Public Health Law, Ethics and Human Rights

Amit Verma

PUBLIC HEALTH LAW, ETHICS AND HUMAN RIGHTS

PUBLIC HEALTH LAW, ETHICS AND HUMAN RIGHTS

Amit Verma

ALEXIS
PRESS

ALEXIS PRESS

Published by: Alexis Press, LLC, Jersey City, USA
www.alexispress.us

First Published 2022

A catalogue record for this publication is available from the British Library

Library of Congress Cataloguing in Publication Data

Includes bibliographical references and index.

Public Health Law, Ethics and Human Rights by *Amit Verma*

ISBN 979-8-89161-360-7

CONTENTS

CHAPTER 1

EXPLORING THE FOUNDATIONS OF HEALTH ETHICS: VALUES, PRINCIPLES AND GLOBAL CONSIDERATIONS

Amit Verma, Associate Professor
College of Law, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India,
Email Id- amitverma2@gmail.com

ABSTRACT:

With its roots in the Greek word "ethos," which means "behaviour," ethics explores the subtleties of right and wrong behaviour as well as the elements of a good or terrible existence. It struggles with explanations for moral conundrums, conflicts of ideals, and methodical dispute resolution. An interdisciplinary area called "health ethics" seeks to understand the moral principles that guide choices about patient care, medical research, and public health policy. It goes beyond "medical ethics," which is concerned with the treatment of specific patients, and "bioethics," which includes all living things. Health ethics covers a wide range of areas, including public health, epidemiology, and biotechnology, as well as clinical treatment and healthcare systems. It includes patients, families, communities, and health professionals as well as decision-makers in policy. Its base is a clear understanding of the factual reality of health situations, taking into account logistical, epidemiological, and clinical issues as well as value-driven factors like fairness in resource distribution. The ethical principles that inform particular judgements and deeds include autonomy, justice, equality, compassion, honesty, freedom, solidarity, trust, and respect. When these principles collide, ethical issues might develop that call for careful discussion. Even though they are related, law and ethics are not the same. Law upholds social standards; ethics, on the other hand, molds behaviour, with ethical transgressions leading to social censure rather than legal repercussions. Public health poses ethical concerns on the balance between individual liberty and the general welfare, preventative vs curative methods, and resource allocation. Both treatments that restrict human liberties and policies that combat illnesses linked to lifestyle face moral conundrums.

KEYWORDS:

Ethical, Healthcare, Health Ethic, Justice, Social, Value.

INTRODUCTION

Ethics, which derives from the Greek word ethos, or "behaviour," is concerned with issues such as right and wrong behavior and what makes for a good or bad life. It also addresses the justifications for these issues, instances in which values conflict (such as ethical dilemmas), and the systematic analysis and resolution of these conflicts. The multidisciplinary subject of study and practise known as "health ethics" aims to precisely comprehend the values that support choices and actions in the fields of healthcare, medical research, and public health policy, as well as to provide recommendations for action when these values diverge. It can be distinguished from both the more specific medical ethics, which addresses moral questions that come up during the clinical course of treating particular patients, and the broader bioethics, which refers to moral questions associated with the creation and preservation of all living things.

A broad range of contexts related to health are included in health ethics, including clinical care, health services and systems, public health, epidemiology, information technology, and the use of animals in research. Health ethics has a broad focus, encompassing ethical issues faced by health professionals, health policy-makers, and health researchers, as well as by patients, families, and communities. A solid understanding of the factual reality of specific health conditions is the foundation of health ethics. For instance, if there is a limited supply of a vaccine, an ethical analysis of the situation is likely to consider logistical concerns about maintaining an effective and efficient delivery system, epidemiological concerns about herd immunity and population risk, and clinical concerns about vaccine side-effects. The inclusion of value-oriented considerations, such as the fairness of the vaccination distribution system and its effect on disadvantaged populations, is what health ethics brings to the study. Health ethics is becoming more and more a part of the curriculum for bioscience and health professional training, as well as for courses in public health, law, biotechnology (including genomics), environmental health, and health administration and economics. Despite being a relatively new discipline, it has a large and expanding body of literature on a global scale, and much study is focused on it [1], [2].

What values and whose values are important if ethics is concerned with the values that underlie decisions and actions? Values outline the things that are significant to a person, a group, or a society. Autonomy, justice, equality, compassion, honesty, freedom, solidarity, trust, and respect are among the values that are often cited. Some of these values may be stated as guiding principles, such as "health inequities in the population ought to be minimised" or "patients should give free and informed consent to treatment," in which case they offer direction for specific choices and activities. Occasionally, a circumstance may give rise to a conflict between opposing values, such as when attaining more fairness may require a certain amount of loss of personal liberty, or between universal, collective, or individual values. Additionally, values and practises might vary amongst communities. Most individuals would agree that it's vital tolerating such differences, and that we should typically accept ideals that are different from our own. It's crucial to understand, nevertheless, that not all social or personal values have the same moral standing. Slavery, for instance, goes against the notions of equal respect for all people. Even if a person or organisation chooses to defend slavery, others in society are not obligated to share that opinion. When there is apparent disagreement, it is important to spend time comprehending and debating opposing viewpoints. Most of the time, a solution can be reached, but sometimes, courteous disagreement is the only choice.

Law and ethics both serve as normative frameworks, i.e., they specify how individuals should behave. Law and ethics often go hand in hand; for instance, a legal order could demand that a person follow an ethical rule (such not injuring others) or else. It is possible for something to be legal and yet being unethical. For instance, there are no restrictions preventing nations from allocating significant public funds to the research and development of medical treatments with little public health implications, such as a treatment for male-pattern baldness. However, one can question if, from an ethical standpoint, nations shouldn't focus their efforts on lessening the burden of life-threatening sickness. Similar to how ethics covers a wider range of interactions and conduct than the majority of legal regulations. For instance, even if it is not illegal, disrespecting one's parents may be seen as unethical. Additionally, it is conceivable for specific laws to go against fundamental moral precepts, such as laws that discriminate against certain populations.

An ethical examination of the law may inspire significant reform initiatives or instances of civil disobedience. There are still significant differences between ethics and law even when they are compatible. For instance, laws sometimes set out basic guidelines, the application of which requires more ethical investigation, such as when a statute prohibits public health authorities from placing "unreasonable" limitations on human freedom. Additionally, breaching an ethical rule has different penalties than breaking a law. In the first scenario, the offender may experience social rejection and condemnation; in the second scenario, a specific penalty, such as a fine or imprisonment, may be imposed [3], [4]. In conclusion, even if ethics and law vary in certain respects, ethics nonetheless serves as a foundation for law and often serves as a justification for legal standards.

DISCUSSION

Human rights are defined as "those rights which are inherent to the human being."3 After the Second World War and the adoption of the Universal Declaration of Human Rights in 1948, the modern human rights movement emerged, which prompted the adoption of treaties and other sources of law "protecting individuals and groups against actions which interfere with fundamental freedoms and human dignity" (p. 1). Civil, cultural, economic, political, and social rights are all included in the concept of human rights. Governments have a responsibility to uphold, protect, and respect human rights. Government must respect human rights by not interfering, either directly or indirectly, with people's ability to exercise their rights. Government has a responsibility to stop outside parties from interfering with citizens' enjoyment of their rights under the commitment to defend human rights. Additionally, in order to satisfy its commitment to uphold human rights, the government must enact the necessary statutory, financial, and other policies to guarantee that each person's rights are fully realized.

Questions regarding the measures necessary to guarantee the preservation and advancement of human rights are included in ethical discussions about the obligations and liabilities of people and institutions. What should be done in situations when there is a conflict between several human rights, such as when defending the community's right to health may necessitate restricting the freedom of individuals with contagious diseases, are additional ethical concerns relating to human rights. In addition, ethical analysis is required to set priorities when few resources make it difficult to fulfil everyone's basic right to healthcare. Although ethical problems and human rights concerns are closely related after all, human rights are ultimately founded on ethical ideals like liberty and equality there are also significant differences between the two. What people are entitled to under the law may not always be the same as what they are entitled to under ethical principles. It may be argued that there are human rights that individuals ought to enjoy but which have not yet been codified in documents with legal force.

Practices and policies related to public health generate a variety of ethical issues. The interaction between personal freedom and larger social challenges is a crucial set of questions. Equity, solidarity, social justice, reciprocity, and trust are a few more crucial challenges. A strong belief in collective action as a way of preventing damage to people and the public and promoting the best possible level of health is at the core of all approaches to public health ethics. People have a right to their personal space and freedom of movement. However, it may be acceptable to limit people's privacy and liberties in order to safeguard others in the community since contagious illness endangers their health and wellbeing. In the cause of preventing infectious diseases, how far may governments go in restricting people's right to privacy and freedom of movement? When severe acute respiratory syndrome (SARS) first appeared in Asia and North America in 2002–2003, health authorities in both regions resorted to measures including shutting schools, postponing social events, and arguing with persons who seemed to be afflicted. In hindsight, it was evident that some of these tactics weren't really essential to deal with the public health situation. As long as the restrictions are evidence-based, proportionate to the threat (see "Proportionality" in the glossary of terms), carried out humanely, and restricted to the current crisis (see the Siracusa Principles in Human Rights), liberty-restricting actions may be justified in situations where outcomes are uncertain and potentially catastrophic.

Preventative measures are preferred over waiting for damage to occur and then concentrating on treatment, according to a large portion of public health practise and policy. A focus on prevention may lessen overall suffering. The case for prevention may be made for a variety of reasons, including cost (it is less expensive), practicality (since prevention is available, why wait to treat until the illness actually arises), and morality. Additionally, when funding is scarce, putting more emphasis on prevention may divert funds away from treatment. Therefore, choosing how to divide limited resources between prevention and treatment might present challenging ethical problems of distributive justice. For instance, disease prevention researchers recently found that giving HIV-positive individuals antiretroviral medication may considerably reduce the likelihood that they would spread the virus to uninfected sexual partners and needle-sharing partners. However, this strategy could force people who don't require it to take antiretroviral medication for their own therapeutic benefit [5], [6].

Globally, the prevalence of chronic disease-related ill health is growing. So-called lifestyle choices like smoking, drinking alcohol, overeating, and insufficient exercise are mostly to blame for this illness load. What duties do governments have to attempt to alter such behaviour? For instance, we are aware that smoking is dangerous and contributes to the yearly death and misery of millions of people. It is also a deeply ingrained tendency that is often addicting. However, independent individuals often have the freedom to behave in a dangerous manner provided as it does not directly endanger others. How much of an ethical duty does it place on governments to implement measures that lessen smoking's negative effects? Should the tax system be used by governments to discourage people from beginning or continuing to smoke? Is it appropriate to restrict the advertising of At Port-au-Prince's National Stadium, where many Haitians who were displaced by the earthquake have set up temporary shelters, WHO offers immunizations against diphtheria and tetanus.

Robust statistics on the prevalence of illness and health hazards within a community are necessary for public health activities. With the use of such information, dangers to both individual and public health may be evaluated, and priorities and resources can be distributed according to risk. How should the value of individual liberty be weighed against the necessity for reliable disease surveillance data? To assess the prevalence of HIV infection in the population, for instance, blood samples that had been drawn for clinical reasons in the middle of the 1980s were deidentified and tested for HIV. Because the samples did not include any identifying information and the test results may provide crucial information about the prevalence of HIV in the population, proponents of this practise argued that it was ethical to conduct HIV testing without patient permission. Concerns were raised by detractors about the lack of information provided to individuals who tested positive for HIV.7 In the early years of the HIV pandemic, when there was no treatment, there was general agreement that this method of surveillance was moral and might even be required for states dealing with the emerging epidemic given the population-level benefit of gathering accurate data on the prevalence of HIV infection. But the debate has changed in the last ten years as HIV treatment options have become more promising. Since it would be unethically improper to identify people as HIV-positive without being able to follow up with treatment, an ethics committee today is unlikely to authorise anonymous testing of blood samples for HIV. This illustration demonstrates how developing ethical policy is a dynamic process that must be adjusted to the changing circumstances.

The World Medical Association's Declaration of Helsinki, the Council of International Organisations of Medical Sciences' International ethical guidelines on biomedical research involving human subjects, the Council on International Organisations of Medical Sciences' various research ethics guidelines, as well as other international ethical guidelines on research, all go into great detail about these issues.10 The discussion that follows summarises some of the key ideas addressed in these recommendations; for further information, readers are urged to review the actual recommendations.

Through the testing of current and novel therapies, preventative measures, systems, and processes, research seeks to enhance the lives of all people. There is no question that medical research has greatly benefited the public's health. However, research also raises a number of ethical issues for the organisations and people that support or participate in research, as shown below. Concerns that attempt to enhance the health of certain populations can unintentionally worsen conditions for others are heightened by social and economic inequality at the national, regional, and international levels. The participants in research conducted in underprivileged societies are at danger, and they may not be able to benefit from the information discovered by the study as a result of their economic or social disadvantages. By ensuring that study populations benefit from the research, unfairness may be diminished or avoided. However, extreme care must be used when enrollment in scientific research projects is the sole route to receiving medical attention. This is a concern for those with low socioeconomic position in affluent countries as well as in those with little resources.

When choosing study subjects, ethical issues often surface. The development of new pharmaceuticals and technology with a sizable (and lucrative) market is often driven by the health concerns of wealthy populations. Researchers often pay less attention to the health issues of resource-poor people because they provide less chances for commercial success, which exacerbates wealth disparities. When companies or individuals patent novel medicines or equipment to assist assure that product sales cover costs and create profits, another ethical dilemma develops. While rules that safeguard intellectual property might provide worthwhile incentives for research and development, they also raise the cost of new pharmaceuticals and technology, which can severely limit or prevent access to life-saving treatments for populations with low resources. Within the HIV/AIDS community, there has been a lot of discussion about this problem. In some instances, this has resulted in the formulation of ideas for or the implementation of alternative finance structures intended to lower financial obstacles to necessary therapies [7], [8].

Public health and epidemiology pose a number of unique challenges, such as the question of whether it is always necessary to obtain individual informed consent from participants in large observational studies, concerns about privacy and confidentiality in the collection and storage of personal health information, and how to effectively communicate study findings to participants and the general public. Public health professionals and epidemiologists are still debating the distinctions between research and disease monitoring, as well as whether or not they should be subject to separate ethical standards. International standards often place a strong emphasis on the rights of people who could engage in research and provide processes to guarantee that prospective research subjects have the freedom to decide whether or not to take part. To achieve this, potential participants must be able to comprehend and value the information provided to them, the risks, potential benefits, and alternates must be clearly explained, and people must be aware that they always have the option to decline to participate in the study or to withdraw from it at any time.

The human research endeavour will always be influenced in a variety of ways by the interests of the investigators, the needs of the sponsors, the motives of the subjects (altruism, hope, desperation), and the societal climate at the time. These factors increase the possibility of systemic problems that cannot be resolved only by adhering to rules and which, in order to be handled fairly and prudently, need the ethical integrity of researchers and research organisations. However, study history has shown that this is insufficient. Researchers and research organisations often get too invested in the study to stay unbiased about the findings and are unable to approach the project objectively. As a result, a number of systems have been set up to guarantee that research initiatives are created and carried out in an ethical way.

Research ethics committees play a crucial role in evaluating the dangers and benefits that could be associated with research. In rare instances, these committees could conclude that the study's dangers do not outweigh its potential benefits and forbid the study from moving forward. Data safety monitoring boards (DSMBs) or its equivalent are constituted in the case of clinical trials and other significant community-based experiments to make sure, among other things, that the safety problems when they emerge in research are immediately and effectively handled. Clinical monitors are selected to independently oversee the conduct of the study, including whether it is done in accordance with ethics committee approval, in many clinical trials. The majority of medical professionals really care about their patients. Three key ethical principles non-maleficence (the commandment to "first do no harm"), beneficence (doing good), and trust are at the core of clinical care. Health professionals also try to make sure that patients are given enough information, are willing to agree to treatments and procedures, and have the mental ability to comprehend and value the possible advantages and disadvantages of the care they receive. It may be challenging for healthcare professionals to strike a balance between the right to knowledge and the need to prevent information overload while still trying to deliver the best treatment possible for their patients in the most moral way possible.

First, there is widespread agreement that individuals have the right to decide who has access to their personal information and their person, therefore privacy and confidentiality should be protected. Secondly, the capacity to provide top-notch medical treatment rests on patients' freedom to openly and honestly speak with their careers. Further, if some medical information is not securely protected, such as those on mental illness or sexually transmitted illnesses, people may experience stigmatization and discrimination. In the age of computerized medical records, maintaining privacy and confidentiality is especially crucial.

However, not all problems with clinical ethics include individuals. For instance, the manner in which individuals get health care, the nature of the services offered, the means by which they are paid for, and the amount of money patients must pay at the time of treatment all present significant ethical issues about the design of health care systems. In this approach, moral dilemmas in clinical practise are often connected to more general moral dilemmas pertaining to health care organisations and systems. In the administration and management of health organisations and systems, ethical problems may occur, especially when conflicting stakeholder requirements and values exist. The examples below are just a few [9], [10].

distribution of resources among various health services and activities. In order to guarantee that resources are distributed equitably and effectively to fulfil the community's health requirements, how should priorities be set? How important is it to prioritise illness prevention above treatment? Who should have first priority access to vaccinations, medications, and hospital services during a public health emergency like an influenza pandemic? In order to avoid a serious public health crisis when conventional health care services are disrupted, efforts should be taken to reach agreement on these issues beforehand. Corporate collaborations and charitable fund raising.

These challenges may sometimes serve to emphasise the difficulty in resolving conflicts between various ethical principles, such as effectiveness, equality, and freedom of choice. The choices chosen might have a big impact on patients, families, doctors, and other important stakeholders. The institutional setting in which choices are made as well as the elements that contribute to the development of a culture that supports and promotes ethical decision-making are also of concern to organisational and health system ethics. Experience has shown that local leaders' actions often influence the institutional decision-making culture and environment. The significance of ethical accountability at the top of health organisations is being emphasised more and more by accreditation bodies, who are also focusing more on defining the moral qualities and skills of ethical leadership and creating guidelines for assessing the organisations' ethical performance.

Justice considerations are crucial to global health. Even if most people lack access to excellent health, it is nonetheless regarded as a crucially important ethical value. Social determinants of health, such as poverty, hunger, inadequate education, unhygienic living circumstances, and lack of access to health care, as well as governmental and private sector corruption, often impair health in low-resource nations. The current state of global health care shows how the international community as a whole has failed to provide for the most basic requirements of the majority of people on Earth. Identifying the steps that richer nations should take to advance global health equality out of a sense of global justice and solidarity is a pressing topic in global health ethics.

A "brain drain" has made the issue of impoverished nations' restricted access to health care worse.11 There is a serious scarcity of health care employees in the former due to the frequent recruitment of health experts educated in resource-poor nations to work in affluent ones. This raises concerns regarding the morality of such recruiting and the possible use of incentives to discourage departure. Another instance of a moral conflict exists here between the necessity to protect the health of some of the most vulnerable individuals and the right to move and associate with whoever one chooses.

Cultural relativism raises a different set of ethical concerns in the field of global health. Given that different individuals in various nations may have different values or put different weights on shared values, it is sometimes questioned if ethical norms are universal. For instance, certain social groups may continue to engage in some behaviors that are universally denounced by the world community, such as female genital mutilation, in line with particular religious or cultural convictions. While some could argue that calling such actions human rights abuses amounts to ethical imperialism, others vehemently contend that we must defend the women and children who are at danger of suffering damage.

International research presents a third problem in global health ethics, particularly when researchers from affluent nations carry out studies in underdeveloped regions where participants are more vulnerable or where obtaining informed permission is difficult due to linguistic and cultural limitations. The question of what degree of care should be provided to participants in the control arm of a clinical trial in areas where the typical quality of care is very low has been one of the most contentious problems relating international research ethics over the last 20 years. In two important ways, ethical theories and principles are useful in resolving ethical issues: they provide justification for why the matter at hand is an ethical one, and they support the superiority of one course of action over another. Ethical principles are more narrowly focused and serve as the foundation for particular rules or norms that may be more easily implemented in practise than ethical theo- ries, which tend to give a cohesive system of thinking about what constitutes ethical behaviour. In order to decide what the best course of action is, some ethical theories concentrate on the outcomes of choices. A consequentialist theory like utilitarianism maintains that resources should be used to provide the greatest overall results, such greater population health. According to some ethical views, certain actions are inherently wrong regardless of the consequences. For instance, some individuals believe that purposefully hastening a patient's death, regardless of the patient's desires or the degree of pain the patient may be experiencing, is intrinsically immoral. Some theories focus more on the process of decision-making, as opposed to the content of the decision. By taking into account the social and institutional factors that influence the health of people and communities, some ethical theories seek to promote more social justice.

CONCLUSION

In summary, ethics, which is derived from the Greek word "ethos," is an essential component of human civilization that deals with defining right and wrong behaviour as well as the ideals and principles that should govern our behaviour. The interdisciplinary area of health ethics examines the moral principles that guide choices about patient care, medical research, and public health initiatives. Complex concerns like autonomy, justice, equality, compassion, and trust are addressed, and it often resolves tensions between these principles. Even though they are connected, ethics and law function as separate normative frameworks, with ethics often acting as the moral basis for legal norms. Governments are required to respect, safeguard, and uphold people' human rights, which are firmly anchored in ethical values. In order to define and prioritise healthcare resources, balance prevention and treatment, and address lifestyle-related health concerns, ethical considerations are essential. Concerns concerning disadvantaged people, access to medical advances, and intellectual property rights arise in the context of research ethics. Clinical monitors, data safety monitoring boards, and ethics committees all play crucial roles in ensuring that research is conducted ethically.

REFERENCES:

[1] A. Gerhardus *et al.*, “Applying for, reviewing and funding public health research in Germany and beyond,” *Health Research Policy and Systems*. 2016.

[2] B. W. Lukhele *et al.*, “Efficacy of Mobile Serious Games in Increasing HIV Risk Perception in Swaziland: A Randomized Control Trial (SGprev Trial) Research Protocol,” *JMIR Res. Protoc.*, 2016.

[3] R. L. Zimdahl and T. O. Holtzer, “The Ethical Values in the U.S. Agricultural and Food System,” *J. Agric. Environ. Ethics*, 2016.

[4] L. García, B. García, and O. Alberdi, “La ética del cuidado, sustento de la bioética enfermera.,” *Rev. Latinoam. Bioética*, 2016.

[5] S. Berger, C. Mahler, K. Krug, J. Szecsenyi, and J. H. Schultz, “Evaluation of interprofessional education: Lessons learned through the development and implementation of an inter professional seminar on team communication for undergraduate health care students in Heidelberg – A project report,” *GMS Z. Med. Ausbild.*, 2016.

[6] R. ter Meulen, “Solidarity, justice, and recognition of the other,” *Theor. Med. Bioeth.*, 2016.

[7] N. Levi, “Between caring and respect Ethical aspects of Gestalt psychotherapy with children,” in *Gestalt therapy with children: From epistemology to clinical practice.*, 2016.

[8] S. E. Mawdsley, *Selling science: Polio and the promise of gamma globulin*. 2016.

[9] A. Harkins, M. H. Bernent, S. Hunter, A. Kaugars, and S. Stolzman, “Relation Between Health, Wellness, and Academic Achievement in Adolescent Females...ASAHP 2016 Annual Conference, October 19-21, 2016, New Orleans, Louisiana,” *J. Allied Health*, 2016.

[10] J. Lewis and B. J. Caldwell, “Guidelines for Preparation of Public School Financial Statements,” *Saica*, 2016.

CHAPTER 2

ETHICAL COMPLEXITIES IN HEALTH POLICY AND SURVEILLANCE

Sourabh Batar, Assistant Professor
College of Law, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India
Email Id- battarsourabh@gmail.com

ABSTRACT:

This extensive abstract examines the complex area of health ethics, concentrating on the interactions between different ethical theories, frameworks for making decisions, and institutional systems. In real-world situations, health ethics often calls for balancing competing ethical theories, such as egalitarianism and utilitarianism. Furthermore, the contextual character of health ethics necessitates the adaptation of ethical principles to unique situations, especially when it comes to informed consent and public health. The use of ethical frameworks, which provide organised methods for recognising ethical concerns, values, principles, and actions to address ethical obstacles, is crucial for navigating moral conundrums. Decision-makers are guided by procedural ethical frameworks, which place a strong emphasis on values like inclusion and transparency. When allocating resources for healthcare and resolving health inequities, the equity principle is of utmost importance. Institutional structures, such as ethics committees, provide specific forums for discussing and analysing ethical issues. While research ethics committees (RECs) regulate the ethical conduct of human research, national ethics committees (NECs) advise governing authorities and the general public on health and medical ethics. In healthcare contexts, clinical ethics committees assist in addressing moral conundrums. Due to conflicting stakeholder interests, beliefs, and insufficient information, making choices about health policy may be difficult from an ethical standpoint. Improving decision quality and public accountability requires including stakeholders, such as people, communities, and NGOs. The World Health Organisation (WHO) is important in advancing global health ethics and creating ethical policy alternatives. To improve global health ethics expertise, WHO works with its Member States and academic institutions across the globe. WHO's initiatives to improve ethical capability at the regional and national levels are supported through regional ethical focal points and cooperating bioethics centres.

KEYWORDS:

Bioethics, Health Ethic, Health Policy, Surveillance, World Health Organization (WHO).

INTRODUCTION

Different theories may overlap in practice when it comes to decisions on what to do in terms of health ethics. For instance, both egalitarian and utilitarian philosophies of ethics could advocate redistributing medical funding in response to socioeconomic health restrictions. Moreover, the particular circumstances will inevitably affect how certain ethical standards are used. While the emphasis on informed consent for both treatment and research may be perceived as respecting individual autonomy, in a public health environment, autonomy may be limited when doing so is the only way to ensure the general welfare. Respect for autonomy may be shown in health policy more broadly by initiatives to include those who will be impacted in creating the regulations that will have an impact on their life.

Frameworks for making ethical decisions provide organised and useful methods for analysing moral problems and dilemmas. They facilitate decision-making by framing the relevant ethical issue (what kind of ethical issue is this? what is at stake, and for whom?), making relevant values and ethical principles explicit (what is at stake, and for whom?), providing a structure for determining how to address or resolve the ethical issue (what actions ought to be taken?), and ensuring consistency in related situations and across decision-makers. Ethical frameworks may include a series of steps to be taken in resolving an ethical problem, a collection of standards to be taken into consideration when making a decision, or both.

A procedural ethical framework offers direction on who should make choices and how they should be made. For instance, a procedural justice framework emphasising principles of transparency, inclusivity, and revisability may be required to establish the ethical legitimacy of the policy when faced with a complex ethical challenge involving multiple stakeholder interests, values, and needs, such as how to prioritise access to antiretroviral drugs. A strong ethical framework outlines the choices that should be taken in light of previously established standards. The principle of equity, which refers to decreasing avoidable health disparities or addressing socioeconomic issues that affect health, may be an overriding ethical criterion when selecting where to allocate resources for primary care services [1], [2].

Generally speaking, ethical frameworks need to be adjusted to the current ethical problems and difficulties. There are thus likely to be distinct ethical frameworks for issues relating to public health monitoring and for choices about individual treatment, even if they may draw on comparable ethical principles. Institutional frameworks such as ethics committees provide a deliberate setting for the analysis and discussion of ethical concerns. They often include a variety of stakeholders and subject matter experts to guarantee a thorough analysis of the ethical problems and the development of ethically sound and fact-based solutions. National ethics committees, research ethics committees, and clinical ethics committees are the three most prevalent forms of ethics committees.

NECs, or national ethics committees. Many nations have established official organisations to counsel their administrative and legislative departments, as well as often the general public, on matters related to health and medical ethics. They may be chosen by the legislature, the health minister, or the chief executive to examine moral dilemmas, draw findings, and suggest solutions. The organisations that carry out this duty in various nations may include a number of advisory committees and are chosen outside of official governmental organisations. Every two years since 1996, NECs have gathered at the Global Summit of National Bioethics Advisory Bodies with the aim of promoting global conversation and achieving agreement on ethical topics of concern. These global summits have a WHO secretariat.

RECs evaluate planned human research projects to make sure they follow nationally and globally recognised ethical standards. The primary duty of RECs is to assess research protocols in order to protect participants' rights and well-being. To do this, RECs must make sure that the risks of the research are kept to a minimum, are reasonable given the benefits anticipated, and that the researchers have put in place adequate procedures for obtaining participants' informed consent. Other duties of RECs include evaluating the recruitment procedure and any incentives that will be provided to participants; assessing the risks to participant confidentiality (and the associated risk of potential discrimination); assessing the effectiveness of measures to protect participant confidentiality; and ensuring that participants and their communities are not exploited. Other RECs function at the regional or federal levels, where they may be referred to as institutional review boards at research institutes. An institutional committee's benefits include its familiarity with the regional setting and ability to actively oversee current research. An external committee, on the other hand, may provide more consistency and have more credibility in the eyes of the scholarly community and the general public [3], [4].

Clinical ethics committees are a crucial tool for clinical decision-making on moral questions that arise from the delivery of treatment in medical facilities. Clinical ethics committees often have a diverse makeup that may include ethicists, medical specialists, patient advocates, and religious leaders. They help clinicians, patients, and families through clinical conundrums and could also influence the creation of institutional rules and procedures. As a result of multiple institutional or health system goals (e.g., health promotion vs. health care), conflicting stakeholder interests (e.g., funder vs. health provider), conflicting values (e.g., equity vs. utility), or incomplete information, making health policy decisions can be ethically challenging. In these situations, there is often no obvious or "rationally" correct policy solution.

DISCUSSION

Despite the fact that ethical theories and principles provide light on the nature of the ethical problems, they are unable to resolve the factual and moral uncertainties in policy choices that have broad ramifications for patient groups, communities, and populations. However, many ethicists think that the ethical legitimacy of health policies also depends on the appropriate engagement of affected stakeholders, including citizens, patient populations, communities, and nongovernmental organisations (NGOs). Expert opinion is frequently a valuable resource to inform such decisions. For instance, the "accountability for reasonableness" framework (see the glossary of words) mandates that decision-making justifications be made public. In pluralistic cultures, where different individuals may have different opinions on how much importance to accord to certain values or how to strike a balance between conflicting values, stakeholder involvement is particularly crucial. Involving affected stakeholders serves three common purposes: (1) to improve decision quality by examining ethical issues from various perspectives and bringing relevant experience and expertise, both lay and professional, to the table; (2) to solicit input on values, to inform policy decisions and guide the application of available evidence; and (3) to provide a mechanism for enhancing public accountability for these decisions. Stakeholders can be involved in a variety of ways, such as surveys, interviews, and focus groups to elicit pertinent stakeholder values, public meetings to discuss policy issues, citizens' councils or community advisory panels to give direct input into policy deliberations, referendums, and other shared decision-making processes. Understanding the facts, the areas of uncertainty and risk, the justifications for public health interventions, the objectives of such interventions, and the measures that will be taken to protect individual rights are necessary for civic deliberation and public participation in the policy process.

The creation of "ethical and evidence-based policy options" is one of WHO's six main responsibilities.12 Understanding the nature of ethical analysis in healthcare decision-making is necessary for this. As a part of the United Nations, WHO is governed by universally recognised human rights principles, which provide a crucial and unwavering ethical foundation for work and research in health and healthcare. However, the presence of a general ethical framework for health-related decision-making does not displace the need for continuing ethical investigation. There are several instances in public health policy when several ethical factors will be important. Although the consideration of these situations must be guided by human rights principles, these principles often do not direct to a single, infallible solution. A decision that is ethically acceptable can only be made after all pertinent normative factors have been articulated, multiple viewpoints have been taken into account, and a process that is fair and legitimate in the eyes of the relevant stakeholders has been established. However, it is also important to keep in mind that choosing an ethical course of action involves more than just taking the viewpoint of the majority. Any final judgement must be in accordance with fundamental principles of human rights. A specialised ethics team, currently known as the Global Health Ethics Unit, was formed by WHO in 2002. The UN Interagency Committee on

Bioethics, other international organisations, and this team are all closely partnered with WHO via this team. The Unit's mission is to serve as a focal point for the investigation of moral questions brought up by operations throughout the Organisation, including those of the national and regional offices, and to promote discussion and debate on a variety of themes in global health ethics [5], [6].

Building and enhancing the ability of WHO Member States in respect to a broad variety of global health ethical concerns is one of the Global Health ethical Unit's most significant goals. This is accomplished first via the development of worldwide direction. Following the release of WHO guidance papers, implementation efforts are often conducted at the regional and national levels with the goal of ensuring that the advice is used and tailored to the local environment. Key stakeholders, including representatives from the Ministry of Health, public health specialists, and patient organisations, are invited to workshops and training sessions. For instance, the Global Health Ethics Unit took the lead in creating recommendations for Member States on how to fairly distribute anti-retroviral medication in response to the HIV pandemic.14 The Unit created guidance for planners on how to deal with ethical concerns of isolation and quarantine, as well as equitable access to services during pandemics, in relation to preparation for and response to pandemic influenza. Additionally, it worked with WHO's Stop TB Programme to provide guidelines on moral concerns with treating and preventing tuberculosis. To assist Member States in creating an ethical framework for transplantation, the World Health Assembly approved guiding principles on organ and tissue transplantation in 2010.

Each of WHO's six regional offices has an ethical focal point who is in charge of developing regional ethics competence and resolving concerns in conjunction with WHO's country offices. For instance, the Pan-American Health Organization/WHO Regional Office for the Americas already had a regional programme on bioethics in place when it was founded in 1994. Because of their close closeness to the nations, they are better able to adapt global guidelines to the specific conditions there and guarantee that issues that are pertinent to Member States locally be handled at the global level. Collaboration with ethics professionals connected to the WHO Collaborating Centres for Bioethics strengthens support for ethical capacity-building among WHO Member States. Universities all across the globe have WHO cooperating centres for bioethics, which are academic institutions with a focus on health ethics. They serve as a crucial resource for the WHO in carrying out its ethical duty. Collaboration and communication with these academic institutes improve the scientific legitimacy of WHO's work in ethics. In order to improve outcomes, promote resource mobilisation, and boost Member States' capability, particularly at the regional level, WHO also fosters links and synergies amongst its cooperating centres. The WHO is dedicated to the creation of cooperative bioethics centres in low- and middle-income nations and promotes active collaboration between centres in high- and low-resource settings. In 2002, the first WHO cooperating centre for bioethics was established at the University of Toronto Joint Centre for Bioethics in Canada. The Western Pacific, Europe, and the American continents all received additional centres in the years that followed. In order to promote WHO's ethical mission via improved cooperation and synergy among the collaborative centres, the Global Network of WHO Collaborating Centres for Bioethics was established in 2009. The Network now has six members and works with WHO to develop capacity and provide technical and training services on a number of ethical topics, such as pandemic preparation and response, research ethics, public health monitoring, and TB.

Since the late nineteenth century, disease monitoring has been a fundamental public health effort. It serves as the cornerstone for programmes that advance population-level human well-being. The foundation of outbreak and epidemic response is public health monitoring; however, this practise goes well beyond infectious illnesses. It may help to lessen inequities since it is impossible to address areas of suffering that are unfair, unjust, and avoidable if they are not first made apparent (1). Understanding the growing worldwide burden of noncommuni- cable diseases is crucial. Public health monitoring may assist in ensuring access to wholesome food, pure water, clean air, and healthy settings by assisting in the identification of patterns and causes of sickness and death. Continuous environmental monitoring may not only reveal problems but also set off alarms. Monitoring for occupational diseases may reveal workplace exposures and result in legislation. By giving knowledge about health and its factors, surveillance may aid in the creation of responsible institutions. It may provide a factual foundation for developing and accessing public health policy. For instance, surveillance will be crucial to achieving the Sustainable Development Goals of the United Nations. The opportunity to choose a policy is enabled and encouraged by the availability of surveillance findings. Access to surveillance data may thus be a weapon for advocacy if the findings are made quickly and appropriately available to the public and policy-makers [7], [8].

