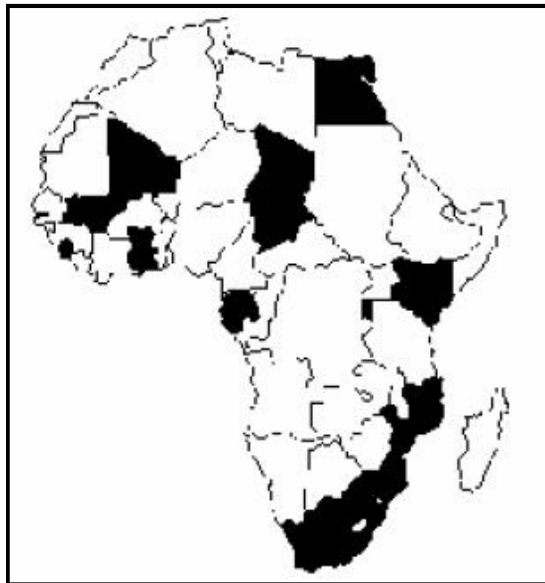


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THE WEST AFRICAN EBOLA OUTBREAK AND ITS EFFECT ON HUMAN RIGHTS: A RETROSPECTIVE EXAMINATION

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ABSTRACT:

The West African Ebola Virus Disease outbreak remains one of the deadliest infective disease outbreak in recent years. It once again resurrected ancient fears of pestilence and resulted in the near abandonment of international health regulations that were geared towards ensuring the protection of basic fundamental rights even in the face of an epidemic. The study thus examined the causes of the EVD outbreak and its effect on fundamental rights of citizens of affected countries. A doctrinal approach was adopted in this paper. Thus primary and secondary sources of information were relied on. It was found that though International conventions enjoin countries to ensure the protection of human rights and trade in instituting public health measures aimed at controlling infectious disease outbreaks. This conventions were jettisoned and they resulted in several of human rights and were also counter-productive with regards to disease control. It was thus suggested that a human rights based approach remains the best approach in addressing public health issues. It was also suggested that there should be increased efforts by developed countries to help less developed countries develop necessary infrastructure for disease detection, control and management of epidemics.

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INTRODUCTION

Epidemics have throughout human history been a source of misery and death to the communities they strike¹. They have also struck great fear to the neighbouring communities yet to be affected. Since ancient times, ‘social distancing’² which entails quarantine, isolation and restriction of movements have traditionally been viewed as the most effective means by which the spread of infectious diseases can be controlled.

The world lost most of its fear of infectious diseases by due to advancements in medicine and hygiene, which resulted in better understanding of how diseases spread, how they can be managed. This resulted in massive reductions in the occurrence of out-breaks of infectious diseases.

In fact, the last century saw the containment and near eradication of some of the most dreaded diseases.³ This was aided by the development and wide-spread use of inoculation and vaccination. However, the emergence of some new diseases has resuscitated ancient fears of epidemics.

Traditional public health measures have largely focused on a small number of infectious diseases such as cholera, plague, yellow fever and small pox. However, perhaps, due to the declining incidence of these diseases,

¹ Woldermariam Yohanness and Di Giacomo Lionel, ‘Ebola Epidemic’ ASPJA Africa and Francophonie 1st Quarter 2016

² See Mariner Wendy, ‘The Role of Law in Controlling Epidemics : Lessons From the TB, HIV and SARS’154 she defined social distancing as a term encompassing cancellation of programs and events that attract large crowds. This includes closing of schools, cancelling public public concerts, theatre performances and sports events.

³ The invention of vaccines and the introduction of mass vaccinations helped eradicate small pox. While the occurrence of cholera outbreaks has been reduced by improvements in public hygiene.

‘countries violated the rules regularly’⁴ and most of the regulations to prevent their spread across international borders were poorly enforced. In addition, the growing influence and importance placed on human rights has resulted in the development of new guidelines by the WHO on the control of infectious disease that place greater emphasis on the protection of basic rights of individuals.

The revised International Health Regulations (IHR) requires public health measures that would be the least restrictive and the least intrusive to human rights while achieving effective surveillance and response.⁵ However, the emergence of new infective diseases has resuscitated old fears of pestilence and resulted in ‘hysterical responses’⁶ by government that utterly disregard medical knowledge and human rights. The SARS outbreak, alerted countries to their vulnerabilities to cross border disease spread’.⁷ This resulted in a lot of countries adopting protective measures that were not based on science and public health principles, and thus unnecessarily infringed on trade and human rights’.⁸

It was in this clime that the West African EVD outbreak occurred. The trans-border nature of the outbreak which cut-across five West African countries and the real likelihood of it spreading further afield led to a lot of hysterical reaction by governments around the world and even in some of the countries affected by the out-break.

Against the advice of the WHO a lot of countries adopted measures such as travel bans or restrictions on persons travelling from West Africa, quarantine, isolation, curfews and forced testing, most of which were neither

⁴ Fidler David, ‘Epic Failure of Ebola and Global Health Strategy’ *Brown Journal of World Affairs* Spring/Summer 2015(xxi)I 182

⁵ *ibid*

⁶ *Ibid* 185

⁷ *Ibid* 183

⁸ *Ibid* 185

supported by medicine not public health⁹ These restrictions were not only unnecessary but affected the ability of the affected to receive the necessary help to fight the out-break, but also resulted in untold hardships for these affected by this restrictions. It therefore inevitably resulted in the violation of some basic fundamental rights of the individuals in the affected countries¹⁰.

