

## Law: an underused tool to improve health and wellbeing for all

One of the most potent tools to advance health and wellbeing and enshrine the right to health in local, regional, national, and international policies has not yet gained sufficient attention in global health discussions. A new report, released on Jan 16, *Advancing the right to health: The vital role of law*, aims to fill this gap. The report, a collaboration between WHO, the International Development Law Organization, the University of Sydney, Australia, and the O'Neill Institute for National and Global Health Law at Georgetown University, USA, tackles this vast topic in three parts: advancing the right to health through law reform; the process of public health law reform; and priorities for public health law reform. In many examples, it shows how countries have implemented a wide range of laws relevant to public health. The highlighted priority areas, such as universal health coverage, tobacco control, obesity, and maternal, reproductive, and child health, will not surprise those within the health sector. But three areas in the chapter about the process of public health law reform deserve special attention and further thought.

First, awareness of barriers and counterforces is crucial to success, and implementation is likely to be in a stepwise fashion. Governments, once they have decided to undertake or commission a review of current health-related legislation, might not enact recommendations because of political ideology, political feasibility, competing legislative priorities, available resources, or a combination of all of these factors. It is extremely important who in government is behind the push for change. For example, the establishment of a National Council for the Prevention and Control of Chronic, Noncommunicable Diseases in Mexico was by presidential decree and acts now as a permanent coordinating body for national action. There are repeated warnings throughout the report of the consequences of delegating responsibility for important health issues to industry, and a strong recommendation to move to a regulatory approach if voluntary industry standards are inadequate. However, a combination of statutory regulation and softer non-mandatory approaches, as has been shown in Mexico's anti-obesity strategy, might work by changing culture.

Second, the role of civil society, patients' advocacy groups, and other non-governmental organisations is important in the process of reform. The impetus to realising the right

to health, which is part of many nations' constitutions, might come from civil society. Brazil with its National Health Conference, which meets every 4 years, is named as an example here. Litigation is another area in which civil society can have long-lasting influence on changes in public health law. One powerful example that many others now try to emulate is the South African Treatment Action Campaign's success in gaining access to nevirapine.

Third, and perhaps the most important area for many of the currently urgent priorities, such as air pollution, obesity, and access to essential medicines, is the power of the law to facilitate intersectoral action. While intersectoral action is demanded as a solution for many prevailing health predicaments, the report offers practical advice on how to initiate intersectoral action and what legal and regulatory reform can contribute to advance this approach. It highlights the possibility of establishing new governance structures and processes to advance shared goals, including an accountability framework that sets out the responsibilities of those involved. Framing benefits beyond health attainment is strongly advised.

However, the report misses an important opportunity by not recognising the existing and non-existing legal frameworks for adolescents and the consequences. Although adolescents are named in the section on tobacco laws, there is no mention of child marriage, minimum working age, age of criminal responsibility, or of consent to contraceptives and abortion. Customary or tribal law is mentioned as an alternative to national or regional legislation but its deleterious consequences, especially for this age group, are not further explored. As our Adolescent Health Commission, published in May last year, explained, new understanding of developmental neuroscience with new insights into adolescents' capabilities and vulnerabilities require a rethinking of legislation in this age group for better health outcomes. Our Commissioners argue that "legal and policy frameworks should reflect these evolving cognitive and emotional abilities with age-appropriate autonomy, freedoms, and rights" while protecting adolescents from harmful influences.

Nevertheless, this is an important report, and law, especially through an intersectoral lens, could provide big successes in achieving healthier populations in the future. All involved in policy making need to take heed. ■ *The Lancet*



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For more on the **report** *Advancing the right to health: The vital role of law* see <http://apps.who.int/iris/bitstream/10665/252815/1/9789241511384-eng.pdf?ua=1>

For the **Lancet Commission on Adolescent Health** see <http://www.thelancet.com/commissions/adolescent-health-and-wellbeing>