

Can international public health law help to prevent war?

Editor – The December 2002 issue invites debate on international law. As noted by Aginam (1), states generally comply with a law or a convention if they see it as being in their interests, however that may be interpreted. That the reverse is true is illustrated vividly by US positions on the Kyoto Accord, the International Court of Justice, and the use of a veto to block relaxation of patent laws to enable wider access to life-saving drugs in developing countries. Given the threat of war on Iraq, it is relevant to raise the parallel issue of military jurisprudence as another area affecting public health. After all, according to Taylor (2), the World Health Organization (WHO) is the only public international organization that brings together the institutional mandate, legal authority and public health expertise for the codification of treaties that principally address public health concerns.

The prevention of war (the ultimate form of violence) is surely one of the most critical steps mankind can make to protect public health. After all, we were reminded only recently in the *Bulletin* that violence is a health issue (3). In fact, the deliberate degradation of public health infrastructures as a preferred strategy of modern warfare was well illustrated by the targeting of Baghdad's modern water supply and sanitation system by coalition forces during the Gulf War (4). This indirect form of biological warfare was not included in the 1972 Biological Weapons Convention, as it was mostly concerned with "offensive biological warfare" (e.g., "weapons grade" anthrax), and not the far more indiscriminate and destructive effects of waterborne diseases (4). Given that the vast majority of persons affected by such destruction are non-combatants, surely there is a need to revise this Convention in the interests of humanity and public health?

The WHO Constitution itself makes no reference to the protection

of health when threatened by war (6). While one principle is stated: "The health of all peoples is fundamental to the attainment of peace and security and is dependent upon the fullest cooperation of individuals and States", the converse is not declared. If stated, the converse would read: "Peace and security are fundamental to the attainment of health of all peoples and are dependent upon the fullest cooperation of individuals and States".

Taylor & Bettcher (7) argue that not all global health problems call for a gearing up of international legal machinery, and that international health law itself can never serve as the paramount mechanism for protecting and improving global health status. However, is this not simply an admission that the powerful will facilitate the passage of law only if it helps their cause, while the weak and powerless will be kept so? Or perhaps it simply illustrates another of Taylor's points: given the jurisdictional problems raised by "issue linkage" and overlapping legal authority, the difficult question is which types of legal issues will benefit from codification under WHO auspices (2).

One might therefore conclude that, given the political realities, all WHO is left with is advocacy. If this is so, it is important that WHO honours this. For example, WHO could take steps to reduce the legitimacy of those who deliberately destroy public health infrastructures, and to give more visibility to organizations such as the International Physicians for the Prevention of Nuclear War, whose recent report from its United Kingdom affiliate graphically expressed the problem of "collateral damage" (a dehumanizing military euphemism for statistically predictable morbidity in innocent bystanders) (4). Normally, when half a million children die from an epidemic increase in infection and malnutrition, it is called a "public health disaster", and a worldwide movement may emerge to raise support for the relief effort. Why not now?

Perhaps international law has limited utility in this particular global health challenge, at a time in history when "the law of the jungle" prevails. However, there can be no doubt that the public health strategy required is the prevention of war. WHO, along with other health organizations should address this at this time, if not through the legal route, at least through its capacity for communications and advocacy. After all, as pointed out recently by Jabbour (8), providing humanitarian aid is not an adequate response to conflict. ■

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