However, it cannot be denied that, unrestricted movement across the borders of the three countries most affected at the initial period of epidemic influenced its dramatic spread. Woldemariam & Giacomo, alleged that the fact that Ebola spread much faster than was generally acknowledged publicly was blamed on the porous nature of African borders¹¹. This thinking influenced the adoption of border closures and other restrictive measures by various governments in spite of scientific and ethical considerations of possible side-effects.

Notwithstanding reservations about some of these measures, there is evidence to suggest the adoption of these measures may have contributed to the decline of the epidemic. Media reports suggests there were some significant success due to the discovery of new cases of infected persons who might have otherwise being the source of new infections.¹²

The traditional approach to public health issues has usually viewed the disease control as its primary objective, while the private rights of individuals are treated are ancillary. This approach was succinctly stated in ***Jacobson v. Massachusetts***¹³ where the US Supreme Court in expounding the doctrine of

⁹ Ibid 189

¹⁰ See generally, 'A Human Rights Perspective into the Ebola Outbreak', United Nations Human Rights West Africa Regional Office, available <http://www.globalhealth.org/wp-central/upload/Ebola-outbreak.pdf> accessed 20 october 2016

¹¹ Woldemariam Yohaness and Di Giacomo Lionel(n1)57

¹² Dearden Lizzie, 'Ebola Virus Outbreak: 92 Bodies Recovered as More Cases Found in Sierra-Leone Lockdown' Independent 22 Sept 2014, available www.independent.co.uk/news/world/africa/ebola-outbreak-92-bodies-recovered-as-more-cases-found-in-sierra-leone-lockdown-9748181 accessed 14 Oct 2016

¹³ *Jacobson v Com. Of Massachussetts*, 197 US.11

paramount interest held state or community has the right to protect itself against an epidemic of a disease that threatens the safety of its members. Also in *Solomakhin v. Ukraine*,¹⁴ the European Courts of Human Rights ruled that though compulsory vaccination interfered with the applicant's bodily integrity, it was an interference that was justified in a democratic society because it was necessary for preventing the spread of infectious diseases.

In spite of the acceptability of interfering with fundamental rights in order to achieve a stated objective of preventing the spread of an infectious diseases, what is increasingly undeniable is the need to strike the right balance between public health measures and the ability of each citizen to enjoy basic rights. During the West African EVD outbreak, disregard for these basic rights affected the effectiveness of public health measures aimed at controlling the outbreak.

The West African EVD outbreak offered a unique opportunity to explore current attitudes towards the containment of contagious disease outbreak. Most countries including those affected area showed a complete lack of faith in implementing a rights-based approach to the public health emergency. The EVD outbreak can thus become a template for assessing the state preparedness for any future outbreak of a contagious disease. The failings of institutions and states involved in the outbreak highlight lessons that need to be learnt so that better systems beyond law simpliciter can be adopted to control future epidemics.

HISTORICAL BACKGROUND OF THE WEST AFRICA EBOLA VIRUS DISEASE (EVD) OUTBREAK

The Ebola Virus Disease was first identified in an outbreak of hemorrhagic fever in Yambaku in the Democratic Republic of Congo and Nzara, now in South Sudan in simultaneous outbreaks in 1976. Since then,

¹⁴ *Solomakhim v Ukraine, The European Court of Human Rights(fifth session),12 March 2012*

they have been easily contained using basic public health measures such as restriction of movement and quarantine of affected communities¹⁵. According to Rachel Hand Keith Hoffman ,an outbreak of EVD in Kitwit Zaire in 1995, was reportedly contained by ‘heartless but effective’ cordons sanitaire’’¹⁶

According to the WHO, it is thought that fruit bats of the Pteropodidae family are natural Ebola virus hosts and that an infection could also occur through close contact with the blood, secretions, organs, or other bodily fluids of infected animals such as chimpanzees, gorillas, fruit bats, monkeys, forest antelopes and porcupines found ill or dead”.

It is also spread among human through contract with the blood, secretions, organs or other bodily fluids of infected people, and with surfaces and materials contaminated with this fluid. The West African outbreak was attributed to a young boy in Guinea, whose family was bat-hunters. Widely described as Patient Zero, his illness and death has been regarded as starting a series of chain reactions that eventually resulted in 11,130 confirmed deaths spread across the three most affected countries.¹⁷

Several factors were blamed for the epidemic, these included: poor initial response by the WHO and the governments of the affected countries, cultural practices relating to death and burial which usually involved the washing, and touching of the deceased by family members and poor medical infrastructure in the communities. According to Fidler¹⁸, all three countries were emerging from civil wars that had devastated governmental capacity in many sectors, including healthcare. As a result medical facilities and personal were

¹⁵ *Ebola Virus Disease: Factsheet*, available < <http://www.who.int/medicare/factsheet/fs103en> > accessed 20 October 2016

¹⁶ Hoffman Racheal and Hoffman Keith, ‘Ethical Considerations in the Use of Cordons Sanitaires’, *The NYU Langone Online Journal of Medicine*, Feb 2015(1) available < <http://www.clinicalcorrelations.org/p=8357> > accessed 13 October 2016

¹⁷ *Ebola Factsheet*(n16)

¹⁸ Fidler David(n4)181

insufficient and easily overwhelmed. This reason has been widely blamed for the severity of the outbreak.

