**Title:** R 3.10 GLOBAL HEALTH LAW

**Module information**
The module may be structured according to the European Credit Transfer System (ECTS), corresponding per ECTS to 25-30 hours student workload (thereof up to 10 contact hours of lecturing/supervision).

As part of an academic degree program, the module may be worked into a Masters Curriculum in Global Health with corresponding admission and course completion requirements. Equally the module may also be incorporated into a DrPH (Doctoral program in Public Health) curriculum in which course specifics remain constant but where perspectives are broadened through increased emphasis on relevant readings and calls for ground breaking, context-specific case studies.

*Note: Entrance requirements are to be determined by the institution offering the module.*

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**Key words**
International law, Global Health Law, binding rules, human rights, Global Health Diplomacy, interdisciplinary approach, governance, challenges.

**Topics**
Transnational public health problems have been traditionally addressed through international health law whose proper implementation faces two important handicaps: the absence of an international authority that can enforce it, and the absence of a comprehensive concept. Despite this, international agreements and treaties are among the most important intermediate public health goods because they provide a legal foundation for many other intermediate products with global public health benefits. Nowadays, according to the emergence of the idea of global public health, a new concept -“Global Health Law”- has been born. There is an important distinction between international health law and Global Health Law. International health law connotes a more traditional approach derived from rules governing relations among states. On the other hand, Global Health Law is developing an international structure based on the world as a community, not just a collection of nations. There is also an important international trend leaded by some prestigious scholars who have urged adoption of a legally binding global health treaty: a framework convention on global health grounded in the right to health. In this context, an interdisciplinary approach to global public health inevitably requires the study of Global Health Law for any healthcare professional. It is undoubtedly necessary to study and analyze the emergence and development of Global Health Law just because it arises as an important tool to address the phenomenon of globalization of health. In this regard, the future of global public health is directly dependent on the strength of Global Health Law understood in a
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Global Health Law

Rationale, Purpose and Future of Global Health Law

Globalization of Health and Health Law

Globalization implies a growing interdependence of the world's people. In this regard, globalization has been defined as "the process of increasing economic, political and social interdependence, and global integration that occurs as capital, traded goods, people, concepts, images, ideas and values diffuse across national boundaries" (Ruggie, 1995). Obviously, globalization impacts the health systems and the social determinants of health. In fact, globalization of health shows that alongside the national health problems, there are other important issues that affect the humanity as a whole. Actually, contemporary globalization encompasses many "interconnected risks and opportunities that affect the sustainability of health systems worldwide" (Yach & Bettcher, 1998).

If the national states do not coordinate their measures, internal health problems can affect the rest of the world. In the light of this consideration, global health involves mutual vulnerability (Aginam, 2001) just because national borders can distribute health responsibilities but can not avoid risks (Lederberg 1996). At the beginning of the 21st century there is widespread recognition that national and international health are inseparable (Taylor & Bettcher, 2002).

Historically the health sector had been closed and nationally focused, but this approach began to change in the 90s. The globalization at the public health level includes the following issues: trade, travel, migration, changes in individual behavior, urbanization, environmental degradation, war, civil conflict and instability, poverty, and the evolutionary powers of pathogenic microbes (Fidler, 1999). In this regard, WHO Global Health Promotion conferences and their agendas are directly and indirectly linked with the evolution of policies and priorities of the "Health in All Policies" approach (Sihto et al., 2006), defined as "an approach to public policies across sectors that systematically takes into account the health implications of decisions, seeks synergies, and avoids harmful health impacts, in order to improve population health and health equity". All these changing processes and emerging approaches will have a significant influence in the birth of a new Global Health Law.

