Law is everywhere
BETTER HEALTH FASTER

3rd lecture in the SSPH+/ETH Jubilee Series “This Is Public Health”
Wed 4.3.2020 – 17:15h (CET) @ ETH Zurich HG D16.2 and
live-streamed online  https://ethz.zoom.us/j/253320154

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President, Research Ethics Commitee of Vaud, Lausanne
He Er Bu Tong

Seeking Harmony in spite of the differences

Confucius

https://www.youtube.com/watch?v=NNC0kIzM1Fo
This is a Meta-Course

How can we convince the NON-LAWYERS who do most public health work to work with us?

How can we use law more effectively in public health work?
Tuberculosis:

mortality and incidence rate during 125 years in Denmark

Statens Serum Institut, Rigshospitalet (National Hospital), University of Copenhagen, Copenhagen, Denmark; Gentofte University Hospital, Hellerup, Denmark

Discovery of the tubercle bacillus

anti-tuberculosis treatment

Vaccine BCG

Rate per 100,000

1875 1900 1925 1950 1975 2000

Years

Mortality Incidence

SSPH+/ETHZ Lecture Series 2020
Figure 1.4. Share of the population considering their health to be good or very good in OECD countries, 2008

Percentage of the population aged 15 and over

Switzerland: 2012 = 90%
Neuchâtel = 75%

1. Results of these countries are not directly comparable with those for other countries, due to methodological differences in the survey questionnaire resulting in an upward bias.

* Information on data for Israel: http://dx.doi.org/10.1787/888932315602.

Source: OECD Health Data 2010.
HEALTHCARE SPENDING AND GDP (%) WORLD BANK

HTTP://DONNEES.BANQUEMONDIALE.ORG/INDICATEUR/SH.XPD.TOTL.ZS/COUNTRIES/1W-US-CH-NL-NO-FR-DE?DISPLAY=GRAPH

Please remove one of the selected countries before adding additional countries.
LIFE EXPECTANCY AT BIRTH (WORLD BANK)

HTTP://DONNEES.BANQUEMONDIALE.ORG/INDICATEUR/SP.DYN.LE00.IN/COUNTRIES/1W-US-CH-
HEALTH SYSTEM V. HEALTHCARE SYSTEMS: ROBERT EVANS’ MODEL (OECD)


Health system

- social environment
- physical environment
- Genetic Inheritance

Individual answer
- behavioral
- biological

health & function

Well-being

Healthcare system

disease

Economic prosperity

healthcare
HEALTH DETERMINANTS
AND % CONTRIBUTION TO LONGEVITY

20%
BIOLOGY
GENETICS

PROMOTION
SOCIO-ECONOMIC
STATUS

● BEHAVIOR
(LIFE STYLES)
● ATTITUDES

45-50%

HEALTH

20-25%
PROMOTION
ENVIRONMENT
(INDOOR
OUTDOOR)

10-15%
REPARING
HEALTHCARE
SYSTEM
(ACCESS)

Domenighetti 2004
A need of clarification?

What are we talking about?

De quoi parle-t-on?

De quo locutum est?

Fo was reðä mier?

Fa was rede wär?

我們正在談論什麼？

我们正在谈论什么？
Proposal for a legal definition of health

• In law, health is understood as a fundamental right (the right to health), as a personality right (individual right) and a public interest (community health/public health).

«La santé consiste en un état de bien-être physique, mental et social; elle relève des droits de la personne» (Loi sanitaire, Jura, 1990)

«La santé, comme état de bien-être physique, psychique et social qui ne s’apprécie pas uniquement en fonction de la maladie ou du handicap, est un bien fondamental qui doit être protégé» (Loi sur la santé, Fribourg, 1999)
• Public health law is the study of the **legal powers and duties of the state**, in collaboration with its partners (e.g., health care, business, the community, the media, and academe), to assure the conditions for people to be healthy (to identify, prevent, and ameliorate risks to health in the population) and the **limitations on the power of the state** to constrain the autonomy, privacy, liberty, proprietary, or other legally protected interests of individuals for the common good.


PUBLIC HEALTH IS ALSO ABOUT HUMAN RIGHTHS AND FUNDAMENTAL FREEDOMS
What is health law?

Fo waas redä mier?

What are we talking about?

De quoi parle-t-on?

Fa was rede wär?

