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International Expert Consultation on the Development of a Public Health Law Manual

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The International Development
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The World Health Organization (WHO)
The O'Neill Institute for National and
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REPORT OF THE RAPPORTEUR

International expert consultation on the development of a public health law manual

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The views expressed in this meeting report are those of the participants in the consultation and do not necessarily represent the decisions or policies of IDLO, the O'Neill Institute, or the World Health Organization.

Table of Contents

INTRODUCTION	5
1. THE RATIONALE, SCOPE AND CONTENT OF THE PUBLIC HEALTH LAW MANUAL	7
1.1 <i>The rationale for a Public Health Law Manual</i>	7
1.2 <i>The scope or conceptual approach of the manual</i>	10
1.3 <i>The specific content or coverage of the manual</i>	12
2. THE DISSEMINATION OF THE MANUAL, AND OTHER STRATEGIES FOR PROMOTING HEALTH THROUGH LAW	17
3. NEXT STEPS	19
Appendix A: Participants responding to the web-based review of the first draft of the Public Health Law Manual	20

INTRODUCTION

On 26-28 April, 2010, the International Development Law Organization (IDLO) hosted an international expert consultation on the development of a manual to assist countries engaged in the process of modernizing and improving their public health laws. The consultation took place at IDLO's regional office in Cairo, Egypt. Twenty-two experts attended in their personal capacities. Participants came from a wide range of countries, including: Argentina, Australia, Brazil, Canada, China, Columbia, Ecuador, Egypt, Indonesia, South Africa, Suriname, Uganda, and the United States. A number of agencies were represented including, WHO's Eastern Mediterranean Regional Office (EMRO); the United Nations Office of the High Commissioner for Human Rights (OHCHR), and the United Nations Development Programme (UNDP).

The Cairo consultation followed on from an initial consultation at IDLO headquarters in Rome, 26-28 April 2009. The Rome consultation sought to identify priorities for the development of public health law, and opportunities for IDLO, WHO and its partners to assist countries in developing national public health laws. The development of a manual was identified by participants in the Rome consultation as a priority for future action. Following the Rome meeting, the O'Neill Institute for National and Global Health Law at Georgetown University, Washington D.C. undertook to develop a draft of the manual, in collaboration with IDLO, WHO, and members of a core review team.¹

In March 2010, WHO sought comments on the initial draft from a broadly constituted group of experts in public health and public health law, representing a wide range of countries (Appendix A). The goal of this part of the process was to test the aims, content and direction of the manual, and to provide a focus for the next stage of the development of the manual. Feedback from review participants confirmed the value and importance of a manual to assist countries to modernize and implement their public health laws. However, a range of views were expressed about whether the manual should be prescriptive (taking the form of annotated "model legislation"), or more descriptive (identifying issues for countries to consider as they updated their laws). There was strong support for the development of a document that would be practical, and that could serve as a tool for WHO's regional offices, for governments, civil society, and

¹ The Core Review Team comprised: Oscar Cabrera, Deputy Director, O'Neill Institute for National and Global Health Law, Georgetown University Law Center; Milton Castelen, Department of Ethics, Equity, Trade and Human Rights – Information, Evidence and Research, World Health Organization; Lawrence Gostin, Professor and Faculty Director, O'Neill Institute for National and Global Health Law, Georgetown University Law Centre; Roger Magnusson, Professor of Health Law & Governance, Sydney Law School, University of Sydney; Helena Nygren-Krug, Health and Human Rights Advisor, World Health Organization; David Patterson, Program Manager, HIV and Health Law Program, IDLO.

other stakeholders.

This report highlights key themes from the Cairo consultation, which covered four main areas:

- First, the consultation sought further input and guidance on the rationale, scope and content of the manual.
- Secondly, it sought guidance on strategies for the dissemination of the manual when completed, and advice on the kind of support required to ensure that the manual achieves its aims of assisting governments and stakeholders at the country level.
- Third, the consultation sought recommendations for further actions that agencies – including WHO and IDLO – could take to promote health through the use of law in ways extending beyond the manual. This included discussion of the goal of developing a network of people and organizations to provide ongoing collaboration and support for specific initiatives.
- Throughout the consultation, participants were also asked to provide specific country-based examples of good practices and of particular country-level features that assisted the development of effective public health laws.

