



# PANDEM

Policy, law and ethics in EU pandemic preparedness



## Team

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SCHOOL of  
HYGIENE  
& TROPICAL  
MEDICINE



- **PANDEMICS ALWAYS THREATEN**
- **COMPLEXITY IN GOVERNANCE AND LAW**
- **BACKGROUND TO QUESTIONS**
- **PANDEM DELIVERABLES**
  - REVIEW OF POLICY AND LEGAL FRAMEWORKS INCLUDING EU AND US CASE STUDIES
  - REVIEW AND ANALYSIS OF ETHICAL AND HUMAN RIGHTS ISSUES
  - IDENTIFICATION OF KNOWLEDGE, CAPABILITY/CAPACITY GAPS, PRIORITIES AND CANDIDATE SOLUTIONS
- **KEY FINDINGS**



- Peloponnesian War of Pestilence
  - 430 BC. 30,000 deaths in Athens, 50% of population. Cause?
- Antonine Plague
  - 165 AD. 5 million over 15 years. Smallpox.
- Plague of Justinian
  - 541 AD. 50% of Constantinople dead within 2 years. Bubonic Plague.
- Black Death
  - 14<sup>th</sup> Century Europe. 25 million dead, 25% of the popn.
- Spanish Influenza
  - 1918. 20-100 million died, 2-5% popn.



Photo # NH 2654 Crowded extemporanea sleeping area in LZHU HAN at Naval Training Station, San Francisco



## Problems, problems

- Anthrax
- SARS
- H1N1
- H5N1
- MERS-CoV
- Ebola
- Zika
- Dry runs, wet runs, damp squibs and more
- Collaboration, cooperation, institutional capacity/capability
- Coherence with law
- Ethical challenges/values





SIXTY-FOURTH WORLD HEALTH ASSEMBLY  
Provisional agenda item 13.2

A64/10  
5 May 2011

OXFAM DISCUSSION PAPER

JANUARY 2015

### Implementation of the International Health Regulations (2005)

Report of the Review Committee on the Functioning  
of the International Health Regulations (2005)  
in relation to Pandemic (H1N1) 2009

#### Conclusion 3

The world is ill-prepared to respond to a severe influenza pandemic or to any similarly global, sustained and threatening public health emergency.

- **Multiple failures**
- **Lack of leadership on policy and technical areas**
- **Limited operational capacity to monitor and prepare for outbreaks**
- **Almost no surge capacity**
- **Global health architecture didn't help!**
- **IHR?**
- **First responder UN agency?**

## Ethics and human rights

- Who gets access to scarce resources?
- When is coercion justified?
- What obligations do HCWs have?
- How do ethical principles inform policy?
- Is policy legal?



### WORK PACKAGE 4: GOVERNANCE & LEGAL FRAMEWORKS DELIVERABLES

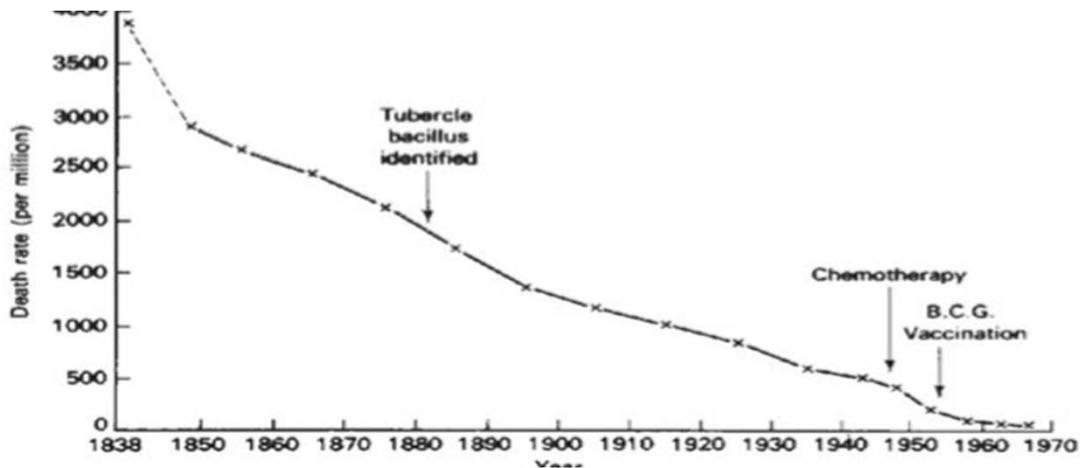
D4.1 REVIEW OF POLICY AND LEGAL FRAMEWORKS INCLUDING EU AND US CASE STUDIES

D4.2 REVIEW AND ANALYSIS OF ETHICAL AND HUMAN RIGHTS ISSUES

D4.3 IDENTIFICATION OF KNOWLEDGE, CAPABILITY/CAPACITY GAPS, PRIORITIES AND CANDIDATE SOLUTIONS



## Interventions sit within a broader policy, legal and governance environment



T McKeown, 1976

### APPROACH

- Purposive and systematic literature reviews
- Review of previous research projects
- Key informant interviews
- Three Case Studies:
  - European Union response to Ebola outbreak 2014-2015
  - Germany E.coli outbreak 2011
  - US Model State Emergency Health Powers Act
- Expert Workshops: March and September 2016

