

soldiers deployed in counter-insurgency operations will always need to fall back on their own capacity, buttressed by sound training, for resilient and nuanced legal and moral choice.

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## Role of law in global response to non-communicable diseases

A consensus is emerging about the affordable and cost-effective interventions that could most effectively reduce the burden of non-communicable diseases in countries of low and middle income.<sup>1-3</sup> These priority interventions focus on the proximate causes of non-communicable diseases in all countries: tobacco use; harmful consumption of alcohol; insufficient physical activity; and the over-consumption of salt, sugar, and saturated fat.

Priority actions to reduce tobacco use and alcohol consumption include: the restriction of alcohol advertising and sponsorship, and the enforcement of comprehensive bans on tobacco advertising, promotion, and sponsorship; health warnings on tobacco products; higher taxes on tobacco and alcohol; bans on smoking in public places; prohibition of sales to children; and penalties for smuggled and counterfeit tobacco and informally produced alcohol.<sup>1</sup> Restrictions on when retail alcohol can be sold and drink-driving countermeasures are also important interventions.<sup>1</sup> Priority interventions for diet include: the replacement of trans fats with polyunsaturated fats; a reduction in salt content of food; restrictions on the marketing of foods and beverages high in salt, sugar, and fat (especially to children); better food labelling; and the promotion of food reformulation (particularly salt reduction).<sup>1</sup> A striking feature of these interventions is that legal and regulatory actions by governments are needed for successful implementation. Regrettably, the need for global leadership in public health law has received little attention.

The experiences of high-income countries with tax rises, warning labels, advertising bans, and retail controls on tobacco and alcohol suggest that the implementation of priority interventions in countries of low and middle income will be strongly resisted by industries that benefit from harmful products or harmful rates of consumption.<sup>4</sup> Many countries have outdated public health laws, insufficient technical capacity to implement interventions, and their governments are vulnerable to inappropriate corporate influence. For example, in Indonesia, the world's fifth largest tobacco market, a clause dealing with tobacco in the Health Bill, which had already been passed by Parliament, was omitted from the version that was sent



to the President for signature.<sup>5</sup> National governments must also navigate World Trade Organization rules and obligations under bilateral investment treaties and simultaneously resist pressures from trading partners who act on behalf of tobacco and other business interests domiciled in their territories.<sup>6,7</sup>

Although no international agency incorporates resources, technical capacity, and a comprehensive commitment to leadership in public health law, important opportunities do exist for a collaborative approach that combines the strengths of different partners. For example, the International Development Law Organization (IDLO) is an inter-governmental body based in Rome that convenes legal expertise, provides legal training, and has strong relations with national legal officials. The IDLO provides international leadership for HIV/AIDS law, and it has recognised non-communicable diseases as a priority.<sup>8</sup> Opportunities exist for WHO, the World Bank, regional development banks, the Inter-Parliamentary Union, the Commonwealth Secretariat, and other regional organisations to convene legal expertise, to form partnerships for legal training and the development of legal resources, and to fund legal assistance to countries in various ways.

An empowered sector of non-governmental organisations is crucial for holding governments to account and advocating for law reform. Important work is being done through the International Legal Consortium (funded by the Bloomberg Foundation)<sup>9</sup> and non-governmental organisations, such as the Southeast Asia Tobacco Control Alliance,<sup>10</sup> although a broader focus will be needed in future to address other risk factors for non-communicable diseases.

In view of the legal differences between countries, narrowly prescriptive solutions are neither helpful nor welcome. The differences between tobacco and alcohol, diet, and sedentary lifestyles also suggest different roles for law in relation to each. The food industry has many opportunities to be part of the solution to the crisis in non-communicable diseases; some manufacturers are already cutting salt and sugar, and eliminating trans fats from their products.

International leadership in public health law should focus on three priorities. First, high-quality legal resources are needed to assist countries to assess options and to navigate the process of legal-reform implementation, with case studies and

examples of success from lower-resource countries. Second, investment in capacity building is needed to nurture future leaders in public health law, and would counterbalance the legal expertise that industry and business groups can access in the private market. Third, one probable outcome of the forthcoming UN High-level Meeting on Non-communicable Diseases on Sept 19–20, 2011 will be a growing recognition of the need for technical legal assistance by national and regional governments, both to frame domestic laws and navigate international obligations.

The implementation of effective policies to reduce the prevalence of risk factors for non-communicable diseases is the most powerful way to improve longevity and healthy life expectancy globally for the foreseeable future. The funding needed to address the three legal priorities is modest compared with the cost of inaction to communities, health-care systems, and national economies.

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