International Law, Global Health Law, and Global Health Jurisprudence

Transnational public health problems have been traditionally addressed through international law. We must make a distinction between two different levels in international law. Firstly, the binding international rules, also called "hard law", closely related to the concept of sovereignty of states: they are binding just because states consent that they should be. This consent appears in different ways: from the current practice of states in the case of customary international law and from ratifications in the case of treaties. Therefore treaties are binding on the parties to them and must be executed in good faith. International law related to public health date back to the 1850s, when the first treaties on the control of infectious diseases were signed. A specific body of law on communicable disease control has emerged since then. According to that regulation, the concept of international health law emerged and was defined as set of rules whose main or subsidiary purpose is to protect human health (Bélanger, 1989).
Nevertheless there are two important handicaps for proper implementation of international health law. Firstly, it is limited by the absence of an international authority that can enforce it, so compliance is voluntary. Secondly, there is not a comprehensive concept of international health law, which is a scattered and fragmentary body. In fact, no international treaty of general application is dedicated to regulate the international protection of health. Certainly the WHO Constitution is an international treaty with a general outreach but is mainly engaged in the regulation of the organization and not a kind of framework for the protection and promotion of global health. However, the absence of an international reference in the field of public health should not be surprising because that deficiency also occurs in the internal law, where sanitary regulation commonly is disperse (Grad, 1998).

More recently, it has been suggested that the sources of international law may not be confined to those defined by the statute. "Soft law", for instance non-binding resolutions of international organizations, is also mentioned as credible source because it consists of rules that are not actually binding, but that are expected to be and usually are complied with, and that may gradually harden into binding law.

Accordingly we can mention the two most remarkable examples of the importance of international conventions to public health: the revised International Health Regulations (IHR, 2005) focused on infectious diseases and the WHO Framework Convention on Tobacco Control (FCTC, 2003) focused on chronic diseases. In fact FCTC is the first treaty negotiated under the auspices of the WHO and represents a paradigm shift in developing a regulatory strategy to address addictive substances.

It is also important to take into account that the WHO Constitution grants the agency extensive normative powers to adopt conventions (article 19), promulgate binding regulations (article 21), make recommendations (article 23), and monitor national health legislation (article 63) and these powers are noteworthy (Gostin, 2008a). Nevertheless, important authors have strongly chastened the WHO for its reluctance to create binding rules, despite the bold mission and important powers granted in its Constitution (Fidler, 1998). In any case, international agreements and treaties are among the most important intermediate public health goods because they provide a legal foundation for many other intermediate products with global public health benefits, including research, surveillance, technical assistance programmes, and information clearing-houses (Taylor & Bettcher, 2000). In addition, institutional mechanisms often established in international agreements - such as compulsory meetings of the parties, monitoring or supervising compliance and international infrastructure- contribute towards the provision of final global public goods (Kaul et al., 1999).

Nowadays, according to the emergence of the idea of global public health, a new concept -"Global Health Law"- has been born. In this regard, Global Health Law is developing quite different from the thin body of international treaties and agreements which minimally regulated interstate health matters. It is penetrating into national law so that the global approach is present in the domestic health policies (Harrington, 2004).

There is an important distinction between international health law and Global Health Law. International health law connotes a more traditional approach derived from rules governing relations among states. On the other hand, Global Health Law is developing an international structure based on the world as a community, not just a collection of nations.
This structure is inclusive of individuals and nongovernmental organizations, especially where health problems are seen as truly global. Globalization has heightened the need for worldwide public health cooperation (Ruger, 2008). Nevertheless, we should assume that Global Health Law is not an organized legal system, with a unified treaty-monitoring body (Gostin & Sridhar, 2014).

The idea of Global Health Law has been criticized by prominent scholars who note how definitions of this concept are ethereal. In fact, no definition of international health law has been accepted worldwide just because public health law does not come in a single, tidy legislative package marked “public health law”. It consists of many different types of legislation which have little in common except for the benign purpose of advancing public health (Grad, 1998, Taylor et al., 2002, Fidler, 2008).

This is why Fidler has proposed a broader concept called “global health jurisprudence“. In the light of this consideration, this concept attempts to capture how the increased use of law in public health reveals a deeper importance for law in public health endeavors within and between countries. Implicit in the idea of global health jurisprudence is the principle that national and international public health activities should, wherever possible, be subject to the rule of law. Terms such as “Global Health Law” only partially would illuminate the relationship between law and public health. The diverse ways in which “Global Health Law” is used make finding analytical clarity in this idea difficult. In this context, Fidler proposes a more helpful concept to think about the transformed relationship between law and public health through the lens of jurisprudence, in three possible meanings: as knowledge or skill in law; as a legal system; and as the philosophy of law (Fidler, 2008). Central to the concept of global health jurisprudence as legal framework for public health in a globalized world is the need to think about law and public health holistically. Global health jurisprudence cannot only be about improving WHO's international legal capacities because the efficacy of international law in the public health context often depends on national law (Fidler, 1999). In this way there is a strong connection between international and national law so that international instruments are useless without the national capacity to implement them (L’hirondel & Yach, 1998).