## RESULTS 1 PLANS AND PLANNING

- Few plans accessible, few updated since 2009, few in commonly accessible languages
  - 16 accessible, 7 in English, 4 updated
- Plans need to be accessible, updated, to be evidence-based, to be legal, and to be coherent

Dwight D  
Eisenhower



“In preparing for battle I have always found that plans are useless, but planning is indispensable.”



## RESULTS 2 GOVERNANCE COHERENCE

- Major challenge is cross-border coordination, collaboration and interoperability
- Some plans may be unlikely to withstand legal challenge
- “differences across Europe in the extent to which national pandemic policy and pandemic plans have been integrated with public health laws. **We found significant differences in legislation and in the legitimacy of strategic plans...**Some states propose use of emergency powers that might potentially override human rights protections while other states propose to limit interventions to those authorized by public health laws.” Martin , 2010



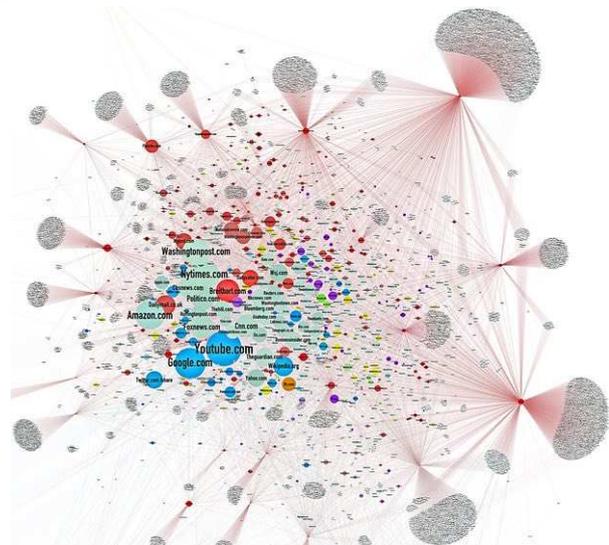
### RESULTS 3 PH LAW CAPACITY

- Limited capacity in PH law
- Training in public health law and development (and sustainment) of a network
- Model laws have been used to encourage discourse, test existing legal instruments, and build coherence
- Model laws can support law, policy, ethics and governance coherence



### RESULTS 4 TRUST

- Trust is critical to preparedness
- But understanding how public trust is changing is limited
- And how this changing issue affects behaviour is important

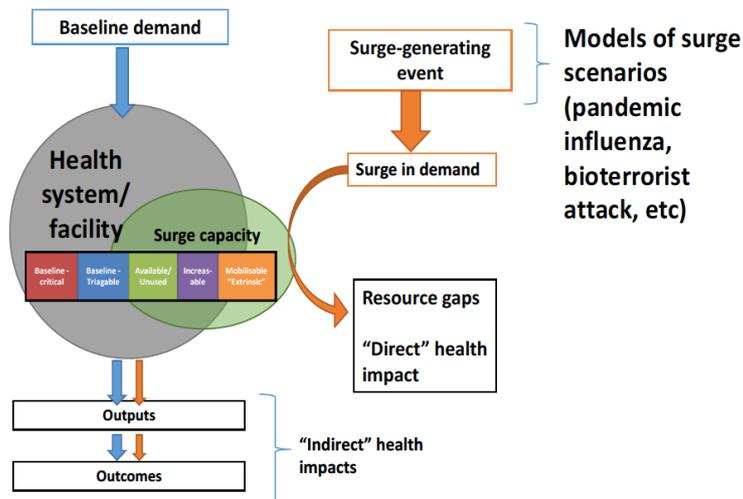


### RESULTS 5 UNCERTAINTY

- How uncertain is the evidence?
- Investment now for benefits later? And in what?
- Time-to-pandemic and discount rate are uncertain
- How much uncertainty are policy makers prepared accept?
- How does individual and institutional behaviour change (and why)?



### RESULTS 6 RESOURCE ALLOCATION



Coker et al: Graphic conceptualisation of analytical framework informing determinations of surge capacity (AsiaFluCap)



## SUMMARY

- Inherent tensions:
- Overarching harmonised response v national sovereignty
- Individual rights v “the common good”
- Political will
- Multiple stakeholders
- Ethical principles often don’t inform plans (and where they do they do so differently)
- Resource allocation likely to be a major focus of concern
- Trust is critical and ill-understood in emergency settings, in a changing world, and where uncertainty pervades