The situation in Guinea, Sierra-Leone and Liberia can easily be contrasted with the relative ease with which subsequent outbreaks were controlled in Nigeria, Senegal and Mali. Though it is undeniable they were able to learn from the mistakes made by the countries that had been affected earlier, the good state of their healthcare system also made them better prepared to cope with the outbreak.

MECHNISMS FOR THE CONTROL OF EPIDEMICS AND ITS EFFECTS ON HUMAN RIGHTS

For long periods during the out-break, the WHO cautioned against measures that would restrict movements in and out of affected areas. It was felt that such measures could be counter-productive in the sense that it could hinder the conveyance of much needed supplies and personnel in and out of affected areas. This indeed was later to be case when such measures were affected. It has been observed that the flight bans only served to further isolate and stigmatize countries that most needed incoming health workers, medical and emergency supplies, and international communication. A lot of nurses and doctors were also left stranded in transit areas far from where they were needed¹⁹.

In addition, some of the measures to quarantine some communities degenerated into violence due to the inability of residents to get basic necessities such as food²⁰ and the denial of their right to a means of livelihood. At West Point in Liberia, the residents rioted when forced quarantine became unbearable, leading to the police having to quell the

¹⁹ Woldermariam Yohaness and Di Giacomo Lionel(n1)60

²⁰ Hoffman Racheal and Hoffman Keith(n17)2

violence with force.²¹ No story however epitomizes the hardship and economic implications of quarantine than that experienced by the residents of San Francisco during the Bubonic plague out-break of 1900, attempts by Dr. Kinyam to quarantine the entire city led the business and political community running him out of town and persuading the then President of the United States President McKinley to lift the quarantine.²²

Notwithstanding the negative economic implication of quarantines, it remains without doubt an effective means of controlling epidemics. One of the most widely acknowledged reasons for the severity of the West African Ebola outbreak was the perceived porousness of the border between the endemic countries. It was in recognition of this fact that countries agreed to isolate the cross-border triangular area where 70% of the then reported EVD cases were located and to enforce the isolation with police and military patrols.²³ Though the effectiveness of the measures cannot be ascertained, its necessity could also not be disputed.

Current thinking among public health experts still finds such restrictions a necessary tool for disease control. Laurie Garret, a public health expert and fellow of the American council of Foreign Relations, who was present during the 1995 EVD outbreak in Kikwit, Zaire, had opined that cordons can be effective in controlling outbreaks and urged for their use in controlling the West African outbreak.²⁴ The WHO also acquiesced to the use of cordons but urged that it must be implemented in way that would ensure that human rights would be enforced. WHO spokesperson while explaining the position of the organisation stated thus:

²¹ Durojaiye E Tand Mhurugu Gladys, 'The Ebola Virus and Human Rights Concerns in Africa' *Africa Journal of Reproductive Health* Sept.2015(21)

²² Mariner Wendy(n2)124

²³ Hoffman Racheal and Hoffman Keith(n17)2

²⁴ Garrett L, 'Heartless but Effective: I have Seen Cordon Sanitaire Work Against Ebola' *New Republic*, August 14 2014. Available <http://www.newrepublic.com/article/119085/ebola-cordon-sanitaire-when-it-worked-congo-1995> cited in

*this is an extraordinary event in so many ways and with this extraordinary event, extraordinary measures are probably going to be necessary. (The WHO) would not be against a cordon sanitaire, but it must respect human rights.*²⁵

The present concern about human rights is a fairly new albeit a welcomed development. In the past, challenges on public health measures that have resulted in the abridgement of the fundamental rights of the individuals have been denied. In *Jacobson v. Massachusetts*,²⁶ there had been dispute as to whether a state, in applying a public health measure to prevent the spread of small pox, could forcibly vaccinate an individual against his will. The plaintiff had argued that such a measure would erode his fundamental right to liberty. The Supreme Court in upholding the conviction of the plaintiff noted that based on the principle of *paramount necessity*, a state or community has the right to protect itself against an epidemic of a disease that threatens the safety of its members. This thinking is in-line with the ideas propounded by philosophers such as Bentham, who advocate taking actions that achieve the greatest good for the greatest number of people.