1. THE RATIONALE, SCOPE AND CONTENT OF THE PUBLIC HEALTH LAW MANUAL

Law is an important tool for improving the health of populations, through legislative and administrative actions taken at the international, national and sub-national levels. At the international level, health is recognized as a fundamental human right in the Constitution of the World Health Organization (WHO).¹ WHO has a constitutional mandate to adopt conventions, regulations, to make recommendations and to “take all necessary action to attain the objective of the organization”.² Countries are required to deposit copies of their health-related “laws, regulations, official reports and statistics” with WHO,³ and WHO regularly receives requests from countries for assistance in dealing with specific legal issues within the health sector.

In most countries, the Ministry of Health serves as the steward of the health sector, with primary responsibility to protect and promote the health of the population. A variety of challenges – including pandemics and communicable diseases, the challenge of health system reform, the growing burden of non-communicable diseases, and the Millennium Development Goals – are contributing to renewed interest by governments in the role of regulation and law in realizing national health objectives. Law is an important (social) determinant of health, and the process of improving law can result in improved health outcomes across the population. All of these factors make the development of a Public Health Law Manual a timely initiative.

Participants at the Cairo consultation discussed three issues relating to the design of the Public Health Law Manual. Firstly, the rationale, or the case for having the manual; secondly, the scope or conceptual approach of the manual; and thirdly, the specific content or coverage of the manual.

1.1 The rationale for a Public Health Law Manual

There was wide agreement that the objective of the Manual should be to inform and assist countries to design effective and comprehensive public health laws in ways consistent with their human rights obligations. Implicit in this objective, however, were a range of issues that participants sought to clarify.

Firstly, law is a tool, but it is not the only tool for seeking to achieve national health goals. Furthermore, as one participant pointed out, the opportunity for the health portfolio to lead a law reform initiative will usually arise only occasionally. It follows that a Manual needs to

recognize how the law reform opportunity arises, the fact that political capital may be limited, and some of the priority areas where a legal approach will be *most useful* in strengthening a country's public health infrastructure.

A Public Health Law Manual could potentially function in quite different ways. For example, it could aim to provide guidance for countries engaged in a process of review and law reform; alternatively, it could be a resource that members of the international community could use in evaluating the laws of different countries. There was strong agreement that the core audience for the Manual should be governments engaged in the process of law reform, whether in a comprehensive fashion, or in more limited areas. Ultimately, governments need to make choices within the scope of their resources about how best to realize the right to health. The Manual should aim to support those choices.

In order to support public health law reform initiatives, the Manual needs to illustrate how and when a legal approach can be useful. While it cannot exhaustively cover all areas, the Manual should nevertheless point to priority areas where law can make a difference. These could include, for example, tobacco control, obesity and public health nutrition, access to essential medicines, and universal access and coverage.

Participants recognized that the drive for improving health legislation does not only arise at the Ministerial level, but from lower down; for example, from public servants who write briefing notes, as well as from civil society. To be effective, the Manual therefore needs to serve a broad audience, both within – and beyond – government. In addition to Ministries of Health, this would include other government departments whose policies may affect health (e.g., agriculture, housing, energy, trade and the environment), as well as other major stakeholders (the health profession, the private sector, philanthropy, academia, the media, and civil society organizations).

Participants agreed that in order to be useful, the Manual should be disseminated at country and regional levels, supporting law reform processes and assisting technical cooperation between experts in public health law, policy-makers, and drafters. The practical benefit of the Manual will be enhanced by including best practices and country examples, but without being overly prescriptive. Due recognition should be given to the fact that there are many different legal traditions, including common law, civil law, Shari'a law, and customary law.

