CHAPTER 3
PUBLIC HEALTH LEGISLATION

Public health and infectious disease control have always been strongly linked, yet public health consists of more than control and eradication of infectious disease.¹ David Fidler, in his book *International Law and Public Health*, defines public health as “what we, as a society, do collectively to ensure the conditions in which people can be healthy.”² The World Health Organization (WHO) defines health as a “state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity.”³ Both of these definitions are broad in scope and encompass numerous areas that affect and influence physical, social, and mental well-being, such as access to medical services, as well as physical, biological, and social environments.⁴ Public health deals directly with society as whole, seeking to promote the health of the community, as well as the individual.⁵ The definitions of public health offered by Fidler and the WHO illustrate why a more integrated approach is needed to facilitate the development of a health-oriented global society.

Most approaches to public health issues are technical, environmental, or engineering solutions because of the complicated and unpredictable

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¹ Historically, eradication of smallpox, the progress made against numerous diseases, and developments of modern hygiene influenced the current connection of public health with infectious disease. DAVID P. FIDLER, INTERNATIONAL LAW AND PUBLIC HEALTH 3 (2000).

² Fidler suggests three levels of prevention for promoting health: The primary level focuses on preventing the occurrence of health problems by “enabling people to increase control over, and improve their health.” The secondary level of prevention centers on prompt detection, successful management, and treatment of a health condition before actual damage to health is incurred. Id. at 3–4. The tertiary level is broader in scope and attempts to limit the specific impairment while increasing quality and length of life. Id. at 6.


⁴ FIDLER, supra note 1, at 4.

⁵ Id. at 3.
nature of the human behavior element in public health problems. Successful development of public health improvements and solutions also requires examination of societal concerns, such as human rights and local, regional, and global politics and economics. This collection of factors makes efforts to improve or maintain public health infrastructures difficult to achieve. The forces of globalization also provide a vital catalyst to the changing nature of public health by increasing the integration of the global community. Globalization enables the rapid spread of pathogens across countries and continents, blurring the lines between domestic and international public health systems, and challenges the ability of states to control and protect against infectious disease. States and regions can no longer effectively offer adequate public health protection for their constituents without international cooperation and coordination in infectious disease control.

Changes in international trade mechanisms also emphasize the effects of globalization on infectious disease and stress the need for international cooperation. The increased scope of international trade and travel disrupt domestic public health strategies and regimes; international trade is such a pervasive part of global society that it is virtually impossible to screen all agricultural imports for known pathogens, as well as new pathogenic threats. The removal of trade barriers, both physical and regulatory, has increased the speed and efficiency of commodity movement to the point where pathogens move faster than detection methods are able to locate them.

6 *Id.*
7 *Id.* at 3, 6.
8 The term globalization possesses many meanings, depending on the perspective generated by the context of its use. Fidler defines globalization as “processes or phenomena that undermine the ability of the sovereign state to control what occurs within their territory.” *Id.* at 16.
9 *Id.*
10 *Id.* at 17.
11 *Id.*
12 *Id.* at 21.