

Public health in international law: the contribution of the World Summit on Sustainable Development

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In 1987, sustainable development was defined by an international commission chaired by Gro Harlem Brundtland as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (1). It is the object of an intergovernmental process that led us from Stockholm in 1972 to Rio in 1992 and then to Johannesburg in 2002. A frequently used image is that of three equally important and mutually supportive pillars that make up sustainable development: environmental protection, social development, and economic development. Public health is an important component of the social pillar. We could thus anticipate that the Johannesburg Summit, the largest and most prominent global event dealing with sustainable development in the last decade, would in some way influence the development of the body of international law that deals with public health. What contribution could we have reasonably expected?

First, we should note that the adoption of a legally binding treaty was never an aim of the Summit, so we could not expect it to develop treaty law relevant to public health. The aim of the Summit was to assess progress made in implementing Agenda 21, the ambitious action programme adopted in Rio, and to decide on ways to accelerate it. To this end, the Summit adopted two non-binding political documents, the Plan of Implementation of Agenda 21, and the Johannesburg Ministerial Declaration (2). Since Agenda 21 contains a chapter on health, the Summit could be expected to tackle the implementation of health policies. Although any contribution of the Summit to the international health discussion would necessarily be of a political and conceptual nature, we could hope that the political weight of this contribution would be considerable, given the importance of the event.

Second, as the concept of sustainable development is originally a product of the process of environmental law and policy-making, much of the international discussion to date has focused on the environmental pillar, and in particular its relationship with the economic pillar. We could hope that the Summit would correct this imbalance by

giving appropriate weight to the social pillar, including public health issues.

Third, the integrated approach to a wide range of subjects, made possible by the concept of sustainable development, favours the emergence of cross-sectoral principles, notably the precautionary principle, the principle of common but differentiated responsibilities of countries, and the polluter pays principle. These have thus far been developed in the context of environmental protection, but they could be expanded to social issues such as health. We could hope that the Summit would promote this approach.

To what extent did the World Summit on Sustainable Development meet these expectations?

Unexpectedly, and in contrast to previous international discussions on sustainability, the health chapter of the Plan of Implementation (2) proved to be one of the most contentious parts of the Summit negotiations. It was the last on which agreement was reached. Countries were divided as to whether to state that human rights and fundamental freedoms must be respected in the provision of health care, and whether preventive health services should be included. Regardless of the immediate result, the arduous debates on these issues did highlight the importance of health. It became abundantly clear that health is not only part of the social “pillar”, but also an overarching aspect of sustainable development.

Reference to human rights, in addition to national laws and customs, was of fundamental importance to a large group of states: without it, they feared, the text would legitimize practices such as female circumcision. The reference was finally included during the last hours of the Summit negotiations. In exchange, this group of states had to give up the reference to preventive health services. It had been opposed mainly by conservative religious states and the Vatican, on the grounds that the reference to preventive services would include reproductive health and thus legitimize birth control and abortion.

On the whole, it has to be said that the substantive results of the discussions on public health at the Summit are a

disappointment. The text contains no innovative elements, and only just managed to avoid taking a major step back from the commitments made a few years previously by major thematic conferences. The Programme of Action adopted by the United Nations International Conference on Population and Development (Cairo, 1994) recognizes that “population and development programmes should be based on reproductive health, including sexual health, and reproductive rights for women, men and children” (3). The Declaration and Platform for Action adopted by the Fourth World Conference on Women (Beijing, 1995) states that “the explicit recognition and reaffirmation of the right of all women to control all aspects of their health, in particular their own fertility, is basic to their empowerment” (4).

Regarding the application of cross-sectoral principles to health, this was indeed advocated by a number of states, but did not prevail at the Summit.

In a nutshell, one might say that the substantive results of the Summit in the area of public health fall short of even quite modest expectations. Nevertheless, the Summit discussions did give increased recognition to the significance of health issues in the sustainability discussion.

In the coming years, it will be important to build on this recognition. The social pillar must be strengthened further, and the application of cross-sectoral principles to health remains an interesting option. Beyond that, there is potential for further developing treaty law on public health issues. This could take place in parallel with treaty law on the environment — one of the most rapidly developing areas of international law, to which health is often directly related. ■

1. World Commission on Sustainable Development. *Our common future*. Oxford: Oxford University Press; 1987.
2. Plan of Implementation of Agenda 21; Johannesburg Ministerial Declaration. Available at: URL: www.earthsummit2002.org
3. The text of the Plan of Implementation is available at: <http://www.iisd.ca/linkages/Cairo/program/p00000.html>
4. The text of the Beijing Declaration and Platform for Action is available at: gopher://gopher.undp.org/00/undocs/gad/A/CONF.177/95_11/20

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