

TRIPS and the implications of global health governance for Africa

Professor Aginam Obijiofor looks into the impact of Trade-Related Aspects of Intellectual Property Rights agreements on public health

A Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement is basically a trade agreement signed by all UN member states to govern trade. The agreements have strong bearings on the health of the populations, and this calls for strong collaboration between health and trade sectors in line with the principals of Universal Health Coverage (UHC) and Sustainable Development Goals. When we talk about UHC, it is important to bear in mind the implications of trade, patents and investment, which are core elements of TRIPS.

Today we live in an interconnected world where viruses travel nearly as fast as emails and financial flows. People are also moving at a very fast rate. The discussions on health governance should be structured in the context of fast movement of people and diseases across countries. Everybody talks about governance but what does it mean. There are different meanings of governance, which came out of the 1995 Report of the Commission of Global Governance. This is the definition they gave: Governance is the sum of the many way's individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and co-operative action may be taken.

There is a misconception between government and governance. Governance is much broader. It is not just about what governments do, most countries have parliament, a president, and has executive and law enforcement mechanisms. That is government but beyond that, how do we organise ourselves informally? That is where the governance discussion comes in.

Globalisation has created challenges for the governance of global health including the need to construct international regimes capable of responding to public health. This is the world that we live in, so we need international regulations capable of responding to these threats. Global health basically forces nation-states to seek cooperation with each other and to build partnerships with non-state actors.

The WTO agreement on the application of Sanitary and Phytosanitary measures (the SPS agreement) talks about food safety, which is a very important health issue. The agreement states that countries should not be prevented from adapting and enforcing measure directed to protect human, animal and plant life. This is a very good agreement because it gives governments leeway to protect human, animal and plant life. Its further states that whatever you do in your country should be based on

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international standards so long as the actions are based on food safety standards set by WHO, FAO, Codex Alimentarius Commission, International Office of Epizootics, and the Relevant International & Regional Organisations on animal health.

But there is a dilemma in interpretation and application of some of the agreements. In mid 1990s, the European union imposed a ban on the importation of fresh fish from East Africa after an outbreak of cholera in some East African countries. WHO and FAO wrote scientific opinions that there were no linkages between cholera and fresh fish. Fish exports from Kenya, Mozambique, Uganda and Tanzania to the EU amounted to 55,000 tons in 1996, equivalent to \$230 million. This is not a small amount of money. But because of this import ban, on the grounds that there was an outbreak of cholera in this region, the EU has actually violated the SPS agreement yet there was no risk assessment and scientific evidence.

While WHO and FAO gave written opinions against the ban, the EU did not provide any convincing scientific evidence to justify its decision. The countries affected suffered enormous economic damage since they could not challenge the EU and WTO decisions.

So what governance model would African countries adopt in terms of addressing the health implications of emerging global health issues? As a way forward, health ministers should be familiar with the role of foreign ministers. Foreign ministers have to be health diplomats and health ministers have to be ambassadors for their countries. The issues of public health should not be over medicalised.

There should be coherence between health, trade and investment to address the corporate determinants of health. The interests of tobacco, food and alcohol industry is actually impacting negatively on what governments are doing to address public health.