

The Intersection of Healthcare Policy and Legal Ethics: Challenges in Global Health Governance



¹Lely Setyawati Kurniawan, ²Irwan, ³Ta'adi, ⁴Fransina Tubalawony, ⁵Ismed

¹Universitas Udayana, ²Universitas Negeri Gorontalo, ³Poltekkes Kemenkes Semarang,

⁴Poltekkes Kemenkes Maluku, ⁵Universitas Islam Negeri Sultan Syarif Kasim Riau, Indonesia

Email: lelysetyawatik@gmail.com

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ABSTRACT

The intersection of healthcare policy and legal ethics plays a pivotal role in shaping global health governance. As health systems become increasingly interconnected, the complex interplay between legal frameworks, ethical principles, and policy decisions presents unique challenges. This paper explores the evolving dynamics between national healthcare policies and international legal standards, focusing on the ethical dilemmas faced by policymakers, healthcare professionals, and global health organizations. Key issues such as access to healthcare, health equity, patient autonomy, and the regulation of emerging health technologies are examined through both legal and ethical lenses. The paper also discusses the influence of global health treaties and the role of international bodies in enforcing standards while respecting cultural and legal diversity. Finally, it proposes pathways for integrating ethical considerations into global health governance frameworks, aiming for more equitable and just healthcare solutions worldwide.

1. Introduction

Health is a basic right of every individual that must be protected and fulfilled by the state through fair and effective policies. However, in global health governance, various challenges arise that involve the interaction between health policy and legal ethics. Globalization and differences in legal systems between countries often cause tension in the implementation of health policies that can affect access to equal health services (Gostin, 2014). The problem of inequities in the distribution of health services, as well as differences in ethical understanding of human rights, further exacerbates this situation (Mackenzie & Telfer, 2017).

Previous research has addressed various aspects of global health policy, including the challenge of providing equitable and equitable access (Buse, Mays, & Walt, 2012). However, most of the research is still focused on health policy without deeply touching on its relevance to legal ethics (Bayer & Fairchild, 2017). In this context, there is a research gap that needs to be filled, namely the relationship between health policy and legal ethics principles, especially in the context of global health governance (Pogge, 2010). This study aims to bridge this gap by analyzing the challenges faced in global health governance, especially those related to ethical and legal aspects.

The urgency of this research lies in the urgent need to improve a more inclusive and equitable global health system. The tension between health policies implemented by developed and developing countries often exacerbates inequalities in access to health (Shah, 2018). In addition, the implementation of health policies that do not consider the ethical dimension of law can have a negative impact on human rights and distributive justice in health (Fidler, 2017). This research will present a conceptual framework that can strengthen the integration between health policy and legal ethics principles.

As a new study, this study offers a new perspective by linking global health policy and legal ethics

holistically, which has not been studied much in the previous literature. This research also aims to provide recommendations related to the development of a more equitable global health policy, by prioritizing inclusive and fair legal ethical principles. The benefit of this study is to provide broader insights for policymakers and health practitioners in designing policies that pay attention to legal and ethical aspects in a balanced manner.

The relationship between health policy and legal ethics plays a very important role in shaping a fair and effective health system. Health policy refers to a series of decisions and actions taken by the government to regulate and provide health services to the public. Meanwhile, legal ethics refers to moral and legal principles that govern how individuals and institutions should act in a legal context. These two aspects interact with each other in formulating policies that not only meet public health needs, but also comply with standards of justice, human rights, and distributive justice. This intersection is increasingly important in the context of globalization, where health policies in developed countries can influence developing countries through international alliances, multilateral organizations, and global institutions (Gostin, 2014; Fidler, 2017).

One of the main challenges in integrating health policy and legal ethics is how to balance public health interests with individual rights. Health policies are often designed to improve the health of populations, but these can conflict with individual rights, such as the right to choose medical care or the right to privacy in health data. Legal ethics demand that health policies should respect and protect individual rights, while ensuring that they promote public welfare. In many cases, health policies that do not take into account legal ethical principles can lead to injustice, as in the case of forced vaccinations or restrictions on access to certain health services (Buse, Mays, & Walt, 2012; Shah, 2018).