(a) *Links between the effective protection of public health and human rights*

Participants agreed that an important priority for the Manual is to provide guidance in a way that reinforces human rights and contributes to the rule of law. One benefit of a strong human rights focus in public health law is that it contributes to the goal of making *effective* laws. As one participant pointed out, the “human rights dimension strengthens the ability of the law (and the manual) to deliver”. This focus is also consistent with the unanimous resolution of UN Member States in 2005 to “integrate the promotion and protection of human rights into national policies and to support the further mainstreaming of human rights throughout the United Nations System”.⁴

There are several aspects of the link between human rights and effective public health laws that are worth noting. Firstly, the “Right to Health” is an international human right recognized in the International Covenant on Economic, Social and Cultural Rights (ICESCR), which States Parties are required to realize by taking concrete and targeted steps in accordance with the principle of progressive realization.⁵ The Right to Health is also recognized in over 100 national constitutions. In Brazil, health is designated as a social right in Article 6 of the Constitution. The right to health is further reinforced by Article 196, which states:

Health is the right of all persons and the duty of the State and is guaranteed by means of social and economic policies aimed at reducing the risk of illness and other hazards and at universal and equal access to all actions and services for the promotion, protection and recovery of health.⁶

There are a wide number of other human rights that provide mutual support for the realization of the Right to Health such as equality and freedom from discrimination, the right to participation, information, education, food, water and housing. Participants agreed that public health laws framed in ways that respect these and other human rights are likely to be most effective in achieving their goals of disease prevention and health promotion. Human rights standards and principles are therefore an important source of guidance when drafting public health laws. The following two examples help to illustrate this point.

- (i) In some areas, including sexually transmissible infections (STIs), as well as contagious diseases (influenza), the behaviors that result in transmission cannot be effectively or efficiently monitored. It follows that disease prevention – or the scale of an epidemic – will depend, fundamentally, upon the voluntary cooperation of members of the population. In the case of pandemic influenza, citizens are more likely to trust the advice of governments, and to follow lawful directions, if they have confidence that they will not be treated unfairly or capriciously. Laws that seek to protect the public welfare, but are framed with due regard to the impact of

government actions upon individuals, can therefore serve as an important tool for minimizing disease transmission. In the case of STIs, citizens are more likely to come forward for treatment, and to follow medical advice, if law itself does not institutionalize discrimination against them.

Recognizing that citizens are participants in the process of population health improvement leads to a related point. To maximize trust and participation, human rights should feature not only in the content of public health laws, but in the processes for their development. As discussed below, participants identified the *process* of public health law reform as an important theme for the Manual to explore.

- (ii) Another reason why human rights can serve to strengthen the effectiveness of public health law is because, in circumstances where the needs and interests of individuals are disregarded, significant sections of the population risk being marginalized. If this happens, their health will suffer and this, in turn, will defeat the goal of improving the health of the population – the *whole population*. In most societies, there are distinct patterns of health inequality that correlate with socio-economic status.⁷ Participants emphasized, therefore, the fundamental need for governments to address the social determinants of health in order to make progress on the over-riding goal of improving the health of the population – the *whole population*.

1.2 The scope or conceptual approach of the manual

Participants discussed the appropriate conceptual framework through which to structure the manual. As summarized in Table 1, a variety of possible approaches were identified. For example, the manual could be structured in a way that reflects the priority health challenges that countries are facing, or, alternatively, in a way that reflects ways of understanding the components of an effective public health response, or current health development initiatives. Conceivably, the Manual could choose a combination of these different frames for illustrating the potential role of law as a tool for health improvement.

There was strong support for the Manual to be a practical – rather than an abstract or academic – document, with examples from a range of countries and legal systems. Since it is unlikely that the process of public health law reform will be comprehensive in all cases, one participant pointed out that particular sections of the Manual need to be useful on a stand-alone basis.

TABLE 1: Different ways of illustrating linkages between law and public health: implications for the structure of the Public Health Law Manual

1. Law: A systematic focus on the range of strategies that law can deploy

- Law’s contribution to public health can be explored by identifying the range of legal strategies through which law can pursue its goal of improving population health. These include the power of governments to tax and spend, to alter the informational environment, to impose direct and prescriptive requirements on individuals, professions and businesses etc.²

2. Challenges to health: A focus on the priority health challenges that countries are facing

- Law’s contribution to public health can be mapped by identifying the most important health challenges that countries are facing (e.g., HIV/AIDS, water-borne diseases, maternal and child mortality), and the role of law in meeting them. This approach might also include identifying law’s role in mitigating risk factors for disease and for poor health outcomes, both at the individual and societal level

- Discussion about law’s contribution to public health could also be structured by reference to the ways in which law can seek to reduce the burden of death and disability arising under the conventional WHO categories: communicable diseases, non-communicable diseases, and injuries. Alternatively, discussion might focus on different ways in which law can contribute to: disease prevention, disease control, health promotion, supporting health determinants, and in the effective and equitable provision of health care services.