我們正在談論什麼？
Public Health Law Academy

The Public Health Law Academy offers free, online training to provide an understanding of the basics of our legal system and the use of law and policy for improving population health outcomes. These self-paced courses were designed for state, tribal, local, and territorial public health professionals, as well as public health lawyers, nurses, educators, advocates, and faculty and students in graduate and undergraduate programs.

Go to the Public Health Law Academy

Introduction topics include—

- Public Health Law: Past & Present
- Preemption & Public Health

Hot Topics in Public Health Law

- Public Health Threats & The US Constitution: What Responders Need to Know
- Legal & Policy Approaches to Reducing Prescription Drug Overdose
- Pharmacist Collaborative Practice Agreements: Who, What, Why, & How

https://www.cdc.gov/phlp/publications/topic/phlacademy.html
Introduction to Legal Epidemiology
Public Health Law Academy Training

Why does the life expectancy in two neighboring counties differ? How does raising the minimum wage affect health? How do you assess the effectiveness of a newly adopted law aimed at preventing traumatic brain injury in youth? Is there an approach that answers all of these questions? The answer is yes. It’s legal epidemiology!

Legal epidemiology provides a scientific approach to studying the impact and effectiveness of laws on health. Our Introduction to Legal Epidemiology training introduces the discipline of legal epidemiology. It is intended for public health lawyers, policy analysts, epidemiologists, and public health practitioners.

After this training, you will be able to

- explain how law affects health;
- define and describe basic legal epidemiology principles; and
- apply legal epidemiology in practice.

If you are a TRAIN user, please register through TRAIN.

RELATED RESOURCES

https://www.changelabsolutions.org/product/introduction-legal-epidemiology
Health laws is... Health laws

“Interventional Public Health Law”

laws intended to influence health outcomes or mediators
10 Essential public health elements

1. Surveillance of population health and well-being
2. Monitoring and response to health hazards and emergencies
3. Health protection, including environmental, occupational, and food safety
4. Health promotion, including action to address social determinants and health inequity
5. Disease prevention, including early detection of illness
6. Assuring governance for health
7. Assuring a competent public health workforce
8. Assuring organizational structures and financing
9. Information, communication, and social mobilization for health
10. Advancing public health research to inform policy and practice.

https://www.cdc.gov/stltpublichealth/publichealthservices/essentialhealthservices.html
Pandemic: Moving From Containment To Mitigation

Social distancing

Recommendations and Reports / Vol. 66 / No. 1 April 21, 2017
Community Mitigation Guidelines to Prevent Pandemic Influenza — United States, 2017
Li Wenliang warns his colleagues about 7 suspect cases of hospitalized patients. He is arrested on January 1, 2020 for "making false comments on the Internet". Dies from COVID 19 on February 7, 2020

From: Characteristics of and Important Lessons From the Coronavirus Disease 2019 (COVID-19) Outbreak in China: Summary of a Report of 72,314 Cases From the Chinese Center for Disease Control and Prevention

JAMA. Published online February 24, 2020. doi:10.1001/jama.2020.2648
And more than health laws

“Infrastructural Public Health Law”

→ laws establishing the powers, duties, and structure of public health agencies
And more than health laws

“Incidental Public Health Law”

→ laws, regardless of topic or purpose, that are studied for their impact on public health

Road Safety Message from Ritika Kumbhat Class-IX-A-DPS Surat
Incidental Health Law

The proportion of abortions that are unsafe is much higher in countries where laws are more restrictive

Abortion is safe when done by a trained person using WHO-recommended methods, less safe when only one of those conditions is met and least safe when neither is met.

47’000 women die every year from an abortion
### Abortion incidence between 1990 and 2014: global, regional, and subregional levels and trends

*Gilda Sedgh et al., *Lancet* 2016; 388: 258–67*

<table>
<thead>
<tr>
<th>Grounds</th>
<th>Average number of countries per year</th>
<th>Abortion rate (90% UI)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prohibited altogether or to save a woman’s life†</td>
<td>58</td>
<td>37 (34–51)</td>
</tr>
<tr>
<td>Physical health</td>
<td>34</td>
<td>43 (40–53)</td>
</tr>
<tr>
<td>Woman’s mental health</td>
<td>19</td>
<td>33 (27–49)</td>
</tr>
<tr>
<td>Socioeconomic grounds</td>
<td>10</td>
<td>31 (23–47)</td>
</tr>
<tr>
<td>On request</td>
<td>63</td>
<td>34 (29–46)</td>
</tr>
</tbody>
</table>

UI=uncertainty interval. †Gestational limits, authorisation requirements, waiting periods, and other conditions for legal abortions vary across countries in all categories. †Includes countries where abortion is also allowed in cases of rape or incest.