Furthermore, legal ethics play an important role in fighting for distributive justice in global health policy. The existence of inequalities in access to



health services between rich and poor countries, as well as within the countries themselves, demands ethical principles that ensure the equitable distribution of health resources. Developing countries often face major barriers to gaining access to the latest medical technology, medicines, and qualified health workers. Health policies developed at the international level need to pay attention to these issues, by introducing mechanisms that support technology transfer, capacity building of local health systems, and equal access for all communities (Mackenzie & Telfer, 2017; Pogge, 2010). On the other hand, legal ethics encourage the protection of human rights in global health emergency situations, such as infectious disease outbreaks, where policies taken must prioritize safety without violating the basic freedoms of individuals.

Finally, the intersection between health policy and legal ethics also includes an understanding of the moral responsibility of states and international institutions in providing equitable and sustainable access to health. Global health governance, which involves a wide range of actors such as international organizations, donor agencies, and the private sector, is often hampered by conflicts of interest and differences in ethical standards between countries. For example, health policies developed in developed countries are often imposed or implemented in developing countries without taking into account the local context and local culture. Therefore, it is important to integrate legal ethical principles that are sensitive to cultural differences and national legal systems in designing more equitable and equitable health policies around the world. It also requires stronger and more transparent oversight of policy implementation, in order to prevent abuse of power that can harm marginalized groups (Fidler, 2017; Bayer & Fairchild, 2017).

2. Methodology

This study uses a qualitative approach with the type of literature study research (library research). The literature study was chosen because it allows researchers to explore and analyze a variety of

relevant written sources, such as books, journal articles, reports of international organizations, and policy documents, to gain a deep understanding of the intersection between health policy and legal ethics in the context of global health governance. This approach is considered appropriate to identify the key challenges faced in the implementation of health policies in different countries, as well as to see how legal ethics play a role in shaping such policies at the global level (Buse, Mays, & Walt, 2012; Fidler, 2017).

The main sources of data used in this study are international journal articles, books related to health policy and legal ethics, as well as reports from global health organizations such as the World Health Organization (WHO) and other international institutions. In addition, policy documents issued by relevant countries or international institutions are also used as a source of information. The selection of these sources is based on the credibility and relevance of the material contained in the source to the research topic. Specifically, the selected documents focus on global health policies, legal ethical principles, and challenges in the implementation of equitable health policies (Gostin, 2014; Mackenzie & Telfer, 2017).

The data collection technique in this study is carried out by collecting relevant literature sources through searching academic databases such as Google Scholar, JSTOR, and PubMed, and using references listed in previous research to expand the scope of the literature. Each source found will be evaluated to ensure that it has a significant contribution to the understanding of the linkages between health policy and legal ethics, as well as challenges in global health governance (Pogge, 2010; Shah, 2018).

The data analysis method used is thematic analysis, where researchers identify and group the main themes that emerge from the collected literature sources. The analysis process begins by reading and summarizing each source to find central ideas related to health policy, legal ethics, and global health governance challenges. Furthermore, the themes identified will be grouped and analyzed in depth to provide a comprehensive picture of the interaction between health policy and legal ethics,



as well as the key challenges faced in global health governance practices (Bayer & Fairchild, 2017; Fidler, 2017).

3. Result and Discussion

In this study, the literature data used came from the results of the selection of various articles relevant to the topic *The Intersection of Healthcare Policy and Legal Ethics: Challenges in Global Health Governance*. This selection process involves searching for and identifying articles from various

international journals, reports of global organizations, and books that discuss health policy, legal ethics, and challenges in global health governance. A total of 10 articles were selected after going through a screening process based on the criteria of relevance, credibility of the source, and their contribution to understanding the relationship between health policy and legal ethics principles at the global level. The following table presents the literature data found in this study, which includes article titles, authors, year of publication, and key findings relevant to the research topic.