It is however important to note that legal jurisprudence is moving away from this pragmatic Unitarianism and is beginning to accord recognition for individual rights as well as the social good of the community, in all spheres including public health. One of the ways that this has to be achieved is the requirement that public health measures that would result in the curtailment of individual right must be justifiable. In General Comment No.14, the European Union Committee on socio-cultural rights, while interpreting Article 4 on the International covenant on socio, economic and cultural rights stated thus:

²⁵ *Ebola Response Situation Report, WHO, December 10 2014, cited in Hoffman Racheal and Hoffman Keith(n17)2*

²⁶ *Supra (n 14)*

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...issues of public health are sometimes used by states as grounds for limiting the exercise of other fundamental rights. The committee wishes to emphasize that the covenant's limitation clause, article 4, is primarily intended to protect the rights of individuals rather than to permit the imposition of limitations by states. Consequently, a state party which, for example, restricts the movement of, or incarcerates, persons with transferable diseases... has the burden of justifying such serious measures in relation to each of the elements identified in article 4. Such restrictions must be in accordance with the law, including international human rights standards, compatible with the nature of the rights protected by the covenant (ICESCR), in the interest of legitimate aims pursued, and strictly necessary for the promotion of the general welfare in a democratic society.²⁷

This present trend seems to have influenced the decision in *State of Maine Department of Health and Human Services v. Hickok*,²⁸ where the court held that the state lacked “clear and convincing evidence that Hickox posed sufficient risks to the community to support its mandatory quarantine. It may however be a while before such respect is accorded to socio-economic rights which so far remain unenforceable in most countries in Africa.

This may make it difficult to embark on legal challenges to restrictive and unjustifiable public health measures. Notwithstanding this fact, it is imperative that there should be greater efforts to strike an appropriate balance between individual rights and public health measures that are meant to control epidemics and other public health issues. This is necessary to prevent

²⁷ Comm. On Econ., Soc. And Cultural Rights, UN, General Comments No.14, *The Right to the Highest Attainable Standard of Health*(Art.12) s 33 (2000) Available at www.unhchr.ch/tbs/doc.nsf cited in Mariner wendy(n1)167

²⁸ *Hickock* 22 M.R.S.A S 810(2004)

attendant hardship on individuals and thus prevent violent responses to some of these measures.

Before this can be done, it is however imperative to have a clearer picture of the effects of quarantine and other restrictive public health measures on human rights.

HUMAN RIGHT VIOLATIONS ARISING FROM MEASURES TO CONTROL THE EBOLA OUT-BREAK

Of all the measures that were adopted to control the Ebola outbreak, the setting of cordon-sanitaires had the most widespread effect. The setting up of cordons sanitaires is one of the most ancient means of controlling epidemics²⁹. It can either be embarked on voluntarily or imposed on by the government, where it is imposed, there are harsh reprisals for those who violate the cordon. According to Racheal and Keith Hoffman, the practice was first developed during the middle-ages and it entailed a physical fence or wall that was built around the cordoned community and a regimen of armed troops patrolled, and inside, terrified residents were left to battle the affliction without outside help³⁰. In some instance these cordons were enforced with force of death³¹. But even where it does not attract the capital punishment, it quite often results in the death of many through the lack of outside help and vulnerability to other fatal circumstances. This may explain what appears to be a long-standing fear of such measures³².

During the last West Africa EVD outbreak, several restrictive and social distancing measures were adopted. These included: quarantines, curfews, lockdowns, border closures and isolation of infected persons. Some of these measures such as isolation were proven to be necessary and effective in breaking the chain of infections. Other measures also achieved some measure of success but their necessity could not be ascertained especially when weighted against their negative effects on human rights. While some of the restrictions embarked on by some government were blatantly unnecessary and

²⁹ Hoffman Racheal and Hoffman Keith(n17)1

³⁰ *ibid*

³¹ *ibid*

³² During the SARS outbreak, more than 250 00 people fled Beijing after a future quarantine order was announced see Mariner Wendy(n2)153-154

variously described as hysterical³³ and knee-jerk reactions³⁴, these descriptions and criticisms may be regarded as subjective. What it is however undeniable is that some of them resulted in violations of human rights and this may have inadvertently hampered the control of the outbreak.

In a report issued by the office of the High Commissioner for Human Rights West Africa Regional Office, some of these human rights violations were identified:

RIGHT TO HEALTH

According to the report, 'health care service need to be available, accessible and of quality'³⁵ in order for the right to health to be realized. Though the countries that bore the brunt of the Ebola outbreak already had weak health care infrastructures, which were obviously ill-equipped to cope with the out-break, but the problem was exacerbated at the initial period by travel restrictions which hampered the ability of foreign volunteer medical personnel from being able to offer their services where they were most needed.

In addition, the poor services being offered in most of the hospitals led to quarantines being viewed as a kin to death sentences and the concerted efforts by those infected and their families to avoid it.³⁶

³³ Among the hysterical reactions that occurred in the during the Ebola outbreak was the cancellation of a state visit to Namibia by Brazilian executives even despite the fact that Namibia is 3000 km away from the epicenter of the outbreak and had never had any reported case of Ebola. see Dearden Lizzie' Ebola Outbreak : Brazil Executives Cancel Namibia Visit Over Ebola Fears Despite Conference being 3000 Miles From Disease Hot-Spot' Independent 19 August 2014, cited in Woldermariam Yohannes and Di Giacomo Lionel(n1)60