*The Challenge of a New Binding Global Health Convention*

There is an important international trend led by some prestigious scholars who have urged adoption of a legally binding global health treaty: a framework convention on global health grounded in the right to health. Guided by principles underlying the right to health and mutual responsibility, a framework convention would universally ensure three conditions that are essential for a healthy life: a well-functioning health system providing quality health care; a full range of public health services, such as nutritious food, clean water, and a healthy environment; and broader economic and social conditions conducive to good health, such as employment, housing, income support and gender equality. In this way, several legal pathways towards a framework convention could be available: a) Placing WHO at the centre of the convention regime could be achieved through its constitutional mandate to negotiate conventions; b) the United Nations (UN) General Assembly could lead the treaty process; c) the UN Human Rights Council could spearhead the framework convention; or d) the treaty could be even developed outside the UN system. For this proposal, a framework convention would establish a health financing framework with clear obligations, and would create an accountability regime with robust standards, monitoring, and enforcement. It would advance health justice through engaging marginalized and underserved populations in making and evaluating policies and through comprehensive
strategies and targeted interventions designed to overcome the barriers that prevent these populations from enjoying the conditions required for good health. Governments would be held to high standards of good governance, namely inclusive participation, transparency, honesty, accountability and stewardship and the framework convention would empower people to claim their right to health (Gostin et al., 2013). Shortly afterwards, the interest of a framework convention on global health at the WHO level has been focused on one particular purpose: achieving universal health coverage (Ooms et al., 2014).

In this context, the need for fresh thinking about international law in global public health is an important message now being delivered by legal and public health experts (Fidler, 1999). In fact, there are three important reasons for studying Global Health Law at the present time. First, the current globalization of public health problems provides a context in which the development of global norms and standards becomes increasingly necessary. Second, the experience of elaborating international agreements in other areas closely related to international health, particularly environmental matters, demonstrates how international agreements can make an impact and how scientific evidence has been employed to support the development of international law. Finally, the experience in negotiating the WHO Convention provides a case study of how transnational public health problems can be addressed by an international approach, and also how scientific evidence in both public health and economics provided a foundation for the development of binding global agreements (Taylor & Bettcher, 2000).

The development of binding global public health rules is becoming increasingly important as global interdependence accelerates and nations increasingly feel the need to cooperate to solve essential problems. Although international health law is still in a rudimentary stage of development relative to other fields of international concern, the impact of globalization in public health, both positive and negative, has become key global policy issue. Accordingly health development in the 21st century is likely to include expanded use of international rules. As the world becomes more interdependent, innovative global health development strategies are needed to address the increasingly complex and interrelated health problems (Taylor et al., 2002).

An interdisciplinary approach to global public health inevitably requires the study of Global Health Law for any health care professional. It is undoubtedly necessary to study and analyze the emergence and development of Global Health Law just because it arises as an important tool to address the phenomenon of globalization of health. Therefore, binding or not, legal standards of public health are an excellent opportunity for the new context that must be addressed, just because the future of global public health is directly dependent on the strength of Global Health Law understood in a comprehensive way.

*Global Health Law and Global Health Diplomacy*

In order to set the scope of Global Health Law, we must take into account the concept of “Global Health Diplomacy” which is a very close notion but not exactly the same. In this sense, international health diplomacy began in 1851, when European states gathered for the first International Sanitary Conference to discuss cooperation on cholera, plague, and yellow fever. National policies not only failed to prevent the spread of the disease but also created discontent among merchants, who bore the brunt of quarantine measures and urged their governments to take international action (Fidler, 2001). Nowadays, Global Health Diplomacy brings together the disciplines of public health, international law and economics and focuses on negotiations that shape and manage the
global policy environment for health. The relationship between different disciplines is at the cutting edge of global health diplomacy. In this regard, this new interdisciplinary approach promotes the development of a more systematic and pro-active design to identify and understand key current and future changes impacting global public health. Another important task of global health diplomacy consists on building capacity among all the states for the necessary collective action to take advantage of opportunities and mitigate the risks for health.