3. Responses to health challenges: A focus on major health development initiatives, or on ways of conceptualizing the goals of health development

- Discussion about law’s contribution to improving health could focus on the law’s role in supporting major health development initiatives; for example, law’s role in assisting progress towards the Millennium Development Goals, in either their current or a revised format.³

² Lawrence Gostin, *Public Health Law: Duty, Power, Restraint*, Berkeley: University of California Press, 2008, pp 28-41.

³ At the time of writing, there is growing momentum for the Millennium Development Goals to be revised to include and reflect the burden of disease from non-communicable diseases (NCDs): see Commonwealth Heads of Government Meeting, Republic of Trinidad & Tobago, 27-29 November 2009, “Statement on Commonwealth Action to Combat Non-Communicable Diseases”, at:

- Discussion about law's contribution to public health could also revolve around how legislation might support the six building blocks of health systems, as articulated by WHO: i.e., (1) effective health service delivery; (2) a well-performing health workforce; (3) an effective health information system; (4) equitable access to medical products, vaccines and technologies; (5) sustainable financing and social protection assuring universal access; and (6) effective leadership and governance.⁴ The Pan American Health Organization (PAHO) has also developed a set of "essential public health functions", which law could support in different ways.⁵

1.3 The specific content or coverage of the manual

As countries seek to modernize their public health laws, what are the most important areas of *content* that a Manual should seek to capture or focus on? Participants at the Cairo consultation identified several questions or principles that could be used to identify the content of the Manual. For example:

- What are the priority areas where law has made, and arguably where law could make, a difference to health outcomes? (for example, tobacco control, communicable disease control etc).
- Alternatively, what are some of the most important current health challenges that countries and governments are facing? What are some of the most important but neglected issues?

Given that there are so many important, yet competing issues, and given that the Manual cannot aim to be exhaustive, the Manual should also address the process through which law reformers can identify national priorities.

(a) The importance of "process"

An important theme identified by many participants was that the Manual must address not only the *content* of an effective public health law, but

http://www.thecommonwealth.org/Internal/33247/215275/chogm_media_pack/ ; The NCD Alliance, "NCDs and the Millennium Development Goals", at: <http://www.ncdalliance.org/node/50> ; David Stuckler, Sanjay Basu, Martin McKee, "Drivers of Inequality in Millennium Development Goal Progress: A Statistical Analysis" *PLoS Medicine*, Vol. 7(3), March 2010; e1000241, at: <http://www.plosmedicine.org/article/info%3Adoi%2F10.1371%2Fjournal.pmed.1000241> ; J. Seffrin, D. Hill, W. Burkart, I. Magrath, R. Badwe, T. Ngoma, A. Mohar, N. Grey, "Is It Time to Include Cancer and Other Noncommunicable Diseases in the Millennium Development Goals" *CA: A Cancer Journal for Clinicians*, Vol. 59(5), 2009: 282-284.

⁴ World Health Organisation, *Everybody's Business: Strengthening Health Systems to Improve Health Outcomes: WHO's Framework for Action*. Geneva: WHO, 2007, at: <http://www.who.int/healthsystems/strategy/en/>

⁵ Pan American Health Organization (PAHO), *Essential Public Health Functions*, at: <http://www.paho.org/english/dpm/shd/hp/EPHF.htm>

also the *process* of developing it. Process refers here to the practical steps involved in advancing the political process of law reform, and the kinds of issues and obstacles encountered along the way. Participants identified the right to free, effective and meaningful participation as an important dimension of an effective public health law reform process. Thailand's National Health Assembly, for example, provides an important forum for the public to place issues on the health agenda and to pool their views effectively.⁸

In addition, the process theme also includes the challenges of implementing and monitoring the performance of public health laws, together with the need for governments to budget for implementation in order to ensure that public health laws are actually applied and that health gains are realized.

