

Summary report on the

# First expert consultation on public health law in the Eastern Mediterranean Region

WHO-EM/PHP/055/E

Cairo, Egypt  
4–6 November 2013



**World Health  
Organization**

Regional Office for the Eastern Mediterranean

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## **1. Introduction**

On November 4–6, 2013, the World Health Organization (WHO) Regional Office for the Eastern Mediterranean convened the first expert consultation on public health law in the Eastern Mediterranean Region.

The objectives of the consultation were to:

- present a situation analysis of public health laws in the Eastern Mediterranean Region, identifying challenges, gaps and priorities;
- draw upon global and regional experiences of measures to strengthen public health laws and the impact on public health outcomes;
- discuss the importance of public health laws in priority thematic areas such as noncommunicable diseases and universal health coverage, and in promoting values such as the right to health;
- develop a roadmap and future plan of action for strengthening public health law in the Region.

A background research paper was prepared in advance of the consultation on public health laws in selected countries in the Region that examined in detail public health laws in Bahrain, Jordan, Oman and Yemen.

All the laws examined used a drafting style in which sections are more like statements of principle and commitment than the detailed prescriptions of rights, responsibilities and powers which might be found in laws from other regions. The regional drafting style gives rise to an extensive need for regulations and rules to provide the detail of the laws.

Gaps identified included a lack of purpose and clear mandate for the ministry of health as steward of the health system, and a lack of clear allocation of powers and the criteria under which such power could be used and the extent and limitations of such power. The principles on which the health system should be run such as quality and access, primary focus and protection of rights, were not articulated. There was almost no use of the laws to support policies to combat noncommunicable diseases and no requirement for health planning in any of the laws examined.

The paper concluded that extensive opportunity exists to make better use of the laws for the strengthening of health systems generally and to examine, review and amend public health laws and other laws affecting public health to achieve this important objective. A process to identify gaps and assist countries in planning a rolling programme of reforms to address the gaps was recommended for countries seeking to make better use of laws.

## **2. Summary of discussions**

Over the three-day consultation, participants discussed and reflected on a situation analysis of current use of public health law in the Region and on the reports and analysis of regional and global experts on specific issues. They discussed possible approaches to regional support in the area of public health law by WHO. Several themes emerged from the consultation, which were repeatedly raised in both formal presentations and group discussions.

*Support for countries to use laws to strengthen their health systems must be flexible.*

Countries are at different stages of development, and have different economies, politics, cultures, geography and health priorities. Support to countries must be able to be used flexibly to suit the needs of different countries. No “one size fits all” solution should be imposed on countries. Any support must be sufficiently multifaceted and accommodating to enable use by countries in different ways to suit their different needs.

The development of a variety of flexible tools to assist countries in the review and amendment of their public health laws is needed and WHO has an important role to play in the provision of leadership and support.

*The process of legislative review and amendment*

There is insufficient capacity and resources to undertake a review or amendment of public health laws and other laws affecting public health. The process of public health law review should be an area of focus for WHO in the development of a toolkit and roadmap.

WHO has an important role to play in mapping international experiences and interventions, and conducting regional research in the use of public health law as a tool for health system strengthening, and in developing regional expertise and regional tools for use in countries. WHO may assist by developing a guideline document setting out the process of legislative review and amendment, ensuring national ownership and consensus.

*Use of resources and the need to set priorities*

Countries experience varying degrees of development and have different capacities and resources. Where country environments require careful husbanding of resources, countries must consider the best approach to the use of law to strengthen the health system because it is unusual for countries to be able to sustain a comprehensive portfolio-wide reform agenda over several years.

Where resources are limited, it is crucial that those seeking to influence the review and reform of public health laws have some understanding of the process of health financing, budgeting and planning. It is the budget process which determines which programmes and initiatives are funded and which are not. There is a need to agree priorities for review and reform as resources and capacity are unlikely to be available for a comprehensive broad-ranging reform of health legislation.

It may be useful to instigate and implement a rolling programme of reform over a nominated period, say three to five years, according to priorities, to make any reform agenda easier to manage. Any toolkit should include a guide to health financing, budgeting and planning implementation of the health law reform process taking into account health and human rights principles and values.

*Laws and law-making powers are not always fully utilized*

Law reform begins with an examination of the current and potential usefulness of existing laws. Existing laws may not be fully understood or utilized.



Support for countries of the Region could usefully include an audit of already existing laws to see what works, what does not work and what powers are currently being used. The audit should also consider what laws are currently available to help strengthen the health system and realize health priorities.