The academic response for those goals must be the design of specific programs across different and complementary disciplines to train health professionals through cross-disciplinary didactic and experiential learning. There is an additional need for training that brings health and foreign policy professionals together to define the field of health diplomacy within global health (Kickbusch et al., 2007). Of course, Global Health Law must play an important role in this training program.

Configuration and Content of Global Health Law

Overview
Although Global Health Law and Global Health Jurisprudence are the most advanced academic concepts in this field, nowadays the international law approach remains predominant because most of public health agreements have been made under the traditional state’s perspective. Therefore, Global Health Law must be explained taking into consideration the current content of International Health Law which includes many different issues. Different authors have mentioned topics as ageing; HIV/AIDS; biomedical science; blood safety; chemical safety; child health; communicable disease control; disabled people; environmental protection; food safety; health services; human experimentation; infant feeding and nutrition; mental health; narcotics and psychotropic substances; nuclear safety and radiation protection; occupational health; organ transplantation; patients’ rights; pharmaceuticals, medical devices, and cosmetics; refugees, detainees, and internally displaced people; reproductive health; right to health; tobacco control; trade and health; weapons systems; or women’s health (Taylor et al. 2002). Most of these issues can been systematized in six branches of international law: a) international law in global communicable disease control; b) international trade law; c) international human rights law; d) international environmental law; e) international humanitarian law; and f) international labour law.

International Law in Global Communicable Disease Control
International law played a prominent role in the infectious disease diplomacy of the 19th century. In the modern era, constitutions, charters and legal framework of most international organizations (WHO, WTO-World Trade Organization, FAO-Food and Agriculture Organization) provide international legal mechanisms in forging consensus on a range of issues related to transboundary spread of communicable diseases (Aginam, 2002).

Globalization creates challenges for infectious disease policy. These challenges can be horizontal and vertical. Horizontal challenges constitute problems that arise between states from global traffic. Vertical challenges, such as inadequate surveillance capacity, are problems that countries face inside their territories that require responses within states. States cannot handle horizontal or vertical challenges without cooperating with each other. Unilateral efforts have limited impact when the source of the problem is beyond national jurisdiction. Similarly, unindustrialized countries need assistance to improve domestic
public health. International cooperation mechanisms, including international law, are crucial to respond to both types of challenges.

In 1995 WHO recognized that old IHR did not achieve their twin goals of maximum protection from the spread of international diseases while incurring minimum interference with world traffic. WHO launched an effort to revise regulations to update the classical regime for new globalization challenges. Furthermore, the WTO became the central horizontal regime for international law on infectious diseases after its implementation in 1995. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), and the WTO's powerful dispute settlement mechanism made WTO more important for infectious disease control policy than the old and discredited IHR (Fidler, 2003).

In the last decades, the world has undergone rapid changes including demographic explosions and massive urbanization, population movement, increase in international trade and travel, emergence of new pathogens, use of techniques which induce new risks, chemical and nuclear accidents, environmental disasters, and introduction of the threat of criminal acts and bioterrorism. To respond to this changing environment, IHR were revised by World Health Assembly of WHO in 2005 (WHO 2014). This binding agreement significantly contributes to global public health security by providing a new framework for the coordination of the management of events that may constitute a public health emergency of international concern, and improves the capacity of all countries to detect, assess, notify, and respond to public health threats. These regulations also contain a broad range of binding provisions to address risks of international disease spread in international travel, trade and transportation. Important elements include multiple provisions, whether denominated in terms of human rights or other terminology that are protective of interests of individuals who may be subject to public health measures in this international context (Plotkin, 2007).

The purpose and scope of the 2005 IHR, according to article 2, are “to prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade”. Moreover, IHR contain a range of innovations, including: (a) a scope not limited to any specific disease or manner of transmission, but covering “illness or medical condition, irrespective of origin or source, that presents or could present significant harm to humans”; (b) state party obligations to develop certain minimum core public health capacities; (c) obligations on states parties to notify WHO of events that may constitute a public health emergency of international concern according to defined criteria; (d) provisions authorizing WHO to take into consideration unofficial reports of public health events and to obtain verification from states parties concerning such events; (e) procedures for the determination by the Director-General of a “public health emergency of international concern” and issuance of corresponding temporary recommendations, after taking into account the views of an Emergency Committee; (f) protection of the human rights of persons and travellers; (g) the establishment of National IHR Focal Points and WHO IHR Contact Points for urgent communications between states parties and WHO (Foreword of IHR). However, revised IHR do not create a new enforcement mechanism for addressing compliance failure (Ruger, 2008).
Since 15 June 2007 the world has been implementing the IHR. States parties had until 15 June 2012 to meet their IHR core surveillance and response requirements, including at designated airports, ports and certain ground crossings. A majority of states parties, however, have requested and obtained a two-year extension to this deadline and, in exceptional circumstances, may be granted an additional extension, not exceeding two years. As shown, the complete and universal implementation of IHR seems to be an important task but not without difficulties.