³⁴ A Human Rights Perspective into the Ebola Outbreak'(n11)6

³⁵ *ibid*

³⁶ Hoffman Racheal and Hoffman Keith(n17)2

FREEDOM OF MOVEMENT

The fundamental objective of using restrictions on peoples' movement during epidemics is to prevent the spread of the infection by infected people. It is thought that restricting movement will help to achieve easy containment of the disease. Though this is a proven public health strategy, there are several opinions on its effectiveness. Some have argued that if it is used within small geographical area, it can be a very effective method of containing an epidemic. It is however argued that where it is used over a larger area, its effectiveness diminishes and it may be capable of doing more harm than good. According to Rachel & Keith Hoffman, large-scale cordons around neighbourhoods, regions and nations like the United States have been shown to be ineffective especially where the border is found to be porous. Large-scale cordons also present the possibility of devastating effects on national economics and public health'.³⁷

While expressing similar sentiments James Hodge noted that temporary border closures have the potential to derail the flow of Ebola cases into a country, but can also limit the importation of Healthcare workers, food and medical supplies to needed areas, effectively cutting off impacted regions in contravention to human rights protection. He also noted that without sufficient enforcement (which can be nearly impossible to assure especially between adjacent countries sharing significant land boundaries), border closures may be easily evaded and rendered useless in controlling the spread of infectious diseases³⁸.

The restriction on the right to movement also has the potential to affect other equally important rights such as the right to a means of livelihood, right

³⁷Hodge James ,' *Legal Myths of Ebola Preparedness and Response*', *Notre Dame Journal of Law Ethics and Public Policy*(2015)29(2)361 available< <http://scholarship.law.nd.edu/ndjlepp3>> accessed10 November 2016

³⁸ *A Human Rights Perspective into the Ebola Outbreak*(n11)7

to the dignity of human person³⁹ and even the right to food⁴⁰. The denial of these rights prompted same the violent protests against restrictions to the right to movement in Sierra Leone. Bye-laws were made that led to the closing of markets which made access to food difficult⁴¹. Also in Liberia, where between 50,000-100,000 people, were quarantined in the west-point community, those quarantined complained that they were restricted from accessing food and leaving for work and that many people were as a result starving. The West Point quarantine eventually degenerated into a riot⁴².

Though this was not the case during the West African EVD outbreak, but in **Jew Ho v. Williamson**⁴³, the court found that strict quarantine measures adopted to control the Bubonic plague outbreak which resulted in healthy people being fenced in with the few who had being exposed to the plague increased, rather than decreased, the likelihood of an epidemic.

UNDERLINING CAUSES OF THE WEST AFRICAN EVD EPIDEMIC Fragility of the Health System

The weakness of the healthcare system of the three most affected regions can best be expressed in numbers, Liberia had 45 doctors nationally serving a nation of approximately 4.5million⁴⁴, Sierra-Leone whose population was 6million and had 169 doctors.⁴⁵ All the three countries that were most affected had also suffered from years of conflict which had not only led to the dilapidation of basic infrastructure but had also resulted in a culture that was distrustful of the government. It was thus the combination of this distrust

³⁹ Hoffman Racheal and Hoffman Keith(n17)2

⁴⁰ *ibid*

⁴¹ *ibid*

⁴² Ebola Crisis: Liberia Police Fire at Moronvia Protests' 21 August 2014 available <http://www.bbc.com/news/world-africa-28879471> accessed 20 Oct. 2016

⁴³ 103 F.10,24 CC.C D.cal 1900

⁴⁴ The World Factbook-Central Intelligence Agency, available <http://www.cia.gov/library/2226.html>>

⁴⁵ Chiota Farouk, 'Ebola Drains already Weak West African Health Systems' BBC Africa, 24 September 2014 available <http://www.bbc.com/news/world-africa-29324595>

coupled with the weakness of the healthcare system that provided the right environment for the epidemic.

The healthcare system it should be noted includes not just hospitals and their personnel but the entire structure for the provision of public health. These include access to sanitation, portable water and the development of social machinery to guarantee for everyone a standard of living adequate for the maintenance of health. The introduction of adequate public health measures have in the past been linked to the eradication of cholera and other water borne diseases by creating systems for sewerage and purifying the water supply; other infectious diseases by regulating, waste at animal slaughter houses etc⁴⁶.

The countries where the EVD outbreak occurred had high levels of poverty.⁴⁷ Various researches have shown that poverty plays an important role in the spread of contagious diseases. Mariner, using the example of the rise of Tuberculosis in the mid-1980's, said it was:

*'exacerbated by the rise of unemployment and a decline in affordable housing, which left more people homeless, on the street, or in shelters where the disease could be easily transmitted'.*⁴⁸

These same factors played an important factor in the EVD outbreak, slum settlement which had poor sanitation, sewerage, and water supply made it difficult to break the transmission chain. People lived in close proximity to infected relatives and fear of government hospitals⁴⁹ made a lot of people

⁴⁶ Mariner Wendy(n2)129

⁴⁷ According to the World Food Programme 64% of Liberians live below the poverty line, see <http://www.wfp.org/countries/liberia> the figure is 60% for Sierra Leone
source: <http://www.undp.org/sirraleone>, and according to the World Food Programme, poverty rose in Guinea from 40% in 1996 to 49% in 2004. Source <http://www.wfp.org/countries/guinea>

⁴⁸ Ibid 128

⁴⁹ There was widespread belief that something sinister was going on in the hospitals because most people that were admitted died. Though this is more in connection with the fatal nature of the disease than anything else.

keep sick relatives in the house, thereby putting those caring for them at risk of being infected too.

