

# Global Health Law: An Overview



**Virginia Rowthorn, JD, LLM**

Managing Director, Law & Health Care Program  
Co-Director, University of Maryland Center for Global  
Education Initiatives

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“Global health is an area for study, research, and practice that places a priority on improving health and achieving equity in health for all people worldwide. Global health emphasizes transnational health issues, determinants, and solutions; involves many disciplines within and beyond the health sciences and promotes **interdisciplinary collaboration**; and is a synthesis of population based prevention with individual-level clinical care.”  
(Koplan et al. 2009)

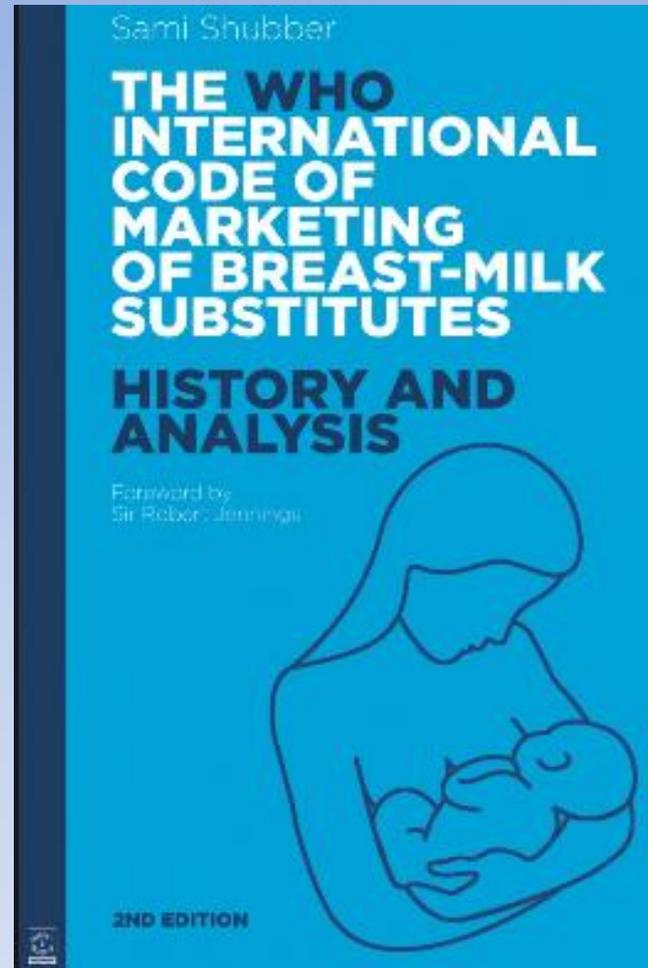


# Why global health law? Healthy food for children example.

- In 2016, Maryland General Assembly added . § 7-423 to Md. EDUCATION Code to require vending machines in public schools to have and use a timing device to regulate access to machines selling foods of minimal nutritional value.
- In 2008, the Legislative Assembly of Ontario passed added subsection 8 (1) to the Ontario Education Act to “establish policies and guidelines with respect to nutritional standards for food and beverages and for any ingredient contained in food and beverages provided on school premises or in connection with a school-related activity”



In 1981, the World Health Assembly (WHA) of the World Health Organization (WHO) adopted the **International Code of Marketing of Breastmilk Substitutes**, an international health policy framework to shield breastfeeding from commercial promotion that affects parents, health workers and health care systems.



# What is global health law?

- Global health law is not :
  - An organized legal system
  - a defined body of law
- Global health law is:
  - The **legal norms, processes, and institutions** that are designed primarily to attain the highest possible standard of physical and mental health for the world's population. (Gostin 2014)
  - Global health law encompasses **international law and policy** that directly or indirectly affects global health, including **treaties, regulations, global strategies, and expert guidelines**. (Phelan/Monahan 2015)
- Development ->Enactment ->Implementation-> Enforcement

# Health and Human Rights

- Universal Declaration of Human Rights 1948 Article 25:  
“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family . . .”
- International Covenant on Economic, Social and Cultural Rights 1966 Article 12:  
“The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the **highest attainable standard of physical and mental health.**”
- UN Committee on Economic, Social and Cultural Rights issues General Comment No. 14 - more explicit, operational language on the rights to health.

