Role of the Government in Epidemic Prevention and Control in India

Anushka Tandon
Research Scholar, Department of Law, Jayoti Vidyapeeth Women's University, Jaipur.

Dr. Bhoma Ram
Professor, Department of Law, Jayoti Vidyapeeth Women's University, Jaipur.

ABSTRACT

Public health and epidemic control initiatives are essential to make sure the community stays safe. The Indian government is critical in the prevention and management of pandemics through disease surveillance, immunization programs, public awareness campaigns, development of healthcare infrastructure, and disaster preparedness. There are a number of programs that help efforts to prevent and control infectious diseases. These are National Health Mission (NHM), Integrated Disease Surveillance Program (IDSP) and Universal Immunization Program (UIP). The COVID-19 pandemic has underlined the significance of public participation in addressing health crises, early medical interventions, cooperation of federal and state governments, and effective government policies. Some of the current obstacles for epidemic control include insufficient healthcare facilities in rural areas, lack of skilled healthcare professionals, delayed disease reporting and spread of disinformation. Objectives of the study are to(1) understand the approach of the Indian government toward epidemic prevention and control,(2) identify the major obstacles, and(3) recommend measures to reinforce the foundation of the public health system. Improving health outcomes and preventing future epidemics requires collective effort across public health planning, scientific research, community involvement, and healthcare service enhancement.

Keywords: *Public Health, Epidemic Management, Government Initiatives, Disease Surveillance, Vaccination, Healthcare System, India.*

Introduction

A health care system is the combination of primary, secondary and tertiary care facilities staffed by doctors and other medical professionals, the educational institutions that train future doctors and other medical professionals, federal, state and local program managers and authorities, and a health management information system, which includes a two-way system of data collection, dissemination, analysis and response (public health care system, 2018). There should be health benefits like blood, medicines, medical equipment etc. and hospitals should have professional and knowledgeable physicians. Any decent public health system should have proper, well-established medical schools with qualified, experienced staff. Clean drinking water, cleanliness, sanitation and restrooms are all vital components for preserving good health. Camps should be organized especially in rural regions where people of all ages can get free medical check-ups so that everyone can avail this facility.

Health care infrastructure Primary care is the first line of defense between the general public and the doctors and hospitals who treat them. Both the federal government and the individual states and a host of related organizations began creating primary health care infrastructure and staff at the same time, which led to much duplication of effort and resources. The federal government and the various states have both discovered the importance of primary health care networks in the delivery of medical care.

The primary health care center consists of sub centers, primary health centers, community health centers, hospitals, rural family welfare centers, urban health posts, urban family welfare centers, district post-partum centers, and sub district post-partum centers funded by the department of family welfare, dispensaries and clinics, urban health services provided by municipalities, health care for central government employees provided by the Central Government Health Scheme (CGHS), hospitals and dispensaries of railways, defense and similar major departments make provision for healthcare services for their personnel, medical infrastructure, Employee's State Insurance Scheme (ESIS) hospitals and dispensaries providing health care to employees of industries, all hospitals even those providing secondary or tertiary care also provide primary health care services to rural and urban population and over three-fourths of the medical practitioners work in the private sector and majority of them cater to the primary health care requirements of the urban and rural population.

Public Health Requirements

Humans, as a species and as individuals, have long been interested in ways to improve their health and avoid illness. Once upon a time it was a divine imperative to keep oneself healthy and disease a mysterious happening. Later, these mystical explanations of health and disease were replaced by the individual choices in lifestyle and environmental factors. The efforts to improve the standard of living developed mostly via trial and error. It is thought that as community life developed, these efforts and interventions became more organized.

Examples of such coordinated activities are control of communicable illnesses, provision of health care, clean water and sanitation. These acts were also shaped by the formation of nation states and the development of cities. Now we know that improving health begins with meeting the most fundamental requirements including food, housing, income, education, peace, a healthy ecology and sustainable resources, while fostering fairness and equality. In fact, public health has played a key role in bringing together all these aspects to realize health.

Public Health Vs. Medical Care

The profession of medicine and public health can be compared and contrasted to better comprehend the purposes that public health fulfills. The basic function of medicine and medical care is to treat and cure people who are injured or sick. People are the focus of attention in case of service delivery. Public health is a large activity, governmental and societal in contrast. It is multi-disciplinary in character and covers almost all the facets of the society. Remember we are talking here about the word "health" not "medicine. The emphasis here is on prevention rather than cure. Medical professionals are giving therapy.