However, the topic of spying has sometimes generated acrimonious discussion. Privacy and other civil freedoms may be restricted by public health surveillance. For instance, during an outbreak, monitoring may result in the need for strict quarantine, isolation, or property confiscation (2). If populations are made aware that surveillance incorporates name-based reporting (i.e., reporting by names), it may cause intense anxiety about privacy invasions, discrimination, and stigmatization. When mob emotions take precedence over consideration, compassion, and the appropriate application of the law, name-based reporting may also significantly hurt both persons and property. Lack of confidence in the public health system's ability to disseminate aggregated data and associated information hereafter referred to as "data" since records comprise information of many types and scopes in a sensitive way (2) adds to worry. However, even when confidentiality was guaranteed, when information about risky behaviour and affected populations became public, groups like gay sex workers and injecting drug users experienced social harm such as stigmatisation and discrimination. In some countries, the HIV/AIDS pandemic sparked controversy about tracking by name those carrying the virus. Due to these concerns, the HIV/AIDS pandemic inspired ethical and legal standards at the national and international levels that may be used when organising, gathering, and subsequently utilising both individual and aggregate data.

The fear that "what doesn't get counted doesn't count" has, however, led to political and ethical difficulties almost as often as the failure to perform public health monitoring. Advocates for environmental and occupational health, for instance, have long advanced this claim. There are still vast gaps in monitoring, even for events regarded to be extremely essential. The Ebola virus illness epidemic of 2014–2016 starkly illustrated the potentially disastrous effects of a lack of ability to monitor disease incidence and dissemination. The lack of such data may substantially hinder the development of a clinical or public health response. However, while the Ebola virus disease is a well-known illustration of the costs of insufficient systems and the necessity of global support for essential surveillance, many other occupational and environmental exposures, such as asthma, silicosis, and conditions linked to exposure to arsenic or lead, go unreported in both high- and low-income countries. Some analysts have claimed that wealthier nations often only prioritise monitoring when a public health crisis poses a "threat to international peace and security" (3). However, even when surveillance is a top priority, using fragmented, unconnected, or integrated data sources effectively for public health reasons is still a challenge.

While surveillance is frequently carried out in secret or without arousing public concern when there is a high risk of stigma, discrimination, or the continuation of inequity, it invariably involves conflicts of values and opinions about how to advance public health objectives without endangering individuals or groups in society. Therefore, there should be a public discussion on the priorities and allocation of resources for surveillance, both within countries and within global communities. There hasn't been an international ethics framework to direct public health surveillance systems generally that spans infectious diseases, noncommunicable diseases (NCDs), disease outbreaks, environmental and occupational exposures, and even national borders despite landmark international guidelines on the ethics of research, including epidemiological studies, and specific ethical guidelines for surveillance of particular diseases and/or in particular countries. This gap has been identified by the World Medical Association, the Council for International Organisations of Medical Sciences (CIOMS), and others (4). For evaluating public health monitoring for all illnesses and exposure across international boundaries, ethical advice is essential as a benchmark.

Given the unequal, insufficient condition of public health monitoring in both high- and low-resource contexts, as well as the many national and subnational mandates for surveillance in various legal systems, the fragmented, disease-specific character of international guidelines is not unexpected. For a variety of reasons, it is essential to discuss the ethics of public health monitoring in a manner that transcends traditional limitations. Public health practises at a time of widespread health concerns including AIDS, SARS, influenza, Ebola virus infection, Zika virus infection, obesity, and coronary heart disease. Given that many of the illnesses are zoonotic in origin, surveillance will increasingly require keeping an eye on the animal-human interaction. For instance, it is necessary to integrate the monitoring for the same pathogens in people with the surveillance for pathogens in food and animal feed.

The ability to gather and distribute data from previously unimaginable sources, such as social media or geolocation cell phone data, has made significant strides in the context of surveillance. Parallel scientific advancements have increased the possibility of diagnosing illness; genetic analysis, as only one example, enables quick identification of pathogens or pathogenic strains. Inequalities inside societies and throughout the international community have become worse at the same time. There are widening gaps in the ability of various countries and regions to benefit from technological advancement. Health crises are generally brought on by civil wars in many nations, attracting the attention of both humanitarian groups and United Nations agencies. In fact, crisis events exacerbate inequality and erect new obstacles to observation and action in conflict areas (3).

It is crucial to close the gap in international regulations and clearly address the ethics of public health monitoring in light of the amazing global epidemiological, social, economic, political, and technical environment. These worldwide guidelines on the ethics of public health monitoring have such as their goal. A global team of professionals in surveillance, epidemiological study, bioethics, public health ethics, and human rights prepared them. Leading academic institutes, nongovernmental organisations (NGOs), and groups and people with a critical interest in both the advantages and disadvantages of monitoring are represented by the writers of these recommendations. The writers also represent northern and southern nations with various governmental structures, social mores, and objectives [9], [10].

The worldwide network of WHO Collaborating Centres helped to create the recommendations. Centres for Bioethics, the project's initiator. They also leaned on the technical assistance of the US Centres for Disease Control and Prevention to make sure the recommendations took into consideration the real processes and costs associated with data collection, processing, and dissemination and could thus be utilised in a reasonable manner. According to the WHO Handbook for Guideline Development (5), a thorough examination of relevant research and grey literature served as the foundation for the recommendations.

The endeavour to produce guidelines had as its objective the identification of crucial ethical factors that would help resolve any disputes that could emerge in surveillance, which is in and of itself an ethical duty of governments. Specific ethical questions are handled in settings with varying expectations for the significance of individual rights, community cohesion, and/or the benefit of society. These contexts range in terms of culture, values, resources, political traditions, and institutional structures. The rules also address issues that develop in situations when human rights are repeatedly violated or where chronic injustice exists.

Because of this, these recommendations are unable to address all the complex issues brought up by public health monitoring. The recommendations instead define the need to perform surveillance, exchange data, and involve communities openly while acknowledging the limitations of that mandate. They do this on the basis of a set of fundamental principles for the ethics of public health. It is not recommended to read the 17 principles apart from one another or from the explanation of each. Together, they lay out the concerns that anyone involved in surveillance, including government officials, healthcare professionals, NGOs, and the private sector, should carefully consider and weigh when deciding how to collect, analyse, share, communicate, and use surveillance data. Despite the fact that the guidelines do not outline a mechanism for oversight, it has been determined that given the overarching need for conducting surveillance, analysing the data, and acting on the findings, responsibility and accountability must ultimately be based on a workable mechanism to guarantee that the ethical issues raised by public health surveillance are foreseen and dealt with methodically and openly. Countries should oversee and routinely check for compliance with these recommendations.

CONCLUSION

The field of health ethics is a complicated and varied one, where different ethical theories and frameworks may interact and overlap. Conflicting principles, stakeholder interests, and contextual considerations must often be balanced while making decisions in the field of health ethics. For example, egalitarian and utilitarian ideologies could both support allocating medical resources differently to address socioeconomic health inequities. Depending on the unique situation, different ethical norms may be applied, and what is considered to respect human liberty in one situation may be constrained in another when the public good is involved. Institutional frameworks provide a systematic setting for ethical examination and debate, such as ethics committees. In order to address ethical concerns at various levels of healthcare and research, national ethics committees, research ethics committees, and clinical ethics committees each have a specific function. A thorough framework for resolving ethical concerns in surveillance is what the recommendations on the ethics of public health surveillance are designed to do. These rules emphasise the value of openness, participation from the community, and careful data management. They understand that different cultural, social, and political situations need different adaptations for surveillance practises. In the end, the recommendations emphasise the need of monitoring and responsibility in surveillance operations to guarantee that ethical issues are consistently taken into account. These suggestions provide a useful foundation, but to sustain moral norms in global public health monitoring, they must be effectively implemented and continually evaluated. In order to be anchored in ethical principles, public health monitoring must constantly adapt to new technology, societal mores, and global health issues.

REFERENCES:

[1] H. Kahrass, D. Strech, and M. Mertz, “The full spectrum of clinical ethical issues in kidney failure. Findings of a systematic qualitative review,” *PLoS ONE*. 2016.

[2] A. S. Clay and C. Misak, “Engaging survivors of critical illness in health care assessment and policy development: Ethical and practical complexities,” *Ann. Am. Thorac. Soc.*, 2016.

[3] F. Seitzer, H. Kahrass, G. Neitzke, and D. Strech, “The full spectrum of ethical issues in the care of patients with ALS: a systematic qualitative review,” *Journal of Neurology*. 2016.

[4] C. A.S. and M. C., “Engaging survivors of critical illness in health care assessment and policy development: Ethical and practical complexities,” *Ann. Am. Thorac. Soc.*, 2016.

[5] A. Farre and C. Cummins, “Understanding and evaluating the effects of implementing an electronic paediatric prescribing system on care provision and hospital work in paediatric hospital ward settings: A qualitatively driven mixed-method study protocol,” *BMJ Open*, 2016.

[6] J. C. Kohler, M. G. Martinez, M. Petkov, and J. Sale, “Corruption In The Pharmaceutical Sector: Diagnosing the challenges,” *Transpar. Int. Pharm. Healthc. Program.*, 2016.

[7] M. Endadul Hoque, R. Rahman, S. I. Ahmed, and L. Liu, “Turst based secruity auto-configuration for smart assisted living environments,” *ACM/IEEE Int. Conf. Human-Robot Interact.*, 2016.

[8] A. E. Nicogossian, “The environment of space exploration,” in *Space Physiology and Medicine: From Evidence to Practice, Fourth Edition*, 2016.

[9] P. Chen, *Animal Welfare in Australia: Politics and Policy*. 2016.

[10] TUC &&childer ENgland, “An introduction to child protection legislation in the UK,” 2016.

CHAPTER 3

ETHICAL CONSIDERATIONS IN PUBLIC HEALTH SURVEILLANCE

Bhirgu Raj Maurya, Assistant Professor
College of Law, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India
Email Id- brmourya.mourya321@gmail.com

ABSTRACT:

In order to protect the wellbeing of people, public health monitoring is essential, but its ethical implications are often ignored or underappreciated. An overview of the proposals intended to resolve the difficult ethical issues related to public health monitoring is given in this abstract. The systematic collection, analysis, and interpretation of health-related data for public health goals falls under the umbrella of surveillance, which is defined variably among nations and circumstances. The guidelines stress how crucial it is to acknowledge surveillance as a tool for advancing the common good, emphasise equality, uphold human rights and freedoms, and ensure effective governance. These suggestions are supported by the values of social good, equality, respect for individuals, and accountability, which act as benchmarks for moral judgement in public health monitoring. The text recognises the fluid character of public health practise, with data gathering techniques ranging from conventional paper records to cutting-edge computer systems and the oncoming "big data" age. It examines the possibilities for collaboration between sources of clinical and public health data as well as the moral dilemmas that would arise from such a combination. The guidelines also include the International Health Regulations (IHR), a framework for global public health monitoring, as well as the moral conundrums raised by cross-border collaboration in surveillance projects. The problems faced by resource limitations and political instability are explored, as well as the IHR's responsibility in ensuring that states preserve fundamental public health capacities. In order to empower communities and politicians, the guidelines place a strong emphasis on the need of openness, public participation, and the appropriate release of surveillance data. At several points of the surveillance process, such as data collecting, storage, processing, and sharing, ethical implications are explored.

KEYWORDS:

Ethical, Public Health, Surveillance, WHO (World Health Organization).

INTRODUCTION

Surveillance is defined differently depending on the country. These recommendations encompass surveillance in its broadest sense. Simple definitions of surveillance include "continued watchfulness" and "the monitoring of human events linked to action." The continuous, systematic gathering, analysis, and interpretation of health-related data required for the planning, implementation, and evaluation of public health practise is referred to as surveillance by the World Health Organisation (WHO). Health information includes information on injuries, illnesses, NCDs, and their associated risks and determinants. The International Health Regulations define surveillance as "the systematic on-going collection, collation, and analysis of data for public health purposes and the timely dissemination of public health information for assessment and public health response as necessary" for infectious disease outbreaks. The way that public health monitoring is understood varies greatly from nation to nation. Although surveillance is often characterised as systematic or ongoing, not all nations, organisations, or academics focus on this aspect of public health monitoring; instead, they highlight the function and goal of data collecting. Similarly, while sickness and injury are typically at the forefront of definitions, some definitions also take into account environmental factors that have an impact on health and significant public health events. Even though they are often not specifically referred to as being a part of a "public health" surveillance system, vital registration of events like births and deaths is frequently thought of as surveillance.

National public health authorities are typically in charge of public health surveillance systems and activities, despite the fact that international organisations often sponsor, fund, and supervise national surveys in low- and middle-income countries to follow changes in risk factors or health outcomes. However, the IHR accepts surveillance data from sources other than the official reporting channels, such as unofficial or informal sources, as long as they adhere to certain requirements of validity and reliability [1], [2].

Some organisations and professionals believe that the only activities that qualify as public health surveillance are those in which the questions that will guide data collection are predetermined and the objective of data collection has been defined. The Australian Department of Health use a more comprehensive epidemiological definition of surveillance, which includes ongoing examination of all elements of disease occurrence and dissemination that are important for efficient management. Case-finding, public health investigations, and epidemiological research are all expressly excluded by some classifications, while "use of epidemiological information" is included in others' definitions of surveillance. Thus, a surveillance system may include continuous data collection, inspection of hazardous conditions or broad oversight of the potential threat posed by food, water, or the environment, screening at workplaces or in healthcare facilities, and not just the monitoring of infectious diseases.

Although there may be larger and more specific definitions, the idea behind surveillance is that data are gathered to support public health action, whether it be advocacy, direct intervention, priority-setting, or resource allocation. One group of surveillance experts said that "having knowledge of a community's health is the first step to making improvements that support healthy behaviours, identify and address unusual health events, and prevent and treat disease and injury." Nearly all nations, institutions, and experts stress the significance of communicating surveillance results to those "who need to know" including the public, policy-makers, national and international scientific communities, programme planners, public health authorities, medical institutions, and funding agencies in order to enable intervention, sustainable development, or advocacy.

Regarding the kind of data that public health organisations regularly have access to, the field of public health practise is likewise developing quickly. In certain situations, data are gathered, saved, and disseminated using sophisticated electronic systems; in others, they are recorded by hand and kept on paper. The age of "big data," as addressed in section V, may offer immense possibilities for the future of public health monitoring, taken generally, and has already generated difficult ethical issues. In certain countries, electronic health records and surveillance systems may eventually be directly connected. In both the public and commercial health care sectors, interoperability between public health monitoring data sources and clinical practise is possible. Automatic decision-support systems or computational tools may be informed by public health data to provide alerts and warnings. Additionally, studies have demonstrated that geographical mobile phone data can precisely define and predict human mobility, and therefore, the spread of illnesses like malaria and H1N1.

Based on the overall WHO definition of continuous, systematic collection, analysis, interpretation, and exchange of health-related data for advocacy and for planning, implementing, and evaluating public health practises, these recommendations define public health surveillance systems generally. However, even if procedures are in place, fresh, targeted research is needed to address epidemic hazards. Furthermore, clinical practise may be used as a source of information and improvement in public health monitoring systems [3], [4].

Nation governments have created surveillance systems with various levels of coverage and objectives. International law and regulation have been crucial tools for guaranteeing that all nations have at least a minimal degree of public health monitoring. The Inter-national Sanitary Regulations were revised and consolidated into the IHR, which the WHO Member States accepted in 1969 as the framework for enhancing health security in a world that is becoming more linked. They became effective in 1971. All Member States are required by the IHR to have certain fundamental public health capabilities, like as surveillance and data gathering, in order to prevent, control, or react to the spread of disease internationally.

DISCUSSION

The World Health Assembly adopted a significant amendment of the IHR on May 23, 2005, as a result of lessons learned during the SARS epidemic of 2003. While the IHR's initial emphasis was on a small, predetermined list of communicable illnesses, the updated regulations — now known as the IHR — provide flexibility to target any illness that could represent a public health emergency of global significance. Additionally, they set a need to develop fundamental capabilities for epidemic response and tracking of illnesses and "public health events". However, as of November 2014, 81 nations have requested delays to coming into compliance, and 48 had failed to disclose their capability or intentions. The current Ebola virus epidemic demonstrated that many nations had not upheld their IHR commitments; just 64 nations, or one-third of those IHR-bound, "had achieved these core capacities." Despite the fact that all nations are bound to abide by the IHR, there may be no way to overcome the challenges posed by resource constraints and political instability without the help of other nations.

The IHR is constrained in that it primarily serves as a framework for government action in response to "public health emergencies of international concern." The framework is not intended to build elaborate monitoring systems nor to address the moral dilemmas raised by such systems and practises. Similar to national law and regulation, international regulation is a crucial instrument for establishing an obligation to undertake surveillance while also establishing restrictions on the practise. However, what is ethical is not necessarily what is lawful. Ethics is a crucial tool for critically assessing legislation, regulation, and practise as well as for resolving any potential value conflicts that surveillance may bring about.

The nineteenth century saw the emergence of regional and national surveillance systems, virtually all of which included case reports written by doctors. At first, the information was mostly utilised to illustrate either socioeconomic development or destitution. However, monitoring tactics that made individual-level intervention conceivable with the discovery of germs and the realisation that many illnesses were contagious from person to person were at the centre of the most intense conflicts between individual rights and community health. Interventions based on reports of communicable diseases were sometimes appreciated but also alarming. By law, regulation, and custom, official morbidity reports were often shielded from public publication. The foundation for population health initiatives like pasteurising milk, regulating the production of food and drugs, reforming the housing market, and other initiatives that targeted the structural causes of illness was surveillance [5], [6]. The opposition to such laws, which mostly came from independent and incorporated firms, was sometimes cast as a matter of individual rights.

Physicians sometimes despised, rejected, or disregarded man-dates for reporting because they were concerned about interfering with their patients' care and using up their time. However, not all instances of morbidity and mortality monitoring needed case identification by name. In industrialised nations, reporting of STDs, for instance, was often done by code rather than by name. Naturally, contact tracing needed names, however the majority of physicians kept the index case private when patients complied by disclosing the identities of sex partners and following the recommended course of action. Over the course of the 20th century, as surveillance was expanded to include NCDs like cancer, diabetes, and stroke as well as occupational exposures, substance use, road accidents, injuries, vaccination status, and vaccine reactions, debates over whether names were necessary and whether informed consent was required frequently framed discussions.

People who were afflicted with diseases or other conditions often questioned the necessity for monitoring throughout the 20th century, but affected groups also frequently requested the "right to be counted" as part of the surveillance tale. Contrary to infectious illness surveillance, NCD surveillance has been "woefully inadequate," even in high-income nations. Social movements have occasionally been used by people exposed to toxic hazards on the job and by people living in environmentally vulnerable areas to raise awareness and secure funding for surveillance. However, the more common narrative is that chronic disease threats, particularly those facing vulnerable populations, go unrecognised.

Global crises often highlight structural issues that are not adequately addressed. Some countries continue to provide numbers to the WHO that do not include undocumented migrants who have TB, but it would be incorrect to conclude that the only issues are a lack of monitoring or underreporting. For example, the Global Fund to Fight AIDS, Tuberculosis, and Malaria's funding levels were heavily reliant on statistics on tuberculosis monitoring. Staff members who worked in surveillance sometimes encountered intense pressure to meet goals that were deemed unattainable by others. They were forced to decide between producing "good" findings and keeping their employment, which negatively impacted the data quality in several scenarios.

These recommendations are founded on the understanding that monitoring is such a core component of public health practise that it cannot be advanced in response to crises or citizen outcries. These recommendations are a call to action, but they do not mandate rash behaviour. Instead, the framework for social well-being is provided by public health monitoring that is carried out in a way that anticipates ethical difficulties and proactively strives to decrease needless risks. The main ethical issues that come up during data collecting, when the data are actually kept, processed, and shared, and during data dissemination are only briefly addressed in the little academic literature on the practise of public health surveillance. However, guidelines that go beyond existing disease-specific, national recommendations cannot be replaced by scholarly research.

International and national organisations have suggested ethical principles, guidelines, and legislation to control research involving human subjects in the decades after the Second World War. In response to the severe harm done to those who were forced into clinical research, new codes of ethics consistently prioritised individual autonomy and emphasised the value of informed consent, while also acknowledging that it would be difficult to balance the protection of human research subjects against the social benefit of the research in complex situations. The practise of clinical ethics gave autonomy a special position, reflecting a fundamental shift in one's moral outlook.

In its "International guidelines for ethical review of epidemiological studies" published in 1991, CIOMS noted that previous advice focusing on "patients and individual subjects" was insufficient for studies involving "groups" of individuals. After much debate, a consensus was reached: CIOMS emphasised the significance of the research ethical principles first outlined in the Nuremberg Code, but acknowledged that their implementation in the context of epidemiology would need flexibility. When the danger presented by epidemiological research was "no more than minimal" and getting agreement would make the study "impracticable," a practise evolved where research ethics boards might waive the need for informed consent.

Public health monitoring is not just another kind of study, even if it may use some of the same methodological tools as epidemiological research. A neighbourhood is being watched, which is of worry. The fact that monitoring is a duty of public health was acknowledged by CIOMS in 1991, who said that surveillance in emergency epidemic conditions plainly necessitates exemption from ethical assessment and supervision. Surveillance could not "wait for the formal approval of an ethical review committee" in emergency scenarios. However, only a tiny portion of monitoring actions were related to emergencies [7], [8].

CIOMS guidelines didn't clearly promote ongoing, case-based public health monitoring until their 2009 edition. "Several considerations support the common practise of requiring that all practitioners submit relevant data [to public health surveillance registries]: the scientific need to include all cases in order to avoid undetectable selection bias and the general ethical principle that burdens and benefits should be distributed across the population," the revision read. This viewpoint was similar to that of the UK's Nuffield Council on Bioethics. When people were given the option to opt out of reporting, the Council issued a warning, stating, "We are aware of several examples [in which] consent requirements have or could have had serious negative consequences." Despite this broad support for obligatory nominative case reporting without agreement, the Council emphasised the need of making moral decisions about the appropriate scope of monitoring.

The difficult issue of how to separate surveillance from research involving human beings was not solved by CIOMS or the Nuffield Council, nor were any further ethical standards for public health monitoring provided by either organisation. Are there distinctions between public health research and surveillance that are ethically significant? Do they need distinct general rules and supervision procedures? Does public health monitoring really need any type of explicit rules or ongoing supervision? It has been difficult to draw the boundary between research and surveillance, or between research and other important types of social inquiry like quality improvement, implementation research, oral history, or even journalism. Definitional solutions, however, have not worked well. Accordingly, a top organisation of surveillance specialists stressed the necessity "to move past the formal demarcation between research and practise". These guidelines aim to achieve this without introducing any new definitions, but rather by emphasising the importance of public health surveillance to population well-being as well as the need for appropriate ethical guidance and review, i.e., for an accountability paradigm that responds to public health demands and differs from the systems that have governed research for fifty years.

Over the last twenty years, the field of public health ethics has grown quickly. Its main objective has been to explore and write on the ethical problems that come up while trying to improve population health. As a consequence, ideas like the common good, equality, solidarity, reciprocity, and population well-being have come into prominence. However, these more "social" or "public" values are reflected in related yet not entirely overlapping concepts that capture the significance of community and the obligation to act. This is not to say that more individual values such as autonomy, privacy, and individual rights and liberties are not also significant ethical considerations. Some professionals in the field speak about solidarity, based on the communitarian heritage in public health; others talk of the reciprocal duties. The notion of "steward-ship" was developed by the Nuffield Council on Bioethics to describe the obligations that governments have to protect the public's health.

The WHO Guidelines Development Group concluded that the following ethical considerations are particularly crucial for public health monitoring after a thorough examination, reflection, and deliberation. They serve as the principles' supporting structure. Societal good Many people agree that surveillance is a public good, and some of the benefits it provides are inherently shared and so cannot be broken down into individual private benefits. Fundamentally, surveillance is justified as a need for the common good. The benefits of monitoring that are shared by individuals and communities are at danger without proper public health supervision. The phrases "public good," "public goods," and "the common good" are defined and distinguished in a vast literature on economics and moral philosophy. After careful consideration, the committee decided to use the phrase "the common good" to refer to public benefits that are more generally understood than only in the economic sense.

The concept of equity lies at the heart of public health ethics. It is commonly known that social disparity has a negative impact on one's health. Not all inequality is ethically significant or within human control. Inequity is a term used to describe morally problematic disparity. A just or fair society will make an effort to provide circumstances that are equal for everyone to flourish, with health as a key element. As a result of the unjust allocation of risks, equity often necessitates that the most vulnerable individuals receive what may seem to be excessive resources in order to balance the scales. By identifying the specific issues facing marginalised groups, including global communities, providing the data for targeted health campaigns, and pinpointing the causes of unjust health disparities, public health monitoring helps advance the cause of fairness.

The rights, liberties, and other interests of individuals as well as the general well-being of the population are both addressed by public health ethics. Individuals should be engaged in choices that impact them whenever it is practicable. Individuals should have the freedom to make decisions in certain situations, but in others, when population-level interventions may be essential, people may be consulted and participated in the decision-making process. The State must safeguard them and advance their long-term health interests since many people are unable to make their own decisions. It is debatable if doing public health monitoring constitutes a respect for people speech in and of itself. Further steps include making sure that information on people and groups is protected and that risks of damage are as low as feasible. Finally, by enabling protection or improvement, monitoring fosters respect for people even more.

Although it is a political goal rather than an ethical precept, effective governance is nonetheless susceptible to a variety of ethical problems. Governance systems must be responsible and available for public review in order to guarantee that the ethical issues raised by public health activity are dealt with methodically and equitably. The best available evidence must be used to protect the common good, but judgements will still need to be taken in the face of ambiguity. Public policy frameworks that support respect for people, equality, and the common good may be justified via accountability, openness, and community involvement. To be transparent, policies and surveillance methods must be properly disclosed, and any choices affecting impacted people or groups must be made known to them. Transparency also necessitates the disclosure of surveillance data to the general public. Communities cannot be empowered to demand government action or to defend themselves in the lack of alternatives without such information [9], [10].

These are the ethical considerations that people engaged in the formulation of these guidelines felt were most important when making judgements in the specific context of public health surveillance, albeit they are not the only ones that apply to the nature of monitoring programmes and practise. Public health ethics has not reached the point where it can agree on how to phrase questions, but the worldwide debate on research ethics has during the previous several decades. Thus, there are still disparities in wording and emphasis even in publications that are clearly based in public health ethics. One of three recent WHO-sponsored projects to provide moral guidelines for disease management is this document. The "Ethics guidance for the implementation of the End TB Strategy" addresses the most pressing issues in order to reduce the number of tuberculosis deaths by 95% by 2030 and the number of new cases by 90% between 2015 and 2035, building on the original "Guidance on ethics of tuberculosis prevention, care, and control" in 2010. In response to the Ebola virus outbreak in West Africa in 2014–2015, the "Guidance for managing ethical issues in infectious disease outbreaks" published in 2016 emphasised the significance of providing ethics guidance that goes beyond "a specific pathogen in isolation" to "cross-cutting ethical issues that apply to infectious disease outbreaks generally."

There is undoubtedly significant consistency among the three programmes. For instance, all place a strong emphasis on equality, justice, and the common good. Everyone emphasises the need of treating others with respect. All three of them are either overtly or implicitly informed by accountability and the significance of good governance. Additionally, they vary in pertinent ways that correspond to the themes of each. For instance, the TB recommendations emphasise the harm principle in order to address the issue of drug-resistant illness. The rules on infectious disease outbreaks have a larger focus on human rights since they were framed by concern for populations who were very vulnerable and the manner in which outbreaks may turn into crises, which are then exacerbated by mistrust and fear. They also place a strong emphasis on usefulness, proportionality, and efficacy given the need of making judgements in the face of ambiguity.

This committee believes that the ethical reasons mentioned above, as well as those reiterated and expanded upon in the recommendations that follow, are essential to establishing the need of monitoring as a fundamental activity outside of epidemic or infectious disease circumstances. They must be used in circumstances that could differ in essential ways. The rules acknowledge that sometimes it is unavoidable to trade off values. Local customs and priorities in various nations might sometimes provide a distinct balance between conflicting values and objectives. However, it is crucial to emphasise that not all trade-offs are ethically acceptable. Gross unfairness or human rights breaches may be present at the local, national, or regional levels. In these situations, public health monitoring may be utilised to subvert equality, justice, and respect for humans rather than promoting the general welfare. For instance, HIV monitoring may be used to oppress people in nations where sex work is illegal.

The regular discharge of employees with silicosis, black lung, or asbestosis due to an occupational illness surveillance system would also be inappropriate. It is important to be cautious when using "trade-offs" as an excuse for further tyranny in such situations. Both protection and intrusion come from the State. Without State-sponsored monitoring, some disease loads and health oppressions just cannot be made public. Surveillance, on the one hand, makes it feasible for public health initiatives to address inequities. On the other side, monitoring may be used to put further restrictions on those who are already struggling. Attending to the ethical factors outlined above is the only way to ensure that surveillance will not amount to either a privilege or a punishment: both costs and benefits should be carefully considered before being properly distributed in a transparent manner where States are held responsible.

Research ethics committees have been created in practically every nation as a result of the emergence of ethical principles for the conduct of research during the last several decades. However, since surveillance does not come under the research umbrella, there is currently no organised mechanism for ongoing ethical monitoring or examination of the difficulties raised by surveillance operations. The foundation for the following recommendations is that it is vital to examine public health monitoring from an ethical perspective. The recommendations are, by necessity, not prescriptive; instead, they aim to draw attention to trade-offs that must be carefully and often considered. They don't provide specific guidelines, benchmarks, surveillance metrics, or control systems that would, at first glance, seem to simplify decision-making. Decision-makers cannot use terms like "legitimate public health purpose," "disproportionate burden," "community engagement," and "good governance" as general yardsticks. Instead, the difficult political and ethical decisions that must be taken rely on consensus on definitions for usage in various situations. Determining what concepts mean in particular local and national contexts is a first step in ethical participation.

The wide obligation to conduct surveillance and submit it to ethical examination, the duty to guarantee adequate protection and rights, and the factors to be taken into account when deciding how to share and disseminate surveillance data are covered by the recommendations that follow. These recommendations serve as a starting point for the in-depth conversations that public health monitoring necessitates. The ethics of surveillance will need to be reviewed and revised over time in the light of experience, much like other international principles on research ethics.

CONCLUSION

The idea of surveillance in the context of public health is complex and differs among nations, organisations, and scholarly viewpoints. While definitions may vary, the fundamental goal of surveillance to collect information to support public health action, including advocacy, intervention, resource allocation, and priority-setting remains the same. Effective public health practices are built on surveillance, which makes it possible to spot health trends, odd occurrences, and prevent and cure illness. Surveillance systems are primarily overseen by national public health agencies, with help and advice often coming from international organizations. In order to prevent, control, and react to threats to global health, governments need to retain vital public health monitoring capacities. This is where the International Health Regulations (IHR) come into play. Public health monitoring must always take ethical issues into account, with the common good, equality, respect for persons, and good governance serving as guiding ideals. It may be difficult to strike a balance between the requirements of the public health and individual rights, but it is necessary to make sure that monitoring helps everyone and doesn't violate private rights or serve as a vehicle for discrimination or oppression.

REFERENCES:

[1] J. Amoroso, “Consenting recently bereaved adults for post mortem research: An evaluation of ethical considerations,” *J. Forensic Radiol. Imaging*, 2016.

[2] R. H. Bennett *et al.*, “Ethical considerations for field research on fishes,” *Koedoe*, 2016.

[3] K. C. Byars and S. L. Simon, “Behavioral treatment of pediatric sleep disturbance: Ethical considerations for pediatric psychology practice,” *Clin. Pract. Pediatr. Psychol.*, 2016.

[4] K. Krishan, T. Kanchan, and B. Singh, “Human Genome Editing and Ethical Considerations,” *Science and Engineering Ethics*. 2016.

[5] C. Franck, K. B. Filion, J. Kimmelman, R. Grad, and M. J. Eisenberg, “Ethical considerations of e-cigarette use for tobacco harm reduction,” *Respiratory Research*. 2016.

[6] P. Chetty, “Importance of ethical considerations in a research,” *Project Guru*. 2016.

[7] W. N. Sivak *et al.*, “Ethical Considerations of Whole-Eye Transplantation,” *The Journal of clinical ethics*. 2016.

[8] S. Fogleman, C. Santana, C. Bishop, A. Miller, and D. G. Capco, “CRISPR/CAS9 and mitochondrial gene replacement therapy: Promising techniques and ethical considerations,” *American Journal of Stem Cells*. 2016.

[9] H. B. Baker, J. P. McQuilling, and N. M. P. King, “Ethical considerations in tissue engineering research: Case studies in translation,” *Methods*. 2016.

[10] J. Chung, G. Demiris, and H. J. Thompson, “Ethical Considerations Regarding the Use of Smart Home Technologies for Older Adults: An Integrative Review,” *Annual review of nursing research*. 2016.

CHAPTER 4

ETHICAL FOUNDATIONS AND FRAMEWORKS FOR PUBLIC HEALTH SURVEILLANCE SYSTEMS

Yogesh Chandra Gupta, Assistant Professor
College of Law, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India
Email Id- cognitor.yogesh@gmail.com

ABSTRACT:

Protecting the health of populations requires effective public health monitoring. The ethical implications of public health monitoring are examined in this study, with a focus on member states' obligations to safeguard not just the health of their own residents but also that of those crossing their borders illegally and as refugees. The maintenance of population health is the fundamental principle of public health monitoring, mandating the construction of surveillance systems with clear objectives, data gathering methods, and dissemination strategies. While passive surveillance techniques, like tracking influenza outbreaks based on incidence rates, are often adequate, stronger, community-based surveillance systems provide a more precise picture of epidemics. To collect correct data, active monitoring, including data verification via medical records, may be required, particularly in the case of chronic conditions like cancer. To guarantee that surveillance operations uphold moral standards, particularly when using or collecting sensitive data, ethical supervision is crucial. The Public Health Ethics Unit of the Centres for Disease Control and Prevention, the WHO's Advisory Service for Public Health Ethics, and other international organisations and committees offer direction and support for ethical considerations in surveillance. For ethical monitoring, it is essential that the data be accurate, full, and current. Governments must maintain the confidentiality and accuracy of data while incorporating the public in the decision-making process. The common good should be given top priority in the resource allocation for monitoring, fostering confidence between the public and governments. In order to lessen health inequities and improve global health, the international community has a moral duty to support countries that lack the resources for efficient monitoring systems. However, any assistance should take into account local aspirations for monitoring rather than impose foreign agendas.

KEYWORDS:

Ethical, Government, Public Health, Surveillance, WHO.

INTRODUCTION

Based on pertinent public health goals, surveillance systems should have a defined goal and a strategy for data collection, analysis, usage, and dissemination. In addition to protecting the health of their own citizens, member states have an ethical obligation to protect the health of everyone who enters their borders, including refugees, undocumented workers, and people who are in transit, and to address the inequalities that characterise the distribution of morbidity and mortality. The cornerstone of an affirmative obligation to carry out public health monitoring is the responsibility to preserve population health. Subnational governmental entities may be given the authority to carry out such duty.

Population health cannot be preserved and inequities cannot be appropriately addressed without public health surveillance systems. Trust is eroded when urgent public health issues are not addressed. The inability of nations and the international community to conduct effective public health surveillance, therefore, is a major moral problem from the perspective of the common good. Due to the significance of population health, States are required to create systems that collect information essential for identifying infectious diseases, epidemic threats, and the cost of injuries and chronic diseases that necessitate monitoring or research in the workplace and the environment. The ways in which patterns of sickness and death reflect and contribute to societal injustice may be uncovered through a dedication to fairness and justice. Since some nations lack the resources to implement such comprehensive systems, the international community, as outlined in Guideline 6, has a duty to provide assistance.

