



Regulations and their Scope in Public Health

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ABSTRACT

From the inception of public health as a discipline, separate to mainstream healthcare, a body of law has developed in many countries which is intended to aid in preventing and containing disease.

Public health law has come a long way from its beginnings in the original health acts of the 19th century, focusing on condition of sanitation and noxious environments. Now, most high-income countries (and a substantial proportion of low and middle-income countries) have enacted more or less comprehensive legislation around control and reporting of infectious disease; quarantine; food hygiene, and so forth. These laws operate quietly in the background to greater or lesser extents throughout the world, and are an integral part of any country's strategy around preventive health. This paper has incorporated some important regulation in the field of public health in India and a small discussion about the feasibility of these regulation.

Keywords : public health, regulation,India

Introduction

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Regulation in Public Health: ⁽²⁾

With passing time, the perimeters of public health concern have been expanding rapidly. Whereas not long ago many would limit public health matters to general sanitation and the control of infectious diseases only, today, all aspects of Winslow's famous definition of public health are not only included but even surpassed and all this is evidenced by a spectacular increase in significant federal legislative actions and programs and framing of all sorts of laws concerning maintenance and improvement of public health.

The Prevention of Food Adulteration Act (PFA)

This act was enacted by the Parliament of India in 1954. It was to ensure pure and wholesome food to the consumers and to protect them from fraudulent and deceptive trade practices..A minimum imprisonment of 6 months &/or minimum fine of Rs 1000/- is envisaged under the act for cases of proven adulteration.

The Medical Termination of Pregnancy Act, 1971

This act was laid down in 1971 and it came into force from 1st April 1972. It extends to the whole of India except the state of Jammu and Kashmir. Implementing rule and regulations were revised in 1975, to simplify the procedure for approval of the place and for ready availability of services. (3) The written

consent of the guardian is necessary before performing abortion in women under 18 years of age, and in lunatics even if they are older than 18 years. (4)

The Employees State Insurance (ESI) Act

The ESI act passed in 1948 and amended in 1975, 1984, 1989 and 2004 is an important measure of social security and health insurance in this country. It provides for certain cash and medical benefits to industrial employees in case of sickness, maternity and employment injury.

The Factories act, 1948

(The first Indian factories act dates as far back as 1881).The act (of 1948) was revised and amended several times, the latest being the Factories (amendment) act, 1987.The act applies to whole of India except the state of Jammu & Kashmir.

The Cigarettes and other tobacco products (prohibition of advertisement and regulation of trade and commerce, production, supply and distribution) Act, 2003 ⁽⁵⁾

39th World health assembly in its 14th plenary meeting held on 15th May 1986 urged the member states to implement measures to ensure protection of the nonsmokers from involuntary exposure to tobacco smoke & to protect children and young people from being addicted to the use of tobacco.

43rd World Health Assembly on 17th May 1990 reiterated the concerns expressed above.

This act states that, Smoking in any public place is banned.

("Public place" means any place to which the public have access, whether as of right or not, and includes auditorium, hospital buildings, railway waiting room, amusement centres, restaurants, public offices, court buildings, educational institutions, libraries, public conveyances and the like which are visited by general public but does not include any open space.)

Section 20 of the Cigarettes and Other Tobacco Products Act (Prohibition of Advertising and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, also provides for stringent penalty for non-compliance.

Environment (protection) act, 1986 ⁽⁶⁾

In response to the 1972 United Nations conference on the Human Environment at Stockholm, India enacted 'The Environment (Protection) Act 1986.

This act empowers the Central Govt. to prevent, control and abate environmental pollution.

According to this act, no person carrying on any industry, operation or process shall be permitted to discharge any environmental pollutant in excess to the prescribed standards.

Water (Prevention and Control of Pollution) Act

In response to critical problems on quality and quantity for water, Indian Government enacted this act in 1974. It was applicable in the first instance to the whole of the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal and the Union territories; and it was applicable to such other State which adopted this Act by resolution passed in that behalf. ⁽⁷⁾

Air (prevention and control of pollution) act, 1981 ⁽⁵⁾

In order to have an integrated approach for tackling the problems related to pollution, this act provides that the Central and State Pollution Control boards established under the Water Act, 1974 shall also act as Air pollution Control boards under this act. But in those states in which State Pollution Control boards for Water pollution are not established, separate state boards for Air pollution control will be established.

