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## *An Initial Assessment of the Needs of capacity in public health law*

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### INTRODUCTION

**T**he fact that this Conference on Global Health Law is taking place shows clearly that the need to use a legal framework to protect and promote health is widely recognized amongst public health and legal experts.

As Dr. Derek Yach describes in his presentation, legal reforms are integral and essential to policy reforms, particularly in the complex area of health reforms. The importance of public health law at both domestic and international levels is clearly stated in the Health-for-All policy for the 21st century. Public health law is one of the key areas that will ensure that action follows adoption of the new policy.

At national level, major impediments exist both to the application of national and international strategies for public health law and to their implementation. One of these impediments is the inadequate attention given to human resource development for public health law. It is therefore necessary to focus on institutional and human capacity in public health law to avoid unrealistic approaches of public health law development. For example, What would be the use of a framework convention on tobacco if countries have absolutely no capacity to adopt and implement domestic legislation in accordance with this convention?

The final implementation of both international and national public health law occurs at national and sub-national levels. It is necessary to consider what national capacity is needed to develop and reform public health law. The "national context" appears very clearly in the definition of "capacity building" : it is the long-term, voluntary process of increasing the ability of a country to identify and solve its own problems and risks, and to

maximise opportunities. In this context, countries should be moving as far as possible towards self-sufficiency in public health law.

It is essential to look at what exists at country level before acting at international level. Therefore, WHO undertook a pilot study on training in public health law in 36 selected countries during the last five months. The purpose of this presentation is to provide a initial assessment of the needs of capacity in public health law, resulting from the pilot study. In doing so, I will indicate the aim and the methods of the study, and comment on needs and gaps identified that will require attention in the 21st century, before ending with the consequences of these needs and gaps for WHO and its partners.

### CONTEXT AND AIM OF THE STUDY

This pilot study I am presenting today was carried out with the intention of providing a foundation for the ongoing project on public health law, with the final aim of advancing and implementing and new policy.

The survey is exploratory and qualitative. The primary aim of the study is to obtain a global picture of educational capacity in representative countries and in the main legal and medical universities and public health schools, and to understand how public health law capacity can be developed and strengthened. The secondary aim is to identify the extent of political will and the commitment of academics to give priority to public health law, especially in developing countries.

I would like first to precise the definition of public health law used in this study regarding three points.

The "law" mentioned in this paper refers to both national and international public health law. "National law" refers to constitutions, statutes, administrative regulations, and judicial decisions. "International law" includes international treaties and WHO resolutions.

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As Professor Dr. F.P. Grad, from Columbia University, mentions, "the reach of public health law is as broad as the reach of public health itself. Public health and public health law expand to meet needs of our society". As with the definition and interpretation of public health, the definition and interpretation of public health law varies. Dr. L.O. Gostin from Johns Hopkins University notes that "Public health is not contained within a tidy doctrinal package; its boundaries are blurred that overlapping with related fields. Nor is public health law easy to define and to operationalize: the field is complex and confused as public health itself".<sup>1</sup>

In this study, public health law include all aspects of the law as it affects public health. We refer to Professor Gostin's definition of public health law; it is "the study of the legal powers and duties of organized society to assure the conditions for people to be healthy (eg. to identify quantify, prevent, and ameliorate risks to health in the population), and the limitations on the power of organized society to constrain the autonomy, privacy, liberty, property, or other legally protected interests of individuals in the purposes of protection or promotion of community health".

Even if public health law shares conceptual terrain

The 36 counties surveyed within the 6 WHO regions were :

Box 1

SEARO	AFRO	EMRO	AMRO	WPRO	EURO
Bangladesh	Angola	Iraq	Argentina	Australia	Armenia
India	Cameroon	Lebanon	Cuba	China	Belgium
Nepal	Ghana	Morocco	Honduras	Japan	Bulgaria
Sri Lanka	Liberia	Pakistan	Mexico	Papua New	Estonia
Thailand	South Africa	Sudan	USA	Guinea	France
	Uganda	Qatar			Israel
	Zambia				Lithuania
					Portugal
					Russian
					Federation

The questionnaire aimed to identify whether and to what extent public health law is taught. As the study is qualitative, the questionnaire is brief and easy to complete. Further information was required when a specialized department in public health law was mentioned or when some courses in public health law were indicated.

with the field of health care, the term "public health law" used in the study should not be confused with medical jurisprudence, which concerns legal aspects of the application of medical and surgical knowledge to individuals<sup>2</sup>.