Monitoring seasonal influenza outbreaks based on incidence and prevalence rates that do not involve names or case veri- fication with pricey laboratory testing for all individuals with influenza-like symptoms are examples of passive techniques of surveillance that are often sufficient. However, rigorous community-based monitoring offers a more accurate picture of epidemics, even in the case of influenza. The State may need to set up active surveillance systems, taking proactive measures to gather data, for example, by looking through healthcare records to verify accurate reporting and validate an influenza diagnosis. Some nations' cancer regulations have such active monitoring. In order to implement surveillance systems, laws and regulations are often passed that require labs, physicians, and other healthcare professionals to disclose information to public health registries. It is sometimes required to manage the reporting of personally identifiable data, including names and other sociodemographic variables, to maintain efficient monitoring of disease priority. When names are necessary to enable the gathering of correct data, which is unrelated to the requirement to focus therapies, such an infringement on clinical confidentiality is justified. However, reliable information and focused interventions both depend on the moral duty to uphold the common good and avoid damage to others, or, as in the case of cancer registries, to deliver the greatest resources to populations in accordance with the burden of illness [1], [2].

Investment of societal resources is needed for public health monitoring efforts to conserve, protect, and promote health. Prioritisation is necessary for allocating societal resources for public health surveillance in all nations, but particularly in low-resource contexts. Once surveillance data are accessible, it is the moral responsibility of Member States to actively utilise the data to advance improved health outcomes. Even when financial constraints prevent nations from acting immediately on the basis of public health surveillance findings, the data nevertheless provide the evidence-based framework for advocacy aimed at both the national and global populations, possibly empowering the most vulnerable. The pursuit of equality creates a justification for surveillance, and the international community should provide the assistance required to go from gathering and assessing data to taking appropriate action. In the home's dining room, a nurse is checking two small children as their mother stands to the left and a huge stove is positioned close to a fireplace.

Countries must create suitable, efficient procedures to guarantee moral supervision. Inherent hazards and benefits to the operation of the public health system are associated with public health monitoring. Countries should have a suitable, efficient system in place for guaranteeing respect to moral principles in both emergency and non-emergency circumstances. Making choices regarding altering an existing surveillance system might provide difficult ethical dilemmas. The following examples of changes that might necessitate ethical review: gathering data elements that reveal stigmatised behaviour; adding new components to data collection, such as CD4 count measurements as part of routine HIV/AIDS surveillance; adopting new applications for existing surveillance data, such as case management or contact tracing; or using public health surveillance data for commercial or security purposes. Review committees keep an eye on compliance with ethical guidelines when it comes to research. Such an unbiased, impartial supervision mechanism enables detailed examination and can guarantee that the necessary safeguards are in place. These recommendations do not include any methods that are similar to those that have developed in the field of research ethics. However, there is now no regular control of public health surveillance. It is the responsibility of nations to choose the procedures that will be most effective in recognising and resolving any ethical problems that may emerge during public health monitoring.

Such ethical oversight systems should efficiently assess the risks and benefits of surveillance, provide recommendations for enhancing the benefits and reducing the risks, and guarantee that the common good, equality, and respect for individuals are properly weighed. Continuous oversight is necessary, and any significant modifications to the surveillance system should be assessed using a "ethical lens". Public health professionals may be trained to facilitate and improve ethical monitoring of surveillance. Such training may emphasise how crucial it is to openly and early integrate ethical consideration into the design and implementation of a surveillance system.

Although the formation of an independent, objective ethical supervision system is necessary, the social, political, legal, and cultural framework in which surveillance is conducted will determine how it is actually carried out. While surveillance often requires ongoing monitoring as opposed to a periodic evaluation, research typically involves discrete initiatives with time-limited boundaries. A transparent, accountable process should be used to choose the best tool for ethical examination.

"A framework for the conduct of public health initiatives" was released by Public Health Ontario in 2012. All evidence-generating efforts are subject to ethical assessment using an integrated approach that is commensurate to the amount of risk. Its Ethics Review Board is essential to ensuring that Public Health Ontario's research and other initiatives are carried out in accordance with the Federal "Tri-council policy statement on ethical conduct for research involving humans and other relevant regulations, policies and guidelines" (second edition). Projects that include human participants, their data, or their biological materials for study, assessment, surveillance, or quality improvement are addressed by the Ethics Review Board. Members of the Board are chosen from Public Health Ontario, public health units, and academic institutions in Ontario in accordance with the Federal policy statement's requirements for expert representation and composition. They are knowledgeable in a variety of fields related to public health as well as methodology, law, and ethics. Members also come from the local community [3], [4].

Public Health Ethics Unit of the Centres for Disease Control and Prevention. The Public Health Ethics Unit, which works with the Public Health Ethics Committee, was formed by the Centres for Disease Control and Prevention under the office of the Associate Director for Science. Its objectives are to "integrate the tools of ethical analysis into day-to-day operations" and it offers assistance to the whole institution. It offers instruction, promotes and maintains a culture of ethical analysis, and offers direction and assistance during ethics consultations.

DISCUSSION

Committee for clinical governance of the National Health Service. In the United Kingdom, the National Health Service makes a distinction between research and non-research activities. The clinical governance office of their local National Health Service organisation is instructed to provide guidance to anyone participating in audits, programme evaluations, or public health monitoring.

Advisory Service for Public Health Ethics, WHO

A new approach was developed in 2015 by the WHO's Global Health Ethics Unit to assist colleagues in the public health field in addressing ethical challenges. The Public Health Ethics Consultation Service's duty goes beyond monitoring, much as those of the Ethics Review Board of Public Health Ontario and the Public Health Unit of the Centres for Disease Control and Prevention. This service is not necessary to assess programmes or initiatives: To maximise flexibility and make sure that ethical consultation is not seen as a bureaucratic burden, WHO staff members seek counsel when required. It offers informal, non-binding guidance. The group is made up of WHO employees who attend regular public health ethics training sessions and consult with the world's network of WHO Collaborating Centres for Bioethics for guidance.

Only genuine public health goals should be the justification for collecting surveillance data. Governments and other parties involved in public health surveillance should only gather data that is necessary for legitimate public health objectives, such as preserving, promoting, or enhancing public well-being, lowering morbidity and mortality, facilitating greater access to the healthcare system and services, and reducing health disparities and, consequently, inequities. All subsequent discussions of public health monitoring in these recommendations are predicated on the idea that they are carried out only for legal public health objectives. In the majority of cases, the literature on good governance defines legitimate actions as those that are socially, ethically, or publically justifiable in the pursuit of a common good. Any gathering of personally identifiable data outside of these parameters would be unethically problematic. Not only is a valid public health purpose necessary for data collection, but it also applies to any subsequent uses of data that have already been collected. If the use of clinically gathered data for valid public health monitoring objectives complies with the standards outlined in this document's recommendations 1, 3, and 7, it is acceptable. Such repurposing necessitates sufficient data security and confidentiality protection. In order to reach their public health objectives, nations must make sure that the data they gather are of a high enough standard, including being accurate, timely, and genuine.

Regarding completeness, uniqueness, timeliness, validity, correctness, and consistency for the purpose and the resources available to fulfil that goal, data should fulfil the most stringent but acceptable requirements. This criterion includes external quality verification of laboratory data where applicable. Data quality is a need for their ethical usage. However, whether data are to be utilised to act at the level of the person or the population will influence how adequate they are. Their efficacy will also depend on whether a problem is chronic or acute, infectious, noncommunicable, or environmental. The priority, the context, and the sort of surveillance will all affect how technically sound data quality assurance is. While some nations and institutions expressly emphasise the correctness or dependability of data, others place a higher importance on the quick acquisition of pertinent data than perfect accuracy. Countries are required to provide an adequate number of skilled personnel in order to produce, assess, and disseminate excellent surveillance data. Not only may the quality of survey data be increased by formal technical examination, but also through routine audit and benchmarking against international and national criteria. Governments have a responsibility to inform persons who participate in surveillance about its objectives, the potential hazards involved, how to reduce those risks, and any applicable legal and ethical requirements. Individual healthcare professionals, governing bodies, and governmental organisations, in turn, have a professional obligation to support and contribute to the upkeep of the integrity of surveillance operations and to the acquisition of data of the highest calibre [5], [6].

Contrary to popular belief, extensively deployed performance-based payment schemes may really guarantee data quality. The integrity of surveillance may be compromised by placing too much focus on fulfilling goals that are connected to financing. For instance, nations can be required to provide data in order to acquire funding, and workers would be forced to decide between delivering the data funders want or the accurate data and risk losing their jobs. Realistic target-setting at the international and national levels as well as more widespread international support for monitoring are potential responses to the financial crunch that results in suspect data.

Governmental priorities should be defined in a transparent manner to guide planning for public health monitoring. Investment in public health monitoring necessitates the use of funds that may be used for prevention or clinical treatment. Priorities must also be established within the resources available for public health monitoring. Given competing goods, issues of efficiency and equality must unavoidably be raised when allocating limited resources. Such decisions must be made with transparency, fairness, and the ability to be revised since there is no one criterion that can be used to guide them. Governments are responsible for determining priorities. Because it promotes trust and establishes the right circumstances for citizens to achieve the common good both individually and collectively, transparency is crucial. The following information must be disclosed: the objectives and duration of any public health surveillance activity; the justification for the activity in relation to explicit health or health care system goals; the intended benefits and potential burdens to citizens and other actors of public health surveillance; the scope and methods to be used in data collection; the intended uses of data and by whom; the mechanism by wh Data from surveillance should be made public to the degree that it fosters public trust, advances and protects public health on a national and international level, and does not unreasonably hurt any identifiable group or worsen inequality.

The ability to voice concerns and priorities about surveillance should be available to the public. Communities may, for instance, voice worry about a possible cluster of malignancies or birth abnormalities, which calls for the development of monitoring systems in addition to specialised epidemiological research. Experts and individuals with access to health officials and policy-makers shouldn't determine all the priorities, since this would ignore communities who have less opportunities to express their concerns. Exercise to control a pandemic was carried out by the Ministry of Indonesia with assistance from WHO Indonesia.

The international community has a responsibility to assist nations that lack the resources necessary to conduct surveillance. Due to severe budget limitations, some nations may not be able to create and sustain public health monitoring of sufficient quality, even for high-priority goals that may significantly decrease health inequities and enhance population health. The ethical underpinnings for claims of international assistance are provided by equity. The international community, including NGOs, significant foundations, and nations with a leadership position in the world, has an ethical obligation to collaborate with these nations to promote public health monitoring and subsequent actions. Reducing health disparities across nations and enhancing global health are the goals of this demand of global justice.

One of the main justifications for the responsibilities under the IHR, for instance, was to prevent and restrict the worldwide spread of illness. Given that epidemics and risk factors have no regard for national boundaries, the global community is likewise interested in establishing effective surveillance systems, even in nations without the resources to create and maintain them. The efficient management of environmental risks and NCDs also need international cooperation for monitoring. Technical best practises should be periodically updated by agencies with significant surveillance capabilities. The global society need to contribute to making sure that both technical and moral education is broadly accessible.

However, as seen by the widespread support for research ethics training, surveillance may call for assistance not just for technical competence but also for systematic, formal ethical review and improvement. In order to fulfil their moral and legal obligations, international organisations must also assist and promote countries' use of good governance. International support should be conditioned on governments making amends for any abuses of basic rights or wrongdoings when it comes to public health monitoring of persons or populations.

A duty to support does not give the international community permission to disregard the priorities of nations that need assistance or resources. International humanitarian organisations are very concerned that high-income nations' security concerns are too often the driving force behind monitoring, leaving it unclear as to who the main beneficiaries of surveillance are. The international community has a duty to accommodate local surveillance ambitions when such objectives surpass or even conflict with the priorities established by foreign funders when decisions have been taken in a participative, trans-parent way. For instance, hunger may be a higher priority for monitoring in a nation with limited resources than an epidemic of an infectious illness, according to foreign donors. The global health governance may need to be changed in order to foster genuine partnerships, with "universal health values" taking precedence above securitization, politics, and commerce.

Too often, local data are gathered and then analysed at the state or national level with little to no input. Officials from the country and the international community should support the local level's examination and utilisation of surveillance data. Utilising and enhancing local analysis may increase accountability and the potential to improve population health. When a local analysis is not feasible, the results of any national or central analyses should be communicated to the local level.

Planning, executing, and utilising data from surveillance should take into consideration the values and concerns of communities. As a sign of respect for people, officials, organisations, and agencies in charge of surveillance should make an effort to inform the public in advance about the purposes, procedures, and possible effects of monitoring operations. When this is not possible or is not done, those in charge of surveillance must remember that their work is being done without taking the community's concerns into consideration; as a result, they automatically become stewards of both the common good and the interests of the community. When a surveillance action disproportionately affects a certain demographic, engagement is especially crucial. Engaging with communities and enabling them to actively engage, especially those who have traditionally been marginalised, is crucial. Because some public health surveillance activities involve multiple actors and call for coordination at the local, national, and international levels, active community inclusion and participation may be helpful in establishing or maintaining trust across levels and carrying out activities more successfully.

Because a community's conspicuous characteristics go beyond its physical location, it is sometimes difficult to define it. Important defining elements may include a shared identity, customs, and ideals. A community's health status may also be used to define it [7], [8]. Another point of contention is whether interaction is appropriate. Some proponents include community involvement in the planning, carrying out, observing, and assessing of surveillance. It is necessary to include the community in the distribution of findings, especially if they have the potential to stigmatise or discriminate. Others may be more adaptable when it comes to their engagement commitment. Legitimate authorities must, at the very least, conduct public health surveillance in a transparent way in line with the principles of good governance in order to take into account community values and concerns. Meetings with local leaders, focus groups, and other venues that provide residents a chance to voice their views and concerns are all examples of active community participation. Before conducting surveillance, those in charge should assess, minimize, and communicate any risks for harm. Continuous harm monitoring is necessary, and when any is found, the necessary steps should be made to lessen it. Member States and those in charge of conducting surveillance should be aware of the potential that damage might be done to both persons and communities even when public health monitoring is clearly justified to advance the common good. Despite this, monitoring should still be carried out. Instead, individuals conducting surveillance have a duty to anticipate possible damage, to keep an eye out for it both during and after the monitoring, and to put procedures in place to lessen it. Mitigation is impossible without ongoing observation. This is crucial because injury to people or communities, including a loss of property value or tourist dollars, is immoral and because it may also erode public confidence in the project and in public health in general.

Some nations have offered compensation for any damage that may unavoidably result from spying. Chinese Taipei provided the equivalent of US$ 147 to those who were placed in quarantine during the SARS outbreak. Other options include basic welfare benefits or sick pay for those who are unable to work due to surveillance. However, the potential of compensation shouldn't be a deterrent to monitoring. The many sorts of injury include economic, legal, psychological, social, and bodily harm. All should be taken into account while discussing surveillance. For instance, monitoring may identify a migrant or a member of another marginalised group as having a greater risk of contracting an infectious illness; this might result in stigmatisation of the group. Relevant information must be handled with extreme caution since reputations may be damaged swiftly, perhaps causing harm that has not yet been adequately recorded. A fair allocation of the costs and benefits of various monitoring programmes or systems should be determined by weighing and balancing various moral ideals and ethical standards against one another in a transparent manner.

Additional measures should be taken to safeguard the people or communities at risk where surveillance involves a known potential for damage, notwithstanding all attempts to reduce that risk. Rarely, the potential for significant damage may be so large that it would be difficult to ethically defend surveillance. However, in the majority of situations, mitigation measures can guarantee that damage risks are properly addressed. Once a risk of harm or prospective damage has been identified, steps must be done to lower it, or a strategy must be established for mitigating, eliminating, or making up for any harm [7], [9]. The benefits of monitoring should be proportionate to the potential for damage since not every harm can be prevented. The method that health authorities communicate information or take action with the media and the general public should be one of the protective measures. Sensationalised depictions of statistical truths, for instance, might harm a person's image and prolong the time it takes for them to recover economically, as in the case of nations or communities blamed for an infectious epidemic. To lessen any unfavourable effects on a community and to preserve confidence, procedures and measures should be put in place to mitigate some of the damaging financial and other effects of monitoring. Additionally, given their goal of preventing harm, politically neutral international humanitarian organisations should not face obstacles in places like civil conflict zones, where such recognition of "opposition parties as operational partners" is restricted by international organisations.

Notably, those who work in public health sometimes need to be protected. They must be able to report without worrying about being punished since they are advocates of the general good. Officials in charge of surveillance have a duty to speak out, thus they need to be protected. The IHR, which safeguards the confidentiality of anyone who report a verifiable epidemic or a public health incident outside of official channels, is founded on this principle.

CONCLUSION

In conclusion, the development and maintenance of public health monitoring systems bear major ethical obligations in addition to being crucial for safeguarding and advancing the health of communities. To make sure that these institutions promote the general welfare, preserve fairness and justice, and protect individual rights, they should be governed by defined objectives, tactics, and principles. Fundamental ethical requirements that surveillance systems must meet include maintaining population health, identifying health inequities, and protecting vulnerable groups. In accordance with the ideals of global justice and equality, the international community has a moral obligation to support creating and sustaining effective surveillance in countries with limited resources. Public health monitoring should prioritize the common good and the wellbeing of all people and communities and operate with the highest openness, impartiality, and accountability. It is crucial that we sustain these moral standards going ahead in order to create and maintain monitoring systems that successfully safeguard and advance the health of people all around the globe.

REFERENCES:

[1] M. Wagner, H. Khoury, J. Willet, D. Rindress, and M. Goetghebeur, “Can the EVIDEM Framework Tackle Issues Raised by Evaluating Treatments for Rare Diseases: Analysis of Issues and Policies, and Context-Specific Adaptation,” *Pharmacoeconomics*, 2016.

[2] O. T. Oladinrin and C. M. F. Ho, “Enabling Ethical Code Embeddedness in Construction Organizations: A Review of Process Assessment Approach,” *Science and Engineering Ethics*. 2016.

[3] D. Sing, “A Review of Perspectives on Frameworks for Ethical Theories in Public Service Life,” *Africa’s Public Serv. Deliv. Perform. Rev.*, 2016.

[4] C. M. Jungers and J. Gregoire, “Authenticity in Ethical Decision Making: Reflections for Professional Counselors,” *J. Humanist. Couns.*, 2016.

[5] O. Varley-Winter and H. Shah, “The opportunities and ethics of big data: Practical priorities for a national council of data ethics,” *Philosophical Transactions of the Royal Society A: Mathematical, Physical and Engineering Sciences*. 2016.

[6] M. D. Dean, D. M. Payne, and B. J. L. Landry, “Data mining: an ethical baseline for online privacy policies,” *J. Enterp. Inf. Manag.*, 2016.

[7] D. Abel, J. MacGlashan, and M. L. Littman, “Reinforcement learning as a framework for ethical decision making,” in *AAAI Workshop - Technical Report*, 2016.

[8] A. J. Onwuegbuzie and R. Frels, “Seven Steps to a Comprehensive Literature Review,” *J. Educ. Soc. Stud.*, 2016.

[9] D. Windsor, “Economic Rationality and a Moral Science of Business Ethics,” *Philos. Manag.*, 2016.

CHAPTER 5

PROTECTING VULNERABLE POPULATIONS AND PROTECTING DATA IN PUBLIC HEALTH SURVEILLANCE

Pradip Kumar Kashyap, Assistant Professor
College of Law, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India
Email Id- pradiprgnul@gmail.com

ABSTRACT:

A vital strategy for reducing unneeded costs on vulnerable groups and resolving health inequities is public health monitoring. In order to protect the rights and wellbeing of people and communities, this essay examines the ethical issues surrounding public health monitoring. The notion of vulnerability, the significance of include vulnerable people in monitoring, and possible hazards, including stigma and discrimination connected with surveillance, are all covered in this essay. It draws attention to the difference between security and privacy and emphasises how crucial it is to safeguard personally identifiable information while maintaining data accessible for justifiable public health objectives. The use of names and other distinctive identifiers in surveillance is discussed, as well as the continuing discussion of their use and its moral ramifications. The need of striking a balance between the requirement for identifying information and privacy concerns is emphasised in the article. The possible use of geolocation data as an indirect identifier is examined, and the requirement for secrecy in its gathering and dissemination is emphasised. The study also notes that the needs for data gathering and exchange may vary across various geographic areas and countries. Addressed are informed consent, reciprocity, and community support for surveillance, with a focus on people's moral duties to assist public health initiatives. The difficulty of acquiring informed permission from sizable populations and the need for voluntary involvement are discussed in the study. The paper discusses the significance of effective communication that strikes a balance between warning people about risks without inspiring fear and disseminating surveillance results to pertinent target groups, which is seen as a moral imperative. It also looks at circumstances in which withholding data might be appropriate in order to avoid damage.

KEYWORDS:

Ethical, Public Health, Privacy, Security, Surveillance.

INTRODUCTION

To prevent the imposition of needless extra responsibilities, surveillance of persons or groups that are especially vulnerable to sickness, damage, or injustice is crucial and requires thorough analysis. People or organisations who are more vulnerable than they should often experience health issues. In order to empower these people, responsible authorities should take extra care to involve them in monitoring. In the literature, there is disagreement on the precise definition of circumstances of vulnerability. Diffuse vulnerability may afflict big populations with little economic development, little access to medical care, poor educational opportunities, occupational dangers, or other social disadvantages. The creation of health programmes and services to address their health issues and the underlying determinants of health, such as clean water, food security, or gender equality, may benefit from the information provided by public health monitoring and health information systems. Surveillance should concentrate on the unique issues of these disadvantaged populations in order to promote equality. People who are more vulnerable to sickness, injury, or injustice are also more likely to experience additional costs like stigma and prejudice as a result of surveillance operations or findings. For instance, groups of refugees and illegal migrants may be mistakenly blamed for illness outbreaks while having a higher disease burden. Similar to this, employees with occupational diseases like silicosis who lack access to proper legal representation may have their employment terminated instead of obtaining treatment or compensation. To reduce the potential of damage, sensitive populations should be identified wherever possible before monitoring operations start. Monitoring for damage to persons who are particularly vulnerable should be ongoing in surveillance programmes. When damage does occur, a mitigation plan has to be implemented. In Belém do Pará, Brazil, a brothel bed was used for the oral HIV test [1], [2].

Governments and anyone with access to surveillance data must make sure that personally identifiable information is properly protected. In order to respect people and protect their privacy and other interests, responsible data collecting and sharing practises should guarantee the security of the data they gather. To avoid unauthorised disclosure, records must be secured with the utmost care. Security is distinct from privacy and confidentiality, despite the fact that it is a necessary element of both. In this sense, "security" refers to operational and technical measures that defend against unauthorised access to or disclosure of personal data. It is not always possible to maintain information security since electronic databases may be breached.

Whether the data are gathered and maintained in paper or electronic format, governments and other parties with access to surveillance data must implement the necessary technical and organisational safeguards to prevent accidental or unauthorised access, destruction, loss, use, or disclosure. Every year, data security procedures should be taught to all employees who have access to public health surveillance data, and they should be made aware of their ethical duty to safeguard both the public and the data. With consideration for the cost and the state of the art, the degree of security must be appropriate to the threats and the kind of data that has to be secured. Particularly sensitive information should be subject to specific and particularly strict security precautions because it increases the danger of stigmatisation or discrimination for individuals and groups. The need to protect data shouldn't be used as justification for avoiding using or sharing surveillance data for legitimate public health goals.

The gathering of names or other personally identifiable information is acceptable in certain situations. In certain circumstances, it is both technically and morally necessary to acquire names or other personally identifiable information. De-duplication of documents may be necessary for effective monitoring. Up until the 1960s, names and addresses of persons suffering from terrible ailments were often printed in newspapers. For longitudinal surveillance registers, which need accurate linking of information on the same people and/or their family or connections over time, names and other distinctive identifiers may also be crucial. It could also be necessary to use distinct identifiers to connect data from various sources. Importantly, names and other unique identifiers are necessary for contact tracing, patient follow-up, and epidemic investigation.

Whether unique identifiers may be used in place of names has been the subject of debate. It is costly to create unique identifiers, but if they are built in a way that enables precise data linking, names might be simply connected to them. Before implementing nominative systems, several nations tested out coded reporting for HIV infection. Although these systems were originally the sole politically feasible option, they were abandoned when it was discovered that they did not adhere to the dependability and validity requirements for government financing. However, new opportunities have been opened up by technology advancements. Digital data may be jumbled and encrypted to create distinct identifiers that may be difficult to link to specific individual [3], [4]. Good governance necessitates that the trade-offs between using names and encryption or unique identifiers be the subject of ongoing, open, and public debate that takes into account the needs of surveillance systems, changing technological capabilities, risks, and changing norms regarding the use of unique identifiers.

DISCUSSION

The geographic location of people is a crucial factor in the data collection process since it may serve as an indirect identifier. It is morally imperative to put confidentiality first when gathering geolocation information as well as when releasing or sharing GPS data. GPS data should be geo-masked to reduce the risk of disclosure, facilitating spatial distribution while preventing the identification of cluster-exact geo-coordinates. while gathering names or other distinctive identifiers is deemed necessary, this need should be made clear while planning the project. Not only may various nations reach different conclusions, but different nations may have different requirements for names. simply locally may personal data be needed, while nationally or internationally, higher levels may simply need anonymized or aggregate data.

When trustworthy, valid, comprehensive data sets are necessary and relevant protection is in place, individuals have a duty to participate to surveillance. In this situation, informed permission is not morally necessary. Public health monitoring without informed permission has long been criticised. Informed consent is not, however, the norm in public health monitoring. Many nations have passed legislation requiring such systems to gather personal data without asking for permission as long as certain protections are in place. Programmes for monitoring are likely to be beneficial to every person in a community. Therefore, individuals have a reciprocal obligation to support surveillance and advance the general good. As the epidemiologist Geoffrey Rose has noted, even though the potential benefit to any one person is minimal, the benefit to the community as a whole may be great. Benefits to the population give people a moral obligation to contribute. Public health could be adversely compromised if opting out is an option. In practise, obtaining informed permission, particularly from huge populations, is often not possible. When the dangers are minimal, it could be excessively expensive and unnecessary. However, in other circumstances, such as in regular descriptive health surveys, consent is the rule. The public health authorities responsible for surveillance have a duty to weigh the value and feasibility of obtaining informed consent. It is critical to make it clear that permission must always be really voluntary. Whether or whether permission is requested, the public should have access to information regarding the nature, purpose, and potential risks of surveillance. Relevant security measures, suitable governance frameworks, appropriate ethical education, and data security will boost public confidence in monitoring technologies and guarantee safety [5], [6].

Effective dissemination of surveillance results to relevant target groups is required. Although it is not a replacement for ameliorative action on the part of those responsible for monitoring, there is a strong, generally recognised moral case for disseminating the findings of surveillance to pertinent target audiences. The community, local officials and opinion leaders, health care providers, policy-makers, health activists, and health volunteers are among the pertinent target audiences at the local level. Member States, national and international organisations, and NGOs may also be included in the relevant target audiences. The CIOMS standards emphasise the necessity of sharing results both good and negative to "promote and enhance public discussion," despite the fact that they are research-focused. The work's societal worth cannot be realised without diffusion. Without adequate distribution, those who gather data including surveillance data might be rightfully accused of taking advantage of the people and groups whose health information they gather and analyse for the greater benefit. The Nuffield Council on Bioethics made the case that persons whose data is gathered must be aware of the consequences of the findings for both health treatment and prevention in order for distribution to be deemed acceptable.

It is important to present surveillance results succinctly, in a fashion that is sensitive to community concerns and intelligible to a lay audience. The goal of communication is to inform individuals of important hazards without inciting fear. The communities from whom data were gathered and evaluated as well as the general public may get surveillance information through mass mailings, toll-free information hotlines, social media, newspapers, seminars, and public gatherings. Street theatre, folk art, and other community-based techniques may be used for the same goal in environments with low resources. Additionally, communication should provide useful information to physicians, hospital administrators, and other pertinent target groups.

The sharing of information has a double-edged sword: on the one side, it may undoubtedly empower, but on the other, it can also result in harm, stigma, or prejudice. In extraordinary situations when doing so may result in significant damage, it may be justified to choose not to publicly release data at all. Communication may be restricted to protect privacy if the impacted population is so tiny that it could be impossible to avoid identifying specific persons. The damage that might be caused if impacted communities are not informed must also be considered by decision-makers, since this would deprive them of knowledge, the ability to act to mitigate risks, and the capacity to participate in advocacy. In order to lessen the difficulties that communication could place on people or groups that are more vulnerable to damage or injustice, those in charge of public health have an obligation to do so.

When, if ever, individuals in charge of the design and execution of surveillance are morally required to notify the objects of surveillance about specific findings or diagnoses and then direct them to the proper service is still up for dispute. For instance, blinded seroprevalence studies were seen as morally acceptable during the early stages of the HIV pandemic, when treatment was not yet available. The research participants in these population-based surveys were not informed of their HIV status. However, the ethical consensus changed as HIV diagnostic and management technologies improved. According to current recommendations, surveillance systems should provide outcomes to those being watched. In accordance with guidelines, those who had positive findings should be directed to neighbouring medical facilities for an appropriate clinical examination, treatment, and follow-up. Additionally, partner assessment and referral for psychological help are encouraged by the recommendations. This example illustrates how crucial it is for surveillance systems to have an active oversight body to handle such problems and implement improvements in light of fresh information or developing best practises in other countries. easibility, the ability to take action, and the possible benefit to the person are important ethical factors to take into account when deciding whether or not to return information to people [7], [8].

Those in charge of public health surveillance have a duty to communicate information with other national and international public health authorities with the necessary protections and justification. A public health surveillance system must be able to receive and connect data from public entities in charge of maintaining public health if it is to be efficient, equitable, and promote the common good. Because of the strict data security surrounding HIV monitoring, for instance, there have been instances when data on HIV status have not been shared with those in charge of TB surveillance, making it impossible to systematically identify people with co-infection. Without access to relevant data, public health professionals cannot react correctly to rapidly evolving infectious illnesses in real time or take appropriate action in the case of chronic ailments. In the same way, occupational exposures are true. There have been instances when organisations monitoring occupational illnesses failed to communicate information with organisations in charge of worker safety and workplace regulation. A examination of the literature revealed that poor planning, rather than safety concerns, is mostly to blame for the inability to communicate information. Programmes have encountered technical difficulties while transferring data, and certain data needed to be converted in order to connect databases.

Systems for public health should be set up to facilitate safe data exchange with other national and international organisations. Ethics requires early coordination to align procedures so as to prevent sacrificing benefits or waste resources. In order to respect individuals, ethical frameworks for sharing should make sure that only the data necessary to fulfil a sufficiently important, legitimate public health purpose are shared, that data are not shared more widely than necessary, and that data are not subsequently re-shared by other agencies, except under the conditions specified elsewhere in this document, such as in guidelines 16–17. When distinct datasets' protection levels vary, the stricter privacy standard should be used.

It is crucial that all parties engaged in monitoring exchange information promptly during a public health emergency. Data gathering and sharing are essential tasks in everyday public health work. Because of the urgency of the crisis, uncertainty caused by inadequate or changing information, the ability of local health systems for timely action, and the rising significance of cross-border cooperation, data exchange becomes more important during crises. Rapid data exchange is essential during a developing health emergency because of these factors. It is not only morally necessary but also excellent public health practise. Rapid data sharing that is ethically suitable may aid in anticipating disease transmission, identifying etiological variables, assessing current and new treatments, symptomatic care, and preventative measures, and directing the use of scarce resources. The WHO advice on addressing ethical considerations in infectious disease outbreaks discusses the need to exchange clinical and scientific data that are essential for emergency response. The IHR also mandates the exchange of data during public health crises and infectious disease epidemics. Countries should review their data sharing laws, policies, and practises as part of ongoing pre-epidemic preparation to make sure they adequately protect the confidentiality of personal information and address other pertinent ethical issues, such as resolving disagreements over who owns or controls surveillance data. In an effort to preserve public health and advance the common good, efforts should be taken to guarantee that releasing surveillance data quickly does not impede later publishing in a scientific journal.

Public health organisations are permitted to use or share surveillance data for research purposes with the proper reason and safeguards. Data from surveillance have often been used as the basis for significant public health studies. For instance, longitudinal epidemiological research on survival and treatment effectiveness have made use of cancer registries. Researchers conducting studies that are sufficiently significant for the promotion of the general good and would not be possible without access to the relevant surveillance data may be permitted to share such information with them. There may sometimes be disagreements about whether research should be deemed "sufficiently important" to warrant exchanging surveillance data for academic purposes. Local governments, public health agencies, and/or research ethics committees should make a decision on this issue based on the criteria and recommendations outlined in this article.

Sharing surveillance data for research purposes calls for the right precautions, including data security, anonymization, and ethical monitoring. Surveillance data should only be shared for research projects that have been reviewed and approved by an appropriate research ethics committee or another appropriate body, consistent with international and local standards on the ethical conduct of research. This is true even though the type of ethical review required for conducting research is not appropriate for conducting public health surveillance. Ethics committees should take into account the possible public health effect of research, the dangers to the subjects involved, the safeguards in place to preserve privacy, and the significance and practicality of obtaining permission when deciding whether to allow access to surveillance data.

It will sometimes be difficult to strike the right balance between safety precautions and scientific development. The contentious practise of excluding any mention of substance use problems from individual healthcare records made available to researchers is one approach of sharing sensitive data about drug use. In the wake of a widespread opioid crisis, such privacy protection has been the subject of debate. This, according to one group of opponents, has left researchers "flying blind." Researchers who have access to surveillance data should report their findings to public health authorities. Prior to sharing surveillance data with researchers, there should be consensus on the following issues: acceptable data uses, limitations on data redistribution, sufficient attribution of the data source in publications, and data disposal guidelines at the conclusion of the study period [9], [10].

Sharing personally identifiable surveillance data with organisations that are most likely to utilise it for purposes other than public health should be avoided. Aggregate public health data may be freely shared with non-health organisations and non-state entities in charge of the welfare of the general public, but sharing individually identifiable data is a quite different matter. In general, access to such personal information by organisations in charge of law enforcement, national security, or the distribution of social benefits should only be permitted after following the proper legal procedures. There should be compelling reasons to share identifiable data for non-public health purposes in order to maintain confidence in public health surveillance systems. The improper sharing of surveillance data is particularly contentious in nations where law enforcement or other organisations have been linked to repeated human rights abuses. In these circumstances, working with law enforcement organisations might erode public confidence in health monitoring, deterring people from seeking medical attention or providing accurate data. This is a problem in especially for people or groups who are particularly vulnerable. Furthermore, such inappropriate sharing may have a long-term negative impact on overall public health initiatives.

The governance procedures suggested in Guideline 2 should make sure that any exceptional circumstances, if any, that permit the sharing of identifiable surveillance data are laid out and made clear. It will be necessary to decide throughout this analysis whether the danger is significant enough to justify possible harm to the reliability and confidence in public health surveillance systems. improper data sharing by public health organisations and improper data usage by organisations outside the public health sector must be prevented by sanctions. At each home's entryway is a barcode. The barcode, when scanned with a smartphone, reveals whether or not the residence was inspected and deemed dengue-free.

Public health surveillance is carried out by a variety of "non-State" players, including NGOs, faith-based organisations, professional associations, research institutes, financing organisations, and international organisations like the World Health Organisation and the European Centre for Disease Prevention and Control. Even public monitoring tasks might be contracted out to private businesses. This might be a problem since State agencies could no longer hold the data and have access to it. The vicissitudes of monitoring, however, force any set of ethical principles to transcend borders, even those that have historically divided the public from the private.

In the age of big data, the issue of hazy borders has become even more challenging. In this context, "big data" refers to both the larger amount of data that can now be gathered and stored, often in digital form, as well as the processing capacity available to process it quickly. We generate a constant stream of digital data due to the widespread use of personal computers, cellphones, wearable technology, closed-circuit cameras, genetic sequencers, semi-autonomous drones, and other technologies.

The emerging potential benefits of mining electronic health records, genomic data, and other biomedical materials, social media communications, satellite imagery, and other digital datasets to identify emerging disease threats, stop foodborne disease outbreaks, and improve collaboration among public health organisations have sparked great interest in the data-centric technological revolution. As a "game changer" in disease monitoring, drones have been welcomed. Some have claimed that by seeing a rapid population departure from a disease zone, drones might specifically detect an epidemic. Others are sceptical about "drone utopianism," claiming that governments with limited resources shouldn't prioritise drone surveillance as a matter of health.

