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Commentary

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Introduction

The World Health Organization (WHO) defines health law as “the area of law concerned with the health of individuals and populations, the provision of health care and the operation of the health care system” (1). The public health law “includes laws that are intended as health

interventions, laws that define the powers, duties and boundaries of health agencies and systems, and laws that have an impact on health but were not enacted with population health in mind" (2).

Law is a traditional public health tool that has made numerous important contributions to the major public health achievements of the 20th century including school immunization laws that helped reduce the rates of infectious disease and tobacco control laws that helped reduce the rates of chronic disease in the United States of America (3).

Public health law research consists of scientifically studying law and legal practices in relation to population health (3). Although a relatively new field it holds great potential for supporting evidence-based policy making for the improvement of population health (3). Through mapping studies such as this one, public health law research can illuminate what has been done, and thus, what kind of action it is necessary for various government units to take in order to update the health-related legal infrastructure. Thus, the objective of this study is the compilation of the health laws of Pakistan and their critical review and analysis informed by informal discussions with federal and provincial policy-makers.

Methods

A desk review was carried out on the available literature in the area of health laws in Pakistan. A keyword search was conducted using the Internet (Google) and this was supplemented by a more specific keyword search carried out on Pakistan Law Site. The keywords were chosen based on a review of the existing literature. Pakistan Law site (accessed through the High Court) was searched using the key words; health; food; disease; smoking; disasters; malaria; HIV/AIDs; drugs; blood; breast-feeding; maternal health; disabled persons; mental health; health governance; and social determinants of health. In addition, the websites of provincial health departments were also searched. Our initial search gave us a total of 250 laws and after removing duplicates we were left with 233 laws. Further screening led to the exclusion of another 35 laws based on relevance to Public Health and our final list consists of 198 laws.

After compilation, we classified the health laws into 4 categories in light of the essential public health functions of WHO (4) (Table 1). This was followed by a critical review and analysis.

Analysis

Access and central repository

A country's legal infrastructure consists of the laws and policies that govern and monitor the health-related actions of both governmental and nongovernmental organizations (5). However, the mere existence of certain laws is not enough, they need to be accessible to at least the relevant health professionals and policy-makers and preferably to the public as well. A central database of all the public health-related legislation of Pakistan is the first step in meeting the need for access to legal information. Various operational legal databases already exist (6–8); these may be used as a guide in updating the Pakistan law site to serve as such a repository, one that is more comprehensive, functional and up-to-date and which is made accessible to all relevant stakeholders, not just high court lawyers as is currently the case. Moreover, the central database could have links to the health law repositories on the websites of relevant ministries. A database that is regularly updated will also solve the issue of ambiguity regarding the current status of various health-related laws.

A lack of legal awareness or legal literacy and capacity development of administrators and health care workers

However, due to a lack of legal literacy, such a collection of health laws does not translate into the extraction of relevant information when needed by the relevant professionals. Our review of the health laws of Pakistan and informal discussions with policy-makers has revealed a similar lack of legal awareness among professionals and laymen as determined by the review of environmental laws (9). This becomes a hindrance to the effective implementation of and compliance with laws.

All relevant professional stakeholders (health professionals as well as policy-makers) should have the ability to search for, understand and critically apply the relevant legal information in health policy formulation and implementation and so should the public (5). Thus, there is a need to develop effective mechanisms for creating legal awareness among the public and capacity building among relevant professionals (5).

A Policy surveillance approach

In light of the above, we could possibly take the centralized database one step further using the policy surveillance approach, which requires the use of modern database software and organizes large amounts of data (2,10). Policy surveillance is defined as the "ongoing, systematic collection, analysis, interpretation and dissemination of data about a given body of public health law and policy" (2).

Instead of a simple database of all health laws, using this approach involves the selection of those laws that are of ongoing significance and for which up to date information is available. This is then used for health “planning, capacity-building, tracking progress or conducting evaluations of the legal impact” (2). Such information is comparable across countries and over time (2,10–12). Moreover, it involves the coding of information in a scientific manner that ensures the results can be used for evaluation research (2,12). Organizing the central database of health laws using this approach will make the legal information more meaningful and useable.

A Law-making process to be integrated into the policy and planning process, and outdated laws

The public health needs of a country change over time and thus relevant laws need to be updated accordingly or new laws need to be formulated in order to ensure the presence of a legal infrastructure that makes it possible for the current public health needs to be met effectively (2). Unfortunately, just as health policies are formulated on political inference rather than evidence of the required need (13), so are health laws.

Although some laws have been updated such as the Punjab Maternity Benefit Ordinance of 1958, updated in 2012, many have not. These include the Vaccination Act of 1880, the Public Health (Emergency Provisions) Ordinance of 1944 and the Factories Act of 1934, among others. Outdated laws definitely contribute to the lack of satisfactory progress of most of our health indicators.

The process of law formulation should be well integrated into the policy-making and planning processes (5). All the relevant stakeholders, i.e. “political decision-makers, lawyers, policy analysts, health planners, health providers, health professionals and members of the public” (5), should be a part of the process of law formation and regular updating.

Evidence-based law making and missing laws

The process of classifying health laws revealed that the health laws in Pakistan cover only 4 of the 8 essential public health functions defined by WHO (14). The functions of surveillance and monitoring of health determinants, risks, morbidity and mortality; assuring a sufficient and competent workforce for effective public health delivery; communication and social mobilization for health; and advancing public health research to inform and influence policy and practice are not addressed by the existing health laws of Pakistan. There is also a lack of laws to address other current public health concerns such as the rising levels of obesity, especially childhood obesity.

In order to address the issue of missing laws (whether for obesity or to address the remaining 4 essential public health functions of WHO) the process of law formulation should not only involve all relevant stakeholders as mentioned above but should also be evidence-based, i.e. take into consideration the current health needs of the population-based on up to date health indicators and data.

Implementation of health laws

Inadequate implementation of and compliance with health laws is related to a lack of accountability. If strong penalties are put in place and enforced through rigorous monitoring and evaluation, such issues can be overcome.

In a developing country like Pakistan, resources and administrative capacity are limited and the judicial system is slow, making the implementation of health regulations and standards (which is a resource intensive task) difficult. Traditionally licensing and inspections have been used as regulatory mechanisms to ensure compliance with the laws (15). Since these are expensive to administer, other developing countries have employed formal notices and public disclosure and have found a combination of such methods, referred to as a “cascading hierarchy of sanctions”, to be most effective (15). Health law regulation in Pakistan can benefit from adopting similar mechanisms of regulation and accountability.

Conclusion

In short, there is a need for access to health laws via a central repository, and legal awareness needs to be created among professionals and laymen. The process of law formulation needs to be evidence-based and integrated into the policy planning processes, should involve all relevant stakeholders and should address the issues of outdated and missing laws. These are the changes that need to be made to bring Pakistan’s health-related legal infrastructure up to date. Lastly, the policy surveillance approach of the WHO may be given due consideration for further development of the country’s legal infrastructure.

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