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Introduction: The Public's Health in the Global Era: Challenges, Responses, and Responsibilities Symposium

David Fidler

Indiana University Maurer School of Law, dfidler@indiana.edu

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Introduction

The Public's Health in the Global Era: Challenges, Responses, and Responsibilities*

DAVID P. FIDLER**

INTRODUCTION

The *Indiana Journal of Global Legal Studies* is a forum for scholarly discourse among the many disciplines that study the phenomenon of globalization. Each year, the *Journal* sponsors a major symposium that concentrates on a specific aspect of globalization to encourage interdisciplinary analysis and communication in provocative and cutting-edge areas of research.¹ This year's Symposium, *The Public's Health in the Global Era: Challenges, Responses, and Responsibilities*, focuses on the intersection between health and globalization.

Just as the processes of globalization affect traditional conceptions of sovereignty, economics, law, and politics, they also affect notions of individual, national, and international health. The Symposium was organized to capture three fundamental aspects of the intersection between health and

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** Associate Professor of Law, Indiana University School of Law, Bloomington; Organizer of and Faculty Editor for Symposium on *The Public's Health in the Global Era: Challenges, Responses, and Responsibilities*; Faculty Editorial Board, *IND. J. GLOBAL LEGAL STUD.*; B.C.L., 1991, Oxford University; J.D., 1991, Harvard Law School; M.Phil., 1988, Oxford University; B.A., 1986, University of Kansas. I would like to thank W. James Hamilton, J.D., 1997, Indiana University School of Law, Bloomington, for his indispensable help in organizing this Symposium. I would also like to thank Dr. Robert W. Holden, Dean and Walter J. Daly Professor, Indiana University School of Medicine; Dr. Deborah A. Freund, Vice Chancellor for Academic Affairs and Dean of the Faculty, Indiana University, Bloomington; and Dr. N. Brian Winchester, Director of the Center for the Study of Global Change and Professor of African Studies, Indiana University, Bloomington, for acting as moderators of the Symposium's panels. Many thanks are also extended to Alecia DeCoudreaux and Timothy R. Franson of Eli Lilly and Company for their help and encouragement in organizing the Symposium.

1. This is the fifth symposium sponsored by the *Journal*. Previously, the *Journal* has published symposia addressing *Globalization of Law, Politics, and Markets* (Fall 1993); *Migration and Globalization* (Fall 1994); *International Environmental Laws and Agencies: The Next Generation* (Fall 1995); and *Feminism and Globalization: The Impact of the Global Economy on Women and Feminist Theory* (Fall 1996).

globalization: (1) the challenges to public health posed by the globalization phenomena; (2) the need for and problems confronting the development of responses to global health challenges; and (3) the importance of thinking about the public's health in the global era ethically in order to identify and debate moral responsibilities created by the global challenges and the need for global responses. The task of addressing these important aspects of health and globalization was divided amongst three panels, the members of which analyzed the global challenges, responses, and responsibilities in diverse and provocative ways. Each panel had a lead paper, followed by one or two commentaries. The first panel² examined the globalization of public health through the analysis of the global crisis posed by emerging infectious diseases. Once thought conquered, infectious diseases have returned with a vengeance to confront national and international public health officials with an array of formidable global challenges.

The second panel³ focused on how pharmaceutical companies are dealing with the pressures of the global market. The development of new drugs for both infectious and chronic diseases has long been a factor in society's responses to health threats. Globalization affects pharmaceutical development dramatically, making an understanding of this area of public health particularly important.

The third panel⁴ addressed broader questions of justice and ethics raised by the impact of globalization on health issues. The challenges societies face confront public health and political officials with both philosophical and scientific dilemmas. Matters of justice and ethics are critical parts of any framework created to analyze the choices we face in working to ensure the public's health in the global era.