*Table 4: Abortion rate per 1000 women aged 15–44, by grounds under which abortion is legally allowed, 2010–14*

Coronavirus: Nasa images show China pollution clear amid slowdown


January 1-20, 2020

February 10-25, 2020

https://www.researchgate.net/publication/12149707_Impact_of_Changes_in_Transportation_and_Commuting_Behaviors_During_the_1996_Summer_Olympic_Games_in_Atlanta_on_Air_Quality_and_Childhood_Asthma

19-02-2020

A landmark report released by a commission convened by WHO, the United Nations Children’s Fund (UNICEF) and The Lancet looks at all the factors influencing child and adolescent health. Through this lens, it details critical, emerging risks to child health, proposes novel solutions and calls for urgent action to achieve measurable results. The report, “A future for the world’s children?”, is the result of more than 2 years of work by 40 child health experts from around the world.

The WHO–UNICEF–Lancet commission presses for radical rethinking on child health as it finds that the health and future of every child and adolescent worldwide is under immediate threat from ecological degradation, climate change and exploitative marketing practices that push heavily processed fast food, sugary drinks, alcohol and tobacco at children.

Key messages from the report:

- The health and rights of all children and adolescents are under threat. Some of the most pressing harms include a rapidly changing climate, mass commercial marketing of harmful products like sugar, fast food, tobacco and alcohol, and growing inequities.
- When we invest in children, we invest in the future. Investing in a child’s health, development and their environment bring benefits throughout life, and across generations.
Premise 1:
LAW IS ESSENTIAL TO PUBLIC HEALTH

Ten Great Public Health Achievements — United States, 1900–1999

- Vaccination
- Motor-vehicle safety
- Safer workplaces
- Control of infectious diseases
- Decline in deaths from coronary heart disease and stroke
- Safer and healthier foods
- Healthier mothers and babies
- Family planning
- Fluoridation of drinking water
- Recognition of tobacco use as a health hazard
Premise 2: LAW IS NOT JUST A "TOOL"

• “Interventional public health laws”
  → laws intended to influence health
• “Infrastructural public health law”
  → defines powers, duties, jurisdictions of health agencies
• “Incidental public health law”
  → laws not enacted or implemented with health in mind, but that have important health effects
Premise 3: LAW IS ONE OF THE ONLY WAYS TO UNDERSTAND AND ADDRESS SOCIAL DETERMINANTS OF HEALTH

Advancing the right to health:
The vital role of law

Goal 3: Ensure healthy lives and promote well-being for all at all ages

16.3 Promote the rule of law at the national and international levels and ensure equal access to justice for all


«salus populi est suprema lex»
Cicero, De Legibus, Livre III, part. III, subd. VIII
Two Ways Law Influences Health

1. Laws shape contexts

Social determinants of health

- Drug policy
- Public safety
- Housing
- OSH and work law
- School discipline
- Criminal justice

2. Laws influence behavior

Health
Evidence-Based Policy is an Output

Policy starts as a guess

Refinement and diffusion

Evidence-based policy

New policies have no evidence base

Research KNOWLEDGE about problems and possible solutions helps make it an EDUCATED guess

EVALUATION research tells us what works and how to make it work better
The 5 essential services of public health law

1. The right thing to do
2. Drafting laws, regulations, guidelines
3. Developing consensus and support
4. Enforcement strategies
5. Monitoring and evaluation

- Access to Evidence and Expertise
- Expertise in Designing Legal Solutions
- Help Engaging Communities and Building Political Will
- Support for Enforcing and Defending Legal Solutions
- Policy Surveillance and Evaluation

Evaluation Research

Better Health Faster

Informing policy refinement
A Model with a 2 Decade + Global Track Record

CDC/US Model

WHO/Euro Model
The Traditional View

For as long as Public Health Law has been a field, we have never questioned two basic assumptions:

1. Public Health Law is primarily an activity of lawyers, and

2. This activity consists primarily of traditional legal work and roles: legal research, counsel and representation
Let’s Call that “Public Health Law Practice”
This Was a Mistake

We should have questioned these two assumptions – and this model -- a long time ago, because they are wrong and actually impede the integration of law into public health practice.
The Other Part of Public Health Law: Legal Epidemiology

- Legal etiology: The study of laws and legal practices as causes of disease and disease risk.
- Policy surveillance: The scientific tracking of policies important to health → Public access to legal information and data.
- Legal prevention and control: The study of laws and legal practices as interventions to prevent and control disease.