- Right to health has three categories of obligations: obligations to **respect**, obligations to **protect**, and obligations to **fulfill** the right to health. These include:
  - preventing discrimination in access or delivery of care
  - refraining from limitations to contraceptive access or family planning
  - reducing environmental pollution
  - restricting coercive and/or harmful culturally-based medical practices;
  - providing proper guidelines for the accreditation of medical facilities, personnel, and equipment.
- Progressive realization within available resources

# Human rights-based approach to health

- Provides strategies and solutions to help/urge/force political entities to help people enjoy the right to health.
- Human rights-based health policy development.
- Human rights-based litigation
  - Designed to enforce international treaty obligations
  - Started with human rights claims for HIV prevention, treatment, and care.
  - Expanded to court cases re: access to care that should have been provided under national health plans (reproductive services) and access to drugs.

# International Health Organizations

- Negotiation, adoption, and monitoring of normative rules among countries.
- Institutions create norms, mobilize resources, guide multiple stakeholders to work collaboratively, and ensure accountability for results. (Gostin 2014)
- World Health Organization (WHO) - most important institution for negotiating international health agreements.



- WHO has **constitutional authority** to negotiate and monitor normative instruments — both treaties and soft instruments, such as recommendations.
- **World Health Assembly**, supreme decision-making body for WHO.
- WHO has three primary ways of creating “laws” or norms:
  - WHA formal regulations
  - WHO action plans (endorsed by WHA)
  - Treaty-making powers
- No authority to enforce compliance – relies on governmental implementation through domestic law and policy.

# World Health Assembly

Policy frameworks adopted through WHA resolutions:

- International Code of Marketing of Breast-milk Substitutes (1981)
- International Health Regulations (2005)
- Global Code of Practice on the International Recruitment of Health Personnel, (2010)

WHA Endorsements:

- Worldwide eradication of smallpox (1959)
- Worldwide eradication of polio (1988)
- Control of human hookworm infection (2001)
- WHO global action plan for workers' health (2007)
- Control of harmful use of alcohol (2010)
- Prevention and control of non-communicable diseases (2011)



# Framework Convention on Tobacco Control

- Treaty adopted by the 56th WHA in 2003.
- Legally binding in 180 ratifying countries
- Purpose: "to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke"
- Aims to limit tobacco use by creating universal standards and encouraging domestic standard law making.

# World Trade Organization and Global Health

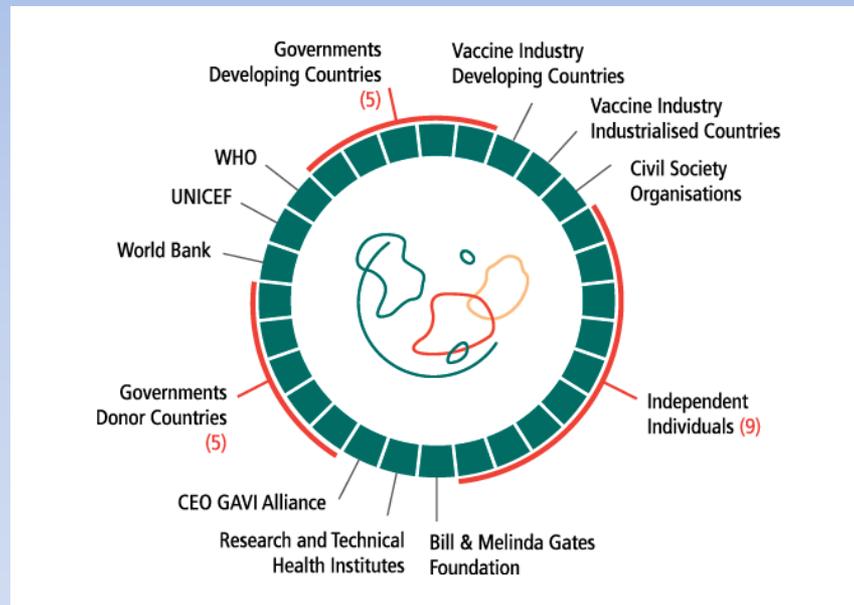
- Trade affects health in multiple ways, both directly and indirectly.
- **Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)** is an international agreement administered by the World Trade Organization (1994)
- TRIPS requires member countries to protect and enforce intellectual property rights to promote technological innovation and transfer and dissemination of technology.
- HIV crisis and generic ARTs.

