Editorials

International law and public health

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At the beginning of the 21st century there is widespread recognition that national and international health are inseparable. Societies are increasingly turning to innovative and diverse mechanisms of international health cooperation to gain control over the forces that are globalizing public health and related risk factors such as those outlined in this year's World Health Report (*1*). Consequently, international law is receiving unprecedented attention as a mechanism of global health cooperation.

International cooperation is a fluid process which ranges from simply coordinating viewpoints on certain matters to setting hard rules in some cases. In the international legislative process, the corresponding continuum is from non-binding instruments, such as recommendations, guidelines, resolutions, declarations of principles and codes of conduct, to binding ones such as treaties. Some authors have recently contended that the boundaries between law and non-law, or so-called "soft law", are becoming blurred. They attribute this in part to the increasingly complex international system with its many variations of standards and instruments (*2*) and to the difficulties of securing widespread consent to new binding rules, whether by treaty or by custom. Although the concept of "soft law" remains controversial since instruments such as codes of conduct and resolutions are clearly not law in the sense conveyed by Article 38 of the Statute of the International Court of Justice, there is increasing use of such halfway stages in the lawmaking process in a several areas of international concern (*3*).

Recognizing the growing importance of international law for public health, this special issue of the *Bulletin* is designed to give readers some idea of its scope, and to stimulate debate about the role of international organizations such as the World Health Organization in present and future efforts to codify and implement it. Though these articles present a wide variety of points of view, they represent only a small part of the breadth and depth of the issues currently involved.

Several of these articles show how the growing complexity and diversity of international health law are a reflection of growing multilateral concern about the threats and opportunities to health posed by contemporary globalization. Aginam (pp. 946–951) considers how the International Health Regulations are being reconfigured in the light of the global and multisectoral challenges now facing communicable disease control. De Seixas Corrêa (p. 924) reflects on how the public health community is for the first time playing the leading role in international treaty negotiations, namely with respect to the Framework Convention on Tobacco Control, for which he is chairman of the negotiation process. The Framework Convention is designed to tackle one of the major global risk factors facing human health in the 21st century.

Responses to other global health risks have led to a debate on transnational dietary factors. With respect to international normative approaches, Chopra et al. (pp. 952–958) indicate that the national and international dialogue taking place in this emerging area of public health concern is relevant to public health international law, and highlights in particular the importance of non-binding, soft-law approaches. In the context of current global health challenges one cannot overlook the links between public health and international measures to achieve more sustainable development strategies. The implications of global environmental agreements for the improvement of human health are explored by von Schirnding et al. (pp. 970–974)

Other articles in this issue illustrate how the evolution of international health law has been very much tied to the protection and promotion of human rights related to physical and mental integrity. Patterson & London (pp. 964–969) look at ways in which human rights instruments can strengthen and consolidate action to deal with what has become perhaps the most daunting epidemic of modern times, namely HIV/AIDS. Andorno (pp. 959–963) discusses the role of international human rights law in attempting to prevent certain areas of genetic research from becoming "instruments for a kind of intergenerational tyranny."

The present and future contribution of the World Health Organization to the codification and implementation of international law is considered by several contributors. Taylor (pp. 975–980) does this in the context of an examination of some of the factors that are contributing to the emerging overall relevance of international health law as a tool of multilateral cooperation. Finally, Grad (pp. 981–982) comments on one of the major historical reference points for this process, the Constitution of WHO.

Certainly not all global health problems call for or are ripe for a gearing up of international legal machinery, and international health law itself can never serve as the paramount mechanism for protecting and improving global health status. At the same time, however, the rise of new global health actors, including civil society, the private sector, and broad international health coalitions, has considerably complexified health governance, and highlighted the limitations of the traditional state-centered focus of international law. Indeed, the complex network of global health governance structures that are emerging around rules established by the state-centered system indicates the need for an inclusive approach to engagement with new global health actors.

In short, the collection of articles in this month's *Bulletin* points to the growing significance of international law in contemporary health cooperation. How it develops, and the role that WHO should play in this process, are matters of the keenest interest for the public health community — and for the people they serve. ■

1. *World Health Report 2002 — reducing risks, promoting healthy life.* Geneva: World Health Organization; 2002.
2. Shelton D. Law, non-law and the problem of "soft law" In: Shelton D, editor. *Commitment and compliance: the role of non-binding norms in the international system.* Oxford: Oxford University Press; 2000; 4, 10.
3. Birnie P, Boyle A. *International law and the environment* (2nd edition). Oxford: Oxford University Press; 2002.

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