Similar potential and danger may be seen in other emerging technologies, such HIV phylogenetic analysis, which involves both the use and misuse of data. Individuals that produce information via personal electronic devices are often ignorant of the variety of possible possibilities for their data in the future. Whether the private sector is required to disclose the data with public health or government officials is a matter of debate. Custodians of such data should be aware of potential problems, participate in conversations regarding appropriate data-sharing, and take necessary precautions to reduce risk and avoid damage.

There have been increasing requests for more investigation and study of big data's ethical implications. Big data and digital illness detection have yet to find their place in the public health surveillance system, and more research on privacy and anonymity, the integration of public and private data sets, and problems with data validity and dependability are needed. Recently, the Bill & Melinda Gates Foundation's Deputy Director for Surveillance and Epidemiology issued a crucial call: "We need ethicists to be working on some of these problems." Addressing these problems must be the next step if we are to continue being proactive rather than reactive. These recommendations are a starting point for resolving problems at the intersection of surveillance and big data, but ongoing research and moral vigilance are needed to overcome the challenges presented by this rapidly evolving environment. The whole world must rise to this challenge.

CONCLUSION

In order to achieve a balance between the public welfare and individual rights, it is important to carefully examine the complex ethical issues underlying public health monitoring. The ability to effectively detect and treat health inequities, safeguard vulnerable groups, and deal with medical emergencies depends on surveillance. However, it must be carried out with tact, respect for personal space, and adherence to moral standards. In order to promote equity, surveillance programmes should be adjusted to the particular requirements of underserved communities since the concept of vulnerability differs depending on the setting. Additionally, data security and protection are crucial to preserve people's privacy and avoid unauthorised exposure, and the degree of security should correspond to the risks that might arise. There is continuing discussion about how to strike a balance between the use of personally identifiable information and the necessity for efficient monitoring, and technical improvements open up new opportunities for data protection. To preserve openness and confidence, it is crucial to include the public in conversations about the usage of unique identities and encryption techniques. In conclusion, public health monitoring is a vital instrument for preserving the health of communities, but it must be carried out morally, respecting the privacy of all parties involved and acting in their best interests. In order to negotiate the changing surveillance environment and developing technologies, ongoing research, moral awareness, and international collaboration are crucial. We can only successfully handle the complex issues at the nexus of surveillance and public health via ethically acceptable practises and ongoing review.

REFERENCES:

[1] H. Veeder, K. Stowers, J. Linden, S. Lee, and S. Sanchez-Reilly, "Protecting Our Vulnerable Population: Screening for Mistreatment in Palliative Care (S776)," *J. Pain Symptom Manage.*, 2016.

[2] M. Doherty *et al.*, "Vaccination of special populations: Protecting the vulnerable," *Vaccine*. 2016.

[3] V. H., S. K., L. J., L. S., and S.-R. S., "Protecting our vulnerable population: Screening for mistreatment in palliative care," *J. Pain Symptom Manage.*, 2016.

[4] World Health Organization, "Health as the Pulse of the New Urban Agenda," *United Nations Conf. Hous. Sustain. Urban Dev. Quito – Oct. 2016*, 2016.

[5] WHO., "Health as the Pulse of the New Urban Agenda: United Nations conference on housing and sustainable urban development," 2016.

[6] C. E. Ziegler, "Contesting the responsibility to protect," *Int. Stud. Perspect.*, 2016.

[7] K. J. Carim, L. A. Eby, C. A. Barfoot, and M. C. Boyer, "Consistent loss of genetic diversity in isolated cutthroat trout populations independent of habitat size and quality," *Conserv. Genet.*, 2016.

[8] H. K. Nesbitt and J. W. Moore, "Species and population diversity in Pacific salmon fisheries underpin indigenous food security," *J. Appl. Ecol.*, 2016.

[9] K. Steen-Johnsen and B. Enjolras, "The Fear of Offending: Social Norms and Freedom of Expression," *Society*, 2016.

[10] R. Loizaga de Castro, S. L. Dans, and E. A. Crespo, "Spatial genetic structure of dusky dolphin, Lagenorhynchus obscurus, along the argentine coast: Preserve what scale?," *Aquat. Conserv. Mar. Freshw. Ecosyst.*, 2016.

CHAPTER 6

PUBLIC HEALTH ETHICS: DEVELOPING A FRAMEWORK FOR MORAL GUIDANCE

Dal Chandra, Assistant Professor
College of Law, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India
Email Id- degautambahjoi@yahoo.co.in

ABSTRACT:

With its emphasis on enhancing the health of populations as opposed to individuals, public health has a long history. However, it continues to face concerns about the extent of its power and the moral ramifications of perhaps encroaching on personal freedoms. While bioethics has helped healthcare professionals navigate moral conundrums, its roots in the domains of medical treatment and human research may not be sufficient to handle the particular problems that public health presents. This essay makes the case for the creation of a particular framework for public health ethics. Government involvement is often used in public health programmes, such as clean water supply, immunisations, and epidemiologic research, as opposed to private practitioners. In order to protect the public's health, public health experts take part in a variety of tasks, such as data gathering, contact tracing, health education, and even establishing legislation. These many duties, which are based on the state's "police power" to safeguard the public's health, create moral questions concerning the techniques used. Principles like autonomy, beneficence, and justice were highlighted in the development of bioethics, which was originally a reaction to new technology and human subject’s research. But there are difficulties when trying to apply these ideas to public health, when the emphasis is on everyone's wellbeing. This essay emphasises the need of a special code of ethics designed specifically for public health. The ethical evaluation includes public health education, which is often voluntary but may unintentionally use coercive methods or maintain stigma. Additionally discussed is the usage of incentives.

KEYWORDS:

Ethical, Ethics, Government, Public Health.

INTRODUCTION

Public health practitioners may successfully negotiate the challenging ethical terrain of their job by following this framework, which will help them stay true to the values of social justice, individual rights protection, and health promotion. Ultimately, the creation and approval of a thorough code of ethics for public health are essential stages in advancing the discipline and preserving public confidence in its goal to safeguard and enhance community health. With the aim of mainly improving the health of populations rather than of individuals, public health as an organised profession had its start more than 100 years ago. However, because of its population-based emphasis, public health continues to struggle with questions about the appropriate scope of its influence and whether the work of public health experts is infringing on individual liberty in unethically troubling ways. However, there haven't been many efforts to define a public health ethics.

Health care workers may recognise moral quandaries in their job and react to them with the aid of the study of bioethics. In this paper, I make the argument that the settings of medical care and human research, from which bioethics evolved, were geared towards a distinct set of issues than those that normally arise in public health. Though the creators of bioethics wrote about ideas that are equally applicable to public health, the more detailed action manuals and standards of ethical behaviour in the medical field that have come after are an imperfect match for public health. Individual autonomy is often given top importance in codes of medical and scientific ethics, however this priority cannot be presumed to be acceptable for public health practise. In order to give public health professionals useful direction and to draw attention to the defining values of public health values that are morally distinct from those that define clinical practise and research a framework of ethics analysis tailored specifically for public health is required. Here is a first try at such a framework [1], [2].

The social strategy for preserving and advancing health is known as public health. Generally speaking, public health aims to enhance the wellbeing of communities via social, rather than individual, behaviours. Public health aims to create social environments where people can live healthier lives, minimising health threats "that can be averted or lessened only through collective actions aimed at the community." Examples include keeping the water supply clean, immunising schoolchildren, and engaging in epidemiologic research.1 Governments, not private practitioners, often offer public health initiatives. In fact, when services are offered by public clinics or hospitals, public health departments are in charge of providing health services, which are typically the purview of the medical field.

Interventions in public health have existed for more than three centuries. Massachusetts enacted rules requiring the quarantine of ships and the isolation of smallpox victims in 1701.1 Edward Chadwick established in England in the early 1800s that social class distinctions resulted in a more than 2-fold disparity in life expectancy between higher and lower classes. Lemuel Shattuck in Massachusetts established the first system of essential health data in the 1800s.2 By the end of the 19th century, state and municipal boards of health were being established to enforce sanitary standards. Governments had already started investigating housing conditions and rubbish piles and mapping them in connection to disease epidemics.

Early in the 20th century, public health programmes received increased funding since it was believed that they were both worthwhile and cost-effective. The US Public Health Service developed the Centre for Controlling Malaria in the War Areas, subsequently known as the Centres for Disease Control and Prevention, during World War II because the military required a healthy populace. The discipline of public health known as epidemiology was created in order to examine "the distribution and determinants of health-related states or events in defined populations and to the control of health problems."

Public health professionals nowadays still generally concentrate on community-wide, often prospective, ways to promote health, but they also employ technologies outside of epidemiology to do their task. Some public health activities surveillance, vital statistics, reporting of illnesses and injuries, and disease registries have to do with epidemiology and data gathering. Practitioners also carry out contact tracing, health education, other preventative activities, and public health research in addition to investigating outbreaks. Last but not least, public health professionals sometimes develop or implement rules and laws that pertain to health, such as those that require screening, treatment, immunizations, or rarely quarantine.

The term "police power" refers to the state's ability to enact laws that protect the public's health. This power dates back to the 19th century and can be used to promote educational initiatives, take property, shut down businesses, euthanize animals, or even treat or imprison people without their consent. Although collectively effective in reducing morbidity and death, these diverse public health instruments and functions nonetheless pose ethical concerns about the methods used to attain these results [3], [4].

DISCUSSION

Health professionals and public politicians may identify moral conundrums in healthcare and scientific research with the aid of bioethics, which also offers principles and moral guidelines for resolving these conundrums. The field of bioethics, which dates back to the 1960s and 1970s, was sparked by moral concerns generated by new technologies, worries about equitable resource distribution, and a lack of regulation of human subjects research. The first artificial kidney center's decision to distribute limited resources based on social factors and whether Karen Ann Quinlan should be kept alive artificially while lacking significant cognition captivated the public's attention.

The Institute of Society, Ethics, and the Life Sciences was established in 1969 to address bioethical issues and provide frameworks for examining current moral dilemmas in research and medicine.6 A new national commission issued the Belmont Report in 1974 in response to numerous reports of US government-sponsored research that jeopardised the rights and welfare of study participants. This report included three ethical principles to govern the conduct of human subjects research: beneficence, respect for persons, and justice.7 These concepts were expanded upon by the original proponents of bioethics, who also gave instances of how they may be used to various facets of healthcare beyond only research to analyse ethical conundrums. These original founders contended that moral superiority over other principles shouldn't exist a priori for any principle. The need to be truthful with patients and research subjects, as well as the patient's right to refuse treatment or research participation, were all early bioethical concerns. At the same time, these concerns involved the principle of respect for autonomy, which had perhaps previously received insufficient moral attention.8-10 While still emphasising the need to not harm the patient, informed consent—a practical application of the autonomy principle—became a hallmark of the new bioethics, and codes of ethics for clinical practise added clauses requiring doctors to "best care for the dignity of man in patients or research subjects."

Given the setting in which modern medical ethics and research regulations developed, it becomes sense that the right to non-interference has become a core concept. What is more troubling is that public health practitioners must go to these same rules for professional moral guidance since they lack their own set of guidelines. Rarely do current medical or research rules address traditional public health duties, such as violating patient confidentiality to inform the government about illnesses. However, in some situations, the doctor's actions are justified on the grounds of public health as an acceptable exemption to standard ethical guidelines.

At best, this leaves public health professionals to navigate most other situations on their own; at worst, it may cause them or even the general public to believe that public health is the area of medicine that is authorised by bioethics to blithely disregard ethical norms in the interest of the general welfare. A code or framework of ethics created expressly for public health is crucial, in fact, in large part because of the legal authority granted to it. Therefore, the necessity for a code of ethics for public health might be seen as a code of restraint, a code to safeguard the fundamental rights of people to noninterference properly and appropriately.

However, a framework or code of public health ethics must place an emphasis on positive rights as well. Public health has a duty to promote the general welfare and, perhaps, to lessen certain social injustices. In order to handle such social justice duties of public health, a code of public health ethics is required. No comparable framework is available for practitioners in public health, despite the fact that frameworks have been proposed in medicine to aid doctors in thinking through the ethical problems in a clinical case13,14. Because our society is morally diverse, it is inevitable that different moral arguments will clash while trying to decide on the best course of action for the country. Public health professionals may recognise the many and different moral challenges in their work and think about solutions with the use of a framework for public health ethics [5], [6].

A Framework for Public Health Ethics

Consideration is encouraged for a 6-step structure. A comparable framework for public health and human rights was offered by Gostin and Lazzarini, and parts of this framework were first proposed in an article published earlier in 2015 (article 15).16 This is not a code of professional ethics, which would presumably be the result of a professional association and would likely address broad standards and expectations of professional behaviour. Instead, this analytical tool is intended to assist public health professionals in thinking through the ethical implications of suggested therapies, policy changes, research projects, and programmes.

The first stage in developing any proposed public health programme is to decide on its objectives. These objectives should often be expressed in terms of improving public health, specifically in terms of lowering morbidity or mortality. For instance, the ultimate objective of an HIV screening programme should be fewer incident instances of HIV, not only that a particular percentage of people would consent to being tested. Instead of only encouraging people to acquire new information or even to alter their behaviour, the ultimate objective of a health education programme in cardiac risk reduction should be to reduce the number of heart attacks. The ultimate objective of any research study should be to enhance the health of the target population by implementing any promising results.

Although more immediate and procedural objectives are important for programme design and assessment and may be essential for attaining health improvement, the programme or series of programmes must ultimately be evaluated by the result of reduced morbidity and death. This is not to argue that every programme or piece of research has to have this objective. Health education programmes may be one of many and different interventions that together lower risks and poor health. Epidemiologic research may give descriptive data that inspire scientists to propose an intervention that will decrease morbidity or death years later. However, the point made here is that public health programmes, interventions, or research must be planned with an understanding of how this programme would affect the eventual decline in morbidity or death.

Of fact, public health initiatives may also result in other advantages, often social advantages. For instance, public health programmes may increase employment as well as provide less obvious advantages like community development or coalition building. These advantages are really significant and need to be strongly taken into account. However, these are not the intended aims of public health programmes; rather, they are accidental or intermediate results. A programme is essentially a social programme and not a public health programme if it seeks to build communities or promote employment as a means of self-fulfillment.

However, individual public health programmes that are not a part of a larger pack- age of programmes whose combined goal is the reduction of morbidity and mortality should not be undertaken. As will be discussed further below, a reduction in morbidity and mortality need not and could not be the goal of every individual public health intervention or programme. This viewpoint holds that improving access to care for groups who are difficult to reach is an extremely significant public health aim, provided the programme is successful in doing so. Step 5 will provide further instances of programmes that aim to lessen social inequality.

When we think about the objectives and advantages of public health, we should also take into account who will benefit. Interventions in public health are often directed towards a certain group of people in order to safeguard the health of other residents. The primary purpose of partner notification programmes and personally supervised treatment for TB is to safeguard people from the health risks caused by others. A significant portion of public health is inherently and blatantly paternalistic, as shown by the fact that certain public health programmes are primarily aimed to protect people from harm caused by themselves. Although seat belt legislation, health education programmes, blood pressure screenings, and 55 mph speed restrictions are all somewhat driven by societal cost concerns, my hypothesis is that they are mostly driven by a desire to help people become more adept at protecting their own health. There are various moral responsibilities associated with limiting someone's ability to defend themselves vs restricting their ability to defend another person.

The assumptions behind proposed treatments or programmes give us reason to assume they will succeed in achieving their stated objectives. In step two, we are asked to consider these assumptions and the supporting facts for each one. The reduction of fatal and nonfatal cardiac events is the ultimate objective of a programme to reduce cardiac risk. The program's presumptions are that it will reach people who are at risk for cardiac events, that they will learn the risk reduction messages, that people will alter their behaviour in ways suggested by the programme, that these changes would not have happened without the programme, and that the behaviour change will reduce the number of cardiac events on its own [7], [8].

While many health education programmes are quite effective in disseminating knowledge that consumers comprehend, they often have less effectiveness at causing behaviour change. Therefore, even while a pretty thorough review may show results, a program cannot ultimately be said to be successful if behavior is unaffected and morbidity and death rates stay the same. This is not meant to imply that each program must work to lower morbidity on its own. Programs for individual health education or screening, for instance, might be components of more comprehensive efforts to lower cardiac morbidity and death. According to data, it may take many education campaigns with various message and format variations to effect broad behavior change. If facts indicate that the combination is likely to elicit the intended result, multidimensional efforts are acceptable and valuable. However, if the various approaches are only hypothesized to decrease sickness episodes or are expected to do so, then further study is required; a public health program is not yet warranted.

In public health, this step examining the data currently available to question our presumptions and adopt solely evidence-based policies or programs is often skipped. One may argue that this isn't the case because experts don't care if their procedures affect their results or not; rather, it's because we just assume that they do and don't look for evidence to support or refute that assumption. As a result, we either advocate for HIV screening because we believe that people who realise they are infected will start using condoms in sexual encounters or we create a programme based on the notion that some people who learn that smoking causes asthma and lung cancer would stop smoking. When our presumptions appear the most logically apparent, we run the greatest danger of omitting to check how much actual evidence there is to back them up.

While the quality and quantity of the available data may vary, all programmes must be grounded on reliable evidence rather than well-informed guesswork. The challenge for policy and ethical analysis is therefore: How much data is necessary to support the execution of a programme? As a general rule, the better the evidence needed be to show that a programme will accomplish its aims, the higher the difficulties caused by the program—for instance, in terms of expense, restrictions on liberty, or targeting certain, already vulnerable portions of the popula- tion. In fact, the burden of proof is on governments or public health practitioners to demonstrate that the programme will achieve its objectives since many public health programmes are forced on people by governments rather being requested by residents. As a result, the analysis may end here, and the programme should not be used ethically if at least some facts are missing that show the assumptions of the programme to be true. On the other hand, the programme does not need excellent data to exist in order for us to proceed to the next level of analysis.

The third phase of the framework encourages us to identify costs or harms that might result from our public health activity if statistics indicate that a programme is fairly likely to accomplish its stated aims. The majority of burdens or harms in public health programmes will fall into three general categories, despite the possibility of a wide range of burdens or harms: risks to privacy and confidentiality, particularly in data collection activities; risks to liberty and self-determination, given the authority granted to public health to enact nearly any measure required to contain disease; and risks to justice, if public health practitioners propose targeting public health interventions only to certain Different public health initiatives are more or less likely to produce particular costs than others.

Disease surveillance and vital statistics, which are intended to track population trends and health, may present privacy issues, particularly because data collecting is required and often includes personally identifiable information and is frequently made accessible to the public. Even while the majority of people do not see the sorts of data acquired as particularly sensitive or personal, each individual has their own definition of what constitutes privacy. Furthermore, some people may feel that some aspects of vital data, including paternity or the reason of death, violate their right to privacy. Last but not least, demographic information and other publicly gathered data might indicate trends regarding ethnic communities or areas that may be derogatory or otherwise detrimental.

Since names are only published for people who have persistent problems, reporting on communicable diseases also presents privacy issues, but there is a larger possibility of violation. Dis- ease reporting presents the added danger of a confidentiality breach if security measures are not implemented or do not function since people normally desire the discretion over whether and to whom private information is released. Some people only run the danger of having their privacy violated if confidentiality is violated and improper disclosure results in consequences like social shame or job loss. Others perceive privacy invasion as a wrong in and of itself, regardless of whether any real damage occurs.

condition reporting is an example of a public health function that, at least on the surface, seems to be unjust in that people who have the condition bear the costs of the programme, often for the benefit of others who do not. When the advantages are significant and there are no less difficult alternatives to accomplish them, this unequal distribution of responsibilities and benefits may be justifiable in certain situations. However, it is never acceptable for benefits and obligations to be distributed unequally across groups if such burdens are arbitrary and unrelated to the general good. Additionally, the execution of a programme that does not overtly target certain groups may in reality result in targeting. For instance, despite wording in the legislation requiring the reporting of all individuals with HIV, one research revealed that clinicians are more likely to report a patient with HIV to the health department if the patient is Black and male. Step 6 continues the discussion of whether developing targeted public health programmes supported by epidemiologic data is suitable [9], [10].

Additional privacy dangers arise from contact tracking, which sometimes goes along with reporting contagious diseases. An individual's name and health are reported, in addition to asking for the names of any additional interactions they may have had. Contact tracing, which is already a clear violation of privacy, also violates the privacy of those whose identities are revealed since they are unable to choose whether or not to provide authorities access to their information. As was already said, if confidentiality protections are ineffective, problems may result, and people may feel offended only because their privacy was violated. If contact tracking programmes are not conducted equitably, justice issues can surface.

Interesting ethical issues are raised by the field of health education. In some respects, health education is the best public health intervention since it is fully voluntary and aims to provide individuals the knowledge, they need to make their own choices about their health. Given that it imposes little, if any, disadvantages, education is plainly superior to other preventative measures, provided that they are equally effective. Despite being a vital part of the majority of public health campaigns, health education is not always suitable. First, education could not be effective in all circumstances, and more onerous measures might be needed. Second, educational programmes may use unethically dubious techniques like manipulation or even coercion in an effort to boost effectiveness. In order to accomplish its goals, a smoking cessation programme, for instance, may aim to manipulate views by implying that smokers are unpopular and by offering only limited or even incorrect information.

Third, all health education initiatives have the potential to be paternalistic, implying that certain modes of living are generally seen as valuable. The social and even public health ramifications of targeting must be seriously considered in order to determine when and where paternalism in public health is justified, especially since biomedical ethics has generally guided professionals away from paternalism unless it is specifically requested by patients. Social stigma can develop if, for example, certain subgroups of the population are assumed to be the ones who have STDs, and opportunities for public health intervention will be completely lost if we all start to think that only specific groups are at risk for domestic violence or HIV due to well-intentioned media campaigns.

Finally, incentives may be used in conjunction with health education programmes. The use of financial incentives for using certain forms of birth control or preventing conception is one situation where financial incentives may raise ethical concerns. In general, incentives are seen to be less problematic morally than coercive tactics or threats. The study of public health comes with costs. Regulations for human subjects already outline the many forms of hazards that might result from involvement in research. If the study is clinical, they contain medical hazards; if it is epidemiological or social science, they include psychological or social concerns. The psychological and social costs that may follow from injustice or exploitation in research when some groups are disproportionately disadvantaged or favoured via study involvement have also received more attention in recent years.

The damage that may result if public health research results are never implemented in public health policy or practise, however, goes beyond these clearly stated hazards. Any research project entails, at the at least, a weight of annoyance for those involved, and it is obvious that there may be greater hazards for the people or communities who volunteer. Because of the advantages anticipated to result from study results, an institutional review board permits research to proceed. However, if study results are never turned into policy—a situation that happens far too frequently no benefits result from the research. In these situations, participants were harmed by a deceptive informed consent procedure, and the risk-to-benefit ratio was seldom favourable.

In a strict sense, laws and regulations are coercive because they have consequences for breaking them. As a result, they endanger liberty and self-government. Even though many of these actions, including lowered speed limits, child-proof bottles, and vaccinations, have been shown to be effective, they are still the most invasive methods of public health. Coercive and involuntary actions must be performed with a clear understanding of the risks they bring to a democratic society, including the loss of individual choice to select a lifestyle, reliance on governments to define values and the ideal life, and the imposition of cultural uniformity. Involuntary measures also presuppose a good, smart, and responsive administration, which history has shown to be quite uncommon.

CONCLUSION

In conclusion, the creation of a framework for public health ethics is essential to navigating the ethical complexity involved in preserving the well-being of the whole while upholding the rights of the individual. Such a framework has to find a balance between the preservation of people's liberty and dignity and the ideals of public health. In conclusion, public health has a long and illustrious history that dates back more than a century, with its major emphasis on enhancing population health. The acceptable extent of this population-based emphasis's effect and the possible violation of individual freedoms have, nevertheless, often given rise to difficult ethical concerns. Public health has been slow to build its own set of ethical standards, in contrast to the areas of medicine and bioethics, which have created thorough ethical frameworks. While healthcare professionals and politicians have benefited from the insights and recommendations offered by bioethics, the field's roots and primary areas of interest are individual patient care and biological research. On the other hand, public health addresses wider social concerns and involves group efforts to promote health and prevent illness. This crucial divergence necessitates the creation of a separate code of ethics that is especially suited to the difficulties and obligations that public health practitioners must deal with.

REFERENCES:

[1] Kozlowski and D. Sweanor, “Withholding differential risk information on legal consumer nicotine/tobacco products: The public health ethics of health information quarantines,” *International Journal of Drug Policy*. 2016.

[2] A. Rajczi, “Liberalism and Public Health Ethics,” *Bioethics*, 2016.

[3] L. W. Ortmann *et al.*, “Public Health Ethics: Global Cases, Practice, and Context,” 2016.

[4] J. L. Tripken, “The Educational Efficacy of a Values-Based Online Tool in a Public Health Ethics Course,” *J. Heal. Educ. Teach.*, 2016.

[5] M. D. Rozier, “Structures of virtue as a framework for public health ethics,” *Public Health Ethics*, 2016.

[6] B. Jennings, “Right Relation and Right Recognition in Public Health Ethics: Thinking Through the Republic of Health,” *Public Health Ethics*. 2016.

[7] K. M. Meagher and L. M. Lee, “Integrating public health and deliberative public bioethics: Lessons from the human genome project ethical, legal, and social implications program,” *Public Health Rep.*, 2016.

[8] D. H. Barrett *et al.*, *Public Health Ethics: Cases Spanning the Globe [recurso electrónico]*. 2016.

[9] M. Aloosh and Y. Saghai, “Birth control policies in Iran: A public health and ethics perspective,” *J. Epidemiol. Community Health*, 2016.

[10] A. M. Turcotte-Tremblay and V. Ridde, “A friendly critical analysis of Kass’s ethics framework for public health,” *Canadian Journal of Public Health*. 2016.

CHAPTER 7

AN IN-DEPTH ANALYSIS OF BALANCING PUBLIC HEALTH RULES AND LAWS WITH ETHICAL CONSIDERATIONS

Amit Verma, Associate Professor
College of Law, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India
Email Id- amitverma2@gmail.com

ABSTRACT:

By reducing physical health hazards, public health rules and legislation often seek to protect the wellbeing of communities. Although worries about autonomy are the most obvious ethical challenges brought up by these restrictions, they may sometimes overlap with health dangers. For instance, those who get immunisations that are government approved and required may suffer health risks, and anyone exposed to chemicals during widespread mosquito-spraying operations may immediately encounter health problems. Furthermore, laws that unfairly punish certain categories of people may inadvertently jeopardise the administration of justice. This essay suggests an ethical framework for assessing public health initiatives, regulations, and plans. The framework is made up of a number of crucial elements, such as identifying and reducing burdens, guaranteeing the fair distribution of benefits and duties, and taking into account other solutions that prioritise posing the least possible damage to people's civil rights, privacy, and sense of fairness. Making ethical decisions should be supported by solid facts and should work to close health inequities, right past wrongs, and advance social wellbeing. This emphasises the significance of democratic procedures, public participation, and minority opinions in developing public health policy. It contends that although public health efforts must be morally sound, they also need to take political realities into account. Professionals in public health are crucial in promoting moral behaviour, guaranteeing openness, and fostering trust in the populations they work with.

KEYWORDS:

Ethical, Health Policy, Laws, Public Health.

INTRODUCTION

Public health rules and laws may, in certain cases, be linked to physical hazards or risks to people's health. While threats to autonomy are the most apparent concerns presented by these regulations and legislation, they can also be linked to these risks in some other situations. persons who get federally authorized and required vaccines face health hazards; persons who breathe in chemicals used in mass spraying to prevent the spread of diseases carried by mosquitoes may have immediate health issues. Finally, if rules place an unfair burden on some groups of the population, the law may, whether intentionally or unintentionally, constitute risks to justice.

Once the burdens have been identified, we must reduce them in accordance with this component of the framework. If step 3 indicates that there are potential or actual burdens associated with a programme or policy, we are ethically compelled to consider if the programme may be altered to reduce the burdens while maintaining a high level of effectiveness. When preparing to submit a patient's name and condition to the state, public health practitioners, for instance, should let patients know that although the law demands that their identities be reported to public health authorities, it also mandates that they be reported confidentially. The policy is more considerate of patients if patients are well informed, even if reporting programmes are mandatory [1], [2].

The privacy and confidentiality of users are equally threatened by contact tracking programmes. However, properly speaking, contact tracking programmes are optional since people who refuse to comply face no consequences. Public health professionals have a legal obligation to inform people who are being tracked down for contact information about their right to withhold partner information and their options for doing so, including contacting partners directly, having them contact them, or having the state act as their intermediary.

In cases when there are two potential solutions to a public health issue, we are morally obligated to choose the alternative that, assuming no materially diminished advantages, carries the least danger to other moral claims such as liberty, privacy, opportunity, and justice. This rating depends on reliable data being available. It would be unethical to conduct a required programme if statistics indicate that a voluntary screening programme would test about the same number of individuals as a mandatory one since nearly no one declines testing when asked. If using names or unique identities for disease monitoring is equally effective, using unique identifiers is the ethically right option.

The equitable distribution of advantages and obligations is required by this component of the framework, which relates to the ethical concept of distributive justice.5 Clean water is an example of a public health benefit that cannot be restricted to a single community, nor can one group bear excessive responsibilities. HIV screening programmes, for instance, cannot be undertaken just in underserved or minority communities without a solid case for doing so. Likewise, cardiac risk reduction programmes cannot be directed only at White males, given the significant increased risk of heart disease among women and minorities.

If restrictive measures are suggested, it is even more crucial that they be executed equitably. Both for its own sake and the tangible damages it may cause, injustice is wrong. societal stereotyping that perpetuates the idea that only certain groups of people are susceptible to sexually transmitted illnesses cause societal damage. Real public health problems also occur when people don't think they are at risk for illness because they weren't included in education programmes or because their own physicians didn't check them for a condition because they didn't meet the popular risk profile. The allocations must be fair rather than equal to ensure that all communities get the same number of resources or programmes. To put it another way, differences cannot be suggested at random or based on mythical assumptions about who would be at danger. Again, statistics must be used to support any uneven programme allocations. In addition, if resources are distributed inequitably, the social repercussions must be taken into account and weighed against the advantages for that group or others. Less usually discussed is whether or how much public health contributes to redressing historical wrongs, particularly in light of the substantial correlation between poor living circumstances and bad health outcomes.

Several theories of justice permit or even demand the distribution of rewards inequitably in order to address existing imbalances. According to John Rawls, justice necessitates that we distribute our resources unequally in order to assist the less fortunate. According to Norman Daniels, everyone in society has to reach a level of "species- typical normal functioning," which might lead to an unfair allocation of certain resources. It's true that not all philosophers subscribe to this idea of justice; some distinguish between social disparities that are just unfortunate and for which no action is ethically necessary and unfair inequities that call for intervention [3], [4].

At the very least when such disparities relate to health outcomes, I would argue that public health does have a positive obligation to participate in programmes and treatments that aim to diminish social inequities. Since class is a significant predictor of health, reducing poverty, inadequate housing, and barriers to meaningful education is a proper, if not mandatory, function of public health, if for no other reason than to lower the incidence of disease.

DISCUSSION

A choice must be made regarding whether the anticipated benefits outweigh the identified drawbacks if it is determined that a proposed public health intervention, policy, or programme is likely to achieve its stated goals, if its potential burdens are acknowledged and minimised, and if the programme is anticipated to be implemented in a non-discriminatory way. Even while it is obvious that factors other than ethics also have a role in determining public policy, the issue of whether the programme should continue from an ethical standpoint still has to be answered. Officials from health departments and other public health professionals may not have the authority to implement every programme they believe would be helpful, but they do have a duty to promote programmes that do improve health and to eliminate from the discussion of policy those that are unethical due to a lack of data, the use of obviously discriminatory practises, or unjustified restrictions on individual liberties.

While the majority of sane individuals will concede that benefits and costs must be balanced and that the most burdensome programmes should only be adopted in the context of significant and important advantages, conflicts are almost certain to arise over the specifics. There are varying opinions on how difficult such programmes are, such as having one's name reported to the state or having children immunised before they attend school, depending on one's viewpoint. When it comes to how important it is to preserve a water supply for future generations, citizens are likely to disagree, especially if doing so will result in significantly higher taxes or a ban on recreational use of a public body of water, which is unquestionably advantageous for both individual enjoyment and fostering a sense of community. A set of fair processes must be used to resolve these unavoidable disputes. A society must participate in a democratic process to decide which public health duties it wants its government to retain, acknowledging that certain liberties must be violated and that some burdens must be endured. This is required by procedural fairness. The advantages of excellent public health for society should be openly discussed, as should the reasons why these benefits are sometimes impossible to achieve by less community or more libertarian means. Of course, it should be discussed why other interests have moral claims as well. Even though such a procedure is fair by most measures, choices made as a consequence of it cannot be simply dependent on the preferences of the majority. Indeed, it is important to carefully examine deliberations to make sure that the minority's viewpoints are taken into account, especially when there are large onerous ideas involved. Highly onerous programmes should be the subject of public hearings, not simply votes, to allow for the consideration of minority viewpoints.

At the same time, it's crucial to be aware that there will always be a certain percentage of people who oppose having their water fluoridated, having their kids immunised, wearing seat belts, and having speed restrictions on public highways. The existence of disagreement is not sufficient grounds for opposing a public health initiative; disagreement is a given with any proposal. However, dissent must be taken into account and merits further consideration if it is expressed only by a certain defined category, such as an eth- nic minority, a specific age group, or residents of a specific neighbourhood [5], [6].

In balancing values and interests, the projected public health benefit must the larger the program's burden is, and the benefits and costs are distributed unevenly, the bigger the expected benefit must be. Coercive programmes should be maintained to a minimum, never used when a less restrictive programme will accomplish the same aims, and only employed when there is a clear public health need and solid evidence of their efficacy. Nevertheless, our culture is heterogeneous, particularly in terms of our ethical beliefs. Different governments and communities will choose which public health initiatives are necessary and which are too onerous in their own unique ways. In the end, the fact that many communities may choose various public policies based on their own assessments of benefits and costs may be a sign of a fair process, or at the very least a pluralistic process, guiding local public health policy.

Of course, in addition to ethical considerations and public health objectives, public policy is dependent on a variety of other issues. While weighing options in accordance with this public health ethics framework should result in an ethically acceptable choice, it may not always result in the politically advantageous one. However, the fact that politics often follows a divergent and sometimes unpredictable course does not provide a justification for ignoring ethical consideration whenever a public health initiative is being debated. Always perform an ethical analysis because, from a more utilitarian standpoint, doing so will make our work in public health more successful and because bringing truth, justice, and respect to our work is right in and of itself.

The processes of an ethical analysis force us to be methodical in our thinking and force us to support interventions on the basis of evidence, not just beliefs. Additionally, an ethical analysis binds us to high standards for our use of scientific methodology as well as for how respectfully we engage and interact with our constituent groups. Communities' engagement will aid in identifying the dangers to public health that various organisations must contend with and, if not partnerships, at least hopefully a reasonable level of trust. To be successful, the field of public health must win the confidence of the general public that the inescapable greater levels of governmental participation and demographic targeting it imposes, in comparison to other fields of health care, are suitable and in the best interests of these many communities.

To demonstrate their integrity to the public, public health professionals must go through the processes of an ethical analysis. The public must have faith that public health professionals will only make recommendations that will benefit the general public's health, that suggested measures won't be unduly burdensome, and that a fair process has determined that the severity of the issue and the benefits it will bring about outweigh any competing moral claims. The public will undoubtedly be worried about which tasks are essential and which are excessively demanding, offensive, or just wasteful. Therefore, this process has to be continuous, integrated, and continuing. The confidence of the public that work is being done for its own benefit is the most valuable asset that public health can possess. Public health professionals may and must argue for what they ultimately think to be the morally best strategies for advancing social justice and the general welfare.