**International Trade Law**

International trade agreements that liberalize trade between countries usually recognize that states may restrict trade to protect public health. Article XX (b) of the General Agreement on Tariffs and Trade (GATT) only allows each state party to set its measures for protecting human, animal or plant life or health if these restrictions do not represent an "unjustifiable discrimination or a disguised restriction on international trade". Similar provisions exist in other multilateral trade agreements, such as the Treaty on the Functioning of the European Union (TFUE, 2012 -consolidated version) and the 1992 North American Free Trade Agreement (NAFTA). The conclusion of the Uruguay Round, marked by the 1994 Final Act of GATT signed in Marrakesh, established a permanent organization: the WTO which entered into force in 1995.

Multilateral agreements establishing the WTO have been explained with the metaphor of a tricycle: a driver (WTO), two large wheels (the multilateral agreements on trade in goods and the General Agreement on Trade in Services), and a smaller one, the TRIPS (Berrod & Gippini, 1995).

It should be noted that there have been several health controversies in international trade law about the legitimacy of some trade restrictions. This is the reason why the doctrine holds that "their existence at least demonstrates that health affects the dynamics of international trade law and vice versa. It should come as no surprise, then, that scholars have urged WHO to pay more attention to international trade law as part of its mission to protect and promote human health" (Fidler, 1999).

In the context of WTO, we must also mention some specific international agreements relevant to public health, included as annexes of the mentioned 1994 GATT Marrakesh Agreement, which serves as an umbrella treaty:

a) The 1994 Agreement on Sanitary and Phytosanitary Measures (SPS): It sets forth standards for testing a health measure. In this regard, measures must meet both science-based standards and "least restrictive" trade rules, so that this provision is more specific than article XX (b) of GATT. SPS Agreement also recognizes standards of the FAO/WHO Codex Alimentarius.

b) The 1994 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS): it establishes minimum levels of intellectual property protection that each state must afford to creators. In this way, TRIPS attempts to harmonize protection of intellectual property rights among WTO members using norms developed in industrialized countries. According to article 33, patents for inventions must last for at least 20 years. Some experts had raised concerns that the TRIPS heightened protection of pharmaceutical patents will adversely affect access to patented drugs in low-income countries by raising prices (Fidler, 1999). This is why the Doha Declaration on the TRIPS agreement and public health, adopted on 14 November 2001, sets that the TRIPS Agreement does not and should not
prevent members from taking measures to protect public health. Accordingly, while
reiterating its commitment to the TRIPS Agreement, the Declaration affirms that the
Agreement can and should be interpreted and implemented in a manner supportive of WTO
members' right to protect public health and, in particular, to promote access to medicines for
all. For this purpose, the Declaration recognizes that each member has the right to determine
what constitutes a national emergency or other circumstances of extreme urgency, it being
understood that public health crises, including those relating to HIV/AIDS, tuberculosis,
malaria and other epidemics, can represent a national emergency or other circumstances of
extreme urgency.

c) The 1994 Agreement on Technical Barriers to Trade (TBT): it sets different rules
regarding for the preparation, adoption, and application of standards. According to article
2.1, members shall ensure that in respect of technical regulations, products imported from
the territory of any member shall be accorded treatment no less favourable than that
according to like products of national origin and to like products originating in any other
country.

In addition, we should take into consideration the future impact on public health of
the 2015 Trans-Pacific Partnership (TPP), a trade agreement among twelve Pacific Rim
countries. This treaty contains troubling provisions such as the Investor-State Dispute
Settlement (ISDS) mechanism, which involves that investors can claim compensation from
a State Party if its decisions are judged to have been commercially harmful to them. Instead
of national courts, these claims will be solved by specific arbitration tribunals made up of
legal experts chosen from an approved list, without possibility of appeal. Another important
aspect concerns the extension of monopoly drug patents that could allow pharmaceutical
companies to raise prices for medicines, limiting patients' access to cheaper generic drugs
and increasing the financial burden on health services. In a similar way, the proposed
Transatlantic Trade and Investment Partnership (TTIP), currently under negotiation between
the European Union and the USA, could constitute a relevant threat for public health for the
same reasons. Anyway, the public health impact of both agreements must be studied from a
Global Health Law approach.