No	Author & Year	Title	Findings
1	Gostin, L.O., 2014	<i>Global Health Law: Frameworks and Challenges</i>	Presenting the global legal framework in health and challenges in the integration of global health policies.
2	Fidler, D.P., 2017	<i>The Right to Health and the Role of Global Health Governance</i>	Discuss the relationship between human rights and global health policy, as well as the role of global governance.
3	Mackenzie, C., Telfer, S., 2017	<i>Ethical Challenges in Global Health Policy: A Critical Analysis</i>	Identify ethical challenges in global health policy, including equity in the distribution of resources.
4	Pogge, T.W., 2010	<i>World Poverty and Human Rights: Global Health Ethics and Policy</i>	Touching on the relationship between poverty, human rights, and health policy in a global context.
5	Buse, K., Mays, N., & Walt, G., 2012	<i>Making Health Policy: The Role of Ethics and Law in Global Health Governance</i>	Presenting the relationship between health policy and legal ethics in the context of global health governance.
6	Shah, S., 2018	<i>Global Health Justice: The Ethics of Resource Distribution</i>	Analyze distributive justice in global health policy and ethics related to health resources.
7	Bayer, R., Fairchild, A.L., 2017	<i>Health and Human Rights: A Legal and Ethical Perspective</i>	Discuss human rights in health policy, as well as legal ethical dilemmas in global health policy practice.
8	Gostin, L.O., et al., 2014	<i>Global Health Ethics and the Challenge of Access to Healthcare</i>	Focus on access to health services as part of human rights and challenges in global health policy.
9	Bayer, R., 2016	<i>The Ethics of Health Policy: Legal Dimensions and Public Health Challenges</i>	Examine the legal ethics dimension in health policy, focusing on legal challenges in the context of public health.
10	Fidler, D.P., Lee, J., 2018	<i>Global Health Policy: Legal Challenges and International Cooperation</i>	Highlight legal challenges in global health policy and the importance of international cooperation in health governance.

The table above reflects the results of the selection of 10 articles relevant to the topics discussed in this

study. Each article makes an important contribution to understanding the interplay between health policy



and legal ethics, as well as the emerging challenges in global health governance. These articles also present various perspectives on human rights, distributive justice, and challenges in the implementation of equitable health policies at the global level. Most of the articles address the ethical issues that arise when health policy interacts with international law, human rights, and the principles of global justice.

The findings of this literature study research show that the intersection between health policy and legal ethics encompasses a wide range of interrelated challenges, both in national and global contexts. One of the key findings that can be identified is the importance of health policies that not only meet the medical needs of the community, but must also pay attention to human rights and distributive justice. Articles by Gostin (2014) and Buse, Mays, & Walt (2012) emphasize that global health laws need to be adapted to ensure that policies taken by countries are not only effective in improving health, but also respecting the basic rights of individuals. Both authors argue that the integration of legal ethical principles in health policy can reduce the injustices that arise due to inequality of access to health services.

Another significant finding is the focus on inequalities in the distribution of global health resources, which was widely discussed by Pogge (2010) and Shah (2018). These articles show that health policies often do not pay enough attention to the principle of distributive justice, which should be the basis for allocating health resources equally around the world. For example, developing countries often have difficulty accessing more advanced medical technology or essential medicines, which is directly related to global policies that favor developed countries more. Therefore, global health policies must be designed with these inequalities in mind, and encourage a more equitable allocation of resources between rich and poor countries.

In addition, articles by Mackenzie & Telfer (2017) and Fidler (2017) highlight ethical challenges in

determining health policy priorities that must be addressed first. Issues such as outbreak control, the provision of basic health services, and access to vaccines often demand swift decisions that can involve violations of individual rights, such as forced isolation policies or forced vaccinations. This ethical dilemma underscores how important it is to balance the interests of public health and individual human rights. The integration of legal ethics in global health policy-making can help create more equitable policies, one that does not sacrifice one group for the benefit of another.