### METHODS

In order to identify gaps and needs in educational capacity in public health law, 148 questionnaires on training in public health law were sent to major legal, medical and public health schools in 36 selected countries. The number of questionnaires sent out within a country varies from three to eleven. As both health and legal systems are involved in health-related regulations, the questionnaire was sent to medical, public health and legal schools.

As the aim is to obtain a global picture of the educational capacity, 36 countries were selected. We intended to survey poor and developing countries as well as developed countries. The selection has been undertaken according to the GNP/Capita and the Human Development Index. The Human Development Index is indeed a good indicator of the health situation within countries.

### RESULTS : A GLOBAL LACK OF EDUCATIONAL CAPACITY

The results of the survey on training in public health law corroborate the need to develop and strengthen educational capacity in public health law. Indeed, they



highlight where and how important the gaps are. I will first focus on the extent of interest, and then move on to the extent of teaching.

**Extent of interest : a worldwide concern**

A marked concern and demand for addressing the lack of capacity exists worldwide. Twenty-five countries responded to the questionnaire. The following box shows that the countries, regardless of their economic level and their level of Human Development<sup>3</sup>, are concerned about the lack of education capacity. All WHO regions are included.

**BOX OF RESPONDENTS**

Box 2

GNP/Capita aboves \$ 8.995	GNP/Capita \$726 to \$8.995	GNP/Capita \$725 and below
Australia Belgium France Japan Israel Portugal USA	America Argentina Bulgaria Estonia Lebanon Lithuaria Malaysia Morocco Thailand South Africa	Cameroon China Ghana India Pakistan Sri Lanka Uganda Zambia
Human Development Index 0.800 and above	Human Development Index 0.500 to 0.799	Human Development Index below 0.500

Many of the respondents recognised that public health law is a tool to attain the goal of Health-for-All in the twenty-first century. Some selected quotations from academics clearly indicate that they often believe legal reforms in health are vital for developing countries.

For example, Dr. R.R. Kishore, President of the Indian Society for Laws and Ethics, and Chief medical officer at the Indian Ministry of Health and Family Welfare mentions that "The deficiency in the legal components of their strategies is one of the reasons for the failure to achieve the goal of health-for-All in the twenty-first century. The palucy of health law education is a major problem."

In the same spirit, **Professor v. Eungprabhanth**, Medical Doctor from Mahidol University, indicates that

"Health law should be considered as a tool for health care system reform. Thus, this subject must be put in the curriculum of law, medical and public health schools", and the Bulgarian Professor Juliana Marinova states that "Our society is in a period of transition and a reform of public health legislation and regulations is an important part of our reality.....I am firmly convinced that a specific education in public health law is necessary".

**Extent of teaching : a global lack of educational expacity in public health law**

The sixty-one completed questionnaires provide us with a very clear picture of the status of public health law training; the lack of educational capacity is global. In poor and developing countries as well as in developed countries, there is generally no capacity in public health law. However, special attention must be given to poor and developing countries, they call for WHO assistance and leadership to build public health law capacity.

Box 3 shows that almost 50% of the respondent have no capacity in public health law.

Box 3

Number of respondents	Specialised department in PHL (1)	Some courses <sup>a</sup> in PHL (2)	No Capacity (3)
62	15% (9)	38% (24)	47% (29)

These results provide a clear picture of the global tendency of public health law training at the national level. There is a need to be cautious about the interpretation of the completed questionnaires : the definition of public health law is not identical in every country.

Initial assessments of national educational capacity indicate that :

Only nine universities, one in a developing country, Thailand, hae a specialized department for the teaching of the research in public health law. The lack of capacity affects more poor and developing countries : the "category 1 questionnaires" come from five developed countries out of the 36 surveyed countries- USA, France, Portugal, Australia, and Israel. However, out of 27 questionnaires from developed countries, only 8 belong to category 1. The other 19 answers indicate that they have no



specialized department in public health law. This highlights that the lack of capacity is worldwide.

