

deaths are related to intentional violence, Iraq's damaged infrastructure is setting the stage for a public health crisis. Investment in infrastructure will be required to prevent such a crisis from occurring. However, this

disease threats (e.g., pandemics, bioterrorism) but can include noncommunicable disease dangers triggered by accidental or intentional release of nuclear, radiological, or chemical agents.

As the World Health Organization (WHO) has asserted, providing for public health security requires providing for and maintaining measures to protect and preserve population health from such threats (WHO 2007). These measures include developing both the surveillance capacity that can identify threats at an early stage and the capacity to respond to these threats. Effective surveillance and response activities require the presence of robust human and public health resources and coordination of activities at all levels of governance.

The ability to provide for public health security is often a casualty of violent conflict. Countries that experience complex emergencies, esoct3(t)--2(3(t),)-13(e(t).

tioning to federal systems of government will have to comply with the IHR 2005, the provisions of which will require some centralization of public health governance functions. The regulations require countries to be able to detect, notify the WHO about, and respond to potential public health emergencies of international concern. In addition, countries must develop specified core surveillance and response capacities to prepare for potential public health emergencies of international concern (Fidler 2004b; Gostin 2004). Although the regulations do not contain penalties for noncompliance, failure by a country to notify the WHO about disease events that may constitute public health emergencies of international concern could result in the WHO issuing warnings about travel to the region which could have an adverse economic effect on the country in question (Fidler 2004b).

These demanding substantive provisions mean that the regulations will prove challenging for established federal countries to implement (Wilson, McDougall, and Upshur 2006). Implementation in newly federal countries emerging from conflict could be even more diffic29(v)8.81itiddro817(1)-15en6cohat (c

essary levels of cooperation might be hard to produce and sustain. Even in developed countries, coordination of responsibilities in emergencies has been challenging, exacerbated by unclear constitutional authority among the various levels of government (Bureau of International Organization Affairs 2005).

For example, the constitutions of Canada, the United States, and Australia do not provide clear authority to the federal government to manage emergencies (The State of National Governance Relative to the New International Health Regulations 2006). This problem occurred in Canada during the 2003 Severe Acute Respiratory Syndrome (SARS) outbreak, where communication and coordination between the levels of government was suboptimal (Campbell 2004). In the United States, the lack of clear federal authority to intervene was identified by some officials as a problem in the response to Hurricane Katrina (Stout 2005). In Australia, the commonwealth's lack of emergency health powers had been noted as a potential limitation in its ability to combat a pandemic or manage a bio-terrorism threat (Howse 2004).

The national governments of these countries subsequently took measures to address these gaps by utilizing different mechanisms within their constitutional structures to increase federal authority and enhance cooperation during emergencies. In the aftermath of SARS, Canada created a new public health agency and sought to establish more effective collaboration between orders of government rather than pursue aggressive federal legislation (Wilson and Lazar 2005). The U.S. federal government has

of Ontario. However, if the IHR 2005 had been in force at the time of this event, the international outbreak would have likely been considered a public health emergency of international concern.

effective surveillance. Regional governments may be hesitant about allowing the level of monitoring by a central government required to ensure harmonized surveillance practices. Perhaps regional governments may fear that such oversight could erode their autonomy and encroach upon individual rights. Regional governments may have apprehensions that data they transfer to the central government will be used by the central government in a manner that infringes upon other areas of regional jurisdiction or may be released to the public or other authorities in ways that could be damaging to the affected region. Such problems and conflicts over the sharing of information between regional and central governments were

ing health risks to regions. It will also require considerable effort at the local public health level. This task applies not only to Iraq but also to the international community because of the possible spread to other countries of threats emerging in Iraq.

Federalism and Iraq

A federal solution is one mechanism by which the rights of geographically situated ethnic and religious groups in Iraq can gain some measure of autonomy and protection, while the integrity of Iraq as a whole and the advantages of shared governance can be preserved (Brancati 2004). A federal solution, however, has many obstacles to overcome, and each predominant sectarian group has a considerable stake in the design of a federation.

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transmission of disease, public health security may be an area on which Shia, Sunni, and Kurds could agree in terms of the nature of the Iraqi federation. Even regions with established public health infrastructure remain vulnerable if adjacent regions fail to adequately manage the emergence

Modifying the Iraqi constitution to provide the federal government with the necessary authority over public health security should therefore be strongly considered. The federal government will require explicit authority over the following: access to surveillance data; the ability to coordinate the creation of surveillance infrastructure; the ability to oversee public health emergency response; and, perhaps, the ability to intervene in a public health emergency if concern exists about transmission of the emergency to other regions or internationally.

However, if express federal authority for public health security is not politically possible, the Iraqi federal government would have to consider other alternatives to address a public health security threat arising in one of the regions. The federal government may seek to obtain the necessary authority from areas of the constitution that are under exclusive federal jurisdiction. These areas include authority for signing international agreements (Article 107) and “forming and executing national security policy” (Article 107). However, whether internal health security falls within “national security policy” is unclear (Brown 2005).

The federal government could utilize the power to declare a state of emergency to intervene in public health emergencies, although the constitution refers to this power primarily in the context of war (Article 57). The

such federal powers would improve the chances for achieving domestic public health security and for facilitating compliance with international legal obligations under the IHR 2005. Furthermore, clear and specific allocation of public health powers will reduce the need to use broader emergency powers for the purpose of managing public health threats as well as other powers not specifically intended for public health purposes. Addressing the challenge of public health security forthrightly in the design of federal constitutions constitutes the best strategy for enabling governments to meet their fundamental responsibility of protecting and providing for the health of their citizens.

hibited except in accordance with the law and based on a decision issued by a competent judicial authority.

Potential Sources of Federal Authority

Article 9

D. The Iraqi National Intelligence Service shall collect information, assess threats to national security, and advise the Iraqi government. This service shall be under civilian control and shall be subject to legislative oversight and shall operate in accordance with the law and pursuant to the recognized principles of human rights.

Article 57

Ninth: A. To consent to the declaration of war and the state of emergency by a two-thirds majority based on a joint request from the President of the Republic and the Prime Minister. B. The period of the state emergency shall be limited to 30 days, extendable after approval each time. C. The Prime Minister shall be authorized with the necessary powers that enable him to manage the affairs of the country within the period of the state of emergency and war. A law shall regulate these powers that do not contradict the constitution. D. The Prime Minister shall present to the Council of Representatives the measures taken and the results within the period of declaration of war and within 15 days of the end of the state of emergency.

Article 107

The federal government shall have exclusive authorities in the following matters:

First: Formulating foreign policy and diplomatic representation; negotiating, signing, and ratifying international treaties and agreements; negotiating, signing and ratifying debt policies and formulating foreign sovereign economic and trade policy;

3. This text is reproduced verbatim from the draft Iraqi constitution (Final Draft Iraqi Constitution 2005), found at the UNESCO Web site. Other translations of the constitution exist with a different total number of articles and differences in article numbering.

Third: Regions and governorates shall be allocated an equitable share of the national revenues sufficient to discharge its responsibilities and duties, but having regard to its resources, needs and the percentage of its population.

Fifth: The Regional Government shall be responsible for all the administrative requirements of the region, particularly the establishment and organization of the internal security forces for the region such as police, security forces and guards of the region.

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