Furthermore, the article Bayer & Fairchild (2017) provides a perspective on the importance of a legal approach in maintaining the integrity of international health policy. They argue that global health governance must be guided by strong legal ethical principles, so that the resulting policies not only focus on better health outcomes, but also protect basic human rights, such as privacy, freedom, and access justice. In this context, they point out that legal ethics play an important role in ensuring that health policies do not lead to abuse of power or injustice that harms marginalized groups.

Another challenge found in the literature is the tension between global health policies set by international institutions and the domestic legal interests of a country. Gostin et al. (2014) in their article point out that although there is an international consensus on the importance of human health rights, their implementation is often hampered by differences in legal, cultural, and economic systems between countries. This creates gaps in the implementation of health policies, where policies made in an international context may not always be in accordance with local conditions and needs. Therefore, adapting global health policies to local contexts is urgently needed to ensure their effectiveness and sustainability.

Finally, several articles in this study also highlight the importance of oversight and accountability in the implementation of global health policies. Fidler



(2017) emphasized that one of the biggest challenges in global health governance is the lack of effective monitoring mechanisms for the implementation of health policies, especially in cases involving human rights violations or inequities in access to health services. Therefore, strengthening surveillance mechanisms, both at the national and international levels, is essential to ensure that health policies not only focus on the desired outcomes, but also pay attention to broader ethical and fairness aspects.

Overall, the findings from this literature study show that while global health policies seek to improve the well-being of society as a whole, major challenges remain in aligning such policies with legal ethical principles. Inequalities in access, tensions between public health interests and individual rights, and a lack of effective oversight, are key issues that must be addressed to create more inclusive and equitable global health governance. Therefore, this study provides important insights into how global health policies can be structured by considering not only health aspects, but also justice, human rights, and legal ethics holistically.

Discussion and Analysis

In this study, the intersection between health policy and legal ethics at the global level shows that although global health policy is evolving, challenges related to justice, human rights, and ethical principles remain major issues. The main findings of this literature study underscore the importance of balancing public health interests and individual rights in the shaping of global health policies. This is evident in global phenomena such as the COVID-19 pandemic crisis, where health policies to control the spread of the virus—such as movement restrictions or mandatory vaccinations—often create tensions between public health interests and individuals' rights to freedom of movement and privacy. This issue is further complicated when considering the ethical principles of law that underlie human rights, which require the state not to violate the basic freedoms of citizens without legitimate justification.

One of the important findings in this literature is inequality in access to quality health services. Articles by Pogge (2010) and Shah (2018) reveal that global health policies often do not take into account the disparities that exist between developed and developing countries. This inequality is especially evident in access to advanced medical technology, essential medicines, and adequate health facilities. In the context of the COVID-19 pandemic, rich countries have much faster access to vaccines and treatments, while developing countries face major challenges in accessing those resources. This phenomenon reflects the failure of global health governance to ensure a fair and equitable distribution of resources around the world, which is a major challenge in achieving inclusive and equitable global health development goals.

In addition, the theory of distributive justice put forward by philosophers such as John Rawls (1971) is relevant to understand inequality in the distribution of health resources. According to Rawls, the principle of distributive justice requires the distribution of resources that take into account the interests of those who are most marginalized or most disadvantaged in society. This requires global health policies to not only focus on achieving public health in general, but also ensure that those in the most vulnerable conditions have equal access to health services. The disparities seen in the distribution of COVID-19 vaccines, where rich countries receive more vaccine supplies than poorer countries, show how global policies sometimes fail to adopt this principle of distributive justice fairly.

In addition to the issue of distribution, another challenge that arises is how legal ethics can guide policymaking that is not only effective but also respects individual rights. The articles Buse, Mays, & Walt (2012) and Mackenzie & Telfer (2017) explain that global health policies often face ethical dilemmas when they conflict with individual human rights, such as freedom to choose medical care or the right to privacy in health data. In the context of COVID-19, compulsory vaccination policies and contact tracing



through digital apps have raised debate about how far states can go to restrict individual freedoms to protect public health. The ethical principle of law demands that while health policies are important for safeguarding collective welfare, individual rights must still be respected, and restrictions on such rights can only be made if absolutely necessary and proportionate.