Consumer Protection Act 1986 (COPRA)

The Consumer protection act was promulgated with a view to provide an easy, speedy, cheap and summary redressal of complaints involving contractual transactions.

The Consumer Protection Act was passed in 1986. It extends to the whole of India except the State of Jammu and Kashmir. It came into force from the year 1987. The state of Jammu and Kashmir has a similar but separate law applicable in the state under the name of "Jammu and Kashmir Consumer Protection Act, 1987" ⁽⁸⁾ According to this act those who provide goods and/or services are grouped in the category of producers/providers; and those who buy them at a cost are consumers/recipients. ⁽⁹⁾

Human Organ Transplantation act 1994 ⁽⁹⁾

A person can will to donate upon his death his two eyes (cornea), two kidneys, heart and liver in addition to eardrum and ear bone. In India, prior to passing of Human Organ transplantation act, a few legislations for organ donation existed. Transplantation act 1994 was passed on the 8th July 1994, to provide for the regulation of removal, storage, and transplantation of human organs for therapeutic purposes and for the prevention of commercial dealings in human organs.

Preconception and Pre Natal Diagnostic Techniques (Prohibition of sex selection) Act (PNDT), 1994 ⁽¹⁰⁾

This act came into being since 1996. This was because of a campaign in 1986 that included women's groups and health activists. The campaign resulted in the Maharashtra Government appointing a committee that followed formulation of the act at the state level in 1988. Given the concern of the then Health Secretary of Maharashtra and other organizations, this issue was taken up at the Central Government level resulting in the formulation of this act in 1994, which was brought into force on January 1st 1996.

The Central Birth and Death Registration Act, 1969.

In an effort to improve the civil registration system, the Government of India promulgated the Central Births and Deaths Registration Act, in 1969. The act came into force on 1st April 1970. The time limit for registering the event of births is 14 days and that of death is 7 days. In case of any fault, a fine up to 50 rupees can be imposed. ⁽⁴⁾

Regulation needed or not ?

Recent years have seen important developments aimed at improving the quality of regulation. Governments across the world have developed a variety of approaches to help simplify regulatory systems, bring greater discipline and more rigorous analysis to the design of regulation, and to reduce the burden on those affected by regulation. But in order to achieve the Government's aim of transforming the role that regulation plays in our society, and to enable stronger economic growth, a new approach is needed. For example the litigation settlement did force tobacco firms to abandon practices. But this merely shifted the industry's marketing budget to other strategies such as point of sale promotions in retail establishments and high tech advertising through the internet. ⁽¹¹⁾

But public health leaders who promote self regulation by business should accept that voluntary cooperation will never achieve enough. Performance based regulation occupies the middle ground—a third way. Let society set legally enforceable goals and then let enterprises accomplish them.

Regulations may take many forms ranging from prohibitions to imprisonment. The legislative approach may seem to be simplest and quickest way to improve health or bring about desired changes in society but there are also important failure of laws e.g. prohibition of alcohol.

The reasons for the failure of the coercive approach are not far to seek; in the first place the cause of disease (medical or social) cannot be eradicated by legislation; at the most the government can make laws to prevent a person spreading disease in his community, e.g. vaccination in an emergency. Secondly, in areas involving personal choice (e.g. diet, exercise, and smoking) no government can pass legislation to force people to eat a balanced diet or not to smoke. It amounts to taking away some of the rights of the individual. It is difficult to enforce a law unless the majority of the people are in favour of it and if it does not interfere with the rights of the individual.

Conclusion

However, laws may be useful in times of emergency or in limited situations such as control of an epidemic disease or management of fairs and festivals. Even in cases where it is the duty of the Government to make laws to prevent the spread of disease (e.g. AIDS) it is difficult to enforce laws without a vast administrative infrastructure and considerable expenditure. To a degree, the people must be ready to accept a law. In short, the coercive approach runs counter to the basic tenet of health education, that is, in health education, we do not force people to change. In specific situations, legislation can be used to reinforce the pressure to change collective behaviour.

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