WORLD TRADE  
ORGANIZATION



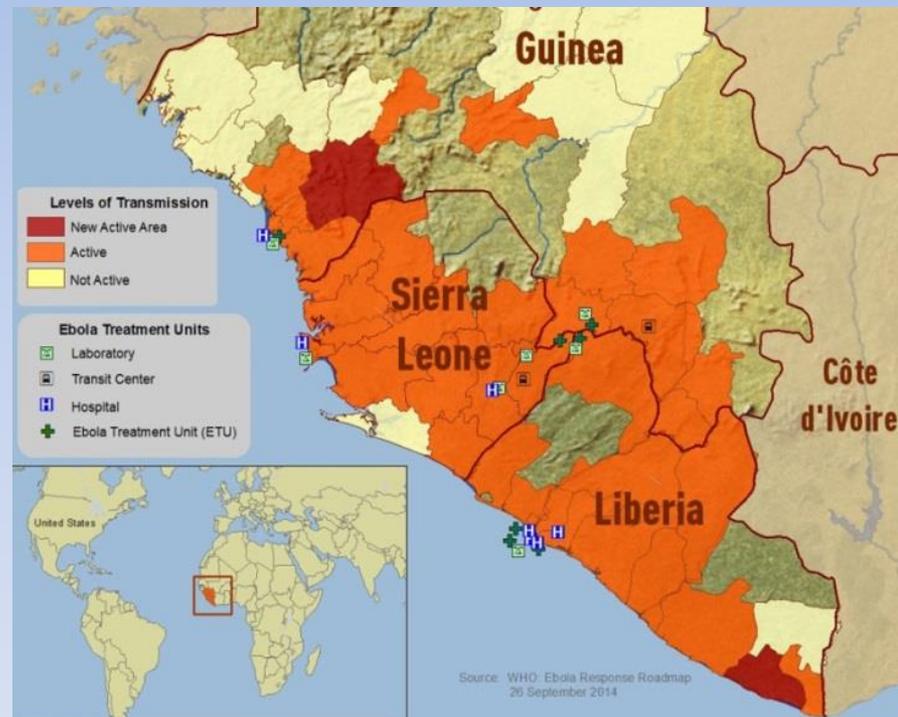
# Other Global Organizations

- **GAVI ( Global Alliance for Vaccines and Immunization)**



- **The Global Fund to Fight AIDS, Tuberculosis and Malaria**

# Global Health Law Case Study: West African Ebola Crisis



# Public Health Emergencies of International Concern

- International Health Regulations (IHR)
- Purpose: to ensure a coordinated international response by recommending measures to be taken by the countries experiencing the outbreak and by other countries to prevent or reduce the international spread of disease and avoid unnecessary interference with international traffic.



On August 8, 2014, the WHO Director-General Margaret Chan declared the West Africa Ebola crisis a PHEIC.



The PHEIC designation had been used only twice before (for the 2009 H1N1 pandemic and the 2014 resurgence of polio). Dr. Chan asked states with active Ebola transmission to declare a national emergency, activate disaster management plans, and establish emergency operation centers.





# Isolation and Quarantine Laws



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The nurse speaks to her lawyer Norman Siegel through the plastic window into the isolation tent that she is being held in under a new 21-day quarantine rule in New Jersey



- On July 2014, President Obama signed an Executive Order titled *Revised List of Quarantinable Communicable Diseases* that amended the original listed passed in 2003.





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