Lack of Trust in Government

At the initial stages of the outbreak, a lot of people disbelieved government warnings and instructions about the diseases. This is especially true of Liberia, where popular perception was that it was another scheme by an otherwise corrupt government to milk money out of foreign donors⁵⁰. This lack of trust is borne out of years of government failings in its duties, corruption and mismanagement of public funds.

The lack of trust and the incordiality of the relationship between the government and its citizens was exhibited in the killing of government officials on enlightenment campaign in Guinea⁵¹ and also the fact that the Liberian government had to use force to enforce basic preventive measures that should ordinarily be viewed as a step to protect the Liberian citizen; and the violence reaction of Liberians to some of these measures.

While highlighting the importance of the lack of trust of the government, Epstein pointed out the fact that outbreaks of the EVD in Sudan and DRC, which had relatively similarly weak healthcare infrastructure as the Liberia had been brought control much more easily than the outbreak in West Africa. While painting a graphic picture of the perception of the Liberian government she wrote:

Liberian felt so estranged from their government that they disbelieved official warnings, convinced that President Johnson Sirleaf had concocted Ebola to kill people and draw foreign aid since Sirleaf has a history of diverting aid money toward family and for patronage.

⁵⁰ Epstein Helen, *Ebola in Liberia: An Epidemic of Rumours*, New York Review of Books, 18 December 2014, <http://www.nybooks.com/articles/2014/12/18/ebola-liberia-epidemic-rumours> cited in Wildermariam(n1)60

⁵¹ Ebola Outbreak: Guinea Health Team Killed, BBC, 19 September 2014, available <http://www.bbc.com/news/world-africa-29256443> accessed 20 October 2016

*Moreover Liberians perceived nurses and medical workers as messengers to poison the people and accomplish this goal.*⁵²

Failure of International Health Regulation

In the wake of the SARS outbreak and realization of the need to ensure a proper means of preventing and coordinating any future outbreak of an infectious disease, new International Health Regulations model was evolved and agreed to by 196 countries across the globe. Before these new regulations, the previous regulation had focused on a limited number of infectious diseases such as cholera, plague, yellow fever and small pox. The new Regulations were adopted in 2005 and its purpose and scope was to ‘*prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks and which avoid unnecessary interference with international traffic and trade*’⁵³.

The new IHR had been hailed as heralding a rights-based approach to public health because it purports to ensure the protection of human rights by providing that its implementation shall be: “*with full respect for the dignity, human rights and fundamental freedoms of person*”. However the hysterical reactions of most governments during the EVD belied any conviction or commitment on their part to the principles upon which the IHR were modeled. Well documented over-reactions of some governments included suspension of commercial flights to endemic states and some non-endemic states, travel bans and restrictions on persons travelling from West Africa⁵⁴. According to Fidler, some of these measures neither followed WHO regulations nor lacked a scientific and public health justification. In addition

⁵² Epstein Helen(n50)

⁵³ Art 2 International Health Regulations, Wikipedia the Free encyclopedia, available <http://en.m.wikipedia.org/wiki/international.health> > accessed 10 November 2016. The International Health Regulation shall hereinafter be called IHR

⁵⁴ Fidler David(n4)187

they did not follow legally binding rules designed to ensure that outbreak responses do not harm, trade and human rights without justification'⁵⁵.

Most countries were more concerned at the initial period with preventing the outbreak from reaching their own countries rather than helping to control the outbreak. This saw them rely on protective measures, whose failings became obvious after Ebola infectious occurred in the United States and Spain. The havoc a lone patient could wreck if he manages to escape airport screening is epitomized by the minor outbreak in Nigeria which prompted a re-think of protective strategy to a more pro-active one aimed at controlling the epidemic at its source.

THE EBOLA OUT-BREAK AND LESSONS FROM EYAM: THE VILLAGE OF THE DAMNED

The village of Eyam has a remarkable place in history. This is as a result the heroic decision the villagers made to quarantine themselves after the outbreak of the bubonic plague spread there. Their decision was credited with halting the further spread of the Bubonic plague of 1665 in England⁵⁶.

According to historical accounts the plague arrived between September and December 1665, 42 villages died and by the spring of 1666, many were on the verge of fleeing their homes and livelihoods to save themselves⁵⁷. Had this happened the plague would have easily dispersed round England. At this point the stories usually focus on the heroic efforts of the village Rector, who suggested the village be quarantined and this suggestion was reluctantly agreed to by the villagers and no one was allowed in and out of the village.