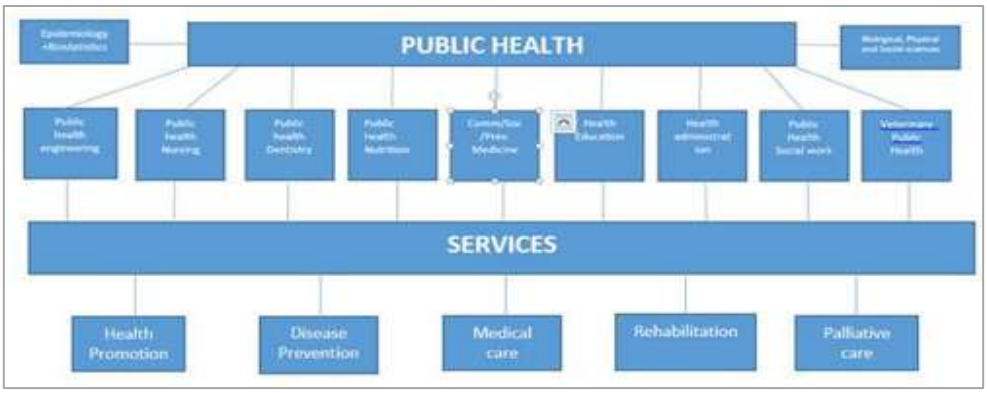


Figure: 1.1 Public Health Concept Rather

The Public Health Concept Rather than treating sick people, public health workers work to ensure that no one becomes sick or hurt in the first place. Also, the field of medicine isn't the center of attention in public health; rather, it's the public's health.

To summarize, public health views the community or population as its patient, in contrast to medicine's focus on individual patients. In contrast to public health, which takes a more holistic approach by incorporating preventative, primitive, rehabilitative, and palliative care, medical care is primarily focused on curative treatment.

Review Literature

Jai Prakash Narain(2016) India is undergoing a lot of changes these days which is impacting the country's economy, population and health statistics. In the past decade, the world has witnessed incredible economic progress, notably the GDP growth rate. But the sad part is that with such affluence, wealth discrepancies have widened. A vast body of evidence shows that health outcomes are worse when there is a large discrepancy in income or other socioeconomic status.

Das Gupta (2015) Public health services would be an incomplete development infrastructure of a nation because they help to keep populations healthy through measures such as sanitation and vector control. Prior to the introduction of the modern curative technologies, systematic public health programs in East Asia and the industrial world raised the labor productivity and life expectancies, leading to rapid economic growth and the reduction of poverty.

Agrawal and Sanger (2015) have studied on the issue of "need for dedicated focus on urban health within National rural health mission" and found that urban poor population constitute nearly one third of the urban population of India and increasing at a rate three times faster than the national population growth rate. The health status of slum dwellers is poor, and access to reproductive and child health care facilities is limited. They have poor services, poor information and a dreadful atmosphere, thus they have bad health. Urban poor people have baby and neonatal death rates that are much higher than the average for urban populations.

Prinjal et al (2012) with the objective to find out whether or not there exist disparities in terms of self-reported health status, consumption of services and out of pocket health care expenditures in the northern Indian states of Haryana and Punjab and the Union Territory of Chandigarh. The analytical results revealed that in all the three states, the distribution of morbidity and hospitalization rates was in favor of the rich, which means that the health services were not used sufficiently by low-income households.

Objective of The Study

1. To evaluate the legal and administrative challenges encountered during the COVID-19 pandemic in India.
2. To examine the constitutional provisions relating to public health and the duties.

Global Legislation Regime for Public Health and Epidemics

The right to public health is a core component of human rights as it guaranties that every human being exists in an environment that fosters good health. There is a variety of international and national laws that safeguard and promote this right in an effort to ensure the public's health. Public

health has a number of tasks, including the prevention of diseases and promotion of health, but also the construction of healthcare systems and rules that assure that everyone has equal access to medical care.

Global public health is not constrained by national borders but rather recognizes the health of the entire society. Global public health is comprehensive and considers economic, social and environmental aspects. Global health, as defined by Frenk et al., is the goal of providing high-quality medical treatment to individuals around the world at a reasonable price. It is a combination of population-based prevention and individual-level clinical care, supports multidisciplinary collaboration, encompasses many disciplines, within and outside of the health sciences, and emphasizes transnational health concerns, determinants, and solutions.