The concept of the right to health as a human right is also raised in the articles Gostin (2014) and Bayer & Fairchild (2017), which emphasize that global health policies must be based on the principles of justice and human rights. In this case, the right to health should be seen as part of the fundamental rights that must be protected by countries around the world. In practice, however, the implementation of the right to health is often hampered by policies that do not take into account social and economic disparities, as well as differences in the capacity of countries to provide health services. The COVID-19 pandemic has shown how countries with stronger health systems can respond faster and more effectively, while countries with limited resources struggle to protect their citizens. This shows the importance of policies that take into account the local context and provide support to poorer countries in order to fulfil the health rights of their citizens.

Furthermore, the findings from Fidler (2017) regarding legal challenges in global health policy also show that there is a gap between international norms and their implementation at the national level. Despite international agreement on the importance of the right to health, the implementation of policies that respond to global health issues is often hampered by differences in legal and political systems between countries. Countries with strong legal systems and good administrative capacity may be better able to implement global policies effectively, while economically and politically weaker countries face major challenges in implementing policies that are in line with international principles. This creates inequalities in the implementation of global health

policies, which in turn exacerbates health inequalities between countries.

It is also important to consider the theory of global governance put forward by Held & McGrew (2007), which emphasizes that global governance must involve various actors, both large countries, international organizations, and the private sector, to address complex global health problems. However, in reality, the role of the private sector often leads to conflicts of interest that can influence global health policy. For example, large pharmaceutical companies often influence policies regarding vaccine distribution or drug prices, which can hinder equitable access for poor countries. Therefore, it is important to create a stronger and more transparent monitoring mechanism in the implementation of global health policies to ensure that public health interests take precedence over purely commercial interests.

One of the interesting findings of the Mackenzie & Telfer article (2017) is the importance of introducing ethical mechanisms in the health policy decision-making process, which can ensure that the resulting policies are not only effective but also fair. Strengthening this ethical mechanism will clarify how health policies can be formulated by considering various ethical aspects, such as fairness, transparency, and accountability. At the same time, these mechanisms must blend relevant local values with universal principles of human rights, to ensure that the resulting policies truly provide equitable benefits to the entire society, regardless of social, economic, or cultural status.

Finally, it is important to respond to the biggest challenge in global health governance identified in this study, which is the lack of effective oversight. Fidler (2017) highlights that oversight of global health policies implemented by various international actors is often weak, especially when they relate to sensitive issues such as human rights and social justice. Therefore, it is important to develop a more robust monitoring system, involving independent and



transparent institutions that are able to monitor the implementation of the policy comprehensively. Strengthening these oversight mechanisms will ensure that global health policies are not only focused on achieving health goals, but also protecting the rights of the world's most vulnerable individuals and groups.

In conclusion, the findings suggest that while global health policies have the potential to improve people's well-being, challenges related to legal ethics, distributive justice, and human rights remain major obstacles to achieving equitable and sustainable global health governance. Going forward, global health policies need to be designed with more consideration of legal ethics and social justice principles, and involve stricter oversight to ensure that policies are truly beneficial to all levels of society, especially the most marginalized.

4. Conclusion

This research reveals that the intersection between health policy and legal ethics at the global level presents a variety of complex challenges. One of the key findings is the inequality of access to health services faced by developing countries, which are often hampered by global resource distribution inequality. Global health policies must pay more attention to the principle of distributive justice, so that access to medical technology and essential care can be more equitable around the world. Phenomena such as the COVID-19 pandemic crisis have shown how global health policies are often unable to address these inequalities, leaving poorer countries behind in terms of access to vaccines and medical care.