⁵⁵ *Ebola was introduced into Nigeria by a Liberian government official who though had entered the country in order to attend an ECOWAS conference had lied about his health status. He had insisted on being discharged from the hospital claiming he had malaria although he had cared for his sister who died of the disease before leaving Liberia. He subsequently infected a number of health workers who had been involved in his care.*

⁵⁶ 'Eyam', *Wikipedia the Free Encyclopedia*, available <http://en.wikipedia.org/eyam> accessed 23 October 2016. See also Mckenna David, 'Eyam Plague: The Village of the Damned', *BBC On-line Website* 5th November 2016, available < ://www.bbc.com/news/uk-england-3064071> accessed 30 November 2016

⁵⁷ *ibid*

Within this period, some accounts state that the disease killed 260 villagers and there were only 83 survivors other accounts put the figure at around 430 survivors out of a population of 800⁵⁸. Irrespective of the exact figure, it is an attestation of the restraints of the villagers that the quarantine was not broken. According to the BBC, even when the outbreak was at its peak hardly anyone broke the cordon; even those who were reluctant to stay saw it through.⁵⁹ While most of the accounts have tended to focus on the heroics of the rector and the villagers which may make it a textbook account of the effectiveness of the use of quarantine as a means of controlling an epidemic, consigned to minor paragraphs are some other factors that that made cordon possible. These include:

- i. The offer of the Earl of Devonshire, who lived nearby at Chatsworth, to send food and supplies if the villagers agreed to be quarantined⁶⁰.
- ii. The continued access of the villagers to food and medicine by placing money soaked in vinegar which was thought to kill the infection at specific points in exchange for food and medicine.

Without any doubt, these two factors more than the heroic determination made the quarantine effective and it was sadly this factors that were missing in the various restrictive measures put in place by the governments of Sierra-Leone, Guinea and Liberia. Quarantines were established without adequate provision for how the people would get basic amenities including food. Stories abound of people in government quarantines going hungry⁶¹ and this explains why quarantine elicited such hostile reactions.

⁵⁸ *ibid*

⁵⁹ *ibid*

⁶⁰ *ibid*

⁶¹ Hodge James(n38)361

LESSONS FOR THE FUTURE

Before the West African EVD outbreak, the world had grappled with a series of epidemics such as the Bird Flu outbreak, Swine flu outbreak, wild polio virus and MERS. Most of which were relatively new diseases that had raised questions about International Health Regulation. However the scale of the EVD outbreak and its potential to spiral out of control resulted in the near jettisoning of conventional practice. This makes it imperative to have an overview of the EVD outbreak in order to prevent future occurrence of some of the hysterical reactions that resulted in the near failure of efforts to contain the outbreak.

Border Coordination Rather Border Closure

At the height of the EVD outbreaks; various airlines due to domestic pressure suspended the flights to the West African Region⁶². The suspension affected the easy movement of much needed health workers and medical and emergency supplies. Other countries implemented visa restrictions. While most countries embarked on compulsory screening of all travelers from West Africa to determine if they had been exposed to an infected person or had a fever. Both measures unfortunately failed to stop EVD. Eric Duncan who travelled to the US from Liberia had lied about his contact with an infected patient⁶³ and Ms Pauline Kafferky who did not report she had a high temperature when being screened at the Airport upon her return from Sierra-Leone she had been working at an Ebola care centre⁶⁴.

⁶² Kenya Airways, South Africa Airways, Ethiopian Airways, Emirates, British Airways, Korean Airlines, and most American Airlines all suspended flights to affected countries.

⁶³ Greg Botelho and Jaque Wilson, 'Thomas Eric Duncan: First Ebola Death in US' CNN, 8 October 2014 available at <http://www.edition.cnn.com/2014/10/08/health/thomas-eric-duncan-ebola> accessed 20 October 2016

⁶⁴ Brooks Libby, 'Ebola Nurse Pauline Kafferky Cleared of Misconduct' The Guardian UK 14 September 2016 available at <http://www.theguardian.com/world/2016/sep/4/ebola-nurse-pauline-cafferkey> accessed 23 October 2016

This showed the apparent ineffectiveness of these measure and the fact that they only served the further isolate and stigmatize countries' that most needed incoming health workers, and international communication'⁶⁵.

Hodge has also opined that border screenings also has the potential to harm the public's health bola care by driving EVD cases underground or across borders in ways that cannot be detected. As was shown in the case of Senegal and United States, 'even if borer closures and related flight restrictions delayed the spread of infectious diseases they do not eliminate the risk of spread entirely'⁶⁶.

It has thus been suggested that border coordination which would involve, questioning and testing at exit and entry points, commitment to voluntary testing by travelers, constant check-in in community health workers, and the provision of hotlines that can be called if an infection is suspected. This strategy was effectively adopted and deployed in controlling the out-break of the disease in Nigeria.

Giving People Incentive to Comply with Quarantine

One of the major challenges associated with restrictive measures enforced during the out-break was that it affected the ability of such citizens to access food and other basic necessities. An important lesson learnt from the case of Eyam, which was the promise by the Earl of Devonshire to supply the community with food and other basic necessities. This must have or long way to bolster the resolve of the villagers to maintain the cordon.

The experience in West Africa showed that the governments were not alive to this important duty and was indirectly responsible for some of the violence associated with the quarantine. Though, at the latter stages of the

⁶⁵ Hodge James(n38)361

⁶⁶ *ibid*

outbreaks, there were efforts especially in Sierra-Leone to give out basic supplies⁶⁷, but this should be vowed as a well-entrenched duty of the state and not just an humanitarian gesture.