Indian Laws Concerning Epidemics and Public Health

Public health governance environment in India is as colorful and diverse as India itself. The link between public health and law is even more important during epidemics and pandemics, when quick and effective regulatory measures are necessary to protect the health and well-being of the whole population. The objective of this Study is to explore the web of legislation governing national public health and epidemic response.

India’s large population and diverse geography make the management of public health emergencies particularly challenging. Indian public health legislation has evolved throughout the years to meet the changing health scenario in the country. Everyone, from parliamentarians to citizens, must know the legal history of the nation, from ancient literature to modern statutes.

Constitutional Provisions Relating to Health

Distribution of Power

In India, the legislative part of the Constitution has three lists, namely, “the Union list, the State list, and the Concurrent list.” These lists explain how authority is distributed between the central government and the many states. The administrative and executive branches are separated into different parts. The 99 articles on the Union's list are all decided completely by parliament. There are 61 things on the State list that can only be passed by state legislatures and 52 things on the Concurrent list that can be passed by both chambers of Congress. Since the provision of services connected to health is mostly the duty of the states, the states are obligated to offer healthcare.

The power to legislate on inter-state migration and quarantine has been vested in the Union government by Entry 81 of the Union List of Schedule VII to the Constitution of India, 1950. Public order, police, public health and sanitation, hospitals and dispensaries are apportioned among the states according to articles 1, 2 and 6 of the State List of Schedule VII. The legislative fields of social security and social insurance, employment and unemployment, and the prevention of the spread of infectious or contagious disease or pests affecting human beings, animals or plants from one state to another are divided between the federal government and the states under entries 23 and 29 of the Concurrent List. Article 73 gives the federal government the power to legislate and article 162 does the same for the states.

Central Statutes Related to Public Health

In 1983, India finally made a pronouncement regarding a "National Health Policy" that was formally acknowledged. In the past, the state's health initiatives were developed by drawing on the "Five Year Plans" and the suggestions of numerous independent Committees. The health care system was structured around "Five Year Plans" that outlined measurable goals. With the inclusion or removal of schemes in subsequent plan epochs, the total number of plans varied greatly.

The entire Indian health system was preoccupied with epidemic management in the 1950s and 1960s. It was resolved to launch massive initiatives to combat the various diseases. Malaria, smallpox, tuberculosis, leprosy, filaria, trachoma, and cholera were the targets of these technologically-based, nationally-distributed campaigns. Teams of trained personnel are present in all of the vertical programs.

According to the tenets of contemporary medicine, the elimination of disease-causing microbes might improve public health, which was a goal of the colonialists. Mass campaigns were a policy that reflected this attitude. But social and economic variables, including unhealthy food, clothing, and housing, and an unacceptable social climate, were the main causes of the increase of the numerous diseases. Nobody remembered them. In an effort to wipe out the diseases, nationwide campaigns were initiated. In 1953, with funding and advice from the US Technical Cooperation Mission and the WHO, the "New Mexico Environmental Program" (NMEP) got its beginnings. During that time, malaria was a global threat. DDT spraying operations were one of the program's most essential actions. "The TB campaign encompassed tuberculosis clinics, tuberculosis vaccination, domiciliary support, and aftercare. However, using BCG to prevent the disease was the main focus.

Indian Judgment on Public Health and Epidemics

There are times when health is treated as a scientific field that demands the expertise, knowledge and capacities of medicine which are only found in the people who belong to the medical profession and in scientists. In contrast, the World Health Organization (WHO) states that health should also consider socio-economic and political variables. It is a social and political right that has been the object of discussion, while philosophers and thinkers have often underestimated it. The right to health is a right of a social and political nature. In other instances, the right to health has been narrowed to the right to health care, which has frequently been confined to the provision of health care services that are accessible and available to all individuals. Many intellectuals and their ideologies, whether it be Rawl’s Theory of Justice or the Utilitarian Philosophy, have often questioned health as a part that should be considered a societal benefit. This is true whether the criticism is direct or indirect.

The basis for the conception of health, as well as the right to health, was provided by the philosophy of Aristotle. According to Aristotle, every political philosophy should aim toward human flourishing, which promotes health policy and law, and this should be its most essential purpose. Moreover, it suggests that the government should offer sufficient goods and services for human functioning with dignity by permitting individuals to choose the kind of life that they want. This is one way of making sure people can operate with dignity. This is contrary to the libertarian viewpoint, which rejects the idea of taxing the rich to provide health care services for the less fortunate.