The scientific study of law as a factor in the cause, distribution and prevention of disease in a population.
A Transdisciplinary Model

Public Health Law Practice

Legal Epidemiology

Counsel

Legal Etiology

Representation

Legal Prevention and Control

Research

Policy Surveillance

SSPH+/ETHZ Lecture Series 2020

Zurich, March 4, 2020
The Prescription

Break down the chronic cultural barriers by adopting a transdisciplinary model.

Improve performance by ensuring that the full spectrum of public health law functions are being conducted, and optimize performance in each domain

Better Health Faster
Lausanne, le 20 février 2019

FBM, 1ère année Master en médecine

SSPH+/ETHZ Lecture Series 2020

Zurich, March 4, 2020

Indicators of Progress

- Understand law and its operation in scientific terms
- Use scientific methods in legal work

Lawyers

- Understand and study law within PH science
- Monitor and timely evaluate legal interventions

Health professionals

- Health agencies have adequate legal support
- Legal TA is routine
- Effective measures are rapidly identified and adopted
Points to Consider

1. What is the likelihood to change the majority at the Federal Assembly?
   - At the individual level?
   - At the parties level? In particular which party is likely to switch position?

2. What arguments or actions are likely to contribute to a change of majority at the Federal Assembly? At least is it possible to build alliances on specific issues and if so which ones?

3. What is the position of the Sickness Funds?

World health report 2013: Research for universal health coverage p. 132

http://www.who.int/whr/en/

The failure of public health community with the Tobacco Product Act in 2016

AND

The success of the public health community with the Tobacco Product Act in 2019

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Box 4.11. Ten common mistakes in the dissemination of new interventions, and suggestions for avoiding them

1. Assuming that evidence matters to potential adopters
   Suggestion: Evidence is most important only to a subset of potential adopters, and is often used to reject proposed interventions. Therefore, emphasize other variables such as compatibility, cost and simplicity when communicating about innovations.

2. Substituting the perceptions of researchers for those of potential adopters
   Suggestion: Listen to representatives of the potential adopters to understand their needs and reactions to new interventions.

3. Using intervention creators as intervention communicators
   Suggestion: Enable access to experts, but rely on communicators who will elicit the attention of potential adopters.

4. Introducing interventions before they are ready
   Suggestion: Publicize interventions only after clear results have been obtained.

5. Assuming that information will influence decision-making
   Suggestion: Information is necessary, but influence is usually needed too. Therefore pair sources of information with sources of social and political influence.

6. Confusing authority with influence
   Suggestion: Gather data on who among potential adopters is seen as a source of advice and use them to accelerate dissemination.

7. Allowing those who are first to adopt (innovators) to gain primacy in dissemination efforts
   Suggestion: Initial adopters are not always typical or influential. Find out how potential adopters and key users are related to each other in order to identify those who are most influential.

8. Failing to distinguish between change agents, authority figures, opinion leaders and innovation champions
   Suggestion: Single individuals do not usually play multiple roles, so determine what part each person can play in the dissemination process.

9. Selecting demonstration sites on criteria of motivation and capacity
   Suggestion: The spread of an intervention depends on how initial demonstration sites are seen by others. So, when selecting demonstration sites, consider which sites will have a positive influence.

10. Advocating single interventions as the solution to a problem
    Suggestion: One intervention is unlikely to fit all circumstances; offering a cluster of evidence-based practices is usually more effective.

Adapted from Dearing.
SSPH+ Lugano Summer School in Public Health Policy, Economics, and Management

Course, Aug 27 – 29, 2020:
Better Health Faster: Using Law and Policy Effectively in Public Health

www.ssph-lugano-summerschool.ch
And always remember that **LAW IS EVERYWHERE**.

https://www.youtube.com/watch?v=NNC0kIzM1Fo
Coming up next week:

The law on tobacco products: impacting public health through legislative changes - opportunities and limits

Prof. Luciano Ruggia
Research Fellow at the Institute of Social and Preventive Medicine (ISPM) of the University of Bern
Director of the Swiss Association for Smoking Prevention AT