I. GLOBAL CHALLENGES: THE GLOBALIZATION OF PUBLIC HEALTH: THE PROBLEM OF EMERGING INFECTIOUS DISEASES

My paper, *The Globalization of Public Health: Emerging Infectious Diseases and International Relations*, attempts to demonstrate that the processes of globalization have shattered traditional distinctions between

2. Global Challenges: The Globalization of Public Health: The Problem of Emerging Infectious Diseases.

3. Global Responses: The Search for Cures and the Development of Pharmaceuticals.

4. Global Responsibilities: Justice and Ethics in the Era of Global Public Health.

national and international public health. One of the most dramatic manifestations of the “globalization of public health” is the global crisis of emerging infectious diseases. I briefly examine the factors behind this crisis and the contributions made by the processes of globalization to the emergence and reemergence of infectious diseases. I then develop what I call “the pathology of the globalization of public health” to provide a more systematic understanding of the relationship between public health and globalization. This analysis involves comparing the globalization of public health in the latter half of the nineteenth century with the late twentieth-century manifestation of this phenomenon. The pathology of the globalization of public health in the era of emerging infectious diseases presents a daunting and grim picture for the public’s health in the global era.

The seriousness of the challenge posed by the globalization of public health leads me to explore how traditional conceptions of international relations deal with the new pathology of the globalization of public health. I examine three major international relations traditions—realism, liberalism, and critical international theory—in order to learn whether any of these traditions provide any lessons that can be used against emerging infectious diseases. While each tradition provides insights into the globalization of public health, it is clear that emerging infectious diseases create serious challenges to assumptions and preferences embedded in each tradition.

My paper’s overall objective is to argue that “[d]ealing with the EID crisis will have to involve both an understanding of the globalization of public health and how such globalization challenges our descriptive and normative frameworks for thinking about international relations.”⁵

Professor Dennis Pirages picks up the challenge I laid down in his comment, *Ecological Theory and International Relations*. Professor Pirages argues that traditional theories of international relations “fail to acknowledge even the most basic ecological factors in explaining interstate behavior and the emergence of global issues.”⁶ He develops an ecological theory of international relations “that stresses the evolutionary interactions among human populations, between them and the physical environment, and between them and pathogenic microorganisms.”⁷ Professor Pirages believes that an

5. David Fidler, *The Globalization of Public Health: Emerging Infectious Diseases and International Relations*, 5 IND. J. GLOBAL LEGAL STUD. 11, 11 (1997).

6. Dennis Pirages, *Ecological Theory and International Relations*, 5 IND. J. GLOBAL LEGAL STUD. 53, 53 (1997).

7. *Id.* at 56.

ecological perspective can give international relations theory a grounding in environmental realities and give such theory predictive power to take into account and deal with biological threats to human security. The eco-evolutionary approach to international relations, according to Professor Pirages, helps us understand the technology-driven changes of globalization because the economic interdependence of the world is accompanied by ecological interdependence, which creates opportunities for pathogenic microbes in homogenized and intimately-linked human populations. In ways not possible through traditional international relations theories, the ecological approach informs us that “the international management of the epidemiological consequences of globalization must be one of the highest priorities for the emerging council of the global village.”⁸

II. GLOBAL RESPONSES: THE SEARCH FOR CURES AND THE DEVELOPMENT OF PHARMACEUTICALS

Professor Stuart Walker presents in his lead paper the four basic challenges confronting the global pharmaceutical industry. As the great engine of research and development for cures and treatments for all types of disease, private pharmaceutical companies play a critical role in providing for the public’s health in the global era. The health of the global pharmaceutical industry is, thus, of great concern to those interested in health care and public health. Professor Walker argues that the four challenges facing the global pharmaceutical industry are to (1) remain profitable, (2) carry out innovative research and development, (3) bring new drugs to market more quickly, and (4) ensure that the drug approval process is rapid and efficient. These challenges are being met by the pharmaceutical companies in various ways. For example, the profit challenge has stimulated horizontal integration through mergers and acquisitions in the global pharmaceutical industry as companies search for more ways to generate sufficient revenue in an era of cost containment. Pharmaceutical companies have also pursued vertical strategies through increasing involvement in prescription management. The innovation challenge has created an expansion in pharmaceutical companies’ willingness to form alliances and collaborate in research and development. The efficiency challenge has produced pressures on pharmaceutical companies to reengineer the drug development process to reduce the time from the first identification

8. *Id.* at 63.

of a new molecular entity to first launch in major markets. The regulatory challenge has to be met, according to Professor Walker, by more collaboration between governments and industry. He stresses also the interdependence of each of the challenges, which forces pharmaceutical companies to plan comprehensively in the global era.