This interpretation means that the state has a duty to provide adequate health care provisions for its inhabitants so that it can discharge its responsibility of protecting the right to health. The laws under the Directive Principle of State Policy, albeit not justiciable, generally act as a guiding principle for the policymakers and the government to undertake the requisite welfare measures to safeguard the health rights of its residents. This regardless of whether the laws cannot be challenged in court. The "Articles 39, and 4714 of the Directive Principle of State Policy" are mentioned in the rules which concern health. Under Article 39, the State is required to follow a number of policy principles. Notably, the state is obliged to steer its policies toward protecting the safety of its population:

- That all people, regardless of gender, have the right to basic means of subsistence and that this right is in equal measure;
- That The Ownership and Management of The Community's Material Resources Are Dispersed in Such a Way as To Best Serve the Common Good Through the Distribution of These Resources;
- That the operation of the economic system does not result in the concentration of wealth and means of production to the detriment of the general population;

Article 47 of the Constitution places on the state the primary duty to ensure that the state's citizens continue to enjoy a certain level of nutrition and standard of life and to strive for the improvement of public health. The duty of the residents to maintain and improve the natural environment including forests, lakes, rivers and wildlife is expressed in Article 51A (g) of the Fundamental Duties.

Role of Judicial Review in Public Health Crises

An independent judiciary is required to be established in accordance with the provisions of the Indian Constitution. This judiciary is tasked with the job of ensuring the protection of the rights of the public and ensuring that the Constitution is well protected. The judiciary is responsible for a number of key obligations, one of the most significant of which is to ensure that the laws that are passed by the legislature and the acts that are made by the executive branch are in accordance with the Constitution. As a result, this process is referred to as judicial review, and it is an essential part of the Constitution of India. The judicial review process is an essential component of the Constitution. Its purpose is to guaranty that all actions made by the government, including those taken by the legislative and executive branches, are in proper agreement with the constitutional framework. This vital mechanism, which was modeled after the system in the United States but was specifically adapted to the Indian setting, serves as a guardian of the rights of citizens in addition to acting as a barrier against arbitrary rule. It was first developed in the United States. It is responsible for ensuring that the government acts within the bounds that have been established by the Constitution, in addition to guaranteeing that the rights of citizens are protected.

It is possible for the executive branch to avoid being accountable to Parliament because neither the DMA nor the EDA contain a provision that is comparable to this one. This indicates that it is possible for the executive branch to use this provision. It is still not possible to satisfy the third condition, notwithstanding the fact that neither of the enactments places a temporal restriction on the exercise of exceptional powers. There are two distinct approaches that are viable options for satisfying the second requirement. To begin, the act that is being questioned may either contain constraints or provide guidelines for the use of executive power. Additionally, the courts may decide which measures are truly considered to be vital. The fact that neither of the acts in question imposes any restrictions on the executive branch is obviously something that should be taken into consideration.

On the contrary, they grant it a degree of discretion that is exceedingly broad in scope. The provisions of Section 35(1) of the Disaster Management Act (DMA) stipulate that the center is bound to adopt any and all measures that it deems necessary or expedient for the purpose of disaster management. This obligation applies to any and all options that are available to it. Furthermore, the EDA does not specify a description of a dangerous epidemic disease; nevertheless, it does grant state governments the ability to "take such measures as it shall deem necessary" in order to combat such a sickness within their respective states. Instead of providing any more guidance on the bounds of these measures, it depends on the state's evaluation of what constitutes a requirement. This is because it does not offer any extra direction. The enactments themselves do not limit exceptional measures to only those that are absolutely essential. This is because of the reason stated above.

The second strategy would be for the court system to ensure that extraordinary measures are limited to only those that are absolutely essential. This would be the second method. Given that India has opted to respond to the epidemic through the legislative paradigm, which includes the DMA and the EDA, both of which do not restrict judicial scrutiny, it is not inconceivable that this may take place in the country. When it comes to fundamental rights, it is not permissible to make any exceptions (in contrast to instances in which an emergency has been officially declared). It is for this reason that the judicial system is the only alternative that continues to function as a defense mechanism against the abuses of the executive branch and the erosion of democratic ideals. It is via the process of judicial review that constitutional rights would be safeguarded against being violated without any cause. Not only is it the responsibility of the judicial branch to curb the extravagant actions of the executive branch, but it is also responsible for legitimizing the activities of the government by examining them.