⁶⁷ Sierra Herald Vol. XI no 5, available <http://www.sierraherald.com/ebola-lockdown-sunday.htm> accessed 20 October 2016

Better Training for Medical Personnel

The alertness of Dr. Adadevoh to the peculiar symptoms of Tom Sawyer and her concerted efforts to prevent his discharge from hospital in spite of pressure from the Liberian embassy was largely credited for having prevented a catastrophic situation that might have arisen if more people had had contact with him⁶⁸.

The reverse was the case in Spain and United States, where failure of medical personnel to act quickly were to blame for the severity of the Spanish nurse's infection and the widespread risk Eric Duncan was to pose to those he had had contact with⁶⁹. Given this scenarios, it is there not difficult to appreciate the role of medical personnel in quickly detecting early signs of an infection. Their role during the Avian Flu outbreak was credited with the early detection of the uniqueness of the new disease. According to Mariner, 'the most accurate, timely and valuable information came not from official reporting system, but from alert physicians caring for patient.'⁷⁰

There is thus the need for governments around the world to hold regular seminars where possible on emerging diseases and also regularly send bulletins on important details whenever an epidemic is imminent.

⁶⁸ Colin Freeman, 'Did this Doctor help Save Nigeria From Ebola', The Telegraph ,20 October 2014. According to most accounts, she had to physically restrain him after he insisted on being discharged so he could attend an ECOWAS conference in Port Harcourt.

⁶⁹ Eric Duncan was reportedly sent home from the hospital inspite of him telling the doctors he had recently returned from an endemic region. He was given antibiotics and over the counter medication for fever. See , Lauren Gambino and Tom Hart, ' Medical Records Revealed Texas Ebola Victim Sent Home with High Fever', *The Guardian(Uk)* 10 October 2014 ,available<http://www.theguardian.com/world/2014/oct/10/thomas-duncan-ebola-medical-records-high-fever> ,accessd 20 October 2016

⁷⁰ Mariner Wendy (n2)151

Improving the Social Determinants of Health

There is growing evidence based on empirical researches that socioeconomic factors, such as the distribution of wealth and income, political inequality, education, employment and housing can affect health⁷¹.

Measures to improve healthcare may prove to be counter-productive if it is not augmented with commensurate efforts to improve the social determinants that actually facilitate the disease in the first place. One of the most important underlining causes of the EVD outbreak was poverty and neglected neighbourhoods, which lacked basic water and sanitary facilities. These issues must be identified and considerable investments made to improve them in order to prevent future epidemics.

Enhancing International Political Will

After the Bird and Swine flu epidemics, it was felt that there was the need to expand the regulatory framework for infectious disease beyond the traditional limits of yellow fever, cholera, plague and small pox. This was borne out of the realization that new disease were emerging and more could emerge in the future. It was also recognized that infectious diseases could pose a threat to International Security due to the possibility of trans-border infectious.

The new framework thus was founded on the ideal of States cooperating, sharing information and that infectious disease threats should be on the agendas of political economic and diplomatic leaders-not just health officials⁷². The new regulations also sought to balance justified responses to disease threats with other political interests and values, particularly trade and human rights.

⁷¹ Fidler David(n4)183

⁷² Hodge James(n38)358

However, during the EVD outbreak, most countries completely departed from the ideal of IHR at the initial period of the epidemic. They sought to protect themselves rather offer help even though it was obvious the affected countries could contain the outbreak alone. It was not until the apparent failure of their efforts at protection by the spread of the infection to the United States and Spain, that concerted efforts were made by western countries to provide the much needed help.

One of the reasons why most countries disregarded the IHR, was that there was no mechanism for compliance. As described by Hodge, WHO did not have the ‘big stick’⁷³ to ensure compliance. All it could do was rely on its powers of persuasion to influence and recommend next steps. During an address to the Executive Board, the Director General of WHO, Margaret Chan implored countries ‘to turn the 2014 Ebola crisis into an opportunity to build a stronger system to defend our collective global health security.’⁷⁴ More importantly the absence of key infrastructure for surveillance, laboratory testing and data management⁷⁵ were blamed for the initial failure to detect the emergence of the EVD outbreak. At present, the WHO Review Committee found that only 64 out of 194 WHO member states has such infrastructure in place. Preventing the next epidemic should with utmost urgency involve helping less-developed countries to develop these key infrastructures.

CONCLUSION

A cursory examination of the West African Ebola Outbreak and the reactions of various countries show that in spite of the stated commitment to the protection human right and trade in the new International Health

⁷³ *ibid*

⁷⁴ Fidler James (n38)190

⁷⁵ *Ibid* 190

Regulations, most countries are still overtly committed to traditional methods of disease control and pay scant attention to human rights and trade.

What has however been shown from the last outbreak is that incorporation of measures to ensure the protection of human rights of those affected by the outbreak is essential for the effectiveness of any measure to control EVD or any other disease outbreak. Humanitarianism rather protectionism should be the watchword. The epic failure of some of the measures to control the West African EVD outbreak shows that co-operation rather than isolationism remains the most important approach to abating any disease outbreak. It is therefore recommended that there should be greater commitment to implementing the provisions of the IHR and also the need for the more advanced countries to provide more support to developing countries that would help them make the much needed improvements to their healthcare infrastructure.