effort. The research and investigation into how law enforcement, particularly police at strategic and operational levels, can be effectively engaged to promote and protect public health as part of a larger multisectoral public health effort has been generally inadequate due to this lack of recognition. Still, getting the police to see themselves as providing a public health service is no easy feat. Cops are under constant and intense pressure to perform policing instead than fulfilling a more comprehensive public health role, which is often disparagingly labelled social work. In this article from the Series, we look at how public health is an essential part of public safety and security and how it intersects with law enforcement on a global and local scale. In order to promote a collaborative approach to addressing long-standing social, security, and health concerns, it is necessary to acknowledge the importance of public health.





(Martin, 2008) studied Law, and Public Health Policy Protecting citizens from health risks is a political and moral obligation for states. Public health legislation and public health policy are two of the most useful instruments that governments may use for this purpose. When it comes to safeguarding the public's health, policy and legislation have distinct but complementary functions. A definition of public health law is the body of laws that establishes the rights and responsibilities of states to promote and protect the health of its citizens, while also establishing the limits on such rights and responsibilities in relation to the autonomy, privacy, liberty, and property rights of individuals and corporations. In this context, public health policy refers to both the long-term goals of improving the health of a population and the short-term goals of implementing specific programs or policies to achieve those goals.

(Sherman & Schwartz, 2021) studied "The Fine Line: Rural Justice, Public Health and Safety, and the Coronavirus Pandemic" Using Washington State as a case study, this article gives readers an early look at how public health and safety concerns unfolded in rural America during the coronavirus epidemic. We investigate this topic by drawing on a variety of sources, including news stories, press releases, Facebook postings from the sheriff's department, publicly accessible statistics from jails, observations made in courtrooms, interviews with rural law enforcement personnel, and in-depth interviews with individuals who have been incarcerated in rural prisons. Rural sheriffs serve at the pleasure of constituents, some of whom have scepticism towards scientific inquiry, liberal ideology, and anything that may encroach upon their personal liberties. They also anticipate that local law enforcement will use punitive actions to curb criminal behaviour that they observe in their neighbourhoods. Residents and local authorities, such as sheriffs and police, enjoy strong social support in these towns, which are often close-knit, cohesive, and geographically isolated. Law enforcement personnel and sheriffs in rural areas typically face challenging situations due to this complicated socioeconomic background. In light of the fact that rural judicial systems were under to a number of competing demands during the COVID-19 epidemic, we investigate the ways in which these systems sought to ensure the wellbeing of their residents, both in and out of prison. Our research shows that local law enforcement has challenges and opportunities when dealing with the virus in rural areas, depending on a number of factors. However, in most cases, these factors lean towards informal social norms that regulate community health. In an effort to





project an image of toughness on crime and respect for individual liberty, rural sheriff's departments often opted for tactics that hindered their capacity to safeguard communities from the illness.

Conclusion

The interplay between public health and law is critical in managing pandemic responses and public health crises. Public health law provides the framework through which governments can enact and enforce measures like quarantine, vaccination mandates, and emergency declarations, balancing the protection of the population with individual rights and liberties. Public health policy, on the other hand, outlines the strategic actions and goals that guide these legal measures. While policy may evolve with new information and changing societal contexts, law gives these policies the authority and enforceability needed to ensure compliance. The legal system's flexibility to accommodate scientific advancements and social values helps ensure that pandemic responses remain effective, while also respecting the rights of individuals. Ultimately, both public health law and policy must work together to navigate the delicate balance between safeguarding public health and preserving civil liberties, thereby ensuring a coordinated and socially acceptable response to global health risks.

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