The Judiciary and The Protection of The Right to Public Health During Pandemics

In India, there are three departments of government: the Legislative Body, the Executive Body, and the Judiciary. Each institution is responsible for a specific function. Every one of these branches is responsible for a certain role that is outlined in the concept of separation of powers, which is in conformity with the principle.58: As a result of this decree, the Judiciary has been entrusted with the extremely significant responsibility of overseeing the actions and inactions of the executive branch. This responsibility is, without a doubt, of the utmost significance. Furthermore, the Judiciary is obligated to safeguard not just the Fundamental Rights but also all of the constitutional rights to the people who reside in the country that it serves. This obligation extends beyond the provisions of the Constitution. As a result of the COVID-19 outbreak that broke out in India, a number of rights, including Fundamental Rights, were suspended by the government of the federal government as well as the governments of the several states. Taking this action was done as a reaction to the pandemic. All of the arbitrary activities that are carried out by the government within the context of this framework are the responsibility of the judicial system in India, which is responsible for conducting investigations and conducting analyzes of these actions.

Taking into consideration the context of this conversation, the judicial branch is responsible for a wide variety of functions, some of which include "Constitutional Morality," "Constitutionalism," and "Constitutional Oath," in addition to a bigger number of other functions. Because of this, the judicial system of India, which is one of the most important bodies in the most powerful democracy in the world, is saddled with a significant responsibility for the provision of "Social Justice" and the establishment of "Rule of Law." This is because of the reason stated above.In the context of a social

and economic democracy, the Constitution of India envisions the development of a social order that is equitable and offers social, economic, and political justice to each and every citizen. This is a provision that is included in the Constitution. In the context of a democratic society, this is to be accomplished using democratic principles. The concept of constitutional morality has been unquestionably adhered to by the Honorable Supreme Court in each and every one of the most recent decisions that it has handed down. As part of the proceedings surrounding the Naz Foundation58 case, the Supreme Court of India issued a statement stating that "only Constitutional Morality should prevail, not Public Morality."

Therefore, in order to guaranty that constitutional morality was preserved, the Honorable Supreme Court of India refrained from using the "doctrine of essentiality" when it came to the Sabarimala case. Therefore, it is abundantly clear that constitutional morality will always be a fundamental concern for the Constitution. This is the case. Due to the fact that the Constitution is considered sacred. The individuals who were responsible for drafting the Constitution wanted to have a moral binding over the Constitution that would apply to each and every person in the country, particularly in regard to the judicial system of the nation.

This was a consequence of the fact that they were responsible for drafting the Constitution. The judicial branch is responsible for ensuring that the morality of the Constitution is not adversely affected in any way, shape, or form by the actions or inactions of the executive branch. This obligation falls under the purview of the judicial branch. The Constitution of the United States of America specifies that this task is within its scope. There have been a number of actions, such as a lockdown that was not very well planned, as well as inactions, such as initially being lackadaisical to, on the part of both the "Central government and the State governments," that have led to compromises with regard to social, economic, and political justice in India during the course of the COVID-19 pandemic.

Platforms for Improved Medical Communication

In this comprehensive review, we seek to identify the main gaps and limits in present IT-enabled disease monitoring systems leading to future advancements driven by artificial intelligence. The research offers a good basis for comprehending the current state of disease surveillance and the possibility for artificial intelligence to overcome current challenges by comprehensively reviewing these areas. The second portion of the study employs meta-analysis approaches to do a quantitative investigation of the effect of the integration of AI on accuracy and efficiency in disease diagnosis.

This type of rigorous analysis can be applied to carry out a data-driven examination of the efficacy of artificial intelligence in improving surveillance outcomes. The aim of the meta-analysis is to provide a holistic view of the potential benefits that artificial intelligence may bring about by assessing a broad spectrum of studies and real-world applications. This section also discusses how AI models might help public health professionals with resource allocation and emergency preparedness. It examines how artificial intelligence can process massive quantities of data to determine high-risk places, estimate resource needs and suggest the best distribution methods.

This part of the study also emphasizes the necessity of safeguarding public health rights by analyzing the manner in which artificial intelligence systems require design and implementation that take into account ethical issues and privacy protections. The last part of the study closes the gap between

theory and practice by examining how artificial intelligence is in fact used in disease surveillance. The main emphasis of the examination is a case study of India's Integrated Disease Surveillance System. This detailed review highlights a range of practical hurdles and potential for integrating artificial intelligence technology into public health systems. The study focuses on this particular example to give a realistic sense of how artificial intelligence could actually be used to improve diagnosis of disease and response efforts. It also points to the achievements and restrictions of applying AI in a real-world context.