The institutions that safeguard and advance health systems were confronted with problems at the beginning of the twenty-first century, including communicable and non-communicable diseases (NCD), toxic environments, growing populations without adequate access to medical care, and the emergence of infectious diseases. The global and cultural contexts of the nation's health systems are likewise changing quickly and drastically. Informatics and genomics are two examples of technological and scientific developments that are expanding human potential and knowledge faster than we can act on or absorb their effects. The nation's demographics, economy, and population are all changing at the same time, placing a strain on both public and private resources. Since the beginning of time, the government has recognised that one of its essential tasks and fundamental powers is the protection and maintenance of the public health. The ministry, agency, or department of health, whose primary responsibility is to promote and safeguard the public's health, is responsible for stewardship in many nations' health systems. The rising burden of non-communicable illnesses, the difficulty of health system reform, and the Sustainable Development Goals are just a few of the issues that must be addressed. These factors influenced governments' rekindled interest in the function of legislation in achieving national health goals and regulating health. Legal reform may lead to better health outcomes for the whole population since law is a significant (social) factor of health [7], [8].

Relationship of the Law to the Policy, Regulations, and Legislation

Public health legislation and public health policy are two crucial instruments that help governments safeguard their people from health hazards. Policy may exist without the use of legislation, but in situations when long-term planning and voluntary agreement have failed, it may be necessary to employ a stronger hand from the law to execute health policy. But there are times when the law is not the best tool to advance public health goals. Without a doubt, the rule may exist without using the legal system. Only legal instruments may be provided by legislation to carry out policy. The law or legislation must be based on values, goals, and principles that ensure efficient legal systems. As a result, policy formation should come after lawmaking. The legislation on public health considers the responsibilities of each person, group, and entity. Additionally, it is the government's duty to maintain a healthy society. Regulations establish the officers' authority and detail how public health officials are to execute their powers. Additionally, it sets the social standards for healthy conduct and fosters the social environments necessary for individuals to be healthy. Public health concerns are crucial within the legal language of rights, obligations, and justice, and the legislature, administrative agencies, and courts act as vehicles for societal discussions on these topics.

Public Health Laws and Population Health

Through legislative and administrative acts conducted at the national, sub-national, and international levels, law plays a crucial role in enhancing the health of communities. The World Health Organization's (WHO) Constitution recognises the right to health as a basic human right. Nevertheless, Nigerians are healthier than ever. Care for an ageing population and early illness (with differences regionally, within socioeconomic groups, and among minorities) continue to provide significant issues. Furthermore, new lifestyle illnesses like obesity and HIV/AIDS are on the rise, despite the fact that cardiovascular disease, cancer, and traumas are still not much under control. Improvements in health systems are required in response to these issues, with a focus on treatments that are effective, efficient, and fair in their prevention, treatment, and care of common illnesses.

Nigerian Health Systems' Public Health Law Challenges

Nigerian public health legislation is still out of date and does not outline the duties assigned to the public health ministry, department, agencies, boards, and officials at various states or local governments. According to current illness categorization systems that address current health issues, the interaction between different levels of government fails to provide public health officials (medical officers of health) the essential capabilities to regulate diseases. The goal of health legislation is to create a conducive environment where the advancement of health and the overarching ideals of justice, equality, and the preservation of individual rights are mutually supportive. The healthiness legislation has gained more recognition over time, both domestically and internationally. Integrating the health act and health policy is crucial since there is a connection between health and human rights. As a consequence of a number of developments, including the internationalization of health care and health policy, the concern over consumer protection, and the legalization of society, the influence of the health law on health policy-making is anticipated to improve. A plan is needed to encourage a positive link between health legislation and policy.

Gostin, 2000 defines public health law as "the study of the legal powers and duties of the government that ensure healthy conditions for the people" (such as identification, prevention, and improvement of threats to health in the population). Additionally, they are aware of the restrictions placed on the government's ability to restrict an individual's autonomy, privacy, or other constitutionally protected rights in order to safeguard or advance the general welfare. Although there is general agreement that legislation is necessary for excellent public health, the goals and substance of the law continue to be difficult to determine.

The distinctions between medical jurisprudence, public health law, and health law. Continuing with this definition, public health law is the study of the legal responsibilities and powers of the government to provide the circumstances for an individual or group to be healthy (for example, identifying, preventing, and reducing population health threats). Additionally, the limitations on the ability of the government to impair an individual's privacy, liberty, autonomy, or other legally guaranteed advantages for the preservation or promotion of community health. A health legislation is a statute, ordinance, or code that establishes hygienic requirements and guidelines with the intention of protecting and enhancing community health. Public health law may also refer to the area of law that deals with how common and statutory laws are related to and applied in connection to administrative processes, hygienic principles, sanitation science, and public health management. Medical jurisprudence, sometimes referred to as legal or forensic medicine, which is the study relating to the application of medical facts to proper values of medical practise, is distinct from and not a component of public health legislation. The phrase "public health" has varying interpretations and connotations across languages and cultures, but it generally refers to a population-level strategy with potential for societal advantages. Public health, according to the World Health Organisation (WHO), is "the art and science of applying in the context of politics to reduce health inequalities while ensuring the best health for the greatest number [9], [10]."

Another widely accepted definition of public health is as follows: "The art and science of preventing illness, extending life, and promoting health through the organised and knowledgeable efforts of society, organisations, public and private communities, and individuals." This definition, which was first put forth by Winslow in 1920 and modified by Acheson in 1988, has gained widespread acceptance and is being recommended for adoption. Frenk defines public health as "the art and science of preventing disease, extending life, and promoting health through the organised efforts of society." Frenk lists five possible meanings for the term "public health." In the first place, it is comparable to governmental activity, or the public sector. Second, it embraces the community as a whole—the public—rather than the government (i.e., the populace). Thirdly, public health focuses on services that don't directly affect an individual's health but rather the environment or a community. Fourth, it includes disease control measures like the elimination of polio, HIV/AIDS, and malaria, as well as preventative programmes targeted at specific demographics like mothers and children. Last but not least, the phrase "public health problem" is sometimes used to describe diseases that are extremely deadly, such as the epidemic of HIV/AIDS or TB.

By organizing societal activities, Acheson (1988) defined public health as "the science and art of preventing disease, extending life, and promoting health." According to the description above, public health is the area of medicine that deals with the science and art of preventing and managing illnesses, extending life, promoting health, and rehabilitating the sick with the help of the government, community, and people. The most important thing to understand about how public health works is:

1. Health promotion, including addressing health inequities
2. Clinical governance is about quality and clinical standards.

3. Risk management and public health protection are two related concepts.

Environmental health and regulations are a part of public health since a clean, healthy environment is crucial for illness prevention. It also involves providing accommodation and a sufficient supply of food. The scope of public health is fairly vast since it encompasses a number of industries and sectors, including agriculture, business, government, education, land use, housing, and water. The efficiency of public health in disease control and prevention, however, is often hampered by confusion and mingling with medical practise, particularly clinical practise. The primary goal of public health is to improve the general health of society, not the health of any one individual. This is done by identifying disease patterns in the population, their causes, and methods of prevention, as well as by keeping track of births, deaths, population changes, and other social behaviour patterns. However, the practise of public health, particularly that of physicians, began in England in 1948 (Hunter, 2003), at the same time as rural health superintendent and sanitary inspector training in Nigeria began.

Important Features of Public Health Law

from the legal definition of public health. The following five qualities set public health legislation apart from the professions of law and medicine:

1. Government, not the private sector, is largely (but not completely) responsible for public health legislation;
2. Populations: Public health law prioritises population health above the health of individual patients to advance clinical practise;
3. In contrast to the interaction between a doctor and a patient, public health considers the relationship between the state and the population;
4. Facilities: Rather than dealing with personal medical facilities, public health deals with the provision of public health services to/for the population;
5. Force: Public health law has the authority to use force to protect the public when necessary and in accordance with international norms for the defence of human rights.

Legal Framework for Public Health

As a result, the legislation may provide a framework for action, have an impact on government operations, and shape social perceptions of the significance of public health, particularly in light of the current financial crisis. The public health law's framework should embrace and define its tasks to include the bare minimum of necessary infrastructure, financial sources, and staff, which may serve as a benchmark for future health sector policymakers. While restricting the authority required to protect individual rights, public health law grants total power for the exercise of public health rights. It's crucial to understand the difference between public health obligations and authorities when thinking about legal change.

CONCLUSION

In conclusion, laws and regulations pertaining to public health are essential for preserving and advancing the wellbeing of communities and people. While the primary focus of these rules is to address physical threats to public health, they also need to take into account the ethical considerations of autonomy, privacy, justice, and fairness. A vital ethical duty is to recognise and reduce the difficulties that public health policies and programmes impose. This entails making sure that people are aware of their rights and the justifications for particular duties, such disclosing personal health information or taking part in contact tracing programmes. A careful balance between the expected benefits and acknowledged downsides of treatments is necessary when making ethical decisions in public health. A high focus should be placed on protecting individual freedoms and privacy while using coercive methods sparingly and only when required. Public health legislation must change and prioritise the population's health and well-being in light of the changing demographics and developing health concerns. While many variables affect public health choices, ethical concerns should continue to be a major guiding concept in developing laws and regulations. The ultimate objective is to improve everyone's health while respecting the ideals of justice, fairness, and respect for personal freedoms.

REFERENCES:

[1] P. Kai Hong, “Governance Issues in Health Financing,” in *International Encyclopedia of Public Health*, 2016.

[2] E. Fink-Samnick, “The evolution of end-of-life care ethical implications for case management,” *Prof. Case Manag.*, 2016.

[3] E. Fink-Samnick, “The Evolution of End-of-Life Care,” *Prof. Case Manag.*, 2016.

[4] K. J. Lynch, “Regulation of fracking is not a taking of private property,” *Univ. Cincinnati Law Rev.*, 2016.

[5] J. Shaughnessy, “Winning the War at Home: Stability Operations Strategy for Homeland Security,” *Homel. Secur. Aff.*, 2016.

[6] N. Vrachnis and A. Loufopoulos, “Medications in pregnancy: challenges and concerns,” *HJOG*, 2016.

[7] M. Firestone, M. Berger, B. Foos, and R. Etzel, “Two decades of enhancing children’s environmental health protection at the U.S. environmental protection agency,” *Environ. Health Perspect.*, 2016.

[8] G. C. Nwafor and A. O. Nwafor, “The healthcare providers-patients relationship & state obligations in times of public health emergency,” *African J. Leg. Stud.*, 2016.

[9] G. Sánchez-Rentería, F. J. Bonilla-Escobar, A. Fandiño-Losada, and M. I. Gutiérrez-Martinez, “Observatorios de convivencia y seguridad ciudadana: herramientas para la toma de decisiones y gobernabilidad,” *Rev. Peru. Med. Exp. Salud Publica*, 2016.

[10] S. Burris, L. Hitchcock, J. Ibrahim, M. Penn, and T. Ramanathan, “Policy surveillance: A vital public health practice comes of age,” *J. Health Polit. Policy Law*, 2016.

CHAPTER 8

FOUNDATION OF A HEALTHY SOCIETY: UNDERSTANDING PUBLIC HEALTH LAW

Sourabh Batar, Assistant Professor
College of Law, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India
Email Id- battarsourabh@gmail.com

ABSTRACT:

By outlining the roles that both citizens and governments must play in resolving public health issues, public health law (PHL) is essential in establishing and preserving a healthy society. Despite the fact that PHL gives public health organisations a legal foundation, it often fails to address the many factors that influence people's health. The importance of discretion, the preservation of rights, and the use of evidence-based decision-making are highlighted in this study's examination of the role played by legislators in the implementation of public health legislation. The worldwide view of public health legislation and its function in fostering the effectiveness and equality of healthcare systems are also covered in this essay. In tackling issues of global health, it emphasises the value of teamwork. It also looks at how Nigerian public health legislation has changed through time, with a particular emphasis on how it has changed in reaction to epidemic outbreaks and the creation of public health laws. The article focuses on the need for ongoing legislative change in order to adapt to shifting health concerns and safeguard individual rights. Finally, public health law is an essential instrument for attaining and preserving public health objectives. It is an active area that adapts to society's changing requirements and priorities in terms of health. The historical background, guiding principles, and difficulties of public health legislation are explored in this study, emphasising the crucial part that it plays in fostering healthier societies.

KEYWORDS:

Healthy, Public Health, Law, Public Health Legislation (PHL), Society.

INTRODUCTION

Public health legislation (PHL) considers what each person must do and how the government must function to create a healthy society. As a result, public health concerns have a legal basis and structure thanks to public health legislation. Public health institutions should be well equipped and competent to react to present and foreseeable public health concerns thanks to public health legislation. Unfortunately, it often happens that current public health legislation do not provide the necessary services to accomplish the stated aim by taking into consideration the determinants of health. In addition, a historical timeline of public health law's evolution from antiquity to the present is shown, emphasising important turning points and the founding of public health organisations. A significant turning point in American public health history was reached in the 19th century with the emergence of epidemic illnesses in the United States, which resulted in the establishment of the Metropolitan Board of Health.

Legislative Function in Implementing Public Health Law

The law should require health agencies to start a wide variety of operations including monitoring, control of contagious and non-contagious illnesses, environmental cleanliness, and injury prevention. It is important for health authorities to use discretion while using their authority to advance the public's health. To safeguard the rights and dignity of people, the law must set appropriate restrictions on authority. The best way to achieve this is if it is possible to identify specific requirements for the execution of crucial authorities. For instance, mandating that health facilities use data supported by evidence that carries a negligible risk to public health as the foundation for implementation to prevent differences on violations of individual rights or unlawful action discrimination; the procedural due process provided for all people who experience severe restrictions on their liberty; and the protection of personal privacy of individuals.

Public health law utilises a number of legal strategies to avoid illnesses and injuries by fostering a healthy society, even if it is and must be viewed as a tool for prevention. The updating of laws, compliance with international and domestic legal requirements, and better interactions between relevant public health authorities, within nation-specific vertical hierarchies of public health consultants, as well as between public health specialists and private initiatives in public health are all possible outcomes of improving PHL [1], [2].

Health and Legal Reform Interventions

Public health initiatives are seen in law reform as promoting and preserving individual rights as well as enhancing real decision-making. Interventions in public health may, nevertheless, be very cost-effective. This intervention includes steps to lower alcohol consumption through taxes and advertising bans; regulations to lower salt content in food and fats; tobacco control measures related to taxes, advertising, and smoke-free areas; and steps to increase road safety through the use of seat belt laws, speed bumps, and breathalyser tests. Although many of these activities would already be justified by other factors, such as cost-effectiveness data in practise.

The Global Perspective on Public Health Law's Historical Development The illness has existed for as long as mankind, therefore society has known from its inception that organised efforts by the sovereign authority are required to combat plague and pestilence. Moses may have given the first directive for a sanitary code to the ancient Hebrew government. The first sanitary laws in mediaeval Europe were enacted by King John II of France in 1350, and by 1357, Edward III of England had issued a royal edict prohibiting pollution of the Thames. However, the ancient Greeks and Romans were "the most sage and extensive legislators in such matters," acknowledging the importance of sanitary measures. During a plague pandemic in 1348, Venice formed a board of health, which set rules for the confinement of ill people for forty days, giving origin to the name "quarantine." When Venice quarantined marine trade in 1374, neighbouring towns like Ragusa and Marseille kept an eye on the practise.

Sanitary laws were sometimes implemented in the generations that followed, but by the time Queen Victoria assassinated her father, King George III, in 1837, the science of public health was essentially unrecognised by the parliament. Doctors were hired to look into circumstances causing illness thanks to the influence of Edwin Chadwick, a barrister and secretary of the Poor Law Commission. A Royal Commission was established to investigate the health of big cities and populated areas in 1843 after Chadwick presented a report on the sanitation conditions of the working classes in 1842. These actions led to the establishment of the General Board of Health in England in 1848. For the first time in human history, maintaining the public's health was fully acknowledged as a crucial administrative role of the government, claims Dr. William H. Welch. Since the occurrence, the current age of public health has existed.

The rise of epidemic illnesses like cholera in the 19th century, tuberculosis in the 20th century, and yellow fever in the 21st century, which were killing innocent people, particularly those living in unsanitary circumstances, marked the beginning of public health in America. The establishment of the Metropolitan Board of Health in 1866, which was the first time an American community had successfully organised itself to combat an epidemic, is arguably the most significant event in the history of public health in the United States, as Charles Rosenberg rightly notes [3], [4].

Public Health Laws Establishment to Fight Epidemic Diseases

You can see from the above that there was a need to battle the epidemic illnesses that were rife in America at the time, which resulted in the development of public health and the creation of a Board to deal with the diseases that were arising and impacting a significant portion of the population. In order to guarantee the Board's efficacy in addressing the problems of disease prevention and control as well as health promotion. In order to provide the Board, the authority to handle any public health-related matters, public health legislation was enacted. Legislative and administrative legislation may be very powerful weapons in the promotion of public health, as noted by Wing, Mariner, Annas, and Strouse (2007). Public health laws play a critical part in this process.

Board Enforcing Sanitary Regulations and Rules

The Board was, however, mandated and given permission to collaborate with the police in promoting public safety and health, and they were thereafter obligated to enforce and carry out the sanitary laws and regulations. Back then, the board's staff comprised doctors, health inspectors, attorneys, engineers, and police. It was their responsibility to ensure proper building construction, the removal of waste, the cleanliness of the area through inspection, the maintenance of proper drainage systems, the elimination of all public nuisances, the serving of notices and orders to abate nuisances, the undertaking of general and gratuitous vaccination, the isolation of those suffering from diseases like smallpox, as well as the taking of measures to prevent the occurrence of diseases and control diseases. The public health system and legislation in modern-day America were constructed on top of this framework.

DISCUSSION

A worldwide professional discussion on the provision of a handbook to help nations involved in the process of establishing, modernising, and upgrading their public health laws was held on April 26, 2010, at the worldwide Development Law Organisation (IDLO). At the IDLO regional office in Cairo, Egypt, the conversation was held. There were 22 specialists in attendance, from a wide range of nations, including Australia, Argentina, Brazil, China, Canada, Columbia, Egypt, Ecuador, Indonesia, South Africa, Suriname, Uganda, and the United States of America. international organisations including the Eastern Mediterranean Regional Office of WHO, the United Nations Development Programme (UNDP), and the Office of the High Commissioner for Human Rights (OHCHR) of the United Nations. The first discussion took place from April 26–28, 2009, at the IDLO headquarters in Rome.

The history of public health in Nigeria may also be linked to the mid-20th century outbreaks of illnesses including cholera, yellow fever, yaws, chicken pox, and small pox. Although the creation of the Sacred Heart Hospital by Roman Catholic missionaries in Abeokuta in the 1860s marked the beginning of medical services in Nigeria, public health was not implemented until much later. The establishment of contemporary medical facilities in Nigeria during the succeeding colonial era was significantly aided by religious missions. It wasn't until the middle of the 19th century that Dr. Williams, a Briton, performed the first series of vaccinations in Nigeria. This was followed by the colonial health system, which was likewise predominantly hospital or curative-based. A medical auxiliary school was established in Zaria, Jos, Maidugrui, and Ibadan as a result of the rise in epidemic illnesses to educate Rural Health Attendants and Health Inspectors to provide public health services like to those provided in America during their pandemic. This was also the same time when pertinent public health rules were passed to assure environmental hygiene and illness prevention.

Primary health care (PHC), which is defined as a level of health that assures socially and economically productive lives) was generally chosen as the method for attaining Health for All at Alma-Ata, Kazakh Republic, former USSR, in 1978 (Aja, 2001). The Nigeria Public Health legal by Saka M.J. (2017) is the first effort to clarify public health legal practises in Nigeria. The Public Health Ordinance was made a public health statute in Nigeria in 1948. The edict applied to the whole of Nigeria, which at the time was governed as a single entity by a unitary government and was therefore managed by the Colonial Authorities. All around the nation, public health legislation has seen spectacular success. With the advent of regionalism in the 1950s, the public health law was revised and specifically passed for each of the three regions, namely the Northern, Western, and Eastern Regions, in 1957. This was a spectacular feature of this accomplishment. In 1959, the public health legislation went into effect. The 12 States that were founded in 1967 inherited these public health regulations, which were then inherited by the other states that were created thereafter. Each of the 36 States and the Federal Capital Territory now has a public health legislation. It defines terms like environmental health officer and medical officer of health. Additionally, it establishes the basic obligations of a medical officer of health and clarifies the authority of public health officers (PHOs) [5], [6].

In Nigeria, the history of public health legislation dates back to the mid-20th century outbreaks of illnesses including cholera, yellow fever, yaws, chicken pox, and small pox. The Public Health Ordinance was declared public health legislation in Nigeria in 1948. The Nigeria Public Health law by Saka M.J. (2017) is the first book to try to describe public health law practises in Nigeria. Finally, an explanation of the many components, the main objective, and what Nigerian public health legislation is. Since judges, legislators, health officials, academics, and others often consider public health law at the nexus of other professions or subjects, such as forensic medicine, health law, health care law, environmental law, and bioethics, conceptualising public health law is challenging. While theoretically connected to the fields of law and medicine, public health law is a separate discipline that must be distinguished from other fields at the intersection of health and law on the basis of empirical, theoretical, and practical grounds.

The majority of legal authorities are now evaluating their primary public health initiatives. To ensure consistency in approach with regard to the different jurisdictions, it would seem desirable to establish certain basics or values and back them up with instances of good practise. In response to particular disease risks like yellow fever, trypanosomiasis, STDs like HIV/AIDS, road traffic accidents, etc., governments in Nigeria and other nations today have created laws. Undoubtedly, outdated laws are not always harmful laws. A well-written law may be effective, beneficial, and legal for many years. However, old laws often have negative effects on their effectiveness and conformance to contemporary legal requirements. Old legislation may not reflect available medical options today, current scientific knowledge of a condition, or constitutional restraints on the power of the government to restrict personal liberties. Additionally, the legislation could not provide public health organisations the option of administrative regulation for enactments. Some outdated public health regulations are behind the times when it comes to constitutional rights, privacy protections for medical records, and discrimination legislation. The majority of courts now have more stringent requirements for substantive due process, procedural due process, and equal treatment under the law.

More scrutiny may be given to public health regulations that have an impact on confidentiality (such as partner notice and reporting), independence (such as quarantine, isolation, and personally witnessed treatment), and autonomy (such as required testing, immunisation, or treatment). Before more stringent procedural powers be used, the legal frameworks must be accessible. Before using coercion, health professionals may need to define a criterion of severe danger. Additionally, the main concern is that changing practises, regulations, or procedures may directly endanger other people's safety. As a result, under this rule, a decision to utilise critical authorities or other forms of treatment in advance would only be permitted if the person presented a serious threat to the health or safety of others. An individual's risk for contracting a communicable illness is assessed based on the route of transmission, likelihood of transmission, degree of damage, and length of infectiousness. Confusion about who has what public health capabilities and when to use those powers may sometimes come from general or overlapping legislation regarding public health duties and obligations. Given the legal system's ladder-upon-ladder approach to public health, it seems sense that even the most seasoned solicitors would find it difficult to explain the right to act to public health executives. Better clarity on legal rights and obligations would be one important benefit of public health law reform.

Conceptually connected to the fields of law and medicine, public health law is a unique discipline that is distinguished from other fields at the intersection of law and health on the basis of empirical, theoretical, and practical considerations. Some antiquated legislation could not provide public health organisations the option to choose administrative regulation for enactments. Better clarity on legal rights and obligations would be one important benefit of public health law reform.

A foundation for the public health philosophy may be developed thanks to public health legislation. A good example is the Charter for Health Promotion, which was adopted during the First International Conference on Health Promotion in Ottawa in November 1986. The requirements for health include peace, housing, food, income, education, a stable eco-system, social justice, equality, and sustainable resources, which need a proactive and comprehensive approach to health. It emphasises the necessity for administrations to build "healthy public policy" and to "accept their tasks for health" through a varied range of policies and initiatives, including the creation of healthy environments and the strengthening of public health institutions. This was recognised in Ottawa as the coordinated action of governments, non-governmental and voluntary organisations, local authorities, industry, and the media [7], [8].

The Tallinn Charter Decalration on Health Systems and the Framework of Public Health Law. 2008 saw the recent capture of a common commitment to enhancing both health and the efficiency of the healthcare system. WHO sponsored an international conference on health systems for health and prosperity that was known as the "Tallinn Charter," which verified and outlined the following values. Promote equitable, inclusive, and solidaristic ideals through allocating resources and focusing health policy on the needs of the poor and vulnerable; Investment in health systems throughout several fields that have an impact on health; Improve the responsiveness of health systems to people's needs, expectations, and preferences while taking into account their rights and obligations for their health; Involve stakeholders in the creation and application of policy.

Justification for the Creation of Public Health Law

Effective legislation is essential for enhancing public health. At the national level, nations must continually evaluate and update their health legislation to account for:

1. Safeguarding and advancing public health;
2. Maintain their health-related programmes and initiatives;
3. Avoid illness brought on by unhealthy living arrangements and harmful items;
4. Battle communicable illnesses that are growing and returning;

5. Encourage the creation of health systems; and
6. Fight against prejudice, persistent poverty, and health disparities. Internationally speaking:

Modern global health concerns demonstrate our interdependence and call for collaborative agreement and action; In order to safeguard and advance health, national and international health regulations are essential; and many national constitutions, like the WHO Constitution, recognise the significance of health legislation. The Public Health Law is not only for the population's protection and maintenance of health. It is a list of things to do and not to do. It is created by lawmakers at all levels, much like other laws. These are the characteristics of public health law:

Public health Laws: What to Do and What to Avoid

I. Public health law (PHL) is a body of guidelines, corrective measures, and penalties for health-related offences. PHL is a collection of guidelines or standards for healthy living. PHL is hence normative.

Congressional Action on PHLs

Depending on the kind of government or legal system in force in a particular nation, PHL is now often created by the legislature, which is the Parliament National or State Assembly (NASS or SASS), or by a delegated authority, agency, or other authority. Many public health legislations in Nigeria from the past were developed by customs (sanitary inspectors in the past). Health-related legislation are now often codified, or created, at the behest of the legislators, particularly where parliament creates it and so forth. The majority of public health legislation, which developed from custom and is now either partially or completely unwritten and exists in the form of court precedents and other forms, is, nevertheless, unwritten. Thus, written public health legislation, which may be wholly uncodified in the form of common law and customary law, or codified as a statutory law and other forms.

The Evolution of Public Health Law

Public health law is constant or ongoing, barring significant social, political, or economic upheaval that results in a breakdown of law and order. There is a basic and ubiquitous public health law. Nearly everything that has an impact on the wellbeing of a person or a group is governed by legislation. Practically every area of life and human activity that is connected to health is covered and regulated by public health legislation.

Health Issues Are Addressed by Public Health Laws. Legislators often enact public health legislation in response to challenges and concerns that the nation's healthcare systems are currently facing. Laws pertaining to public health are often enacted as a reaction to problems that are deteriorating or collapsing the nation's health. Public health legislation often depicts the problem that society is attempting to tackle. It illustrates the level of civilizational evolution.

Regional and Territorial Boundaries of Public Health Law. The scope of public health legislation is geographical in scope. Public health legislation of each state in Nigeria, federal law, and bylaws. Therefore, PH laws only function or take effect in the geographic area where the health law is applicable, which may be a company, institution, agency, local government, state, country, or the global population, depending on the situation. Public health legislation is practical or unique to each civilization, and it is typically adjusted (manufactured) to meet the requirements and objectives of the community it is intended to govern. Public health Law may have its origins in the people's nature, culture, history, or religion, as well as in their social, political, and economic lives. The rationale, value, or aim of public health law may depend on the society it will serve. Additionally, a lawmaker's command, positive statement, order, decree, or list of dos and don'ts may also be considered a public health legislation. Public health laws should be amended and revised to better serve the requirements of the populace as society develops and evolves. As changes take place as society develops, public health law may be modified and updated to fit the demands of the populace. As a result, public health policy develops and evolves throughout time. As a result, public health legislation should improve through time to better safeguard and accomplish the goals of society. In an ideal world, public health legislation strengthens the society while also enhancing the health laws. Health laws advances the community, which in turn modifies the law on health. The community evolves as a result of public health legislation, and the law also changes to accommodate the community. Community grows as a result of public health legislation, and the community grows the public health law by revising it. Health laws affect the community, and the community alters the laws. This cycle will continue as long as there is life and civilization [9], [10].

To be successful, public health law must address today's health issues, uphold moral and legal principles, and be flexible enough to meet changing social requirements. Outdated legislation may impede growth and provide insufficient protection for individual rights. International cooperation on public health legislation is crucial in the globally linked world of today because it calls for coordinated actions and agreements to address global health issues. The significance of fairness, inclusion, and stakeholder involvement in shaping health policy is emphasised by initiatives like the Tallinn Charter. In the end, public health policy should change together with society to serve its purpose of preserving and advancing a community's health and well-being. Public health legislation should continue to change to provide a better and more just future for everybody as new issues arise and our knowledge of health develops.

CONCLUSION

Public health law provides the foundation for efforts to build and preserve a healthy society. In order to promote public health, treat infectious and non-contagious illnesses, ensure environmental cleanliness, and avoid injuries, it emphasises the duties of both people and governments. However, it is essential that these regulations find a balance between preserving human rights and dignity and preserving the public health. The evolution of public health laws across time demonstrates how mankind has come to understand the value of coordinated efforts to prevent illness and promote wellbeing. The urgent health issues of each age have influenced the growth of these regulations from ancient civilizations to current ones. In order to address current health challenges including the prevention of communicable illnesses, the promotion of healthy lifestyles, and the elimination of health inequities, public health legislation is crucial. It offers a framework for government resource distribution, health system development, and stakeholder collaboration to enhance public health outcomes.

REFERENCES:

[1] R. Horton, “Offline: The secrets of a healthy society,” *The Lancet*. 2016.

[2] N. Crisp *et al.*, “Manifesto for a healthy and health-creating society,” *The Lancet*. 2016.

[3] T. Tolaymat, W. Abdelraheem, A. El Badawy, D. Dionysiou, and A. Genaidy, “The path towards healthier societies, environments, and economies: a broader perspective for sustainable engineered nanomaterials,” *Clean Technol. Environ. Policy*, 2016.

[4] V. Varadharajan, V. Kannav, and A. Pasala, “Sensor based coaching for a fit and healthy society,” in *International Symposium on Technology and Society, Proceedings*, 2016.

[5] D. Geary, "How do we get people to interact? International students and the American experience," *Journal of International Students*. 2016.

[6] N. Davies *et al.*, "Simulating social-ecological systems: The Island Digital Ecosystem Avatars (IDEA) consortium," *GigaScience*. 2016.

[7] J. C. Matthews, "Disaster Resilience of Critical Water Infrastructure Systems," *J. Struct. Eng.*, 2016.

[8] S. Roche, "A sound family for a healthy nation: motherhood in Tajik national politics and society," *Natl. Pap.*, 2016.

[9] U. Blume-Peytavi *et al.*, "Age-associated skin conditions and diseases: Current perspectives and future options," *Gerontologist*. 2016.

[10] G. D. Wu *et al.*, "Comparative metabolomics in vegans and omnivores reveal constraints on diet-dependent gut microbiota metabolite production," *Gut*, 2016.

CHAPTER 9

EXPLORING THE GENESIS, DEFINITIONS AND INTERPLAY OF LAW AND MORALITY IN HUMAN SOCIETY

Bhirgu Raj Maurya, Assistant Professor
College of Law, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India
Email Id- brmourya.mourya321@gmail.com

ABSTRACT:

There have been two conflicting schools of thought on the origins of law, which has generated much discussion. One school holds that the development of law came about before the birth of mankind, while the other holds that it did so later. The former postulates that before creating people, God employed law to bring order to the chaotic natural world. The latter claims that the prohibition against mankind eating the fruit of life and death in the Garden of Eden marks the beginning of law. Nevertheless, it is clear that humans have lived by rules since they were very young and have recognised the need of abiding by social norms for peaceful cohabitation. You may remember that we covered the history of the idea of law, its definition, and a few legal theories in this unit. You may recall that although there are various competing theories on the genesis of law, we agreed that it has existed for at least as long as mankind. We also described law as a set of guidelines created to control how individuals interact with the institutions and other members of a community. Finally, we take a look at a few legal theories, including those from the natural school, positivist school, utilitarian theory, and Marxist theory. We also discussed some more legal ideas. It is intended that you will be able to explain how law came to be, define it in your own terms, and be able to list various legal ideas. We also emphasize the notion of morality and the established norms of moral behaviour in this lesson. Equally important were the distinctions and affinities between morality and the law. It is anticipated that after reading this, you would be able to define morality and list some of the differences and parallels between morality and law.

KEYWORDS:

Genesis, Human, Law, Morality, Society.

INTRODUCTION

The genesis of law is a subject of numerous debates. One school of thought maintains that law began prior to the creation of man, whilst the opposing school claims law began after the creation of man. Those who subscribe to the first school of thought believe that man was only formed after God had brought order back to the world's chaotic nature through the use of law. The second school of thought contends that despite being the last creature created by God, man was the only one to receive a command, with the first rule barring him from partaking of the fruit of life and death, which was the focal point of the Garden of Eden. As a result, this school of thought claims, law began with this command. However, as Ogbu (2002) correctly noted, man has known that he lives in a world of rules from a very young age. He continued by saying that the guy learns that in order to exist in any community, he must obey its laws.

The other creations of God also have rules that they follow, despite the fact that man is always the focus whenever the topic of law is brought up. As a result, there are seasons and periods, as well as rules that enable peaceful coexistence and cohabitation amongst animals, birds, and plants. According to Soyinka (2000), even within the communities of bees, ants, geese, and fish, there is some kind of system, or norms of cohabitation, that regulates the behaviour and relationship between individuals and groups. Because they see the law as an oppressive weapon in the hands of capitalists to exploit the working class, some intellectuals, like Karl Marx, have projected that it would eventually collapse. Unfortunately, years after this postulation, Kayode Eso JSC claims that law is still the social moderator and regulator of all types of connections, including those that are legal, social, socio-religious, political, economic, and technical. This demonstrates that no community can survive without the rule of law, and that all societies—human and non—are founded on the rule of law. See what happens if you remove law from the world's gravitational pull [1], [2].

You can see how the idea of law came to be from the conversation up to this point. You may also see that while law is more often addressed inside the human circle, it has existed from the very beginning of man's creation and regulates behaviour across God's whole creation. The definition of law is the next topic we'll be covering in this lesson. There are several definitions of law, which is due to the fact that it has been challenging to reach agreement among anthropologists, social scientists, legal academics, practitioners, and even jurists on what law really means. Law is a tremendously complicated phenomena that may be examined from a variety of angles, as Elegido (2006) correctly remarks. This does not imply that there is no universally recognised definition of law, however. On that topic, we'll look at a few definitions that we believe are pertinent for this course.

According to Jegede (1981), law is a tool for social change, an instructional framework used by people in society to either impose and promote the necessary change in the development of the society's values or to react to and control changes imposed by the political and socio-economic realities of daily life. Law may also be described as a system of guidelines that govern how members of a society interact with one another and are sanctioned when violated.

Law may also be described as a key tool for establishing, regulating, structuring, and overseeing organisations that offer public services like healthcare, education, and other social comforts and benefits. The aforementioned indicates that law is intended to control both the affairs of institutions that offer public services as well as the affairs of individuals in their relationships with one another. Because most public institutions in Nigeria do not hold themselves to account, their operations are subpar or even completely uncontrolled, it seems that this area of the law has received a great deal of neglect. As a result, decisions are made at random and with no consequences. From the standpoint of public health legislation, this is particularly significant since most institutions do not adhere to these regulations, which may be one of the causes of the high incidence of public health disorders. Regulations governing the collection and disposal of trash are broken by even organisations like Environmental Sanitation Authorities. But as you can see from the above, the purpose of the law is to establish rules, regulation, and a civilised society where everything is done in accordance with the law and not based on force or sheer strength. Every human action is conducted within the parameters of the law, according to Ogbu (2002).