The effective implementation of public health laws depends upon a wide range of issues including: the presence (or otherwise) of remedies and enforcement powers, and agencies who are willing to enforce those laws; the existence of functioning courts applying the rule of law; a Health Department with a stable, salaried workforce, and the budget and technical resources to implement laws effectively. Effective implementation may require training; it may also require the participation and assistance of influential figures, such as community and religious leaders. One participant pointed out that the authorities in charge of implementing law may be different from those who have carriage of the law reform process; another emphasized that the time to overcome challenges to the implementation of a new law is *during the drafting process*. Participants from South Africa pointed out that the *publication*, in an accessible and attractive format, of the new *National Health Act* assisted the process of implementation in that country.⁹

(b) Priority themes and issues

Participants at the Cairo consultation identified – and debated – the merits of including discussion of a range of “priority issues” in the Manual. Some of these issues were seen as controversial by some participants. For example, participants drew attention to:

- ***Vulnerable and marginalized populations:*** the need for law to help to secure the health-related human rights of vulnerable and potentially marginalized populations, such as undocumented migrants, sex workers, people with disabilities, children, the elderly, ethnic minorities, the uninsured, and men who have sex with men. One participant stressed that the point here was not to advocate for, or to legalize, activities that some may see as controversial or “immoral” (such as sex work, or drug use), but to recognize that these activities *do impact on health*, and that

criminalization can have a negative impact on health outcomes. Another participant pointed to the fact that some countries have large populations of refugees, others have large populations of guest workers. These groups risk being marginalized: their presence within a country needs to be recognized and their health rights acknowledged and acted upon.

- ***The importance of non-discrimination:*** Securing “health for all” means empowering those who are most vulnerable and marginalized, and supporting their right to access to health services, and to protection from the risk factors that jeopardize their health. Law has a vital part to play in ensuring that equality is protected in a real (*de facto*) rather than merely a formal (*de jure*) sense.
- ***Transparency and accountability:*** Law has a role in encouraging transparency and accountability in how resources are used and accounted for within the health care sector, and by all agencies with a stake in health governance. Corruption undermines health by denying citizens – usually those who are most vulnerable – access to health care services, technologies, and essential medicines.
- ***The need for inter-sectoral action:*** Many of the determinants of health lie beyond the health care sector, and inter-sectoral action is required. This means both a cooperative approach to health protection across government departments and across different tiers of government. An important challenge for public health law is to allocate responsibility effectively: to identify clearly who should do what. Doing so is crucial to a successful response to pandemic influenza, and to other epidemics of contagious disease. One area outside the health care sector where a health perspective is vital is the design of the built environment. This can be facilitated through administrative or legislative procedures to ensure health impact assessment in major planning and development initiatives.¹⁰ A number of jurisdictions are reforming public health legislation in order to achieve a more integrated approach to public health planning across all levels of government, including local government, and in order to formalize the linkages between health departments and other departments whose core business impacts on health (“public health partner agencies”).¹¹
- ***Laws that indirectly impact on health:*** There are a range of laws that don’t ostensibly relate to public health, but which nevertheless can exercise a powerful impact on health outcomes across the population. For example, the practical effect of laws

that prevent testing for HIV, for sexually transmissible infections, or for pregnancy, without parental consent, until a person reaches 18 years of age, may be to create disincentives to teenagers accessing diagnostic services and treatment, prejudicing both their own health and welfare, and the health of sexual partners.

- ***The reality of “sensitive issues”:*** Participants acknowledged the fact that some issues that impact on health are “morally” controversial. These include issues relating to sexuality (e.g. sex work) as well as reproduction (e.g. abortion). One participant emphasized that these issues should not be discussed at all in the Manual, and that the Manual should be expressed in general terms so as not to alienate its audience. Another participant responded by saying that the Manual needs to deal with sensitive issues sensitively; otherwise it will be simply be avoiding issues that are central to the challenge of public health improvement.
- ***Regional supplements:*** Some issues are *regionally* sensitive, and the burden of disease varies across regions. Participants floated the idea of regional supplements to the Manual, which could contextualize the guidance of the Manual more effectively and in culturally sensitive ways.