International Human Rights Law
The human rights approach constitutes an important tool for challenging
globalization's effects. As well known, human rights belong to the universal and indivisible
core values and principles of the UN. The right to health as a fundamental right of every
human being has been enshrined numerous international and regional human rights treaties
as well as national constitutions. Although the interdependence and interrelatedness of all
human rights - civil, cultural, economic, political and social- has been endorsed by all UN
Member States, it is only in recent years that health is gaining prominence on the
international human rights agenda. Increased efforts are required to ensure that health is
addressed as a human right on the same footing, and with the same emphasis, as other
human rights in foreign policy processes of UN Member States (WHO, 2009).

We have several examples of human rights treaties at the UN level. In this regard,
we must mention not only the 1948 Universal Declaration of Human Rights, that cited
health as part of the right to an adequate standard of living (article 25), but the 1966
International Covenant on Economic, Social and Cultural Rights (ICESCR) as well. Article
12 of this covenant explicitly sets out a right to health and defines steps that states should
take to "realise progressively... to the maximum available resources...(the) highest attainable
standard of health...(including) the reduction of the stillbirth-rate and of infant mortality and
for the healthy development of the child...the improvement of all aspects of environmental and industrial hygiene...the prevention, treatment and control of epidemic, endemic, occupational and other diseases...(and) the creation of conditions which would assure to all medical service and medical attention in the event of sickness”.

In the other hand, the Constitution of WHO was the first international instrument to enshrine the enjoyment of the highest attainable standard of health as a fundamental right of every human being ("the right to health"). The right to health in international human rights law requires a set of social arrangements - norms, institutions, laws, and an enabling environment - that can best secure the enjoyment of this right. It is an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health. In this way, the right to health is subject to progressive realization and acknowledges resource constraints. However, it also imposes on states various obligations which are of immediate effect, such as the guarantee that the right will be exercised without discrimination of any kind and the obligation to take deliberate, concrete and targeted steps towards its full realization. According to WHO, the right to health includes access to timely, acceptable, and affordable health care of appropriate quality and means that states must generate conditions in which everyone can be as healthy as possible (WHO 2013).

In addition to the ICESCR, several regional treaties, such as the 1948 American Declaration of the Rights and Duties of Man; the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, or the 1981 African Charter on Human and Peoples’ Rights, recognize health as a rights’ issue reflecting a broad consensus on the content of the norms. A review of the international instruments and interpretive documents makes it clear that the right to health as it is enshrined in international law extends well beyond health care to include basic preconditions for health, such as potable water and adequate sanitation and nutrition (Yamin, 2005).

The human rights strategy adopted by recent international legal instruments relating to biomedicine seems to be the most appropriate way to manage bioethical issues from a global perspective. Certainly, the search for a global consensus in this area is not free from difficulties, especially because it would be impossible, and indeed unfair, to impose a monolithic, detailed legal framework on societies with different social, cultural and religious backgrounds. This is why the harmonization of principles about biomedical activities must focus on some basic rules (Andorno, 2002). The best current example of how to promote the protection of human rights in the biomedical field at a transnational level is the 1997 Oviedo Convention (Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine) which is the first comprehensive multilateral treaty addressing biomedical human rights issue. Some of the principles it contains were already included in more general terms in previous international human rights treaties. However this is the first time that patients’ rights have been developed in one single, multilateral, and binding instrument (Andorno, 2005).

International Environmental Law
The vast field of international environmental law is not typically thought of as part of international public health law. But it should not be forgotten that the first objective of the protection of the environment is the safeguard of nature (Kiss 1998). The conceptual link between the human health and environmental protection has been strengthened by the gradual recognition and integration of “sustainable development” within the global
environmental agenda. In 1987, the World Commission on Environment and Development defined ‘sustainable development’ as development that meets the needs of the present without compromising the ability of future generations to meet their own needs (Taylor, 2002). In this regard, there is an important link between the prevention principle to sustainable development and international legal obligations regarding transboundary pollution. The principle’s prescriptions range from mere due diligence obligations to obligations to limit emissions or the setting of exposure standards, but unfortunately the core legal status of the principle remains uncertain and it does not amount to an obligation under general international law (De Sadleer, 2002).