We'll now talk about a few legal ideas. Because different academics and philosophers have seen how law functions from their own personal constructs or world views, there are several theories of law, just as there are different definitions of law. The natural school, positivist theory, utilitarian theory, and Marxist theory of law are only a few of the important theories of law. Now, let's quickly go through each of these hypotheses. The natural theory of law is one of the oldest, if not the first, theories of law. It explains that laws are not subject to any laws devised by humans but rather are decreed by God. Justice, defined as the righting of wrongs and the equitable sharing of costs and benefits in society, is achieved through this universal and unchangeable principle. It is discoverable by reason (natural) and it is a higher rule (it is legal) [3], [4]. Their application is constant and timeless; it calls people to duty with its order and deters wrongdoing with its prohibition (Harris, 1997). The order of laws, according to St.

Thomas Aquinas, is as follows: everlasting law, which is the rule regulating the cosmos, comes next; this is followed by divine law, which are laws set out by religion; and at the bottom is man-made law, which is sometimes referred to as positive law.

You must understand that natural law experts contend that law is innate to human nature and that it existed before man since God created the cosmos by using law to organise the chaos that existed before to creation. They also contend that some behaviours are inherently forbidden in every culture, regardless of where we find ourselves. For instance, killing someone, lying, or stealing another person's property without their permission. Man to man marriage was formerly thought to be improper, even now. As we can see in Corbett v. Corbett (1971) p. 83 at 106, Ormerod J. held that a marriage between a male and a person who had undergone a sex change constituted a nullity since it could not contain the normal, biologically established implications of marriage.

DISCUSSION

In general, there are certain things that are bad, and since they are wrong, no one should do them. Instead of doing evil, people should do what is good since God will punish them for it. Some behaviours are objectively right and others are objectively bad, as Elegido (2006) correctly notes. For instance, it is objectively good to keep your word or be kind to your neighbours, but it is wrong to intentionally harm another person. Some of the scholars associated with the natural school of law theory who claimed that "natural law is willed by God and discoverable by reason, positive law deriving its binding force from natural law; therefore, any positive law that conflicts with natura However, other academics reject this school of thought, which sparked the positivism movement.

The command theory, also known as the positive theory of law, is founded on the idea that laws are created by and for people, not by God or any other superhuman or supra-natural entity. Additionally, morality must be kept distinct from legislation since morality is not objective and what one culture may deem moral may be judged immoral in another. For instance, although same-sex marriage may be acceptable in the West, it is seen as immoral in Africa, particularly Nigeria. Therefore, laws should be whatever the ruling class in a country deems to be the law. Every law, simply and strictly so-called, is set, directly or indirectly, by a sovereign person or body, to a member or members of the independent political society wherein that person or body is sovereign or supreme, according to John Austin (1790–1859), one of the leading figures of the positive school of thought. In essence, Austin and his fellow positivist thinkers argue that the sovereign, who serves as the head of the society, is the one who establishes the law. According to the sovereign, everyone in the society has a responsibility to uphold the law or risk punishment from the sovereign. According to Harris (1997), the foundation of their argument is that every human behaviour should be seen as either being ordered or being banned; or not being commanded or being prohibited, by law. Any action that was mandated or forbade was the topic of legal obligation. If the ruler decrees that each person should have just one kid and that no child should be a girl, then. Because it is a sovereign's order, it becomes the law and must be followed by everyone. Examples include China's one-child policy, Nazi Germany's murder of the Jews on Adolf Hitler's orders, and the recent slaughter of young girls in India due to prejudice against women. The four-child programme of the Babaginda government, which was abandoned, and the Buhari and Idiagbon administration's War Against Indiscipline are two local examples in Nigeria [5], [6].

The problem with the positivist approach is that defining what or who constitutes a sovereign is difficult. Again, the sovereign does not remain indefinitely; rather, it lasts just as long as the populace of the society permits it to, and it is due to the populace's voluntary submission to law enforcement, rather than on the basis of an order, that laws are upheld. Hitler and the Nazi agenda, for instance, were deposed and tried. After the annulment of June 12 here in Nigeria, the Babaginda regime was brought to its knees by the populace's opposition, forcing him to resign. These are some of the positive theory's flaws, which led some of its proponents, like Jeremy Bentham, to suggest the utilitarian theory.

The utilitarian theory of law is essentially an effort to correct the shortcomings of the natural and positive theories, which are seen to not adequately serve the interests of most people in society. First of all, morality isn't objective; what you could deem moral to you, I might think immoral. Again, allowing the sovereign to set the rules for what constitutes law encourages arbitrary behaviour and the imposition of one person's will on society. Contrarily, the law ought to be what would lead to the greatest pleasure for the majority of society. A remark or action that does not advance the well and pleasure of the vast majority is thus unethical and should not be recognised as the rule of law.

The utilitarian theory's founder, Jeremy Bentham, asserts that a measure may be justified by utility even if it only slightly reduces the happiness of the majority while significantly increasing it for a small number of people. The term "utility principle" refers to the idea that every action should be approved or disapproved based on how likely it is to increase or decrease the happiness of the party whose interest is being considered, or, to put it another way, how likely it is to support or oppose happiness.

The point being made here, which might seem a little complex and challenging to understand, is that every action should be weighed against a number of factors that add pleasure and pain to members of the society, and if increasing a person's or group's pain would increase the happiness of the majority of members of that society, then that person's or group's happiness should be increased with pain so that there will be greater happiness for the majority of members of that society. In order to establish the happiness and appropriate consequences of all activities, Bentham created a list of 14 joys, 12 pains, and 7 conditions. Intensity, length, certainty, propinquity, fecundity, purity, and expanse are among the seven requirements.

However, the utilitarian hypothesis has faced harsh criticism, much as the first two hypotheses. First, since no one can foresee all the effects of their actions before they are done, the so-called felicific calculus is unworkable. Second, it lacks morality since it is immoral to make some people suffer so that others may enjoy themselves. Some academics contend that this is because different people's joys and suffering are not comparable. The majority of human needs and aspirations may be manipulated, which brings us to our last point: who is the lamb that Bentham believes should be sacrificed for the satisfaction of society in all deeds? This seems to be what inspired Marxist theory, another school of legal philosophy.

Despite the fact that there are alternative theories of law, we will just briefly describe them and the academics with whom they are linked before moving on to the Marxist theory of law. Because it used many economic analogies, the Marxist theory of law has been characterised by some academics as more of an economic notion than a legal one. According to theory, there exist class divisions in every society, and laws are created to maintain these divisions at every level of society. In order to prevent the class position from being erased, legislation must evolve along with society. This theory of law basically rests on three pillars: first, that the law is a result of developing economic forces; second, that it is a tool used by the ruling class to maintain its power and control over the lower class; and third, that the law as a tool of social control will wither away and disappear in the communist society of the future.

Marx argues that there are production forces present in every civilization, including facilities, resources, equipment, labour, and working conditions as well as the technical know-how accessible there. In this system, there is a relationship between the force of production and the social classes, which he divided into three: the proletarians (who are the labourers or lower members of society who sell their labour (skills) in order to earn a living), the capitalists (who are the owners of the means of production and who hire the labour or force him to sell his labour at a given price), and the landowners (who are the law lords who determine what happens in the society). Despite the fact that the capitalist is required to pay for the laborer's set price, the capitalist is not required to sell the laborer's output at a defined price. He sets the price to sell it at and makes a significant profit as a result, none of which is ever given to the worker who worked on the production process. And most of the time, the reward for the laborer's efforts is seldom equal to what he contributes to the final product. In the end, the capitalists and landowners make and keep a sizable profit and further exploit the workers by charging the worker a high price for their product. Every time a proletarian attempt to close the class gap, the capitalists and landowners create laws to either increase the gap or preserve it. This ensures that the class position of the worker is maintained and that he is unable to transfer from the class to which he belongs [7], [8].

Given that it attempted to converge economic, social, and legal notions, the Marxist theory is, to put it mildly, one of the most complicated conceptions of law. However, it's important to remember that there are generally three classes in any given society, and rules are established to guarantee that members of one class stay members of that class and are exploited by others, particularly landowners and capitalists. Despite the fact that this is true of all cultures—developed, developing, and less developed—these examples ring truer when applied to the majority of African countries, particularly Nigeria. Where laws are created to guarantee that the wealthy become wealthier and the poor get poorer via the implementation of policies that are never intended to eradicate the different social classes. The children of the ruling class and the rich continue to attend better schools, receive better health care, and ultimately are healthier and better suited to obtain good jobs, while the children of the poor, if they are fortunate enough to survive illness and inadequate education, end up working menial jobs. As a result, the children of the poor continue to attend poor schools and have access to poor health care. Thus, the children of the rich and powerful automatically become members of those classes, while the children of the poor must fight to escape the proletarian class, which is difficult because laws are intentionally written to make it nearly impossible for them to enter either of society's upper classes.

Similar to how establishing law is not a simple undertaking, defining morality is also difficult given the pace of modernity and the demand to uphold essential or basic human rights. Law and morality, as Mandal (2004) correctly notes, are too nebulous to be understood. The idea of law and justice cannot be adequately expressed and conveyed to us in a few sentences, it must be included here. The term "morality" or "moral" is imprecise and cannot be precisely defined. This does not imply that there are no recognized theories of morality, either. We'll try to think about some definitions of morality today. Morality is defined as a set of rules governing what is right and wrong or acceptable and unacceptable conduct by the Oxford Advanced Learner's English Dictionary. Morality is a rule of behaviour in matters of right and wrong, according to the Online Dictionary. One culture, philosophy, religion, or individual conscience may develop and define morality. According to A while, "morals are actually some standards in our that serve as guidelines for human behaviour." When we talk about morality, we're talking about rules of behaviour whose validity is supported by the argument that they're right, good, or essential for societal welfare or social life.

The distinction between law and morality is the next topic we will discuss in this section. Because of their close ties, it is more difficult to create a watertight division between law and morality. Law and morality have always been at odds with one another, as noted by Mandal (2004). The two notions are co-extensive, as you can see from the above, but they are not co-terminus, indicating that there is some distinction between them. There are many distinctions between morality and law, and we will address a few of them. One of the ways that law differs from morality is that it does not penalise every omission unless a legal obligation was violated or was failed to be fulfilled. While morality holds all failures to act, whether or whether a legal obligation exists, to be wrong. The aforementioned indicates that the legislation won't be triggered until someone has disregarded a legal obligation and failed, omitted, refused, or forgot to do so. For instance, a Community Health Practitioner is not required by law to treat each mental patient they come across while driving. Because there is no legislation saying that there is an obligation to provide assistance to someone on the street whose relative has a mental condition, that individual cannot claim professional negligence and prevail in court. However, he would be found guilty in a moral court since it was right for him to provide assistance to a fellow human being who was experiencing a health issue.

Law and morality vary from one another in that one is a norm that is always changing, whilst the other is a fixed standard. This simply implies that laws change often as society changes in response to the need for modernity. However, morality tends to stay stable across time, as has been shown in that specific civilization in the past, and does not alter readily. For instance, the Osu cast system in Igboland has not altered despite the fact that it has been deemed discriminatory by several legislation and judicial rulings, most notably section 42 of the 1999 Constitution [9], [10]. Another distinction between law and morality is that although morality cannot be legally defined, law may be. What we're attempting to argue is that you can create a law and enforce it to make people follow it. On the other hand, morality cannot become legislation. It is true that if a law conflicts with how many people act, it will have little effect on how people perceive morality, as Elegido (2006) indicates. The futile attempts to end the Osu cast system and regulate bride price payment via the law in Nigeria serve as an illustration of this.

Additionally, morality is compelling because individuals have the freedom to disobey a specific moral command, while legislation is coercive by nature. The sole distinction between morality and law, according to Mandal (2004), is that morality is not coercive whereas law is. Coercion is used to enforce the law, and over time, a society's consistent application of the law causes the human soul to internalise the rule of law. The argument being made here is that following the law is mandatory, and breaking it might have negative repercussions. However, morality is not compulsory. A second distinction between law and morality is that although morality is simple to implement, law is more challenging to do so, leading to certain unstated repercussions including ridicule, self-belittling, and public odium. This simply implies that members of a particular society are able to recognise the recognised code of conduct upheld by the community and adhere to it without the need for coercion. However, the law is always upheld in public view. For instance, males are seen or considered as superior to women in Nigeria and the majority of African societies, and this belief is shared by everyone as they grow up with no coercion. However, the legislation states that both sexes are equal and that sex-based discrimination is prohibited. Nevertheless, despite the prohibition, it has been challenging to eradicate the male superiority attitude throughout the years. You can see from the explanation above that there are differences between morality and the law.

We'll now look at how morality and the law are comparable. One of the ways that morality and law are related is that both prescribe and forbid certain behaviours in a specific community. That is, both morality and legislation establish some actions as acceptable and permitted in a particular community and others as unacceptable and prohibited. For instance, murdering another person or telling falsehoods are both ethically and legally wrong. Law and morality are comparable in that they both support and strengthen one another. And this indicates that morality is supported and upheld by legislation. While morality also influences individuals to uphold the law and follow it. Because it is ethically acceptable to care for our neighbours and it is illegal to purposefully damage your neighbour, the notion of the duty of care for neighbour established in the case of Stevenson v. Donoghue is founded on both law and morality.

Once again, morality and law follow the same principles. Law, according to Elegido, "only operates within the framework of morality because it creates real obligation in the citizen." For instance, morality introduces us to certain fundamental standards that dictate what we must do to advance the general welfare of the society and that, in order to do so successfully, we must abide by certain laws created by tradition or imposed by the authorities. Additionally, both morality and legality are sanctioned in some way. For instance, in morals, the sanction takes the shape of reprobation, aversion, and ostracism whereas sanctions in law take the form of compulsion.

CONCLUSION

In conclusion, there have been many discussions on the origins of law throughout history. While some argue that law developed after the birth of humans, others assert that it existed before. Regardless of the viewpoint one adopts, it is obvious that the idea of law has a strong foundation in both human and non-human communities. Law has been essential in influencing human behaviour and social order throughout history, as shown by everything from the earliest biblical accounts to the findings of historians and philosophers. It provides a framework for cohabitation, collaboration, and conflict resolution and serves as the cornerstone around which communities are constructed. We sought to trace the beginning of law, which we all agreed was from the beginning of creation, throughout the course of this unit's debate, which was centred on the genesis of law. Additionally, we provided a definition of law, named a number of legal theories, and briefly covered four of them. The concept of morality also known as a rule of behaviour in matters of right and wrong was a major topic of debate as well. We also listed the distinctions and parallels between morality and the law. In conclusion, there are several schools of thought and opinions about the origins and concept of law. Law has a crucial function in society as a social regulator, regulating both human and non-human cultures in diverse ways. Law and morality have a complex connection since they both influence behaviour and are interwoven in many ways.

REFERENCES:

[1] T. Voon and A. D. Mitchell, “Denunciation, termination and survival: The interplay of treaty law and international investment law,” *ICSID Rev.*, 2016.

[2] M. J. Morales-Caparrós and A. Bentabol-Manzanares, “The interplay between law and accounting in the conceptualization of depreciation in Spain (1885–1939),” *Account. Hist.*, 2016.

[3] T. Hutchinson, “The Doctrinal Method: Incorporating Interdisciplinary Methods in Reforming the Law,” *Erasmus Law Rev.*, 2016.

[4] Y. Y. Liu and A. L. Barabási, “Control principles of complex systems,” *Rev. Mod. Phys.*, 2016.

[5] T. Ward and P. Green, “Law, the State, and the Dialectics of State Crime,” *Crit. Criminol.*, 2016.

[6] A. Sarvarian, “Humanitarian intervention after Syria,” *Leg. Stud.*, 2016.

[7] T. Banerjee, P. S. Dutta, A. Zakharova, and E. Schöll, “Chimera patterns induced by distance-dependent power-law coupling in ecological networks,” *Phys. Rev. E*, 2016.

[8] P. J. Boettke, J. S. Lemke, and L. Palagashvili, “Re-evaluating community policing in a polycentric system,” *J. Institutional Econ.*, 2016.

[9] D. Petković, “‘Like a Lamb Ripe for Slaughter’: Female Body, Law and ‘Domestic’ Animals in Hannah Kent’s Burial Rites,” *Gend. Stud.*, 2016.

[10] N. Marshall, N. M. Timme, N. Bennett, M. Ripp, E. Lautzenhiser, and J. M. Beggs, “Analysis of Power Laws, Shape Collapses, and Neural Complexity: New Techniques and MATLAB Support via the NCC Toolbox,” *Front. Physiol.*, 2016.

CHAPTER 10

EXPLORING THE DIVERSE CATEGORIES AND SOURCES OF LAW: A COMPREHENSIVE ANALYSIS

Yogesh Chandra Gupta, Assistant Professor
College of Law, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India
Email Id- cognitor.yogesh@gmail.com

ABSTRACT:

The wide variety of categories that make up legislation, each of which deals with a particular area of society, reflects the complexity of social elements. These categories which often interact in intricate ways include criminal law, civil law, public law, private law, domestic (municipal) law, international law, Received English law, customary law, statute law, and case law. According to Section 36(12) of Nigeria's 1999 Constitution, criminal law, which focuses on offences and their prosecution, mandates that the violation be expressly described in written law and that a specific punishment be imposed. Civil law tries to correct wrongs by providing compensation or other non-criminal rights. A case where civil and criminal features may coexist is defamation. Government institutions are subject to public law regulations, which ensures ethical leadership and the defence of people' rights. Administrative law, human rights law, and public health law are among examples. Although its impact has decreased, customary law comes from indigenous norms and traditions and has gained legal authority via historical acceptance and continuous implementation. Law is used to uphold social order, advance health and safety, protect individual rights, regulate governmental bodies, preserve peace, and spur political, economic, and social development, among other things. Judiciary precedent, traditional law, human rights tenets, international law, and legislation enacted via democratic or military procedures are all sources of law.

KEYWORDS:

Economic, International Law, Laws, Legislation, Social.

INTRODUCTION

Laws are made unilaterally under military control without public input or discussion, creating concerns about their validity and impartiality. While international law regulates interactions between countries and people with international legal personality, domestic or local laws apply to the territory of a particular country and its citizens. Received English law refers to English laws that have been absorbed into a nation's legal framework, while customary law is derived from the traditions and conventions of a particular society. Legislative bodies establish statute law, while judges' rulings produce case law. The legal system serves a variety of purposes, including upholding social order, guaranteeing individual and human rights, policing governmental institutions, promoting social, economic, and political reform, and sustaining public health and safety.

It is essential to understand the origins of law since they provide legal ideas their authority and legality. These sources may be found in Nigeria in the forms of court precedent or case law, local custom, human rights law, environmental law, and international law. Regardless of the kind of government in force, the legislative process always entails the passage of legislation by legitimately elected legislative bodies. When there is military rule, legislation may be passed by military officials without consultation with or input from the people, which often results in a dearth of due process and the possibility of retroactive implementation. Despite these variances, upholding justice, upholding order, and defending the rights and wellbeing of people and society at large continue to be the major objectives of law.

Legislation is divided into a number of categories, and which category a specific legislation falls under depends on the nature of the social component with which it deals (Harris, 1997). This is because various social situations call for different applications of the law in different societies. However, law may be categorised as either Criminal or Civil law, Public or Private law, Domestic (also known as municipal law), and International law, Received English and Customary law, Statute and Case law, or any combination of these [1], [2].

The first category of law we'll talk about is criminal law, which is also known as criminal litigation. It's the area of law that deals with what constitutes an offence and how those who violate it are dealt with in terms of prosecution and punishment. Because the act or omission is seen as a violation of state laws, criminal procedures are always brought at the state's request, never by the victim of the crime. The crime or wrong must be identified under criminal law, and the penalty for doing it must also be recorded or specified in a document often known as the criminal code. A person cannot be punished or subjected to a criminal prosecution in Nigeria specifically under section 36(12) of the 1999 Constitution of the Federal Republic of Nigeria if the crime being prosecuted for has not been defined or codified, and the penalty has not been specified. This was the court's stance in the case of Aoko v. Fagbemi (1963) All NLR 400, in which the accused, who had been charged and convicted of adultery in Southern Nigeria, had his conviction overturned on appeal because adultery is not defined as a crime in any written law in the South but is an offence in the North.

A law cannot be passed to have a retrospective or retroactive effect to make an offence that was committed before the law made it punishable, and a person cannot be given a penalty that is larger than what is stipulated for the crime he or she has done. Simply defined, a person cannot be penalised or found guilty of an action that did not yet become a criminal at the time the accused performed the conduct. The 1999 Constitution's provision 36(8) provides the foundation for this. A person cannot be found guilty of a public health offence if it was not a crime at the time the offence was committed, according to the laws governing public health. Even in cases when the crime is clearly defined but the penalty is not specified, the accused cannot be punished or found guilty of the crime.

Because the weapons Act of 1966 did not specify penalty, the Supreme Court ruled that the accused could not be found guilty of possessing weapons illegally. It's also crucial for you to understand that Nigeria, unlike most other countries, operates under a dual criminal law system, with separate criminal laws in effect in the north and the south. While the south uses the Criminal Procedure Act together with the criminal law, the north uses the Criminal Procedure law. This duality concept states that certain behaviours that are offensive in the north are not offensive in the south and vice versa.

The process of seeking redress for a wrong committed against a person at the request of the victim involves civil law, civil proceedings, or civil litigation. The goals are to achieve a remedy, often in the form of compensation, or to establish a right that is not criminal in character. Ogbu (2002) asserts that any legal circumstances that are beyond the purview of criminal law fall within the purview of civil law. While arguing in 2007 that "civil procedure as a subject deal with law, rules, practise, and procedure guiding and regulating the conduct of civil actions," Afolayan and Okorie Because criminal cases may also result in civil cases, and civil cases can result in criminal cases, it can be difficult to create a legal distinction that is impenetrable between civil law and criminal law. Defamation is one instance where a civil wrong and a criminal offence may coexist, particularly when there is an allegation of criminal activity. The following is what he said in the case: "It does not even seem to be sensible thing to stop a plaintiff from instituting an action simply because the criminal action in the same matter has not been prosecuted."

In essence, civil law tries to control people's private affairs and gives someone who has been wronged in the course of their private relationship the opportunity to bring an action to either stop the wrong if it is of a continuing nature, such as trespassing on land or owing of debt; or claim a remedy or compensation for injuries caused by the other party. Actions for breach of contract, tortuous act, breach of trust, and property recovery are only a few civil litigations that are readily available as examples and frequent witnesses [3], [4].

The second category of law we'll talk about is public law, which is the area of the law that deals with the regulation of government-run institutions like hospitals, schools, and utilities as well as how they interact with other people and with members of society. The purpose of this is to guarantee that public acts and activities are carried out prudently and legally. To avoid having a detrimental impact on members of the public or other governmental bodies, persons must perform their official duties in a fair and firm manner. Examples of public law include administrative law, criminal law, international law, human rights law, and laws governing public health. This area of law gives people or even the government a way to hold government entities responsible, keep an eye on, control, and monitor their operations. In order to make sure that they not only follow the rules establishing them, but also that the general public receives quality services.

DISCUSSION

In contrast, private law is the area of the law that governs personal interactions between people and businesses that are not publicly owned yet provide services to the general public. To demonstrate a clear contrast in this case, several examples would be required. For instance, although though telecommunications firms like MTN are private organizations and provide services to the general public, private law, not public law, governs their interactions with other organizations or specific customers. But because the Nigerian Communication Commission, which oversees the telecommunications sector, is a public body, public law and, to a lesser degree, private law, particularly where contractual concerns are involved, govern its interactions with individuals. Commercial law, property law, family law, including wills and probate, banking and insurance laws, intellectual and industrial property laws, tort and trust law, and company law are a few examples of private law.

Laws passed by a nation that only have legal effect there and apply to its residents wherever they go are known as municipal or domestic laws. These laws are ones that cease to exist as soon as they leave the territory of the nation where they were formed or passed. For instance, despite the fact that Benin Republic, Ghana, and Togo are all members of the Economic Community of West African States (ECOWAS), the 1999 Constitution of the Federal Republic of Nigeria only applies to matters inside Nigeria and does not affect any of her nearest neighbors. However, a Nigerian citizen is subject to Nigerian law wherever they travel. As a result, if a Nigerian person does an act that is illegal in Nigeria in another nation where it is legal, they would still be subject to prosecution. If Nigeria already has an extradition agreement with the foreign nation in question, she may request his extradition on the grounds that he violated Nigerian law. The Economic and Financial Crime Commission Act, the National Drug Law Act, and the Trafficking in Children and Persons Act are a few examples of domestic or local legislation in addition to the constitution that was previously stated.

International law is the corpus of norms that governs how nations handle and acknowledge the rights of its people as well as how they relate to other entities that are acknowledged as having international personality (Wallace, 2009). In Trendtex Trading Corporation v. Central Bank of Nigeria (1977) 1 All ER 881, 901 & 2, the English judge affirmed this definition, saying, "I know of no better definition of international law than that it is the sum rules or usage which civilised states have agreed shall be binding upon them in their dealings with one another." In essence, the goals of international law are to maintain world peace and security and to urge states, in particular, to use peaceful measures to resolve their differences. International law also governs how nations and individuals who violate international standards may be prosecuted or forced to discontinue their violations. The use of military force against a noncompliant state with the approval of the UN Security Council, as in the case of Iraq in 1990, when military force was mandated to ensure Iraq withdrew from Kuwait for the country's illegal invasion, is one method of enforcing international law. Equally, disagreements and those responsible for committing crimes against humanity might be brought before the International Court of Justice, the International Criminal Court, both of which are located in The Hague, or another Ad-hoc International Criminal Tribunal, such to the ones that were established in 1993 and 1994 for Rwanda and the Former Yugoslavia [5], [6].

You must also be aware of the distinction between public and private international law. In spite of the fact that public international law was originally intended to regulate relations between states, it has recently broadened its focus to include people in particular, especially with regard to the most serious crimes like genocide, crimes against humanity, war crimes, piracy, and other offences viewed as crimes by the international community as a whole (Dixon, 2007). Contrarily, private international law governs the interactions between multinational and transnational businesses and specific individuals from other countries.

The rules that were incorporated into Nigerian law as a consequence of British colonial authority fall under the category of Received English law, which we will discuss next. They are mostly English laws that have been incorporated into our legal system and control certain relationships. Some of them are still in effect in England. These include the Statute of General Application, Common Law philosophy, and the equity concept, which aims to promote morality, justice, and fairness. The goal of the equity principle is to lessen the pain caused by Common Law decisions made by English Common Law Courts that were founded on traditional English legislation.

Customary law refers to those rules that are seen as indigenous to members of a certain community based on its customs and traditions, which have governed the members' affairs from all of recorded history. They must have a lengthy history of application, be widely accepted by the populace, and be demonstrably implemented consistently over a long period of time in order to gain the force of law. The majority of customary law provisions that offend good conscience, are inconsistent with public policy, go against natural justice, or are otherwise repulsive have been ruled null and invalid with the arrival of English law and the adoption of contemporary legislation. The Nnewi tradition that permits a dead sibling who passed away intestate and without a male child to receive his estate instead of the biological female children and the wife was deemed offensive and contrary to natural justice by the Court of Appeal. Sharia law, for instance, and customary rules that are upheld by distinct Sharia Courts in the North and Customary Courts in the South are some instances of what is considered to be usual.

The area of law we will look at next is statutory law. These are laws that are part of a body of law that has been passed by the legislature at any level or another recognized law-making body. This is especially true at the international level, where there is no legislative body, and among social groups or associations that have constitutions that are regarded as laws but were not created by a legislative body. Statutes are a significant source of legislation since they define the law, include all of its provisions, and set its boundaries. The Constitution, Acts of the

National Assembly, State Laws, and Local Government Bye-Laws are examples of Statute Laws in a democracy. Decrees and edicts of the Federal Military Government and state governments under military administration are among the others. Statutes generally go into force on the day they are signed into law and seldom apply retroactively unless specifically stated otherwise in the statute by the legislative body.

The class of law we will address next is case law, which is not very well-liked since most people do not consider it to be a significant class of law, particularly in Nigeria. Although typically the judiciary's role is to interpret the law as written by the legislature, case law is legislation produced by judges. However, where a gap or what is known as a vacuum exists in a law created by the legislature and it is anticipated that it will result in hardship, the judiciary may issue a ruling while reviewing the legislation. This ruling will take effect immediately and serve as the law until the legislature creates a new law to fill the gap. For instance, the Supreme Court decided the coastal limit of the littoral states in the case of A.G. Abia State & 35 Ors v. Attorney-General of the Federation (2001), where there was disagreement about the boundary of the littoral states. Likewise, in the case of Ameachi v. PDP (2007), the Supreme Court established a new legal principle that declares political parties, not individuals, are the only entities permitted to run candidates for office if their party wins the election. Furthermore, only a political party or a court with appropriate jurisdiction has the authority to have a candidate disqualified by the Independent National Electoral Commission [7], [8].

We'll now talk about a few legal processes. Law serves many different purposes in a community, and the list is not inclusive. Nevertheless, we will identify a few that are particularly important to this course. One of law's main purposes is to serve as the common denominator for all social order. All social relationships and regulations are based on this, and anything or any activity that violates the law is seen as illegal or unlawful. The promotion of environmental and human health is another purpose of legislation. This is crucial in light of the course's focus on public health law, which is sadly given relatively little attention. Public health law aims to preserve and promote both human health and a healthy environment. This explains Nigeria's high morbidity and death rates. We must understand that an environmental threat is more serious than one to human life. This is due to the fact that a danger to life will not affect the environment, yet any threat to the environment has the potential to negatively impact our lives or render it worthless. For instance, mercury contamination in water may result in several fatalities, and air pollution also causes fatalities, yet threatening one person with a knife would not put many lives in jeopardy, unlike pollution of the air or water. Can you now comprehend the significance of public health law? Law is also utilised to safeguard the family and control interpersonal relationships. This is so that no one may intrude another's private.

Law is also utilised to safeguard people's fundamental rights. Nobody may be held unjustly without committing a crime, for instance, and it almost always has to happen in front of a court having jurisdiction over the situation. Our right to free speech, association, religion, and mobility are also guaranteed by the law. The key governmental institutions and organs are regulated by legislation, which is another role of the law. For instance, the law regulates or establishes the connection between the judiciary and the executive branch of government. Anything they conduct together that is against the law is unlawful and invalid from the start. Law also contributes to maintaining peace among people, groups, governments, and countries. This is so because the fundamental purpose of legislation is to guarantee everyone's safety and peaceful coexistence. Therefore, anybody who disturbs the peace or endangers the safety of others is considered a criminal or is deemed to have violated the law, and as such, they are prosecuted and punished. Law is also a tool for fostering social, economic, and political change. The list of the roles played by legislation is not complete, as we have said.

The concept of sources of law is as debatable as the definition of law itself since various legal academics, practitioners, activists, jurists, and social as well as legal anthropologists have varied ideas about what sources of law mean. The genesis of law, which is knowledge of its existence, might be the first source of law. It may also refer to places where you may discover the law, such as in books, reports on the law, and legislation, as well as in publications by legal scholars. In a third meaning, it may refer to the source from which a legal principle receives its legitimacy or legality (Cross, 1961). Because of this, laws are considered to be rules that must be followed and for which breaking them would result in punishment or unfavourable repercussions. Although all three interpretations are useful for discussing the origins of law, for the purposes of this unit and this course, we will focus on the third interpretation. In Nigeria, it is where laws primarily get their legitimacy.

As you can see from the discussion below, Nigeria has a variety of legal sources. Among these are the Common law concept and equity principles, as well as the English laws that were granted to Nigeria by Britain since Nigeria was formerly one of her colonies. Nigerian laws, judicial precedent or case law, customary law, law reform, and legal works are among the others. Now, let's quickly discuss each of these legal precedents.

In essence, judicial precedent and case law demand that, when a Court of Superior Jurisdiction in the case of Nigeria, the Supreme Court has rendered a decision on a specific point of law, all Nigerian Courts, including the Supreme Court itself, should adhere to and apply that ruling in subsequent cases involving the same facts until the Court overrules itself. There are unquestionably some distinctions between case law and judicial precedent. Since the later deals with making a judgement to fill a gap in the law that is also to be followed by the lower courts, the former deals with commanding the lower courts to obey a decision of the superior court. In Unit 2, we provided various instances, such as the case of A.G. Abia State & 35 Ors v. Attorney-General of the Federation (2001), in which there was a disagreement on the border of the littoral states. The Supreme Court decided the coastal border of the littoral states in that case. Likewise, in the case of Ameachi the Supreme Court established a new legal principle that declares political parties, not individuals, are the only entities permitted to run candidates for office if their party wins the election. Furthermore, only a political party or a court with appropriate jurisdiction has the authority to have a candidate disqualified by the Independent National Electoral Commission.

Customary law refers to those rules that are seen as indigenous to members of a certain community based on its customs and traditions, which have governed the members' affairs from all of recorded history. They must have a lengthy history of application, be widely accepted by the populace, and be demonstrably implemented consistently over a long period of time in order to gain the force of law. The majority of customary law provisions that offend good conscience, are incompatible with public policy, are inconsistent with natural justice, or are otherwise repulsive have been pronounced null and invalid with the introduction of English law and the adoption of contemporary statutes. The Nnewi tradition that permits a dead sibling who passed away intestate and without a male child to receive his estate instead of the biological female children and the wife was deemed offensive and contrary to natural justice by the Court of Appeal. Sharia law, for instance, and customary rules that are upheld by distinct Sharia Courts in the North and Customary Courts in the South are some instances of what is considered to be usual. Because they ensure the right to life, health, and a healthy environment, human rights are also the foundation of public health regulations. Therefore, any activity that endangers the life of a person or the welfare of society as a whole is action. For instance, the Niger Delta oil contamination violates both environmental and human rights laws. We'll explore international law as our last source of public health legislation. Because it offers many rules and policies that are intended to preserve the environment and, by extension, public health, international law is a significant source of public and environmental law. For instance, the 1992 Rio Declaration, often known as Agenda 21, the S.24 of the Africa Charter, and the 1972 Stockholm Declaration all provide a variety of ideas and strategies. like the precautionary principle, the polluter pays concept, and the idea of sustainable development, among others, which contribute to ensuring public health.

It's vital to define law making before examining how laws are made under a military administration. A body that has the authority to create laws, such as a legislative body, makes laws via a procedure known as the "lawmaking process." We are only attempting to convey that legislation must go through certain steps in order to be considered a law with binding authority. A law must be passed by a body with the authority to do so in order for it to be considered binding; otherwise, it will be deemed invalid from the start. For instance, there was a disagreement in the case of A.G. Lagos State v. A.G. Federation about whether the government of Lagos State, operating via the Lagos State House of Assembly, could establish new Local Government units without the consent of the National Assembly. In that case, the Supreme Court ruled that without the National Assembly's consent, Lagos State could not legitimately establish local governments [9], [10].

In Nigeria, for instance, the legally recognised bodies to make laws are the National Assembly, which is made up of the Senate and the House of Representatives, the 36 State Houses of Assembly, and the Legislative Arms of the 774 Local Government and Area Councils. Typically, making laws is the responsibility of a legislative body duly elected for the purpose of making laws and is also referred to as parliament. As a result, there are now 812 entities in Nigeria that have the authority to pass laws at various levels. See the 1999 Constitution's Section 4. But since the military has been forcefully in charge of Nigeria for so long, they have also taken it upon themselves to pass laws while in authority. And since the military has controlled Nigeria for 26 years since her independence, it looks that the military has passed more laws. It is crucial that we look at the legislative process under military rule.

Normally, the military does not have the authority to enact laws, but if the military seizes power, a body to do so is always established. For instance, Decree No. 1 1966 was enacted during the first military coup of 1966 and suspended key provisions of the 1963 Constitution, including the recognition of the Federal and Regional Parliament, the dissolution of the Council of Ministers, and the courts' ability to challenge the legality of any other decrees or edicts issued by the Federal Military Government or the State Military Governor. By virtue of section 8 of Decree 1 of 1966, it established the Supreme Military Council (commonly abbreviated as SMC) and gave it the authority to enact laws for the federation, with state legislation—known as edicts being made by the State Military Governors.