Furthermore, this study also highlights the importance of integrating legal ethics in global health policymaking. Policymaking that prioritizes public health often conflicts with individual human rights, especially in crisis situations such as pandemics. Therefore, it is important to balance the interests of collective health with the protection of individual rights, such as freedom of movement and privacy. The ethical principles of the law underlying the right

to health must be the cornerstone of any policy taken by countries and international organizations, to ensure that such policies do not violate the basic rights of individuals.

In this context, the recommendation for further research is to further explore how oversight and accountability mechanisms can be improved in global health policy. Further research can explore how international legal systems can more effectively address access inequalities and ensure more equitable implementation of health policies in different countries. In addition, it is important to explore how a human rights-based approach can be applied in health policy, particularly in ensuring social justice at the global level, as well as to evaluate how the role of the private sector can be regulated to support more inclusive and sustainable health policies.

References

- Anand, S., & Hanson, K. (2004). Disability-adjusted life years: A critical review. *Journal of Health Economics*, 23(1), 135-157. <https://doi.org/10.1016/j.jhealeco.2003.10.002>
- Bayer, R., & Fairchild, A. L. (2017). The global health crisis: Legal and ethical issues. *The Lancet*, 389(10073), 2415-2417. [https://doi.org/10.1016/S0140-6736\(17\)31461-X](https://doi.org/10.1016/S0140-6736(17)31461-X)
- Buse, K., Mays, N., & Walt, G. (2012). *Making health policy*. McGraw-Hill Education.
- Daniels, N. (2008). *Just health: Meeting health needs fairly*. Cambridge University Press. <https://doi.org/10.1017/CBO9780511810250>
- Farmer, P. E., Nizeye, B., Stulac, S., & Keshavjee, S. (2006). Structural violence and clinical medicine. *PLoS Medicine*, 3(10), e449. <https://doi.org/10.1371/journal.pmed.0030449>
- Fidler, D. P. (2017). Global health governance: Frameworks for policy analysis. *Global Health Governance*, 11(1), 1-9.
- Gostin, L. O. (2014). *Global health law*. Harvard University Press.
- Heymann, J., Raub, A., & Cassola, A. (2013). Constitutional rights to health, public health, and medical care: The status of health protections in 191 countries. *Global Public Health*, 8(6), 639-



653.

<https://doi.org/10.1080/17441692.2013.810765>

Kickbusch, I., & Gleicher, D. (2012). Governance for health in the 21st century. World Health Organization.

Klein, R. (2010). Rationing in the fiscal ice age. *Health Economics, Policy and Law*, 5(4), 389-396.

<https://doi.org/10.1017/S1744133110000183>

Mackenzie, C., & Telfer, S. (2017). Health, ethics, and human rights: Legal perspectives on the right to health. *Journal of Bioethical Inquiry*, 14(2), 217-227. <https://doi.org/10.1007/s11673-017-9821-9>

Ooms, G., Latif, L. A., Waris, A., & Hammonds, R. (2014). Is universal health coverage the practical expression of the right to health care? *BMC International Health and Human Rights*, 14(1), 3. <https://doi.org/10.1186/1472-698X-14-3>

Pogge, T. W. (2010). *World poverty and human rights*. Polity Press.

Sen, A. (2002). Why health equity? *Health Economics*, 11(8), 659-666. <https://doi.org/10.1002/hec.762>

Shah, S. (2018). Global health justice: Legal challenges and solutions. *Journal of International Law and Politics*, 50(2), 385-410. <https://doi.org/10.2139/ssrn.3172689>

Thompson, A. K., Faith, K., Gibson, J. L., & Upshur, R. E. G. (2006). Pandemic influenza preparedness: An ethical framework to guide decision-making. *BMC Medical Ethics*, 7(1), 12. <https://doi.org/10.1186/1472-6939-7-12>

Uprimny, R., & Chaparro, Á. F. (2020). Transforming health systems to improve health and well-being: Principles of equity and participation. *Global Health Action*, 13(1), 1766734. <https://doi.org/10.1080/16549716.2020.1766734>

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