*Experiences in health law development from within and outside the Region have taught useful lessons*

Cases studies and recorded international, regional and country experiences in the development and reform of public health law in the Eastern Mediterranean Region and other regions can provide useful lessons in the use of public health law in health system strengthening.

Examples include the development of a tool to consider the use of public health law in countries by the Regional Office for the Western Pacific, the development of law in relation to HIV and the experiences of Egypt, Philippines and Yemen in developing social health insurance laws. Case studies and accounts of projects, good practices and lessons learnt would be useful inclusions in any toolkit to assist regional countries in the review and amendment of public health laws.

*Noncommunicable diseases*

There is a growing burden of noncommunicable diseases in the Region. WHO's *Global status report on noncommunicable diseases 2010* identified a set of "best buys" for responding to noncommunicable diseases. These priorities are also included in the Global action plan for the prevention and control of noncommunicable diseases (2013–2020), which was adopted by the World Health Assembly in May 2013 (WHA66.10). Many of these "best buys"

require legislation or administrative regulations in order to be implemented. Countries are at different stages of being affected by, and addressing, noncommunicable diseases, and have made different use of existing laws to progress on implementation of ratified treaties such as the WHO Framework Convention on Tobacco Control.

Any roadmap and toolkit should include specific technical support on laws and their potential to assist countries in addressing noncommunicable diseases. As in all areas, support needs to be flexibly applied. Differences in existing laws, resources, lifestyle trends, infrastructure and human resources will influence the kinds of laws that suit a particular country at a particular time.

#### *Universal access to health care*

Universal access to health care was specifically stated to be a priority in many countries in the Region. Any roadmap and toolkit should include specific support on laws and their potential to assist countries in addressing universal access to health care. As in all areas, such support needs to be able to be flexibly applied. Differences in existing laws, resources, arrangements for the provision of health care, infrastructure and human resources need to be taken into account.

#### *Human rights and the right to health*

International human rights law provides public health law with explicit, universally agreed values. The protection of human rights and the progressive realization of the right to health are currently not a feature of regional public health laws. Some countries mention health in their Constitutions and some have ratified the International Covenant on Economic, Social and Cultural Rights. Constitutions

create domestic legal obligations and the ratification of a treaty creates international legal obligations to fulfil those commitments.

Any toolkit should provide material demonstrating the link between human rights and health, and the nexus between adherence to human rights principles and sound public health policy. Any roadmap and toolkit should also include specific support on the various ways human rights principles and values might be included in public health laws, including options for monitoring which are independent of government.

*Gaps and challenges in current use of health laws and their implementation*

Weaknesses in current laws and difficulties in implementation are widespread within the Region. There is a lack of capacity, including both human and financial resources, and insufficient expertise, to monitor and enforce legislation, and to identify gaps.

A lack of consultation and clarity exists about areas of legislative responsibility between the different governmental bodies, the private sector and civil society. An independent body to coordinate and monitor enforcement is also important. There is also an absence of proper penalties.

WHO has an important role to play in supporting countries to increase both institutional and human capacity in the use of laws for health system strengthening in support of priority policies. It can assist by conducting regional research on useful approaches, connecting countries to expertise and mentoring, and by developing tools to flexibly assist countries according to their needs.

*Importance of the role of civil society*

Civil society has an important role to play in the reform and implementation of health laws. This includes involvement in the identification of health priorities, health planning, health service delivery and monitoring government performance in the implementation of public health laws and obligations. Any toolkit and roadmap should recognize the importance of civil society and include it at all levels of legislative review and amendment.

**3. Recommendations***For Member States*

1. Conduct an assessment of health legislation process and content using the WHO toolkit.

*For WHO*

2. Develop a roadmap on WHO technical support to countries on building capacity in the use of public health law for health system strengthening.
3. Develop a regional toolkit that may be flexibly applied in different countries according to existing health priorities, existing health systems and consistent with local health policy and planning.
4. Map international and national experiences, good practices and lessons learnt.
5. Provide technical support to generate evidence and map public health legislation in countries applying the WHO toolkit.
6. Develop a regional public health law manual on the process of review and amendment of public health laws.

7. Develop a general guide for countries to the content of core public health laws, including their principles, elements, designation of responsibilities and regulatory mechanisms.
8. Create linkages between the different relevant stakeholders and actors, including with those beyond the health sector.
9. Conduct capacity-building, both structural and human, and support the establishment of independent regulatory bodies for oversight, coordination, accreditation and monitoring implementation.
10. Develop a regional public health law advisory network that includes international expertise.



World Health Organization  
Regional Office for the Eastern Mediterranean  
P.O. Box 7608, Nasr City 11371  
Cairo, Egypt  
[www.emro.who.int](http://www.emro.who.int)