The State Military Governors were included in the Supreme Military Council by Decrees Nos. 16 and 20, which also gave the Head of State the authority to sometimes appoint whomever he saw suitable. Although the Supreme Military Council, which essentially acts as the Head of State's rubber stamp since it lacks the authority to reject any laws the Head of State wants to pass, may be said to have existed at the federal level as a legislative body, at least in part. The same cannot be true of a state where the laws are made and implemented by a single man by an edict. Due to the total infringement and suffocation of people' rights to engage in the discussion that would result in the passing of legislation, the majority of legal academics consider that military governments are an anomaly. Nobody can successfully challenge the law's illegality. Although in the case of Lakanmi v. A.G. Western State it reversed itself and ruled that its jurisdiction cannot be ousted, this led to the promulgation of Decree No. 28 of 1970, which appears to be the death kernel passed on the judiciary during the Military. The

Council of University of Ibadan NMLR 253: Although the Supreme Court initially acknowledged the ouster powers of Decree No. 1 1966. You can see from the above that under military rule, laws are formed by fiat without discussion, without the participation of the people, and without anybody being able to contest their legitimacy. In fact, if you go to bed at 5.30 am, a new legislation may have been passed by the time you wake up at 7 am. Additionally, they sometimes write their laws such that they apply retroactively.

CONCLUSION

In conclusion, there are many different types of law, each with a specific function in the legal system of a society. Laws are categorised according to the kind of social issue they deal with, and these categories might differ from one nation to another. However, there are certain key categories that may all play diverse roles in managing a society, such as criminal law, civil law, public law, private law, domestic law, international law, accepted English law, customary law, statute law, and case law. Criminal law focuses on prosecution and punishment and deals with crimes against the state. Civil law strives to provide remedies and compensation for conflicts between people or entities. Government institutions and their relations with the public are governed by public law, providing just and legal governance. Personal dealings between persons and privately held companies are governed by private law.

REFERENCES:

[1] D. Banks, J. Hendrix, M. Hickman, and T. Kyckelhahn, “National sources of law enforcement employment data,” *Bur. Justice Stat.*, 2016.

[2] T. Prasetyo, “Pancasila The Ultimate of All the Sources of Laws (A Dignified Justice Perspective),” *J. Lawa, Policy Glob.*, 2016.

[3] H. Alavi, “Documentary Letters of Credit, Legal Nature and Sources of Law,” *J. Legal Stud.*, 2016.

[4] A. Qorib, I. Harahap, M. A. Fakultas Ekonomi, D. Bisnis, I. Uin, and S. U. Medan, “Penerapan Maslahah Mursalah Dalam Ekonomi Islam,” *Anal. Islam.*, 2016.

[5] R. Y. Alwazna, “Islamic Law: Its Sources, Interpretation and the Translation of It into Laws Written in English,” *International Journal for the Semiotics of Law*. 2016.

[6] K. E. Haavik and M. Landrø, “Estimation of source signatures from air guns fired at various depths: A field test of the source scaling law,” *Geophysics*, 2016.

[7] M. A. Geistfeld, “Hidden in plain sight: The normative source of modern tort law,” *New York Univ. Law Rev.*, 2016.

[8] J. Kaye *et al.*, “Consent for Biobanking: The Legal Frameworks of Countries in the BioSHaRE-EU Project,” *Biopreserv. Biobank.*, 2016.

[9] W. Winarno, “Dinamisasi Hukum Islam: Suatu Pendekatan dalam Kerangka Metodologi Ushul Fiqh,” *Nurani J. Kaji. Syari’ah dan Masy.*, 2016.

[10] V. Harpwood, “Law and ethics in medicine,” *Medicine (United Kingdom)*. 2016.

CHAPTER 11

COMPARATIVE ANALYSIS OF LEGISLATION IN MILITARY AND DEMOCRATIC GOVERNMENTS: A FOCUS ON PUBLIC HEALTH AND ENVIRONMENTAL LAWS

Pradip Kumar Kashyap, Assistant Professor
College of Law, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India
Email Id- pradiprgnul@gmail.com

ABSTRACT:

With a special emphasis on public health and environmental legislation in the context of Nigeria, this research offers a thorough comparative examination of legislative frameworks and procedures under military and democratic regimes. The study emphasizes the key distinctions between these two kinds of government's legislative procedures, power structures, and guiding philosophies. In military administrations, the Federal Military Government issues decrees that are largely used to pass laws. These orders are legally binding on the whole country and often supersede the constitution. Local governments often play a very little or no role. The report also draws attention to the fact that state governors must request permission from the Federal Military Government in order to pass laws addressing both exclusive and concurrent legislative topics, further concentrating the legislative branch of government. Democratic governments, such as that of Nigeria, which adopted its constitution in 1999, specify certain legislative structures and procedures. The research clarifies how the National Assembly, State Houses of Assembly, and Local Government Legislative Arms are divided into separate legislative domains, classifying legislation into Exclusive, Concurrent, and Residual Lists. It highlights the value of citizen involvement in democratic legislative processes, such as open hearings and committee deliberations. The study also examines the functions of the Senate and the House of Representatives in the National Assembly, the order of state and local government organizations that pass laws, and the procedures for settling disputes between legislative chambers.

KEYWORDS:

Democratic, Government, Legislation, Public Health.

INTRODUCTION

In essence, there are only two categories of legislation under a military government. This is so that the administrator, whomever that may be, does not have the authority to enact laws, since the third level or tier of government, known as the Local Government, is nearly invariably nonexistent under military administration. Although the Local Government Legislative Arms existed from 1989 and 1998 under the transitional regimes of General Babaginda and Abacha, it is unlikely that they were actively involved in bye-law creation. Decrees, a Federal Government statute with binding effect across the nation and superior to the Constitution based on how the Decree bringing the military to power is worded, are the main laws under military regimes. And the Edict, a kind of state legislation that only applies inside the state in which it was created. However, in order to limit the State Military Governors' ability to pass laws, the Federal Military Government, pursuant to section 3(4) of the Suspended 1963 Constitution, required the State Governors to seek approval before passing laws on any matter falling under the Exclusive Legislative List or the Concurrent Legislative List.

We will now talk about how laws are made in democracies. The law-making process and bodies are always expressly specified and provided for in the Constitution, in this instance Nigeria's 1999 Constitution. This contrasts with military rule. It is crucial to remember that even in earlier constitutions written during the colonial era and after Independence, particularly those from 1960, 1963, 1979, and 1989, the different levels of government's law-making bodies were clearly outlined. As was already established, the three levels of government are each given a share of the authority to make laws under the 1999 Constitution. The National Assembly has exclusive legislative authority over matters on the Exclusive Legislative List, while the State Houses of Assembly and the National Assembly have concurrent legislative authority over matters on the Concurrent Legislative List, which affects the Federal Government, the States, and the Local Government Councils. While the Local Government Legislative Arms have the authority to enact byelaws, it is the exclusive duty of the State Houses of Assembly to pass laws on the items on the Residual legislative list that are not on either the Exclusive or the Concurrent legislative lists. See 1999 CFRN, as modified, Second Schedule Parts I and II. However, when a legislation passed by a State House of Assembly and a bill passed by the National Assembly disagree, the National Assembly's law takes precedence [1], [2].

The 1999 Constitution also established the Senate and the House of Representatives, which together make up the National Assembly, as a bi-cameral federal legislature. Any measure enacted by the National Assembly must be approved by both houses before being submitted to the president for his signature. The National Assembly may override the President's consent, nevertheless, by adopting the measure into law with a two-thirds majority after thirty days if the President refuses to sign the bill for any reason. The State House of Assembly and the Governor follow a similar process, as does the Chairman of the Local Government Legislative Arm. The sole distinction is that there is just one legislative chamber at the state and municipal government levels. The legislative veto seems to be seldom utilised in Nigeria, nevertheless. By virtue of section 12(1) of the 1999 Constitution, the National Assembly also has the authority to domesticate treaties, which are any international laws signed by the Federal Government, particularly the President, in order for them to become enforceable laws in Nigeria. However, it seems that s.12(3) of the Constitution also gives the State Houses of Assembly the authority to ratify treaties. This clause foreshadows legal dispute and succession in addition to being contradictory.

You should also be aware that a bill must pass through three readings on the floor of the specific legislative body before it can be enacted by the National Assembly, a State House of Assembly, or a Local Government Legislative Arm. Members of the public who have opinions in favour or against the legislation are invited to speak at the public hearing, which is then further discussed at the committee level, and is subject to the specific House Committee in the area to which the law is linked. Prior to the legislation being enacted and given to the President, Governor, or Chairman of the Local Government Council for approval, a Report of the Public Hearing and the Committee's Recommendations are delivered on the House floor during plenary and discussed by the Committee of the Whole. If there is a discrepancy between the version of the law passed by the Senate and the House of Representatives in the case of the National Assembly, a conference committee made up of representatives from both Chambers must be formed in order to resolve the issue before the law is sent to the President for approval. You can see from the explanation above that there are significant differences between the legal system used by military and civilian administrations. Additionally, you can see that under a democracy, the law-making process goes through a number of phases and is heavily influenced by the population. But when a government is run by the military, the public is never consulted and no formal procedures are ever followed; all the head of state or state governor has to do is phone the attorney general to have a law written, even in his bedroom. A suitable illustration would be the decree that voids Abiola's victory in the June 12 election.

We will wrap off this unit's topic with a succinct analysis of the many sorts of legislation that are enacted under democracies. In general, there are three different categories of legislation in Nigeria under a democratic administration. These are bylaws of a local government council, laws passed by the state house of assembly, and acts of the national assembly. The laws passed by the National Assembly (the Senate and the House of Representatives) are known as acts of the national assembly, and they have national effect if they touch on any of the issues on the exclusive and concurrent legislative list. This is because to the fact that the National Assembly has exclusive legislative authority on topics on the subject. While both the National Assembly and the State Houses of Assembly have the authority to pass laws on issues on the concurrent legislative list, since the National Assembly's laws take precedence in cases where their respective laws conflict, the National Assembly also has the authority to pass laws on both the exclusive and concurrent legislative lists at the national level [3], [4].

Laws are enacted by a State House of Assembly and only have legal effect in the State in which they were passed. Even the nearest State cannot be included in their extension. For instance, the Zamfara State House of Assembly is not permitted to pass laws that would apply to Sokoto State, hence the Zamfara State Sharia Law of 2000 has no legal impact in Sokoto State. The Law must fall within the purview of the concurrent legislative list or the residual list, if the National Assembly has not yet passed legislation on that item on the concurrent list. While a local government legislative arm creates legislation via bye-laws. They cannot be used in another Local Government Area and are only legally binding within the Local Government Area in which they were created.

DISCUSSION

Public health or environmental health regulations are established to control public health services and provide environmental protection; violations of these rules might result in sanctions or punishment. We'll attempt to cover several different environmental law concepts and public health legislation kinds in this unit. There are several kinds of environmental and public health laws and principles, and they are designed to control various facets of both in order to guarantee a healthy society. They cover topics like garbage collection and disposal, epidemic notification and quarantine services, building construction, food sales, land pollution, industrial waste disposal, toxic waste disposal, drug testing and immunization or vaccination, environmental impact assessments, petroleum exploration and exploitation, the polluter pay principle, the precautionary principle, and other related topics. Although there are many more laws that apply to public health and the environment, for the purposes of this course and unit, we will focus on those that do.

Solid waste and refuse disposal laws, which control the collection, handling, and disposal of all solid and hazardous refuse and trash from homes, businesses, and other sources, are the first sorts of public health laws we'll talk about. Additionally, it entails maintaining the visual appeal of residential areas, the environment via the creation of green spaces, insect and vector management, a reliable supply of water, drainage maintenance, and functional trash cans and gutters. The Federal Environmental Protection Agency Decree Nos. 58 of 1988 and 59 of 1992, which revised the original Decree now known as the Act of the National Assembly, have provisions for this in section 15. The Pollution Abatement in Industries and Facilities Generating Waste of 1991 and the National Guidelines and Standards for Environmental Pollution Control in Nigeria. And the many regulations enforced by the state's environmental protection agency, including the rules governing environmental sanitation.

Disease notice and quarantine service laws are another kind of public health legislation. According to this legislation, all levels of government, including the international community, are required to inform the public when certain illnesses, known as international notifiable diseases, are present. Some illnesses must be reported to the World Health Organisation in accordance with the International Health Regulations of 1969 in order to support the organization's worldwide monitoring and advising function. The three principal illnesses that must be reported under the current (1969) legislation are cholera, yellow fever, and plague. The scope of the updated International Health Regulations 2005, which went into effect in June 2007, has been expanded to encompass more emerging illnesses, such as Avian Influenza, SARS, Ebola virus, and mad cow disease, among others, and is no longer restricted to the notification of particular diseases. While it does include a number of particular illnesses, it also establishes a constrained set of standards to help determine whether an incident has to be reported to WHO [5], [6].

Similar to how people with the illness are anticipated to be isolated, those who are suspected of having been exposed to it and are likely to get it are quarantined in order to prevent them from potentially infecting other members of the public. Despite the fact that the two names are sometimes used synonymously, they have separate meanings and processes. Isolation in this situation refers to keeping a patient who is known to have an infectious illness away from other individuals. While quarantine refers to measures that limit a healthy person's mobility after they may have been exposed to a contagious illness and may offer a risk of spreading it to others. It can include isolating a building, ship, or other location where the illness is allegedly present. One of the very few times when someone's freedom of movement or other rights may be restricted. In fact, several nations, like Kenya, require that you have a current yellow fever vaccination card in order to enter. However, the legislation also mandates that the different governments take prompt action to stop the spread of these illnesses and, when they are unable to, seek help.

The second form of public and environmental legislation we'll be looking at is air pollution law, which forbids the release of chemicals into the atmosphere that are harmful to human health and regulates the release of greenhouse gases like carbon dioxide. In addition to having a negative impact on human health, these substances also deplete the ozone layer, which has resulted in acid rains in the UK, global warming, an increase in sea level, deforestation, and desertification, which are estimated to cover 100,000km2 and 48km annually (Bell and McGillivray, 2008). The Factories Act regulates air pollution. Among others, the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, the Federal Environmental Protection Agency Act of 1990, the 1985 Vienna Convention for the Protection of the Ozone Layer, and the 1992 Framework Convention on Climate Change.

Water pollution laws are another kind of public health regulations that prohibit the disposal of any hazardous waste that might endanger both people and marine life. One of the most frequent causes of pollution is water, as a result of the frequent waste discharge into water by companies, particularly those engaged in oil exploration in places like the Nigerian Niger Delta. Mercury in particular is a water contaminant that, when taken in large amounts via seafood, can be particularly dangerous to humans. The Minimata Bay pollution crisis in Japan in 1959 was the first significant instance of water contamination brought on by mercury toxicity. Based on the degree of pollution and the threat posed by mercury fishing and other marine life, this led to the death of domestic animals like cats, fish, and people. This would continue until the following 1000 years. This demonstrates just how harmful mercury can be when released into the sea. Several laws, including the Water Workers Act of 1915, the Mineral Act of 1917, the Public Health Act of 1917, the Petroleum Act of 1969, the Oil in Navigational Water Act of

1990, the River Basin Development Authority Act of 1990, the Oil in Navigational Water Act of 1990, the Oil in Navigational Water Act of 1990, the Exclusive Economic Zone Act of 1990, the Law of the Sea Convention of 1982, and the Federal Environmental Protection Agency Act, among others, regulate water pollution. We'll now talk about the laws governing medication trials and vaccinations. A requirement of this public health regulation is that before conducting a medicine or vaccination study, volunteers' permission must be acquired and they must be informed of the potential consequences. This law's violation might result in protracted legal action and the payment of damages. The Pfizer meningitis vaccination experiment in Kano, which resulted in several deaths and has since been the subject of prolonged litigation between the victims and Pfizer on the one hand and the Kano State Government and Pfizer on the other, serves as an example that is useful in this context. Although medications and vaccinations are often tested on animals, they are sometimes tested on people as long as the right protocol has been followed [7], [8].

Public health laws often include laws against noise pollution. Although first it was aimed at manufacturers to prevent the noise they produce from endangering the staff's hearing. The rule against noise pollution has now been expanded to include the production of noise by businesses, homes, athletic venues, leisure centres, generators, automobiles, and even building sites. The Factory Decree of 1987, the Federal Environmental Protection Agency Decree of 1992, and the National Environmental Protection (Pollution Abatement Industries and Facilities Generating Waste Regulation of 1991) all regulate it. In this case, section 2 of the regulation is especially pertinent. It gives individuals, communities, and government agencies concerned in environmental management the authority to monitor and report any noise level that exceeds 30% decibels. In order to assure compliance, the legislation also mandates that businesses build and maintain pollution control monitoring and control units. The legislation that governs the manufacturing, distribution, and sale of pharmaceuticals, food, and food products is another crucial public health regulation. A short distinction between food and food product would be required. Foods include items like yoghurt, bean cakes, bread, and margarines that are already ready for ingestion. Food items are semi-finished goods that need more processing before they can be eaten, such as cow milk for making yoghurt, wheat for bread, and beans for bean cakes, among other things. From the point of manufacturing through the point of distribution and consumption, these items are required by law to be healthy and safe for human consumption. Therefore, it is illegal to expose food and food products that people would normally consume on the street. However, because environmental health officers, who are tasked with upholding the law, occasionally purchase and consume such products, the law is not always effectively enforced. Drugs must also be produced in accordance with established criteria.

The NAFDAC Decree, which enlarged the 1974 Food and medications Decree, and the Standard Organisation of Nigeria (SON) Act, 1971, as revised in 1984 are among the laws that govern food and medications in Nigeria. Monitoring the production, distribution, and sale of food, food products, and medications is the responsibility of the organisations established by these regulations. As a result, the NAFDAC recently prohibited the use of potassium bromate in the baking of bread and removed many phoney and counterfeit medications from the market.

Due to limited space, we will instead start thinking about some environmental or public health law concepts rather than the other public laws that are stated. The polluter pay principle, which states that the polluter who caused the pollution should pay for its repercussions or the remedying of its impact, is the first principle we'll take into consideration. This concept essentially states that the expense of eliminating the pollutant from the environment should be borne by the party that causes the contamination of the air, water, or land. Since everyone pollutes, we are all indirectly responsible for covering the cost of pollution removal; manufacturers include this cost in the price they charge for their products and services. However, the expense of significant pollutions, such as oil spills, hazardous waste spills into water, and dangerous petrol emissions into the air that exceed permitted limits, is always paid by the polluter and not the customer.

The precautionary principle, which we will address next, asserts that because science cannot reliably and accurately anticipate how, when, or why detrimental consequences will occur, or what their potential effects may be on people or the environment. Any cost-effective solution that would stop environmental deterioration should not be delayed or prevented because of the lack of such evidence. This concept refers to the idea that prevention is preferable than treatment or, as some academics may say, that it is better to be "safe than sorry." In essence, it urges stakeholders to take immediate action to protect the environment, even if there is no proof or evidence that doing so would have the expected results. The second principle is known as the sustainable development principle, which is based on the idea that development should be carried out in a manner that satisfies current demands without endangering the capacity of future generations to satiate their own needs. The majority of regional, national, and international regulations on environmental protection are founded on this idea. The idea is based on the idea that there is a generational link and that each generation must act in a way that does not jeopardize the existence of the next generation.

There are still more environmental law principles, such as the substitution principle, an emerging principle that essentially seeks to mandate that hazardous or harmful substances, including production, consumption, and recreational systems, should be replaced with less hazardous processes. The Best Available Technologies Not Entailing Excessive Costs (BATNEEC) philosophy is connected to this one. The other is the public participation concept, which encourages extensive public consultation, sufficient public engagement, information distribution before choices connected to the environment are made, and the likelihood of such acts should be made public. The integration principle, which aims to promote the integration of environmentally friendly policies in sectors of society, is the next concept you may be interested in learning about (Bell and McGillivray, 2008). You can see from the discussion above that there are several environmental law principles and public health laws that govern how individuals behave in relation to environmental and public health challenges [9], [10].

Particularly in Nigeria, where the criminal law lacks a definition for an offence, the terms crime and offence are often used interchangeably. However, an act or omission that is made punished by a legislative legislation is what Okonkwo and Nash (2003) define as "an offence." In essence, what they are trying to say is that when a person or group of people fail to do something that is an omission or do something wrong that is punishable under the law, the person or group of people would be considered to have committed an offence.

A further definition of an offence is any effort, action, or omission that violates the law and for which a specific penalty or sentence is specified. What we're attempting to convey is that someone would be considered to have committed an offence if they attempted to conduct a wrong act, did a wrong act, or omitted to commit a righteous act that was subject to a penalty or discipline. Because certain offences may not call for punishment, we introduced a sanction. However, the prosecution must demonstrate or prove two necessary components before a person may be deemed to be guilty of a crime. Before a crime can be said to have been committed and for a conviction to be successful, the physical element of the offense—often referred to as the actus reus (guilty or wrong act)—and the mental element or intention—often referred to as the mense rea (guilty mind)—must first be established or proven (Okonkwo and Nash, 2003). The aforementioned merely indicates that if one's physical action and purpose do not match and cannot be established, one cannot be deemed to have committed a crime. Take the act of dumping trash on the street as an example. It must be shown both that a person meant to throw trash on the street and that he really did so in order for them to be found guilty of doing so. However, let's say he was just strolling down the street when something dropped out of his backpack without his knowledge. Although the trash has been dumped, it cannot be stated that he violated the law since his goal was not to leave it there. This is required so that we can identify whether someone has broken the law or engaged in a public health infraction. It will also be crucial for you to understand that there are basically three types of offences: felonies, which are defined by the law that created them and are punishable by death or by a term of imprisonment of at least three years; misdemeanours, which are offences punishable by a term of imprisonment of at least six months but not more than three years; and simple offences, which are offences that fall outside of the felony and misdemeanour categories. The majority of public health infractions are minor, basic crimes.

For the purposes of this unit and course, we will examine a few of the public health offences that we believe are particularly important before providing a list of some of the public health offences listed in the Lagos State Environmental Sanitation Edict Now Law of 1998. There are many public health and environmental laws, just as there are many public health and environmental offences. A list of frequent public health offences based on Lagos State Law will be supplied later in this article. These offences include, but are not limited to: annoyance, trespass, carelessness, substandard housing, overcrowding, sale and distribution of unwholesome food, among others.

Nuisance is perhaps the most prevalent and well-known public health infraction. A nuisance is any substance, whether solid, liquid, or gaseous, that makes it difficult to enjoy a healthy environment, poses a risk to the general public's health, or both. The presence of rodents and their burrows, overcrowding, inadequate ventilation, structural flaws in a building, noise, and an accumulation of trash and other decaying or decomposing materials (such as corpses and carcases or food) are all nuisances. Continuous or intermittent noise that constitutes a nuisance must nonetheless impair the comfort or quality of life of a reasonable person. The Local Government Authority has a legal obligation to examine and eliminate any annoyances employing Environmental Health and other Health Officers.

Additionally, a nuisance may be either public or private. Public nuisances are things that the state's attorney general may take legal action against if they have an impact on or have the potential to have an impact on the general public. The Free Dictionary by Farlex (2011) states that a private nuisance affects a person more specifically and is liable in tort by that person. A private nuisance is a civil wrong that occurs when someone uses their property in an unreasonable, unjustified, or illegal way that significantly impedes the enjoyment or use of another person's property without really trespassing on that person's property or physically invading their territory. The English Court defined a private nuisance as any illegal interference with a person's use or enjoyment of their land or certain rights over it in the case of Reads v. Ltons & Co. Limited. A public nuisance is an illegal act or omission that impairs, harms, or interferes with a community's legal rights. In contrast, a public nuisance is an act that seriously interferes with the reasonable comfort and conveniences of a class of Her Majesty's subjects (people) who live in the vicinity of where it operates (or exists). This definition was given in the case of Attorney General v. P.Y.A Quarris. When determining how to enforce public health legislation, we will take into account the options open to nuisance victims. The definition of public nuisances encompasses a broad range of minor offences that pose a risk to the welfare, comfort, convenience, safety, morality, or comfort of a community. Because of this, annoyance is a civil and criminal offence [11], [12].

Both a legal and criminal offence, trespassing and annoyance are related. Trespassing is the unauthorised entry into another person's property without that person's consent. In the past, trespassing was defined as any wrongdoing that directly resulted in harm or loss; nowadays, trespassing refers to an unauthorised intrusion into property (The Free Dictionary by Farlex, 2011). It now includes unauthorised access into another person's property. For instance, it is trespass if a tree or crop inside a compound spread into the air or onto the land, or if liquid escapes from one compound into another. Trespassing also includes just standing on another person's fence or gate without their permission. Government employees who enter a complex without permission may be charged with trespassing.

Additionally, trespassing may be direct or indirect. It is direct when the intruder is really on the property, and it is indirect when he is not, but his carelessness has resulted in an item interfering with the land of another, as in the example of the trees, crops, and liquid fleeing provided above. It must be shown that there was a direct access or contact with the property, that there was a purpose to enter or neglect, and that there is a connection in order to establish trespass. In terms of public health, someone will be considered to have entered another person's property illegally if their trees extend into their property or their liquid or other wastes leak onto their property, which interferes with their ability to use their land.

Another crime involving public health is negligence. It is quite comparable to the two preceding ideas that were covered, notably nuisance since it is actionable under both criminal and tort law. The difference between carelessness in criminal and civil proceedings, however, is only really apparent when the negligence is egregious and related to actions that might result in a life sentence. Any failure by the accused to exercise reasonable care that has caused harm to another or that has threatened or is likely to threaten the health and safety of another is referred to as negligence. Any action that is below the standards of conduct set out by law for the protection of others against an improbable danger of damage is considered negligent.

If someone behaved differently than what would be anticipated of a reasonably sensible individual acting in the same situation, that person is said to have done negligently. However, in order for a procedure based on carelessness to be successful, the plaintiff in a civil action or the prosecution in a criminal case must demonstrate several crucial components, often known as the ingredients of the crime. They are: that the defendant owed the victim a duty of care; that this duty of care was or has been broken; that harm has arisen from the violation of the duty of care; and that the damage was at the very least foreseeable by a reasonable man. You should be aware that in certain nations, carelessness and nuisance are synonymous terms because of their close resemblance and interdependence—every act of negligence always results in a nuisance, and vice versa. For instance, in the United Kingdom, the law of negligence and the law of nuisance were combined in 2005.

CONCLUSION

In conclusion, with a focus on Nigeria specifically, this debate has offered a thorough understanding of the legislative procedures and institutions in both military and democratic regimes. It is clear that these two systems of government have quite different approaches to the development and application of legislation. Laws are generally implemented by military authorities via decrees, which gives them considerable power and influence. Local governments often play a little or no role. Democratic governments, in contrast, have well defined legislative bodies and procedures, as well as a clear division of legislative authority among the national, state, and local levels, as shown by the Nigerian Constitution of 1999. Democracies rely on formal processes and public engagement to ensure that the public's voice is heard during the drafting of laws. Finally, the debate focused on the legal and criminal ramifications of numerous public health offences, such as annoyance, trespassing, and carelessness. When these offences cause damage to people or communities, the repercussions may be severe. In conclusion, this essay emphasizes the significance of a clear legal framework, citizen involvement, and environmental preservation in a democratic society while contrasting these elements with military authority.

REFERENCES:

[1] R. Sela, “Freedom of Movement v. Restrictions on Movement under the Two Legal Systems,” *Palest. - Isr. J. Polit. Econ. Cult.*, 2016.

[2] J. A. Díaz Jaramillo, “Contra el deber sagrado: evasión al servicio militar obligatorio en Cundinamarca (1902-1932),” *Anu. Hist. Reg. y las Front.*, 2016.

[3] J. Purtle, “‘Heroes’’ invisible wounds of war:" Constructions of posttraumatic stress disorder in the text of US federal legislation,’” *Soc. Sci. Med.*, 2016.

[4] F. Alghifari and R. N. Olga Letticia, “Analisis Teori Offense-Defense Pada Reformasi Kebijakan Pertahanan Jepang Dalam Dinamika Keamanan Di Asia Timur,” *Glob. J. Polit. Int.*, 2016.

[5] S. McCarthy, “Land tenure security and policy tensions in Myanmar (Burma),” *Asia Pacific Issues*, 2016.

[6] M. S. Taha, A. R. Mahmood, J. Awang, A. M. Ismail, and M. A. Sleibi, “Extremism in the Islamic Country and Its Relationship with the International Policy,” *Mod. Appl. Sci.*, 2016.

[7] J. Powell-Turner, P. D. Antill, and R. E. Fisher, “The United Kingdom Ministry of Defence and the European Union’s electrical and electronic equipment directives,” *Resour. Policy*, 2016.

[8] P. D. Machado, “Advances and setbacks in the fight for Justice in post-dictatorship Uruguay (1986-2013),” *Aedos-Revista Do Corpo Discente Do Programa Pos-Grad. Em Hist. Da Ufrgs*, 2016.

[9] P. S. Danilov, “Crimes against military service in the pre-revolutionary Russian legislation: historical-legal analysis,” *Actual Probl. Econ. Law*, 2016.

[10] J. M. Adams, “Military Students to Get Additional Supports Under ESSA.,” *Educ. Week*, 2016.

[11] A. Jazuli, “Development of Defence and Security for Law Enforcement In Indonesia: A State Authority,” *J. Penelit. Huk. Jure*, 2016.

[12] B. Smith, “Ethics on the Fly: Toward a Drone-Specific Code of Conduct for Law Enforcement,” *Homel. Secur. Aff.*, 2016.

CHAPTER 12

HUMAN AND ENVIRONMENTAL RIGHTS IN PUBLIC HEALTH VIOLATIONS

Dal Chandra, Assistant Professor
College of Law, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India
Email Id- degautambahjoi@yahoo.co.in

ABSTRACT:

The varied terrain of public health infractions is described in this abstract, with a particular emphasis on poor living conditions, the sale of unwholesome goods, and challenges encountered by public health officials. Inadequate ventilation, overcrowding, and structural faults are just a few examples of the many aspects of substandard housing that compromise the health and safety of tenants. Protection against accidents, infectious illnesses, and poor mental health are all aspects of proper housing standards. Additionally, overpopulation is described, emphasizing how crucial it is to stick to capacity limitations. Environmental health inspectors and municipal planners have clashed over who is responsible for doing house inspections. Another serious public health offence is the distribution and sale of dangerous items, particularly tainted food. Protecting the public's health depends on making sure that consumables are safe, that food is presented properly, and that health standards are followed. However, a lot of food vendors do not expressly guarantee the safety of their goods, requiring health authorities' inspection. The abstract also explores blocking public health inspectors' performance of their responsibilities and disregard for abatement notices, highlighting the legal ramifications of such behaviour. There is discussion of a number of possible defences for those accused of breaking environmental or public health laws, such as the lack of notices, insufficient notices, real notices, and the existence of a stay order. The notion of rights is examined, with a focus on the distinctions between rights and privileges and the many categories of rights depending on things like status and nationality.

KEYWORDS:

Health Law, Human Right, Privacy, Public Health.

INTRODUCTION

The topic of human rights is then discussed, along with its historical background and Vasak's three classifications of them: first-generation (civil and political), second-generation (economic and social), and third-generation (solidarity and group rights). The summary of environmental rights that follows the abstract's conclusion touches on general rights, procedural rights, and substantive legal rights. The rights granted to those accused of violating public health laws are underlined, including the freedom from torture, the right to privacy and a family life, as well as the right to a fair trial. These rights provide due process and the preservation of basic human rights for everyone, even those accused of violating public health laws, underscoring the need of striking a balance between the interests of the public health and individual freedoms and rights.

Additionally, it is critical to acknowledge that those who are accused of violating public health laws also have rights that must be maintained. These rights include the freedom of the individual, safety from torture or other cruel treatment, the right to privacy, and the right to a fair trial. It is crucial to uphold these rights in order to make sure that justice is done and the judicial system runs smoothly. The idea of human rights, which includes civil, political, economic, social, and cultural rights, is also very important in addressing abuses of public health. Regardless of one's circumstances or history, human rights provide a foundation for defending one's well-being and dignity [1], [2].

The second public health violation we'll look at is substandard housing, which includes improperly constructed homes, structural flaws, inadequate ventilation, and overcrowding. Despite the fact that several obviously fall under various categories of public health offences, we have chosen to examine them under this general title due to space constraints and course requirements. A poor home is one that lacks the essential amenities for human comfort and life, including protection from accidents and infectious or contagious diseases. These standards must be met by a decent home. Some of the physiological requirements, according to Ormandy and Burridge, include: protection from excessive noise, space for children to play and exercise, provision for heating and cooling, adequate daylight illumination and avoidance of excessive daylight, and provision for admission of direct sunlight. The provision of privacy for individuals and normal family life, the opportunity for normal community life, the good aesthetic beauty of the home and surroundings, the ease of cleaning without much physical or mental fatigue, and conformity to the prevailing social standard within the community are just a few examples of the psychological requirements. Ample access to clean, hygienic water is a requirement, as are toilets that are designed to reduce the risk of disease transmission, protection from pollution, enough space for sleeping to reduce the risk of disease spread, proper food preservation to prevent contact with pests and vectors, fire escape routes and safety from home and traffic accidents as well as electric shock, burns and gas poisoning.

Typically, four people should occupy a conventional room that is 10 feet by 12 feet in size. That would be the guy, his wife, and their two kids. Any employment over this is thus considered to be overcrowding. Although the word "defect" is frequently used to describe a home that is unfit for human habitation, it is best to use more precise language to describe the type of defect or inadequacy in the structure, such as "likely to be dangerous" roofs, rotten wood, leaking roofs, sagging ceilings, and cracked walls. The Local Government Authority has the responsibility to regularly examine buildings to make sure they are fit for human occupancy. However, there has recently been a conflict about who is in charge of conducting home inspections between environmental health officers and town planners.

The distribution and sale of unhealthy products is the last public health infraction we'll discuss for the sake of space, as indicated before. Distributing and selling food that is unsafe for human consumption is against the law. For instance, food contaminated with various pathogens, fish that was chemically murdered, or beef that included tapeworms. This includes the selling of grains that have been chemically treated since doing so may lead to public health issues and fatalities, as was the case with the poisonous beans in 2002, when beans intended for sowing that had been chemically treated were sold for eating, causing many fatalities, particularly in the northern region. Additionally, it covers the appropriate presentation of meals, such as how meat, buns, meat pies, moi- moi, and other prepared dishes should be placed in a showcase rather than being exposed to dust or flies, as is often the situation. The majority of food sellers do not advertise that their food is legal. Health officials have a responsibility to make sure that food intended for public consumption is healthy and presented appropriately.

Other widespread public health infractions include preventing a health offender from carrying out their responsibilities and attacking them while they are doing so. It is unlawful for anybody to stop a public health officer from issuing a notice or an order or from entering a building for the purpose of conducting an inspection after obtaining the necessary approval or authorisation. Disobeying or ignoring a lawful notification to abate any nuisances is also against the law in terms of public health [3], [4]. The occupiers of the premises or the person responsible for generating the nuisance must abate the nuisance after a notice of abatement has been served on the relevant person, whether it is a prohibition or statutory abatement notice. Otherwise, they would be guilty of a public health crime. You still need to be aware that, depending on the current situation, both the ban and statutory abatement notifications may be delivered simultaneously. For instance, when there is proof that the annoyance will or already has been recurrent.

DISCUSSION

The Lagos State Environmental Sanitation Edict of 1998's List of Offences According to the Lagos State Environmental Sanitation Edict of 1998, the following table lists several public health offences and the associated penalties. The next topic we'll talk about is the defences that may be employed by someone accused of violating public health or environmental legislation. A declaration by an accused person that specific facts exist that absolve him of criminal responsibility is known as a defence. This implies that the person who is accused of committing a crime might argue that, given specific current circumstances, he is not guilty of the offence. A public criminal may use any of the following defences, without limitation.