In addition to these issues, participants raised a wide range of other “hot topics”. These include law’s role in:

- Disaster management;
- Shaping urban form, dealing with urbanization, and securing environmental health;
- Health financing: how law can assist in financing for equitable access to health care services?
- The challenge of non-communicable diseases (some countries face the “double burden of disease”, including under-nutrition and high rates of child and maternal mortality on the one hand, and rapidly rising rates of cancer, obesity, diabetes and cardiovascular disease on the other);
- Effective health information systems supporting health care and public health functions;
- Sexual and reproductive health;
- Essential drugs;
- Epidemics of communicable disease;
- The accountability of health professionals;
- The migration of health professionals;
- Patients’ rights issues, including informed consent, confidentiality, the regulation of medical records, and discrimination. Each of

these issues are often seen to lie within the core domain of *health care law*, as distinct from public health law.

(c) Draft structure

The current draft structure for the Manual – still under development – reflects the feedback provided by participants. Section I of the Manual would define “public health” for the purposes of the Manual, set out the objectives and purpose of the Manual, its intended audience, and the conceptual framework it adopts.

Section II would aim to give guidance about the *process* of effective development and implementation of public health law, as well as the *content* of public health law, understood in terms of priority themes and issues that governments and other stakeholders should consider. This section of the Manual would provide examples of opportunities and health issues which served as a catalyst for public health law reform; it would consider who can lead and initiative public health law reform; and it would review the principles for good governance in an effective law reform process.

Section III would focus on the content of public health law, with specific country illustrations. It would first seek to identify the core areas that have traditionally been addressed in public health laws, as well as other core areas affecting health, but which may not be included in a public health statute – frequently because these issues are the subject of separate legislation (for example, radiation, food and drugs, and environmental health). Section III would then seek to identify some of the important, underlying determinants of health, pointing out the growing consensus that effective health governance involves the careful incorporation off a health perspective in the work of government beyond the health sector. Influenced by the *Declaration of Alma-Ata*,¹² this is sometimes framed in terms of a “cross-sectoral approach”, or even an “all-of-government” or “health-in-all-policies” approach.

Section III would also seek to elaborate on key areas of challenges, chosen because they are neglected issues, or high-visibility issues that countries are currently grappling with, or are recognized areas where law’s role can make a vital contribution to disease prevention and control. Proposed topics for coverage include law’s role in tobacco control; maternal mortality, access to essential medicines; obesity and public health nutrition (key determinants for a range of non-communicable diseases including cancer, diabetes and cardiovascular disease); universal access to a minimum set of health care services; and water and/or sanitation.

2. THE DISSEMINATION OF THE MANUAL, AND OTHER STRATEGIES FOR PROMOTING HEALTH THROUGH LAW

On 28 April 2010, the working groups focused on recommendations for dissemination of the Manual, and more broadly, on suggestions for IDLO, WHO and other stakeholders to promote health through law.

The dissemination strategy is not just a communications exercise. The goal of the expert group is to raise the profile of the Manual in order to promote health through law, and in order to promote effective public health laws that are framed consistently with international human rights law.

Participants recognized that the Manual provides an opportunity to promote public health through law. In addition, however, the *process for completing and disseminating the manual* provides opportunities for raising the profile of public health law and for generating a sense of ownership of the manual among its intended audience. Some of the ways this could be achieved include the following:

- The process needs to begin before the text is finalized. Mobilizing stakeholders before an official launch helps to lend legitimacy to the final product, and a greater sense of ownership. Government agencies involved in public health law reform are more likely to use the Manual when it has gained currency amongst external stakeholders.
- The project should include an official launch of the Manual, with media present, perhaps at an appropriate international meeting.
- Dissemination and impact could be enhanced through workshops and training sessions at the same time as the Manual is launched.
- It is worth considering whether the Manual should be promoted to stakeholders involved in other public health campaigns where law could be used to promote health, and where there are opportunities for synergies and “dual gains”.
- It could be helpful to bring the Manual to the attention of governments and agencies where public health reform processes are currently under way (e.g. Ghana, India, China, South Africa).
- Although Ministries of Health are not the only audience for the Manual, they are the lead agency that is likely to be interested in and supportive of public health law reform. The Manual should be promoted to Health Departments. However, the Manual is more likely to be used by the Health Ministry if it has

gained legitimacy and credibility amongst other stakeholders. These stakeholders could include: national Parliaments NGOs and INGOs, academics, inter-governmental agencies and forums (such as the Pacific Islands Forum Secretariat), the judiciary in each country, the Inter-Parliamentary Union, Law (reform) Commissions, Public Protectors and Ombudspersons, Human Rights Commissions, UN agencies, the Global Fund to Fight AIDS, Tuberculosis and Malaria, the Women and Children's Commission (an ASEAN body), and the Asian Human Rights Commission.

