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STRENGTHENING LEGAL FRAMEWORKS FOR HEALTH IN THE SUSTAINABLE DEVELOPMENT GOALS

Laws are an essential part of public health. However, they can be out-of-date, developed with limited regard to relevant evidence and knowledge, not coherent with each other, or ineffectively implemented or enforced. Contemporary and coherent approaches to strengthening legal frameworks are required to advance health in the Sustainable Development Goals or SDGs.

This Regional Action Agenda identifies five core action areas: health system governance; protecting and fulfilling rights; access to health services; preventing and managing public health risks; and addressing social determinants of health. Robust processes are needed, from development and implementation to monitoring and evaluation, if legal frameworks are to be effective. Enhancing capacities, if legal instruments are to be used well, is also required among key stakeholders, such as policy-makers, parliamentarians, regulators, service providers, civil society and the public.

The Regional Committee for the Western Pacific is requested to consider for endorsement the draft *Western Pacific Regional Action Agenda on Strengthening Legal Frameworks for Health in the Sustainable Development Goals*.

1. CURRENT SITUATION

The SDGs challenge Member States and the international community to change the way we think about health systems, policy and programme development. SDG 3—"ensure healthy lives and promote well-being for all at all ages"—addresses health exclusively, but health extends beyond the third goal. All of the SDGs, such as those addressing clean water and energy, education, gender equality, hunger and poverty, influence and are influenced by health. Universal health coverage (UHC) is a target under the SDGs, but also serves as a platform that brings together diverse programmes and actions for health and development. Advancing UHC and the SDGs requires collaborative partnerships across sectors of government, diverse stakeholders and communities to address the many interconnected health and development challenges. As recognized in the WHO Western Pacific regional action framework *Universal Health Coverage: Moving Towards Better Health* (2015), and further highlighted in the regional action agenda *Achieving the Sustainable Development Goals in the Western Pacific* (2016), legal frameworks are an essential tool in tackling these challenges and underpin efforts to advance health in the SDGs.

Legal frameworks affect health and its determinants in many ways. They are fundamental to how policy-makers organize and manage health systems. Laws codify and allocate responsibilities, set standards, and authorize and constrain action. They are vitally important as a tool of cooperation and coordination. In an era when markets influence health behaviour and access to services, law can be used to shape markets, from banning dangerous products to mandating government procurement practices that give incentives to producers to make healthier products. Passing a law can also be a good way to convey information, to alert people to health risks, and influence social norms about behaviour. However, countries often struggle to effectively design, implement and evaluate legal interventions as part of their strategies to improve health.

Legal frameworks can become out-of-date if not updated regularly, leading to situations in which the law does not respond appropriately to contemporary public health challenges and risks, or resulting in inconsistencies between domestic laws and international commitments. Legal frameworks can consist of multiple layers, such as legislation, regulation, decrees and implementing instructions. These different layers may not be consistent with each other if they have been developed over time in response to distinct issues. Often laws are not effectively implemented or enforced, or are implemented without evaluation, which makes it difficult to assess effectiveness.

2. ISSUES

How to strengthen legal frameworks to advance UHC and health in the SDGs will depend on the context of the particular country. Countries in the Region vary greatly in terms of health needs and priorities, as well as legal systems and political, economic, social, cultural and historical circumstances. This variation is reflected in how countries use law to advance health. Legal frameworks and strengthening efforts, therefore, must be developed to be appropriate to context. At the same time, there is scope for innovation and opportunities for learning and sharing across the Region. While specific priorities vary across countries, there are certain core areas of public health in which modern legal frameworks are needed to advance health in the SDGs.

2.1 Legal frameworks are needed to address core areas of public health

To advance health, modern laws are needed to establish health system governance and stewardship; to protect rights; to ensure access to affordable, safe and quality health services; to prevent and manage public health risk; and to promote action on social determinants of health. In many countries, however, laws are not in place or are not consistent with contemporary understanding and evidence. Protection of rights within public health legislation has generally not been prioritized as much as flexibility and alignment in responding to new and emerging public health risks. Many countries express intentions to move towards a Health in All Policies approach; however, few have actually introduced legislative mechanisms to that affect, such as requirements for health impact assessments.

2.2 Effective legal frameworks need sound processes

The processes involved in developing and implementing laws need to be strengthened. This includes processes of problem definition, community and stakeholder engagement, application of relevant information and strategy development. These processes often occur simultaneously and on a continuing basis, and are affected by many technical and political factors and other forces. In many countries, legislation may be drafted without adequate definition of policy goals, generation and use of evidence, or stakeholder consultation. Quick reform using models from other countries, cut and pasted into existing laws, may lead to inconsistencies within the law itself and across other laws. Primary legislation may be passed without subsidiary legislation to enable implementation and enforcement. Further, the immediate rollout of legal frameworks and the ongoing administration of law are often not well planned and resourced.

2.3 Health sector needs strengthened capacity to use legal frameworks

All stakeholders, including policy-makers, parliamentarians, regulators, civil society and communities, and academic institutions, as well as intergovernmental organizations need to understand their roles in the development and implementation of law and be capable of discharging them. However, development of capacity in the effective development and implementation of law to advance health has not received significant attention. There is an important role for lawyers and legal expertise that needs to be developed. This role spans a broad range of areas of law as well different kinds of legal practice. Importantly there also is a need to bridge the divides between lawyers and non-lawyers. Countries and the academic community give limited attention to evaluation and research of health law, leading to a weak evidence base on the effectiveness of legal interventions and other aspects of policy development. More transdisciplinary approaches to public health law can help break down disciplinary, cultural and resource barriers that have impeded full recognition and optimal use of law in public health.

The draft *Western Pacific Regional Action Agenda on Strengthening Legal Frameworks for Health in the Sustainable Development Goals* recognizes the importance of integrating the effective use of law into public health literacy and practice. It provides guidance in relation to the design of laws themselves, as well as the processes and capacities needed for their effective development, implementation and enforcement, and review.

3. ACTIONS PROPOSED

The Regional Committee for the Western Pacific is requested to consider for endorsement the draft *Western Pacific Regional Action Agenda on Strengthening Legal Frameworks for Health in the Sustainable Development Goals*.