First, there was no warning or notifications. A notice to abate the nuisance or cease the violation of the crime must have been sent to the public health offender in order for him to be successfully prosecuted. The accused cannot be found guilty of the alleged crime if the prosecuting body fails to issue a notice to abate. Inadequate or incorrect notice is the second line of defence that an offender may use. A notice of finding, the presence of a nuisance, the likelihood of a public health law violation, or actual or threatened public health law violation must be served on the offender in accordance with the law by the appropriate government agency. The notification must also be sufficient and signed by the competent official who is authorised by law to do so, or on his or her behalf by a suitable representative. See Plymouth Corporation v. Hurrell, 1 Q.B. 455 for more information. The notice would be deemed illegal if it was insufficient, improperly signed by the appointed officer, and not delivered in the required manner. In this case, the offender could not be held accountable for failing to abide by the notice.

Likewise, the notification must be genuine; if it is not, it may not have been sent to the right person or in the right format, for example. The ensuing prosecution would be considered void if the notice is not in the right format and delivered on the appropriate person. Observe the Harris v. Hickman 1 K.B. 563 case. Because notifications are often served on the incorrect persons and informal notices are frequently issued by enforcement agents and agencies. For instance, if the nuisance pertains to structural flaws, you cannot serve notice on a renter; instead, it should be served on the landlord, his attorney, or other appropriate agent. As a result, a notice that is served on a tenant but is not in the proper format will not be considered genuine. The presence of a staying order is a different defence an offender might use. According to the legislation, a person who has been served with a notice may appeal for a stay of the notice while he takes action to remove the nuisance or arranges to be heard. No prosecution is possible while this condition exists. A prosecution would be void and the perpetrator could not be found guilty if it started while the order of stay was in effect.

A criminal may also use the defence of accident. That is the alleged wrongdoing, and it was an accident. According to section 24 of the Criminal Code, accident is a defence for the majority of crimes. It simply implies that neither the accused nor any reasonable person could have foreseen the consequences, and that it did not occur as a result of the accused's deliberate actions. It is therefore irrelevant if an incidental occurrence followed an illegal conduct. Another argument that a perpetrator might use is that the pollution or discharge was carried out in a hurry to escape a hazard or health and life risk. See Express Ltd v. Environmental Agency Env. L.R. 29, where the motorist who had a tyre rupture and an accident that resulted in milk spillage was not held accountable for violating public health regulations. However, in order to use this defence, the defendant or the person who caused the emergent pollution or discharge must notify right away to the environmental protection agency [5], [6].

Similar to this, the offender may use the defence of contributory negligence by arguing that the plaintiff's conduct helped to cause the contamination. He may also assert his legal right to do so, which would indicate that he had permission to pollute; however, the pollution must not go beyond what was allowed for him, or else this argument would be ineffective if it were shown that the pollution that was the subject of the complaint went beyond what was allowed. You can see from the discussion above that there are a number of public health violations, and that a person accused of committing a public health or environmental infraction has a number of defences he might assert in order to avoid conviction.

A right is an entitlement that is bestowed upon someone and is not subject to another person's decision. Scott defines rights as favourable situations that are granted to a possessor by the law, morality, laws, or other standards. This simply implies that a person has a right to something since the law or morality has granted it to him. It is not up to any one individual or group of people to determine when to deliver it to the owner or the person who is entitled to it, thus they cannot make that decision. It differs from privilege, which is dependent on the decision or occurrence of another. A person's right cannot be removed until the law specifically allows it, but his privilege might be revoked without considering him or the law. According to Scott, who makes a valid argument, "one always possesses any specific right by virtue of possessing some status," certain rights are bestowed depending on the person's position. As a result, status is used to classify rights. Human rights are those that are inherent to being human, while civil rights are those that one has as a citizen. It seems to reason that the rights of women, children, sick, and black people in general are comparable. You can see from the above that some individuals are entitled to certain rights while others are not. For instance, women are automatically entitled to maternity leave but males are not. Additionally, adults are not entitled to parental care but children are; lawmakers are entitled to legislative privileges while non-legislators are not; as a result, your standing may occasionally affect the rights you are granted. Children cannot vote, drive a vehicle, or smoke until they are eighteen years old, while adults have the same rights in these areas.

The definition of human rights will be the subject of our next definition discussion. Human rights, in Kaczorowska's view, are a corpus of laws that protect certain rights seen as universally inherent in all people due to their shared humanity. They hold true for all people, regardless of race, sex, religion, country, or colour. They are universal, unalienable, indivisible, interdependent, and apply to all people on an equal basis. The Supreme Court of Nigeria said that a basic right is a right guaranteed in the Constitution to every individual by virtue of being a human being in the case of Odogu v. Attorney General of the Federation 6 NWLR 508.

The important thing to remember is that every person has the legal right to human rights because that person is a human being. These rights are universal, which means they apply everywhere and at all times, inalienable, which means they cannot be taken away, and independent, which means they are related to and complement one another. No matter your race black or white, female or male, young or old, Nigerian or not—it makes no difference. Human rights may be traced back to the American and French revolutions in 1775 and 1789, respectively, but the post-World War II era is when the modern notion of human rights emerged. The United Nations, whose Charter was adopted in 1945 to replace the League of Nations founded in 1919, was actually established in an effort to find solutions to the ongoing threat to human life, the peace, and international security as well as to prevent the atrocities of the first and second world wars. The International Law Commission was later founded by the

United Nations in 1947 in order to codify international customary law, which is standard practise among civilised nations, into rules that would be approved to control how certain countries treat their people and to steer international relations. The Universal Declaration of Human Rights, which was approved in December 1948, was the first human rights declaration to be codified. The text, originally to be named the International Bill of Rights and modelled after the American Bill of Rights, was instead converted into a declaration, which typically has no legal power.

State customs and the twin Covenants, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights, which were enacted in 1966 after it, have given it a binding force, however. All human beings are born free and equal in dignity and rights, according to Article 1 of the Universal Declaration of Human Rights, which is the locus classicus of human rights. Since they possess reason and conscience, they ought to treat one another with brotherly affection. Without difference of any type, including but not limited to, race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or other position, everyone is entitled to the rights and freedoms outlined in this Declaration. Additionally, no difference shall be established based on the political, juridical, or international status of the nation or territory that a person is a citizen of, including whether that nation or territory is an independent, trust, non-self-governing, or subject to any other restrictions on sovereignty. The information presented here supports our prior understanding of human rights and what they entail [7], [8].

You should be aware that there are many theories of human rights, just as there are many theories of law, before we analyse the many forms of human rights. There are four human rights schools of thought, according to Dembour. The first is the natural school of rights, which contends that God and human beings both possess intrinsic rights. The second is the deliberative school, which holds that individuals have a right to whatever they believe constitutes a human right, regardless of what members of society think constitutes a human right. The third is the protest school of rights, whose adherents believe that human rights are not granted or accepted but are instead fought for by those who are oppressed in order to relieve their suffering at the hands of the ruling class, and that a single triumph does not put an end to injustice. The discourse school, on the other hand, contends that rights do not exist because they are granted, agreed upon, or fought for but rather because people speak about them.

Bentham contends that human rights are mischievous nonsense and total "Nonsense." There is no such thing as human rights, and this is nonsense on stilts. He asserts that human rights include the right to equality, for instance. He believes that there is no such thing as the right to equality since there is always a class hierarchy. For instance, a tenant cannot be equal to a landlord, a servant to a master, a kid to a parent, and an employee to an employer. So why discuss the right to equality since there is no such thing as an equal human being who can be treated equally? Discussing human rights is absurd; instead, we should discuss how laws are written to benefit the majority. Since it is not the goal or focus of this unit or session, we will stop talking about theories of rights at this point. a few academics According to Vasak, there are three main categories of human rights. These include the right to liberty, which is one of the ICCPR's provisions and is often referred to as one of the basic human rights in most national constitutions, including the Federal Republic of Nigeria's 1999 Constitution. Additionally, these rights aim to defend the person against the state's oppression and arbitrary actions. Because the American and French Revolutions of the 18th century marked the first time these rights were demanded and secured, they are sometimes known as the "first-generation rights."

According to Vasak, the ICESCR's equality rights, which are designed at maintaining the economic and social equality of all people, constitute the second category of rights. They primarily concern economic, social, and cultural rights; they are connected to the Mexican and Russian revolutions as well as the 19th-century communist movement, which sought to destroy the oppressive capitalism system and enthrone welfaresm. They are mentioned as the essential goals and guiding ideals of public policy. In most national constitutions, including Nigeria, they are non-justiciable aspirational rights also known as second-generation rights. According to Vasak, the third category of human rights is solidarity, group, or collective rights, which are intended to safeguard the group as a whole rather than an individual. To guarantee its success, they also work to incorporate all social actors. They were put out by the developing nations of the third world in order to guarantee equitable development, self-determination, and, most importantly, liberation from colonial and repressive western policies. The Vienna Declaration and Programme of Action of 1993 include these. These rights date from after World Wars I and II.

Human rights are indivisible, inalienable, interconnected, reliant, cumulative, and overlapping, according to some academics, who also contend that it is counterproductive to separate them into generations since we need cooperation and economic rights to protect our civil and political rights. Others contend that the division of human rights is necessary because certain rights like civil and political rights, which can be readily provided by all nations regardless of their economic standing are more crucial and easily realised than others. But not all nations can guarantee the economic, social, and cultural rights. For instance, most nations are unable to provide everyone with homes, food, health care, and education. Therefore, if economic, social, and cultural rights were considered to be just as essential as civil and political rights, governments would be forced to submit due to lawsuits resulting from the denial of these rights. Based on this, the economic, social, and cultural rights should be elevated to aspirational status so that each nation may implement them in accordance with its level of development and economic standing.

The last topic we'll be looking at in this unit is Environmental rights of a person, which basically refers to certain ongoing privileges that an individual usually has as a result of being a member of the environment and as such being subject to objective laws. These rights might be categorised as fundamental and all-encompassing environmental rights. The general rights include: the right to pollute or trade in pollution credits, which is the right to produce an acceptable amount of waste or refuse; the right to be heard at an inquiry, which includes the right to a fair trial and the ability to file complaints against polluters or those who violate environmental health laws; the right to bring judicial review action, which means the ability to request the reversal of a government environmental decision that is likely to harm the environment; and the right to be heard at an inquiry. The second is a procedural right known as public law, which includes the ability to access information, participate in environmental decision-making, be heard during inquiries, and bring judicial review actions or conduct private prosecutions at the direction of the State Attorney General. The third kind of legal right is a substantive legal right, which includes the fundamental human rights that we have already discussed above and which are protected by current human rights laws. Examples include the rights to life, property, and privacy as well as the right to respect for one's home [9], [10].

Before going into some of the rights to which he is entitled even if he may have broken public health rules, let's first define an accused or an offender quickly. A person who is alleged to have committed an offence punishable by law, either by engaging in unlawful behaviour or by failing to take the appropriate action, is known as an accused person or an offender. He is the individual who has violated a law that is penalised in the context of public health. He is thought to have done wrong. However, just because someone has broken the law doesn't mean that they are no longer protected by it. For this reason, anybody who has broken the law in regards to public health has certain rights that we will be looking at in the next section.

The right to personal liberty is one of an accused individual's rights under public health legislation, just as it is for any other person facing criminal charges. The accused is entitled to his personal liberty and cannot be forcibly held by law enforcement officials enforcing public health regulations without the permission of a court with appropriate authority. The criminal also has the right to be free from torture and other cruel or inhumane treatment. Torture by the police or any other law enforcement personnel engaged in the implementation of public health regulations is prohibited since it would be a violation of the person's basic human rights. A public health violator has the same rights to privacy and family life. A person's violation of a public health legislation does not give enforcement personnel the right to enter his property or home without permission. If they want to enter or provide the proper notice, they must get a warrant. They would be considered to have breached the offender's right to privacy and might face legal consequences if they forcefully entered without the necessary court warrant.

A public health offender has the right to a fair trial and hearing once more. This is crucial because any sentence imposed on him might be overturned on appeal if he is not given a fair hearing and trial. The trial would really be invalid from the start. There are several concerns with a fair trial. If this is not done and he is tried, the sentence will be overturned on appeal. He must first be informed of the crime he has committed and the prosecution must establish the offence. You can see that there are several sorts of rights from the explanation above. Human rights are also obligations, not advantages. Individuals are also entitled to some unique environmental rights, and ultimately, public law violators have certain rights that must be protected.

CONCLUSION

In conclusion, a broad variety of offences that might have a negative impact on both persons and communities are included in the category of public health infractions. Some of the most significant infractions have been brought up in this conversation, including the distribution of harmful items, poor living conditions, and public health officials being hindered. These infractions seriously endanger not only the health of the person, but also the health of the general population. In conclusion, resolving public health infractions requires an all-encompassing strategy that incorporates both regulatory enforcement and prevention. It also entails defending individual rights, which are essential for obtaining justice and preserving a functioning society. Communities all across the globe continue to have serious concerns about public health, and identifying, addressing, and preventing breaches is crucial to advancing everyone's wellbeing.

REFERENCES:

[1] E. S. Navasardova and K. V. Kolesnikova, “On the flaws in environmental legislation that feed corruption,” *Criminol. J. Baikal Natl. Univ. Econ. Law*, 2016.

[2] R. M. Rigotto *et al.*, “Irrigation perimeters, violated rights at Ceara and Rio Grande do Norte: "Why do we have to leave when the water arrives?",” *Rev. Pegada*, 2016.

[3] V. A. P. Chamorro, J. G. A. de Perea, and M. A. C. Balsells, “The development of Social Responsibility GRI reports by Spanish public and mixed water supply and sanitation entities,” *CIRIEC-Espana Rev. Econ. Publica, Soc. y Coop.*, 2016.

[4] R. Brescia and J. T. Marshall, “Introduction,” *How Cities Will save the World: Urban Innovation in the Face of Population Flows, Climate Change and Economic Inequality*. 2016.

[5] M. C. Hlavsa *et al.*, “Immediate Closures and Violations Identified During Routine Inspections of Public Aquatic Facilities - Network for Aquatic Facility Inspection Surveillance, Five States, 2013,” *MMWR Surveill. Summ.*, 2016.

[6] B. Sanz-Barbero, L. Otero-García, S. Boira, C. Marcuello, and C. Vives Cases, “Acción COST Femicide Across Europe, un espacio de cooperación trasnacional para el estudio y el abordaje del feminicidio en Europa,” *Gac. Sanit.*, 2016.

[7] D. L. Oberski, “Beyond the number of classes: separating substantive from non-substantive dependence in latent class analysis,” *Adv. Data Anal. Classif.*, 2016.

[8] H. Barennes, G. Slesak, S. Goyet, P. Aaron, and L. M. Srour, “Enforcing the International Code of Marketing of Breast-milk Substitutes for Better Promotion of Exclusive Breastfeeding,” *J. Hum. Lact.*, 2016.

[9] D. H. Kim, L. M. Ramjan, and K. K. Mak, “Prediction of vehicle crashes by drivers’ characteristics and past traffic violations in Korea using a zero-inflated negative binomial model,” *Traffic Inj. Prev.*, 2016.

[10] T. K. Mackey, “Digital direct-to-consumer advertising: A perfect storm of rapid evolution and stagnant regulation: Comment on ‘Trouble spots in online direct-to-consumer prescription drug promotion: A content analysis of FDA warning letters,’” *International Journal of Health Policy and Management*. 2016.

CHAPTER 13

ENFORCEMENT OF PUBLIC HEALTH LAWS: A REVIEW

Amit Verma, Associate Professor
College of Law, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India
Email Id- amitverma2@gmail.com

ABSTRACT:

This gives a general review of Nigeria's public health legislation enforcement, emphasizing its importance, difficulties, and important procedures. It starts off by highlighting the crucial role that enforcement plays in upholding environmental and public health legislation and highlights the flaws in Nigeria's current enforcement system, particularly its emphasis on domestic offenders rather than commercial and industrial wrongdoers. It draws attention to problems including the absence of pollution standards for various industries and the inadequacy of safety measures for workers in hazardous workplaces. The abstract goes on to define enforcement as a procedure to ascertain a person's guilt or innocence and inflict appropriate sanctions. It emphasizes the unique methods involved by setting public health law enforcement apart from traditional criminal law enforcement. Inspections, notices, summonses, and, if required, arrests are often the first steps in the enforcement procedure. The first phase is a detailed explanation of inspections, emphasizing their role in locating statutory nuisances and problem areas. Prior to performing inspections, proper notice should always be given. The ideal inspection report, which forms the foundation for further measures like the issue of abatement notices, is also described in the abstract. As the next stage of enforcement, delivery of abatement notices is further discussed. Abatement notices give tenants or property owners information regarding the existence of a nuisance, the procedures necessary for its eradication, and any deadlines. The distinction between abatement and prohibition notices is explored, as well as the appropriate recipients of these notices.

KEYWORDS:

Health, Laws, Legislation, Public Health.

INTRODUCTION

The significance of routine inspections in detecting and mitigating possible hazards is one of the main lessons to be learned from this talk. These inspections offer a chance to address problems before they worsen and act as the first line of defence against public health infractions. For follow-up measures, accurate documenting of inspection findings, as described in the inspection report, is crucial. Abatement notices are essential to the enforcement process because they inform those who are causing a nuisance of their responsibility to make it stop. These warnings act as formal legal documents that guarantee adherence to rules governing public health. Abatement notice noncompliance may result in legal action, which ordinarily begins in the Magistrates Court. Different governmental organizations and authorities, each with distinct functions and responsibilities, are involved in the enforcement of public health laws. Effective enforcement requires an understanding of the mandates and authority of these organizations.

An important step in overcoming Nigeria's shortcomings in environmental law enforcement was the establishment of NESREA (National Environmental Standards and Regulations Enforcement Agency). Legal remedies are available to anyone who have been harmed by environmental pollution or harm, including asking for injunctions to stop the harm from continuing, compensation for losses incurred, and the removal of nuisances. These legal choices give people and communities ways to get justice when environmental crimes endanger their health and wellbeing.

Before defining public health laws enforcement or law enforcement, it should be noted that they both refer to the same thing in the context of both environmental and public health legislation and standard criminal process. It is crucial to note that Nigeria has one of the worst systems for enforcing public health legislation. Additionally, it is more focused on domestic offenders than on commercial and industrial criminals, whose actions really represent a greater risk to human life and physical harm to the environment. In most businesses in Nigeria, employees who work in very dangerous environments are not even given respirators or noise monitors. Additionally, it's dubious that any pollution standards have been established for the different sectors or the locations where certain enterprises should be located. In reality, the Environmental Sanitation Authorities themselves often violate these rules. For instance, we frequently see road sweepers scouring the streets without respirators or face masks, and garbage trucks frequently transport trash around the city uncovered [1], [2].

However, because enforcement is the subject of this discussion, let's define it. In order to determine his or her innocence or guilt and to impose the proper punishment, enforcement is the process of calling any individual who has committed an offence to appear or respond to the accusation against him or her before a competent authority, tribunal, or court. According to Webster's Online Dictionary, enforcement refers to federal, state, or municipal legal proceedings taken to ensure that environmental laws, rules, regulations, or agreements are followed and/or to impose fines or other punitive measures for noncompliance. Depending on the needs of various environmental laws and their implementing regulations, several enforcement strategies may be used. The important thing to remember from the definitions above is that when we talk about the different ways public health rules or regulations are followed and the sanctions that could be applied to an offender if they are found to have violated a public health offence, we are talking about enforcement of public health laws. Additionally, it is important to note that the method used to enforce public health regulations differs somewhat from that used to enforce criminal laws. Normal criminal process, on the other hand, involves all measures that may be necessary to force the accused to appear in court or at the police station, steps that often start with either an arrest or a summons. In public health legislation, the process doesn't start with an arrest or a summons; rather, it starts with an inspection, a notice, followed by a summons, and then, if required, an arrest. Now, we'll talk about a few of these procedures in the next session.

Inspection is the initial step in the implementation of public health rules. The Local Government Authority and other environmental protection agencies are required by law to conduct routine inspections of buildings, streets, and workplaces as well as periodically measure the level of air or water pollution to determine what actions they should take in the performance of their duties under the applicable law establishing them. Although it may sometimes seem ambiguous and imprecise, this is not a justification for skipping routine inspections, which should be based on the kind, degree, or possibility of nuisances present. If the Local Government Council or the appropriate environmental protection agency fails to periodically check their local government territory, it would be considered an abandonment of duty.

The main goal of an inspection is to find statutory nuisances and take action to eliminate them, as well as to identify areas that need improvement, slums that need to be cleared, gutters and drainage systems that need to be cleaned, overgrown weeds, refuse dump sites, and general housing conditions to make sure they are secure and suitable for human habitation. However, before an inspection is carried out, the occupiers of the dwelling or the industry or location within which the inspection is to be conducted out must get proper notice. This is done in order to comply with the law and to avoid any trespassing charges [3], [4]. The Chief Health Officer of the Local Government, who is acting on behalf of the Council, must have access to a report detailing the key findings at the conclusion of the inspection before deciding on the next measures. An ideal inspection report should include the following information: the address of the property or area, the name of the inspector (if there is more than one), the date of the inspection, the name of the tenant or occupant, the name of the landlord (if different from the occupant), the date the current tenancy began if the property is rented, the rent, the rates, and the number of occupants. Then, remarks on the condition of the items are made, and finally, the inspector or head of inspection's name and signature are included.

DISCUSSION

A re-inspection report may be made, which is often done if a notice of abatement has been issued and the inspector returns to review the situation at the end of the allotted time. The report in this instance wouldn't be as thorough as the first. The location, name of the inspector, date of the inspection, tenant's name, and landlord's name must still be included. The report's main body is then ideally split into two tabular sections, with the left side bearing the heading Details of inspection and the right side bearing the heading Details of re-inspection. The entries on the left side would reflect the situation as of the most recent inspection, while the entries on the right side simply indicate if anything is still there or not. The inspection report serves as the foundation for the subsequent course of action, which is usually invariably the issue of an abatement notice.

The delivery of a "Abatement Notice" is the next stage in the enforcement of public health rules. An abatement notice must be delivered on the people inhabiting the property or residing nearby, requesting them to remove the nuisance, when the inspector has completed his report and the local government is certain that there is a presence of a statutory nuisance. A notice that informs the occupant of a property or area that has been inspected of the existence of a nuisance that needs to be removed, along with the steps necessary to do so and a deadline, is known as an abatement notice. It is issued by a person authorised to do so under the authority of the Local Government Council. The abatement notice must include all relevant information to be legal, therefore this is crucial. Additionally, the notification must be sent to the proper party. Depending on the kind of annoyance that has to be eliminated, this is often the person whose act, omission, default, or suffering caused the nuisance to exist. If such a person cannot be located, the notification must instead be delivered to the owner or occupant. The owner of the property, or his authorised attorney or agent, is often the recipient of the notification in cases of nuisances brought on by the authority.

Any individual who has the authority to collect rent for the premises falls under this category. A prohibition notice would be the appropriate notice to serve if the nuisance has already occurred, is expected to occur, or has previously happened frequently in the past. It's also crucial for you to be aware that a statutory abatement notice may only be issued while the nuisance is still present. Additionally, an abatement or restriction notice cannot be appealed. An abatement notice may, however, take a number of different formats. It might be a notification for repairs, an upgrade or a slum clearance. Whatever the notification form, it must be delivered 24 hours in advance of the Health Inspector exercising their right of entry. Before a Health Inspector exercises the power of entrance, the appropriate notice must be given and the appropriate permission must be obtained. Otherwise, if he is blocked from accessing the property, the people who are there may not be guilty of obstruction but rather of trespassing and making an unauthorised entrance.

Court proceedings, which always begin in the Magistrates Court, are the next step in the enforcement of public health regulations. The court may be stationary or mobile. During special cleanliness days or other occasions when several criminals must be tried and convicted right away, a mobile court is often employed. The court session is never convened at the customary hour for court sittings. In contrast, the permanent court holds or meets at its regularly scheduled location and time to consider any accusations of violating public health legislation made against any individual [5], [6].

The majority of times, actions in the Magistrates courts are brought about by the offender's failure to heed an abatement notice, fully comply with its provisions, or when there is a recurrence or a high likelihood that the nuisance will return after it has been abated. However, while the legal actions to enforce an abatement notice are still pending, the Local Government Council or the appropriate enforcement body may still take additional steps to ensure the removal and avoidance of the circumstances that gave rise to the nuisance. Similar to this, when a prohibition notice has been issued or is not complied with after a statutory nuisance has occurred again, the Local Government Health Authority or other enforcement authorities may begin actions in the Magistrate Court. Most public health violations that are brought before the Magistrates Court are criminal in nature, whether they include disregarding notice, obstructing law enforcement, failing to entirely remove a nuisance, or violating another environmental infraction. They begin with the laying of an information before the magistrate, who then reviews the information sheet's facts and, if satisfied that there is a prima facie case against the accused, issues a summons, which is then served on the accused and requires him to appear to answer the charge on a specific day, place, and time.

A summons is typically a written order issued by a magistrate or other judicial officer notifying a defendant of the charge or allegation against him and requiring him to appear in court or at the police station on a specific date and time to answer the charge or allegation. The summons always calls for the defendant to appear in court for public health crimes. The equivalent of an arrest warrant, a summons is often issued for misdemeanours and violations of other Local Government Bye-laws. A violation of the summons or disobedience of the summons is a criminal crime, and the trial is expedited. You should be aware that a summons is not necessary in a mobile court case since the case is being heard without a jury and a summary trial is being held instead because the offender was apprehended while committing the crime.

Additionally, the Local Government Authority, specifically the inspector and chief health officer, represents the Local Government Authority in public health offence proceedings and not the police or a lawyer who has obtained a fiat from the State Attorney General in other criminal offences or proceedings. The Local Government Authority health officer would commence the case against the accused by explaining the facts of the crime and the specific provision of the environmental health or public health legislation that the accused has infringed. The charge is read to the accused and his plea is taken. Then, if any witnesses were summoned by the prosecution, the defendant would have the opportunity to cross question them and provide his own defence. Like in conventional criminal proceedings, the prosecution is not entitled to a final address but may do so in order to explain the facts and make a legal argument.

Although there are ways to enforce public health laws, such as an injunction obtained from the High Court to stop a polluter from continuing their pollution, seize control of a location, or bar people from entering a specific building, location, or area due to the presence of a nuisance that poses a serious risk to public health. Or an order allowing the local government to seize a property in order to remove a nuisance, or a legal action to recoup costs associated with removing a nuisance. Due to the nature of this course, which is essentially an introduction, they would be explored. You can see from the description above that there are differences between the methods used to enforce public health regulations and typical criminal laws. You can also observe that the mechanisms involved in the enforcement of public health legislation are many.

We will start by looking at the federal level's enforcement agencies for public health laws. The enforcement of environmental regulations is handled by a number of governmental entities, either directly or indirectly. The Federal Ministry of Environment, the National Agency for Food and Drug Administration and Control, the Standard Organisation of Nigeria, the National Agency for Oil Spill Detection and Control, the Federal Environmental Protection Agency, and the various Federal Courts are among them [7], [8]. Now let's take a quick look at how these organisations contribute to the enforcement of environmental health regulations. Decree 58 of 1988 established the Federal Environmental Protection Agency and Decree No. 59 of 1992 revised it. Among its features are the following:

a. Protect the biodiversity conservation and sustainable development of Nigeria natural resources"; b. prepare a comprehensive national policy for the protection of the environment and conservation of natural resources, including procedure for environmental impact assessment for all development projects; c. prepare, in accordance with the National policy on the Environment, periodic master plans for the development of environmental sciences and technology and advice the Federal Military Government on the financial requirements for the implementation of such plans; d. the Federal Military Government on the national environmental policies and priorities, the conservation of natural resources and sustainable development, and scientific and technological activities affecting the environment, and natural resources; e. the President, Commander-in-Chief of the Armed Forces on the utilization of the l Percent Ecological Fund for the protection of the environment; f. promote co-operation in environmental science and conservation technology with similar bodies in other countries and with international bodies connected with the protection of the environment and the conservation of natural resources; g. co-operate with Federal and State Ministries, Local Governments, statutory bodies and research agencies on matters and facilities relating to the protection of the environment and the conservation of natural resources; and h. carry out such other activities as are necessary or expedient for full discharge of the functions of the Agency under this Decree."

Among other duties the agency is permitted to carry out by the Act. However, the Obasanjo government combined FEPA with the Federal Ministry of Environment in 1999. The Federal Ministry of Environment was formed in 1999 as a result of a merger between FEPA and other pertinent Departments in other Ministries, but without the proper enabling legislation on enforcement matters. The following body we will be considering is the National Environmental Standards and Regulations Enforcement Agency. However, this circumstance left a gap in the nation's ability to effectively implement environmental laws, standards, and regulations. The Federal Ministry of Environment, Housing, and Urban Development formed the National Environmental Standards and Regulations Enforcement Agency as a parastatal to handle this issue.

The environment, biodiversity conservation, and sustainable exploitation of Nigeria's natural resources in general fall under the purview of NESREA, which is also in charge of coordinating and liaising with relevant internal and external stakeholders on issues pertaining to the enforcement of environmental standards, regulations, rules, laws, policies, and guidelines. Some functions of the Agency, amongst others include to: enforce compliance with laws, guidelines, policies and standards on environmental matters; coordinate and liaise with, stakeholders, within and outside Nigeria on matters of environmental standards, regulations and enforcement; enforce compliance with the provisions of international agreements, protocols, conventions and treaties on the environment including climate change, biodiversity conservation, desertification, forestry, oil and gas, chemicals, hazardous wastes, ozone depletion, marine and wild life, pollution, sanitation and such other environmental agreements as may from time to time come into force; enforce compliance with policies, standards, legislation and guidelines on water quality, Environmental Health and Sanitation, including pollution abatement; enforce compliance with guidelines, and legislation on sustainable management of the ecosystem, biodiversity conservation and the development of Nigeria's natural resources; enforce compliance with any legislation on sound chemical management, safe use of pesticides and disposal of spent packages thereof; enforce compliance with regulations on the importation, exportation, production, distribution, storage, sale, use, handling and disposal of hazardous chemicals and waste, other than in the oil and gas sector; enforce through compliance monitoring, the environmental regulations and standards on noise, air, land, seas, oceans and other water bodies other than in the oil and gas sector; ensure that environmental projects funded by donor organizations and external support agencies adhere to regulations in environmental safety and protection; enforce environmental control measures through registration, licensing and permitting Systems other than in the oil and gas sector; conduct environmental audit and establish data bank on regulatory and enforcement mechanisms of environmental standards other than in the oil and gas sector; create public awareness and provide environmental education on sustainable environmental management, promote private sector compliance with environmental regulations other than in the oil and gas sector and publish general scientific or other data resulting from the performance of its functions; and carry out such activities as are necessary or expedient for the performance of its functions.

Any person who has or is expected to experience environmental injury or threat is a victim, and there are numerous remedies accessible to them. These include a court order, money damages, legal action for lost profits, abatement, and a claim based on sensitivities. Now, let's take a quick look at each of these treatments. Applying for an injunction against the polluter to stop them from continuing the conduct that are causing the environmental harm or pollution or threat is one of the remedies available to a person who has suffered, is expected to suffer, or is continually suffering from environmental harm or threat. It is an order of the Court, typically a High Court, preventing the defendant from performing a specific act that the plaintiff in the claim has complained about. However, the plaintiff needs to have a strong case against the defendant in order to prevail in an action for an injunction in environmental law. As an illustration, the plaintiff was able to win an injunction preventing the defendant from using his trucks and boilers to create noise pollution. The plaintiff was granted an order to stop the defendants' hospital boilers from making noise, which was disturbing his sleep and making him depressed [9], [10].

An action for damages suffered as a result of the defendant's action that caused the pollution is another option accessible to a victim of environmental pollution or harm. In cases of nuisance and trespass, compensation actions are typically more justified if negligence is proven to have occurred. Compensation is typically given for losses to goods and property rather than for physical injuries. A victim of environmental pollution, harm, or hazard may also take legal action to recover damages. Damages may be general, specific, or exemplary. Exemplary damages have extremely little success in environmental health cases, but they may be granted when the plaintiff can show that the defendant committed the crime because he believed he might make a profit that would surpass the cost of the damages he must pay. This is due to the defendant's actions having a certain level of willfulness. In cases of negligence, general damages may also be granted for property damage and bodily harm, but not for financial loss.

Once damage has been established in a nuisance case, a victim of environmental contamination or harm may then file a claim for loss of profit. It is just for economic loss and not for any other harm. where the plaintiff's claim for lost profits due to damage to a remodelled home was denied since it does not qualify as economic loss. This is an option for those who have had a very serious and ongoing annoyance due to environmental pollution that has caused some irreversible loss. The amount of damages that should be granted may not be excessive if the plaintiff cannot demonstrate a serious, severe, and permanent loss of amenity.

A victim of environmental contamination may also file a claim to have the defendant's action-related annoyance removed. In this case, the plaintiff is asking the court to issue an order compelling the defendant to remove the annoyance he caused. This happens frequently in instances of public nuisance where the appropriate agencies responsible for enforcing environmental regulations have declined or ignored to take action to stop the nuisance. You can see from the discussion above that a number of organisations are in charge of upholding public health and environmental health rules. Because it is not their major responsibility, certain laws have direct enforcers while others have indirect enforcers. Additionally, you may discover the several options open to a victim of pollution, environmental harm, or public health threats.

CONCLUSION

In conclusion, protecting the health of communities and the environment depends greatly on the effective execution of public health regulations. It is clear that Nigeria has tremendous obstacles to efficiently executing these laws. The enforcement of public health laws varies and frequently involves several agencies at various levels of government, even though the rules cover a wide variety of topics, from illness prevention to sanitation and pollution management. In conclusion, there are many obstacles to public health law enforcement in Nigeria, including a lack of funding and the need for better cooperation between enforcement authorities. To maintain public health and safeguard the environment, enforcement is crucial, and this must be understood. It is imperative to take efforts to improve public health and environmental results in Nigeria, including bolstering enforcement mechanisms, raising public awareness, and encouraging collaboration among pertinent parties.

REFERENCES:

[1] E. Parasidis, “Public health law and institutional vaccine skepticism,” *Journal of Health Politics, Policy and Law*. 2016.

[2] S. Burris, M. Ashe, D. Levin, M. Penn, and M. Larkin, “A Transdisciplinary Approach to Public Health Law: The Emerging Practice of Legal Epidemiology,” *Annual Review of Public Health*. 2016.

[3] S. Allan, “Public Health Law and Public Health Policy,” in *International Encyclopedia of Public Health*, 2016.

[4] G. Marks-Sultan, F. Tsai, E. Anderson, F. Kastler, D. Sprumont, and S. Burris, “National public health law: a role for WHO in capacity-building and promoting transparency,” *Bull. World Health Organ.*, 2016.

[5] K. M. Lowrey, S. R. Morain, And C. M. Baugh, “Do Ethics Demand Evaluation Of Public Health Laws? Shifting Scientific Sands And The Case Of Youth Sports-Related Traumatic Brain Injury Laws.,” *J. Health Care Law Policy*, 2016.

[6] M. R. Ulrich, “Law and politics, an emerging epidemic: A call for evidence based public health law,” *American Journal of Law and Medicine*. 2016.

[7] G. Mburu, E. Restoy, E. Kibuchi, P. Holland, and A. D. Harries, “Detention of people lost to follow-up on TB treatment in Kenya: The need for human rights-based alternatives,” *Health Hum. Rights*, 2016.

[8] World Health Organization, “Chapter 5: Good governance in the process of public health law reform,” *Adv. right to Heal. vital role law*, 2016.

[9] World Health Organization, “Chapter 10: Controlling the spread of infectious diseases,” *Adv. Right to Heal. Vital Role Law*, 2016.

[10] J. Coggon, K. Syrett, and A. M. Viens, *Public health law: Ethics, governance, and regulation*. 2016.