24 respondents indicate that public health law is sometimes taught in their university. 15 questionnaires from developing countries belong to category 2. There are generally no proper programmes public health law : the education consists mostly of few courses within traditional courses. The lack of capacity is more obvious when we look closely at the extent of teaching of public health law. Often when public health law is taught, the courses offered are very few and insufficient. Only seven out of 24 questionnaires of the second category mention consistent courses in public health law. Generally, the courses offered deal with national and local problems. Priority is also given to AIDS/HIV, ethical issues, communicable diseases, protection of consumers, and patients' rights. International health law is almost never taught.

29 respondents indicate that there is no educational capacity in public health law within their university. The 19 completed questionnaires coming from poor and developing countries are classified in category 3. But the lack of educational capacity is not restricted to low Income countries. Moreover, we must be cautious in interpreting the findings. For example, one French university may indicate that it has no public health law capacity, but that is not to say that other French universities do not offer public health law courses. Conversely, in Lebanon or in Zambia there is absolutely no capacity.

A very significant comment from Professor Dr. N. Simbyakula, from the University of Zambia, corroborates the absolute lack of educational capacity in poor countries. He mentions that "Our school does not offer any courses in public health law. However, it is an area we would like to go into as soon as we have the capacity to do so."

Finally it is interesting to note that all the responding universities are concerned by the lack of public health law capacity; medical, legal and public health universities. Close collaborations must be developed between them to define approaches to build sustainable institutional and human capacity for public health law in the future.

Again, the affirmation is based on clear comments from academics. For example, Dr. L. London, from the University of Cape Town in South Africa, mentions that "Law, medical and public health schools are increasingly

involved in policy issues where a collaboration of all disciplines has proven useful". Professor A. Chrawatful, from Khon Kaen University in Thailand, indicates that "The law and medical schools must integrate related law topics in their curriculum".

## IMPLICATIONS AND NEXT STEPS

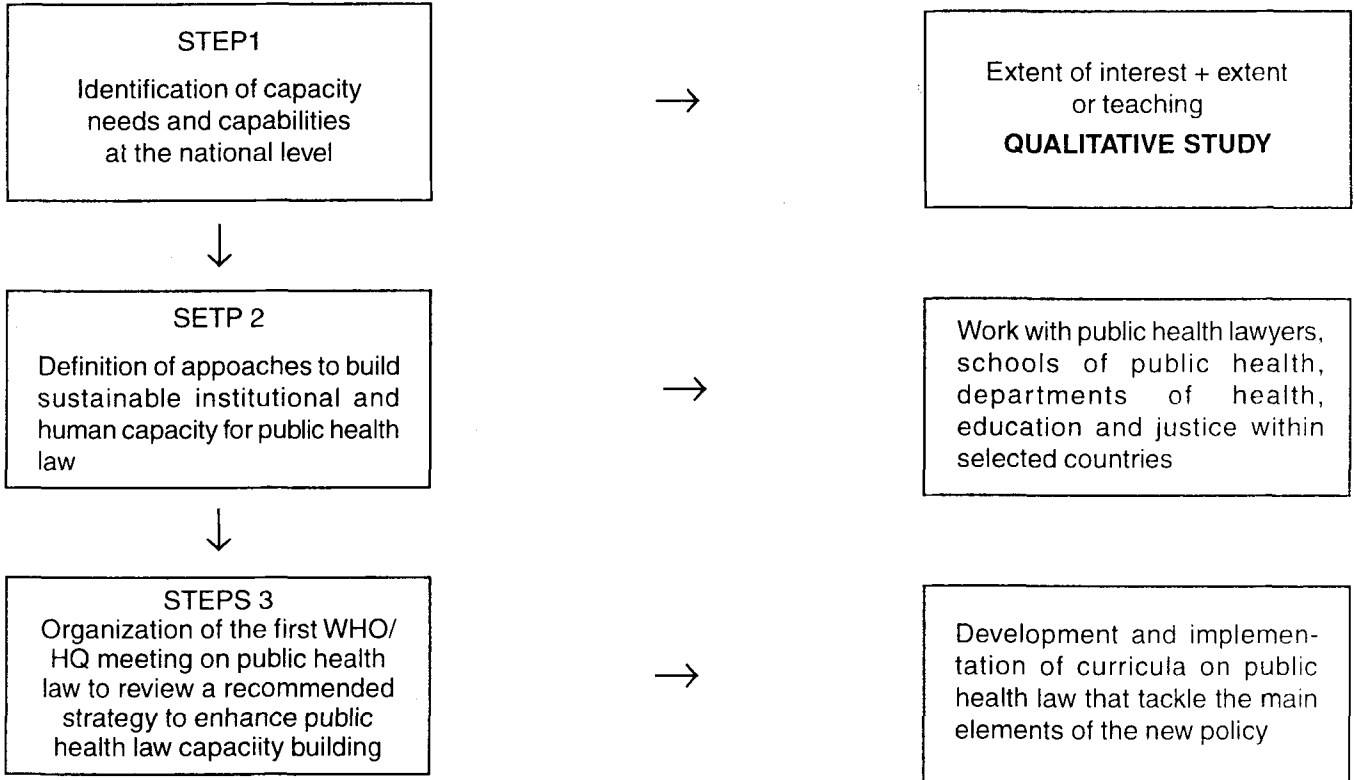
Special attention must be given to results from poor and developing countries. Out of 61 completed questionnaires, 35 are from poor and developing countries. Moreover, it is highly likely that some low GNP/Capita and low Human Index Development countries, such as Bangladesh, Nepal, Liberia, and Sudan, did not answer because they did not have any courses in public health law and could not complete the questionnaire. In this case, the results may be an underestimate of the gap of educational capacity in public health law!...