In this regard, international organizations should seek to strengthen capacities to facilitate more fully and effectively the integration of environmental law into efforts to promote global health. A more robust approach to facilitating the development and implementation of international environmental law in the interest of health can be expected to result in significant gains in this area (Von Schirnding et al., 2002). For these purposes, it must be emphasized the importance of promoting the conclusion of a global convention on access to environmental information, one of the main tools regarding environmental protection (Krämer, 2012).

*International Humanitarian Law*

This body of international law imposes health-related obligations on belligerents and grants health-related rights to individuals (Fidler 1999). Therefore international humanitarian law includes rules regarding: (a) refugees, detainees, and internally displaced people; and (b) control of weapons, prohibiting the use of any weapon that causes superfluous injury or unnecessary suffering.

It is interesting to bring up the advisory opinion of the International Court of Justice (ICJ) on “Legality of the Use by a State of Nuclear Weapons in Armed Conflict”, adopted on 8 julio 1996, that raised some controversial issues in the relationship between public health and nuclear arms control. WHO asked the ICJ for an advisory opinion on whether the use of nuclear weapons by a state could be lawful under international law given the adverse health and environmental consequences of the use of a nuclear weapon. Although the ICJ rejected the claim that WHO had competence under its Constitution to raise the question, the court finally held that international law did not directly prohibit the use of nuclear weapons but required that any use of a nuclear weapon had to comply with all requirements in international humanitarian law (Fidler, 1999).
International Labour Law

The working conditions have been typically recognized as determinants of health. The Constitution of International Labour Organization (ILO) sets forth the principle that workers should be protected from sickness, disease and injury arising from their employment. The ILO has adopted more than 40 standards specifically dealing with occupational safety and health, as well as over 40 Codes of Practice. Nearly half of ILO instruments deal directly or indirectly with occupational safety and health issues. These are part of the selected ILO instruments:

a) The 1981 Occupational Safety and Health Convention (No. 155) and its 2002 Protocol. The convention provides for the adoption of a coherent national occupational safety and health policy, as well as action to be taken by governments and within enterprises to promote occupational safety and health and to improve working conditions. This policy shall be developed by taking into consideration national conditions and practice. The Protocol calls for the establishment and the periodic review of requirements and procedures for the recording and notification of occupational accidents and diseases, and for the publication of related annual statistics.

b) The 1985 Occupational Health Services Convention (No. 161). It provides for the establishment of enterprise-level occupational health services which are entrusted with essentially preventive functions and which are responsible for advising the employer, the workers and their representatives in the enterprise on maintaining a safe and healthy working environment.

c) The 2006 Promotional Framework for Occupational Safety and Health Convention (No. 187). It aims at promoting a preventative safety and health culture and progressively achieving a safe and healthy working environment. It requires ratifying states to develop, in consultation with the most representative organizations of employers and workers, a national policy, national system, and national programme on occupational safety and health.

Other ILO specific instruments for protection against specific risks are the 1960 Radiation Protection Convention (No. 115); the 1974 Occupational Cancer Convention (No. 139); the 1997 Working Environment (Air Pollution, Noise and Vibration) Convention (No. 148); the 1986 Asbestos Convention (No. 162); and the 1990 Chemicals Convention (No. 170).

References


De Sadeleer, N (2002). Environmental Principles- From Political Slogans to Legal Rules, Oxford University Press.


Links


University of London: international programmes.
http://www.londoninternational.ac.uk/courses/queen-mary-ucl/specialisation-public-international-law

University Queen Mary University of London: global health, law and governance.  
http://www.qmul.ac.uk/postgraduate/coursefinder/courses/121432.html

World Health Organization (WHO): Global school health initiative
http://www.who.int/school_youth_health/gshi/en/

World Health Organization (WHO): fact sheets
http://www.who.int/mediacentre/factsheets/en/

World Trade Organization (WTO): Documents and resources
http://www.wto.org/english/res_e/res_e.htm

International Labour Organization (ILO): Labour standards