The study presents a synthesis of the information gathered using the findings of the case study, meta-analysis and theoretical review. It gives a fair view on the present landscape of artificial intelligence in illness monitoring and also points out the areas which still need further research and development by researchers and the areas which have shown promising advancements. Furthermore, it provides recommendations for researchers, policymakers and public health experts on how to use artificial intelligence in disease surveillance systems.

Artificial intelligence (AI) technologies are rapidly changing the face of public health, providing tools that can greatly enhance disease detection, resource management, decision-making, and public involvement. The COVID-19 pandemic demonstrated the importance of rapid, data-driven responses to emerging health threats, propelling the integration of artificial intelligence into the healthcare sphere. Today, AI-powered models have been used for outbreak prediction, optimizing healthcare resources, predicting patient outcomes and delivering tailored health messages. Artificial intelligence has become a key part of healthcare infrastructures today because, in combination, these capabilities improve the effectiveness, precision and timeliness of public health interventions.

Conclusion

In conclusion, the challenges posed by emerging infections in India necessitate a comprehensive and multifaceted approach. A national plan on infectious diseases involving both governmental and non-governmental sectors is crucial. This plan should encompass a wide range of strategies, including prevention, timely diagnosis, rapid response, and long-run management of infectious diseases. The establishment of centers of excellence, enhanced surveillance systems, and advanced countermeasures are essential components of this strategy. These centers of excellence should focus on research, training, and capacity building in various aspects of infectious disease management, while the enhanced surveillance systems should utilize cutting-edge technologies to detect and monitor potential outbreaks in real time. India's Vision 2035 for Public Health Surveillance outlines an integrated approach, emphasizing collaborative governance and innovative data-sharing mechanisms. This vision aims to create a robust, interconnected network of public health institutions across the country, facilitating rapid information exchange and coordinated action.

References

1. Jai Prakash Narain(2016) Global Health Governance: International Law and Public Health in a Divided World." University of Toronto Press, 2016.
2. Das Gupta (2015)"Global Health Governance: International Law and Public Health in a Divided World." University of Toronto Press, 2015.
3. Agrawal and Sanger (2015) Public Health Policy and Ethics: International Perspectives." Springer, 2015.

4. Prinjal et al (2012) Regulating to Promote Health and Safety." In "Oxford Handbook of U.S. Health Law," edited by I. Glenn Cohen, Allison K. Hoffman, and William M. Sage, 273-298. Oxford University Press, 2012.
5. Chakrabarti, Parthasarathi, and T. Sundararaman. "Health and the Law: A Guide to Public Health Law in India." Oxford University Press, 2021.
6. Coggon, John, and Swati Gola. "Global Health and International Community: Ethical, Political and Regulatory Challenges." Bloomsbury, 2013.
7. Coker, Richard, Rifat Atun, and Martin McKee. "Health Systems and the Challenge of Communicable Diseases: Experiences from Europe and Latin America." Open University Press, 2008.
8. Davies, Sara E. "Global Politics of Health." Polity Press, 2010
9. Fidler, David P. "International Law and Infectious Diseases." Oxford University Press, 1999.
10. Garrett, Laurie. 1994. The Coming Plague: Newly Emerging Diseases in a World Out of Balance. New York: Penguin Books.
11. Gostin, Lawrence O., and Eric A. Friedman. "Global Health Law." Harvard Law Review 123, no. 6 (2010): 205-207.
12. Gostin, Lawrence O., and Lindsay F. Wiley. "Public Health Law: Power, Duty, Restraint." University of California Press, 2016.
13. Institute of Medicine. "The Future of Public Health." National Academies Press, 1988.
14. Koplan, Jeffrey P., et al. 2019. "Towards a Common Definition of Global Health." The Lancet, 373(9679): 1993-1995.
15. Lee, Kelley, and Adam Kamradt-Scott. "The Securitisation of Global Health." Cambridge University Press, 2013.
16. Lee, Kelley, and Jennifer Fang. "Historical Dictionary of the World Health Organization." Scarecrow Press, 2013.
17. Lee, Kelley, ed. "Health Impacts of Globalization: Towards Global Governance." Palgrave Macmillan, 2003.
18. Lee, Kelley, Kent Buse, and Suzanne Fustukian, eds. "Health Policy in a Globalising World." Cambridge University Press, 2012.
19. Lisk, Franklyn, ed. "Global Institutions and the HIV/AIDS Epidemic: Responding to an International Crisis." Routledge, 2006.
20. Mann, Jonathan M., et al. "Health and Human Rights." Routledge, 1999.