- Regional associations should not be forgotten. These include: ASEAN (Association of Southeast Asian Nations), UNOSUR (Union of South American Nations), MERCOSUR (countries belonging to South American regional trade agreement), and the Pacific Islands Forum.
- Beyond Health Ministries, the other agencies to whom the Manual should be promoted will vary from country to country.
- Referencing the Manual in academic papers and journals is an important way of building its profile and credibility.

3. NEXT STEPS

Following the Cairo consultation, the proposed structure for the Public Health Law Manual will be circulated among the core review team, and other stakeholders. The drafting of the Manual is being led by Professor Lawrence Gostin, Mr. Oscar Cabrera, and fellows at the O'Neill Institute for National and Global Health Law, Washington D.C. (one of the hosts of the consultation). Once the next draft of the Manual has been completed, it will be distributed to the core review team for comment, with comments then being sought from participants from the Cairo consultation, and then from a wider group of stakeholders through a web-review process. Ultimately, the Manual will represent a public health tool available to governments and other stakeholders involved in public health law reform. Any comments about the development of the Public Health Law Manual should be directed to the facilitators, Professor Lawrence Gostin (O'Neill Institute), Ms Helena Nygren-Krug (WHO), Mr. David Patterson (IDLO).

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Appendix A: Participants responding to the web-based review of the first draft of the Public Health Law Manual

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ENDNOTES

¹ The Preamble to the Constitution of the World Health Organisation states: "The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition":
<http://www.who.int/governance/eb/constitution/en/index.html>

² WHO's Constitution states that the objective of the organization is "the attainment by all peoples of the highest possible level of health." WHO, *Constitution*, Art. 1, available at <http://www.who.int/governance/eb/constitution/en/index.html>. The Constitution also states that it is the function of WHO to "take all necessary action to attain the objective of the Organization," (id. at art. 2(v)), including proposing "conventions, agreements, and regulations", and making "recommendations with respect to public health matters" (id. at art. 2(k)). Specific powers relevant to WHO's global normative role include the power to make treaties (id. at art. 19), regulations in specific areas (id. at art. 21), non-binding recommendations (id. at art. 23), and the obligation of member States to report to WHO annually on action taken with respect to recommendations, conventions, agreements and regulations (id. at art. 62).

³ WHO, *Constitution*, Art. 63.

⁴ United National General Assembly, *2005 World Summit Outcome*, A/60/L.1 (15 September 2005), para. 126.

⁵ ICESCR Article 12; General Comment No. 14 (2000), The Right to the Highest Attainable Standard of Health; 11/08/2000, E/C 12/2000/4.

⁶ Constitution of Brazil (adopted 5 October, 1988), at: <http://www.servat.unibe.ch/icl/br00000.html>

⁷ Commission on Social Determinants of Health, *Closing the Gap in a Generation: Health Equity Through Action on the Social Determinants of Health*, Final Report to the WHO Commission on Social Determinants of Health, Geneva: WHO, 2008, at: http://www.who.int/social_determinants/thecommission/finalreport/en/index.html

⁸ See "Thai Public Invited to Help Shape Health Policies", *Bulletin of the World Health Organization* 87(2), 2009: 89.

⁹ *National Health Act of 2003* (South Africa), at: <http://www.polity.org.za/article/national-health-act-no-61-of-2003-2003-01-01>

¹⁰ This occurs, for example, in South Australia: Frank Callaghan, Chris Lease, "Health Impact Assessment in South Australia" *South Australian Public Health Bulletin*, Vol. 4(3), 2007: 11-13.

¹¹ See, for example, *Public Health Bulletin South Australia: Health in All Policies* Vol. 2, Number 2, July 2010, reporting on the Adelaide 2010 International Meeting. Available at:
<http://www.health.sa.gov.au/pehs/publications/public-health-bulletin.htm>

¹² *Declaration of Alma-Ata* (International Conference on Primary Health Care, Alma-Ata, USSR, 6-12 September 1978), at: http://www.who.int/hpr/NPH/docs/declaration_almaata.pdf