While the challenges are significant, Professor Walker thinks that the global pharmaceutical industry has stepped to each challenge, although much remains to be done. He cautions that, while a healthy global pharmaceutical industry is necessary for global responses to threats to human health, it is not a sufficient response to the health concerns facing humanity today.

Dr. Louis Lasagna's comment to Professor Walker's paper underscores the seriousness of the challenges facing the global pharmaceutical industry and suggests that handling these challenges will be far from easy. Dr. Lasagna highlights the problems pharmaceutical companies face from upwards cost pressures created by regulatory approval processes and increasing drug development expenses. He casts a skeptical eye at strategies of horizontal and vertical integration in the industry as perhaps representing short-term fixes rather than long-term solutions to the profitability problem facing pharmaceutical companies. Dr. Lasagna also sees problems with the new pharmaceutical R&D technologies as they have yet to achieve great advances in either cost control or drug innovation.⁹ He concludes that the future of the global pharmaceutical industry is clouded with uncertainties.

Dr. Allan Weinstein's comment stresses the interconnections of the profit challenge and the innovation challenge. He argues that pharmaceutical innovation cannot be achieved simply through horizontal or vertical integration or increased research and development budgets. Dr. Weinstein believes that innovation is best served by pharmaceutical companies forming research and development alliances with institutes, universities, and biotechnology firms and applying new technologies. Regulatory obstacles can only be overcome through stronger government-industry collaboration on international harmonization.

The papers on the global pharmaceutical industry demonstrate that the ability of this industry to continue its search for cures through the development of pharmaceuticals depends on complex interdependent global dynamics that

9. Louis Lasagna, *In Pursuit of Profitability and Effectiveness in the Global Pharmaceutical Industry*, 5 IND. J. GLOBAL LEGAL STUD. 85, 92 (1997).

involve economics, science, technology, health care changes, and regulatory policies.

III. GLOBAL RESPONSIBILITIES: JUSTICE AND ETHICS IN THE ERA OF GLOBAL PUBLIC HEALTH

In his lead paper *Global Responsibilities: Ethics, Public Health, and Global Environmental Change*, philosopher Dale Jamieson explores the ethical context of the relationship between climate change and public health. Professor Jamieson establishes the threat that global environmental change, in the form of global warming, potentially poses to human health. Global warming threatens public health in a number of ways, but particularly seriously in connection with infectious diseases. Professor Jamieson notes, for example, that malaria currently affects 270 million people; but global warming could expose another 620 million people to this feared parasitic disease. He explains why the health threat caused by climate change has attracted much attention while other aspects of global warming have not.

Professor Jamieson then explores the ethical implications of the potential public health threats of climate change. While the health effects of global warming may not be felt for years, moral reasoning points to acting today to prevent foreseeable harm in the future. Professor Jamieson discusses two paradigms of morality: (1) the causal paradigm, which assigns moral responsibility to those who cause harm; and (2) the paradigm that assigns moral responsibility to those in a position to take action to prevent harm. In the context of global warming and its threat to human health, morality requires that “those who are in a position to prevent or mitigate climate change are responsible for doing so regardless of their causal contributions.”¹⁰ Putting this moral paradigm into practice requires addressing not only the problem of climate change, but also “problems of nutrition and sanitation that make people, mainly in developing countries, but also the poor in rich countries, vulnerable to disease.”¹¹

In his comment *Global Environmental Change, Health, and the Challenge for Human Rights*, Satvinder Juss argues that consideration of the potential human threats posed by climate change must include thinking about human

10. Dale Jamieson, *Global Responsibilities: Ethics, Public Health, and Global Environmental Change*, 5 *IND. J. GLOBAL LEGAL STUD.* 99, 118 (1997).