Requests from poor countries and developing countries for international action are frequent. Within these countries professors and national authorities are obviously expecting strong support from WHO. They would like the Organization to assist them in building a sustainable health system, and thus to identify how to give public health law the kind of attention it will deserve in the twenty-first century. For example, Professor, Charika Marasinghe, an acknowledged Sri Lankan Senior Lecturer in Law, indicates that "There is a need for Sri Lanka to evaluate the gaps in public health law, to amend the few existing laws and to be taught and advised by "other countries" to find a way to set up a sustainable health system". Professor J.D. Baqwa, from the University of Cape Town mentions "The faculty is presently preparing to undertake a review of the curriculum I want to invite your views and expertise in restructuring a public health law teaching and research programme for the Campus".

There is a general lack of public health law training and research. In the meantime, there is a marked concern and demand by developing countries to promote educational capacity. As mentioned, the pilot study was carried out with the intention of providing a foundation for short-term and long-term actions. These actions will be taken to advance the new policy and to address the gaps and need in educational capacity in public health law. For this, we are planning three different steps.



### CONTEXT OF THE STUDY



Before starting the next steps, we intend to complete the initial assessment of the needs in public health law presented today. It is crucial to address these identified needs in order to advance the new policy and promote health. Any utopian approaches of the role of public health law to implement the new policy should be avoided. National capacity must be built at national level, especially in developing countries to both adopt and implement health laws and to meet domestic and growing global threats to health. I invite all the legal and health participants

here to think about this project and develop joint actions. WHO, its UN partners, Member States, NGOs, academics and professional groups such as the Indian Law Institute should work together to make sure that the health system and legal system will complement each other to promote health. While health and legal systems are often seen to be in conflict, this paper does not support this view: only by encouraging synergy between health and law will the goals of Health-for-All in the 21st century be achieved.

### References & Notes

1. Gostin, L.O., Public Health Law: an Overview, *Current Issues in Public Health*, 1996, 2, p. 205.
2. Gostin L.O., Public Health Law: an Overview, op. Cit. Above, footnote 1.
3. Data from the Human Development Report, 1997.
4. Usually part of "traditional courses".
5. Thailand, Mahidol University, Faculty for Public Health, Department of public health administration.



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