

Chapter 36

Global Health Governance, Human Rights, and the Control of Infectious Diseases: A Case of the Ebola Epidemic in West Africa

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ABSTRACT

The human right to the highest attainable standard of health has both a legal and normative basis. The legal foundations derive from a range of international agreements and declarations while the normative basis is rooted in humanitarianism. Alongside the rights-based declarations came the growing recognition of emerging and reemerging infectious diseases, as ill effects of globalization and potential risk to peace and development. The threats posed by infectious diseases like the Ebola virus disease (EVD) are now seen as universally relevant, as the speed and volume of international travel has made an outbreak or epidemic anywhere in the world a potential threat anywhere else. The question then arises as to where individual freedom is given up in the protection of the collective interest and national security of states. This chapter examines these right issues, with respect to the Ebola outbreak in West Africa, as they collide with state actions to combat infectious diseases.

INTRODUCTION

The human right to the highest attainable standard of health has both a legal and normative basis. The legal foundations derive from a range of international agreements and declarations while the normative basis is rooted in humanitarianism. Alongside the rights-based declarations, came the growing recognition of emerging and reemerging infectious diseases, as ill effects of globalization and potential risk to peace and development. The threats posed by Infectious diseases like the Ebola Virus Disease (EVD), are now seen as universally relevant, as the speed and volume of international travel has made an outbreak or epidemic anywhere in the world a potential threat anywhere else. In effect, stricter border controls and attempts to regulate migration as well as containment have been key features in states' response to the spread of infectious diseases. Historically, measures to combat infectious diseases have served as demarcation by which 'we' protect ourselves from the diseases of 'others'. These issues point to tensions between two separate rights- the right of individuals to free movement and association, and the collective right to health of societies. The latter manifests in those regulations seeking to control trans-border spread of diseases, potentially infringing on individual rights when deemed necessary.

During the Ebola outbreak in West Africa, for instance, the quarantine and isolation measures used were a restriction on the fundamental rights to movement and association of individuals. The Controversy also arose over the ethical allocation of therapies after several Americans and a Spanish national, rather than West Africans, received doses of the scarce ZMapp. More so, State governments like Liberia deployed the military to enforce a cordon sanitaire in West Point, Monrovia, and Sierra Leone declared a 3-day curfew, thereby restricting the right to movement. Moreover, The United States enforced rigorous point of entry screening and several states invoked travel bans and flight suspensions and quarantined health workers returning from the region. The question then arises as to where individual freedom is given up, in the protection of the collective interest and national security of states. Is there an ethical or legal justification for restricting the rights of few to protect the health rights of many? This chapter will be examining these right issues, with respect to the Ebola outbreak in West Africa, as they collide with state actions to combat infectious diseases.

BACKGROUND

Historically, diseases have been conferred the status of threats both to national security and national interest of states. The typhus during the Peloponnesian war, plague in the Byzantine Roman empire, the bubonic plague of the 14th century and the cholera outbreak of 1800s, the pandemic influenza (amongst others) were responsible not only for the death of many populations across borders but were a threat to the economic and political interests of the state. Infections (especially in the case of epidemics) share features with war and can even be more dangerous as they affect combatants and civilians alike. Hence it is accepted that health outcomes transcend the biological space comprising of the individual and his body (McInnes & Lee, 2012:11). Also, health at the macro level compasses determinants like health services, income, social status, gender, education, cultural factors, working conditions, employment, social and physical environments amongst other factors. Fundamentally, the state of health and the health of the state are mutually inclusive and interdependent and the precincts between the two levels are blurring. Hence health holds an important place in interstate politics and on the international agenda (Lamy & Phua, 2012: 9). Infectious disease and health issues are leaving the confined space of national borders

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