11. *Id.* at 119.

rights. However, Juss advocates, the human rights discourse must not only be included, but also modified to meet the demands of the global environmental challenges on the horizon. He develops the concept of the “chthonic right”, or “the right of the individual and of communities to live in stability with the unspoiled environment.”¹²

Juss begins his analysis by examining how national governments, specifically the United States and the United Kingdom, have so far attempted to deal with global environmental change. The increasing national emphasis placed on protecting human health leads Juss to explore the “right to health” that many argue exists in international human rights law. He distinguishes “health rights” from the “right to health” and looks into the controversies of each concept. Juss argues that neither health rights nor the right to health has been developed into a coherent idea. Both raise larger issues that must be brought into the debate: the nature of economic development and the condition of the natural environment. At the center of discourse about economic development and environmental protection is the so-called human “right to development” in international law, which Juss analyzes.

Finally, Juss argues that all previous human rights controversies show the limitations of the traditional human rights discourse, which focuses on the state and what governments do to people. In the era of globalization, non-state actors and forces also threaten human dignity through the degradation of the environment and human health. Juss wants the human rights discourse to move away from the focus on the individual toward a global perspective that takes into account and balances the individual, community, and the environment. Juss calls this approach “chthonicism”, a philosophy “whereby mankind curtails his behavior to live in harmony with the ecological society around him.”¹³ It is a philosophy that questions “whether the process of mankind can always be seen purely in terms of the progress of empirical science and rationality of judgment.”¹⁴ Chthonicism advocates the wisdom of “traditional knowledge” over “scientific knowledge” in centering humankind within the natural environment and providing a way for humans to achieve health dignity.

12. Satvinder Juss, *Global Environmental Change, Health, and the Challenge for Human Rights*, 5 IND. J. GLOBAL LEGAL STUD. 121, 122 (1997).

13. *Id.* at 175.

14. *Id.* at 178.

The final comment under the third panel comes from Professor Eibe Riedel and is entitled *Global Responsibilities and Bioethics: Reflections on the Council of Europe's Bioethics Convention*. Professor Riedel argues that the current controversies over genetic engineering raise a very important ethical challenge facing the public's health in the global era. He focuses on the European Bioethics Convention because it "provides an excellent case study of the ethical difficulties states and peoples will face in coming to grips with the moral implications of the advances in scientific technologies."¹⁵

Professor Riedel first sets out the opposing philosophical positions that shaped the negotiations of the European Bioethics Convention: the conservative position opposing human manipulation of human embryos and genes versus the liberal position supporting research on human genetics. Interestingly, the processes of globalization heavily influenced this philosophical debate as countries, like Germany, that adopted a conservative stance, faced the prospect of biotechnology research and development going off-shore to benefit from the environment provided by countries, like Great Britain, that have a liberal perspective on bioethics.

Professor Riedel then analyzes the European Bioethics Convention in detail, pointing out where the treaty language disguises fundamental controversies about bioethics. In essence, Professor Riedel believes that the European Bioethics Convention did not resolve the ethical question swirling around human gene technology and its use. Often, the Convention adopted a position that "leaves it up to national laws to determine the scope and extent of gene technology and bioethics."¹⁶ Globalization factors into this result as well because it weakens the conservative position *vis-à-vis* the liberal stance because of opportunities for German companies, for example, to escape the restrictive German rules for more accommodating legal regimes elsewhere in Europe or the world.

Professor Riedel concludes by accepting the applicability of Professor Jamieson's prevent-harm moral paradigm to the controversy over human gene technology. He does not believe that the European Bioethics Convention achieves a harmonized approach to this issue that sets an international prevent-harm framework in place. Despite its shortcomings, Professor Riedel suggests that the European Bioethics Convention "is the first frustrating step in the

15. Eibe Riedel, *Global Responsibilities and Bioethics: Reflections on the Council of Europe's Bioethics Convention*, 5 IND. J. GLOBAL LEGAL STUD. 179, 179 (1997).

16. *Id.* at 186.

needed effort to develop global public interest norms in the area of bioethics.”¹⁷

CONCLUSION

The Symposium’s papers raise and analyze a rich and complex set of issues created by the intersection of health and globalization. The authors bring to this fascinating topic diverse approaches, from international relations theory to moral philosophy, and from a pharmaceutical company’s bottom line to global environmental degradation. Health is an intensely individual concern, and public health has long been a national priority. However, as this Symposium highlights, personal and public health today are global matters because globalization helps create health challenges and because our responses to and responsibilities for these challenges also must be global in ambition and achievement.

17. *Id.* at 190.

