



Meeting Report **Thematic session on law and the** **prevention and control of** **noncommunicable diseases** ***New York, 9 February 2016***



United Nations Inter-Agency Task Force
 on the Prevention and Control
 of Noncommunicable Diseases
UNIATFF

© World Health Organization 2017

Some rights reserved. This work is available under the Creative Commons Attribution-NonCommercial-ShareAlike 3.0 IGO license (CC BY-NC-SA 3.0 IGO; <https://creativecommons.org/licenses/by-nc-sa/3.0/igo>).

Under the terms of this license, you may copy, redistribute and adapt the work for non-commercial purposes, provided the work is appropriately cited, as indicated below. In any use of this work, there should be no suggestion that WHO endorses any specific organization, products or services. The use of the WHO logo is not permitted. If you adapt the work, then you must license your work under the same or equivalent Creative Commons license. If you create a translation of this work, you should add the following disclaimer along with the suggested citation: “This translation was not created by the World Health Organization (WHO). WHO is not responsible for the content or accuracy of this translation. The original English edition shall be the binding and authentic edition”.

Any mediation relating to disputes arising under the license shall be conducted in accordance with the mediation rules of the World Intellectual Property Organization.

Suggested citation. Mission Report, Thematic session on law and the prevention and control of non-communicable diseases, New York, 9 February 2016. Geneva: World Health Organization; 2017 (WHO/NMH/NMA/17.60). License: CC BY-NC-SA 3.0 IGO.

Cataloguing-in-Publication (CIP) data. CIP data are available at <http://apps.who.int/iris>.

Sales, rights and licensing. To purchase WHO publications, see <http://apps.who.int/bookorders>. To submit requests for commercial use and queries on rights and licensing, see <http://www.who.int/about/licensing>.

Third-party materials. If you wish to reuse material from this work that is attributed to a third party, such as tables, figures or images, it is your responsibility to determine whether permission is needed for that reuse and to obtain permission from the copyright holder. The risk of claims resulting from infringement of any third-party-owned component in the work rests solely with the user.

General disclaimers. The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of WHO concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. Dotted and dashed lines on maps represent approximate border lines for which there may not yet be full agreement.

The mention of specific companies or of certain manufacturers' products does not imply that they are endorsed or recommended by WHO in preference to others of a similar nature that are not mentioned. Errors and omissions excepted, the names of proprietary products are distinguished by initial capital letters. All reasonable precautions have been taken by WHO to verify the information contained in this publication. However, the published material is being distributed without warranty of any kind, either expressed or implied. The responsibility for the interpretation and use of the material lies with the reader. In no event shall WHO be liable for damages arising from its use.

This publication contains the collective views of the United Nations Interagency Task Force on the Prevention and Control of Noncommunicable Diseases and does not necessarily represent the decisions or the policies of WHO.

Meeting Report

Thematic session on law and the prevention and control of noncommunicable diseases

TABLE OF CONTENTS

Introduction	1
<i>Objectives of the thematic session</i>	<i>1</i>
Opening session	2
<i>Welcome by the Co-hosts.....</i>	<i>2</i>
<i>The UN Interagency NCD Task Force.....</i>	<i>3</i>
<i>The global coordinating mechanism.....</i>	<i>3</i>
Law and NCD Prevention and Control	4
<i>WHO Perspective</i>	<i>4</i>
<i>Perspective from Africa.....</i>	<i>5</i>
<i>Perspective from The Americas.....</i>	<i>5</i>
<i>South East Asia Perspective.....</i>	<i>5</i>
<i>The Western Pacific Perspective.....</i>	<i>6</i>
Presentations.....	6
<i>Survey of legal initiatives in law and NCD prevention</i>	<i>6</i>
<i>Opportunities for Country Engagement</i>	<i>6</i>
<i>Lessons from capacity building on NCD and law.....</i>	<i>7</i>
<i>Lessons from the Global Commission on HIV and the Law.....</i>	<i>7</i>
<i>Lessons from the WHO Framework Convention on Tobacco Control.....</i>	<i>8</i>

<i>Discussion</i>	9
<i>Global Guidance and Commitments</i>	9
Discussion groups	9
<i>What types of legal networking do you see as useful to prevent NCDs?</i>	9
<i>What do you perceive as the need for further capacity building at the intersection of law and NCDs?</i>	10
<i>What should be priority activities for knowledge generation, management and translation into action at the intersection of law and NCDs?</i>	10
Lessons from HIV – A Commission on NCDs and the Law?	11
ANNEXES	12
<i>Annex 1: Agenda</i>	12
<i>Annex 2: Participant List</i>	14
<i>Participants – United Nations and other Intergovernmental Organizations</i>	14
<i>Participants – Academia and Civil Society</i>	16

Project email address: DL-ncdsandlaw@idlo.int

International Development Law Organization (IDLO)

David Patterson

Senior Legal Expert, Health

Email: dpatterson@idlo.int

Version: 26 October 2016

Introduction

Almost all of the evidence-based, cost-effective interventions in the Global Action Plan for the Prevention and Control of Noncommunicable Diseases 2013-2020 have substantial legal components. These include the regulation of production, advertising and sales of unhealthy products, excises and taxation, and the establishment of health promotion bodies.

Legal expertise is therefore needed at both international and domestic level. This may include relevant expertise in public international law, international trade law, international investment law, intellectual property law, human rights law, constitutional law, administrative law, and consumer protection law. Yet the relevant legal capacity in relation to NCDs is absent or limited in many countries.

At the 4th meeting of the UN Interagency Task Force on NCD Prevention and Control, the Task Force agreed to hold a thematic day on the rule of law and NCDs, to be hosted by the International Development Law Organization (IDLO) in 2016, in collaboration with UNDP, WHO and other interested Task Force members and invited partners.¹ Because the meeting was not a formal session of the Task Force, participation was extended to include representatives of academic and civil society organizations engaged in the response to NCDs.

The thematic session was held in UN Headquarters on February 9, just prior to the 6th Task Force meeting, February 10-12 2016.

The immediate results of the thematic session are reflected in the decisions of the 6th Task Force meeting, at which the Task Force recommended:²

1. Ensure, where possible, that Joint Programme Missions include a review of the country legal frameworks and international legal obligations in their ToRs and that the teams include relevant legal expertise;
2. The establishment of a community of practice on NCDs and law, under the WHO Global Coordination Mechanism on NCDs;
3. That the Task Force explore, possibly through a study, how to meet the rapidly increasing requests to provide technical assistance, including through capacity building, in the area of NCDs and law.

This document summarizes the presentations and discussions at the thematic session. Chatham House Rules were followed, and only the presentations of the invited speakers are attributed in this report.³

Objectives of the thematic session

The objectives of the thematic session were as follows:

1. Confirm the importance of national legal capacity in responding to NCDs.
2. Identify existing initiatives and gaps, needs and opportunities, including a focus on gender and an enabling legal and policy environment, in strengthening national legal capacity to respond to NCDs.
3. Identify possible actions for the Task Force members, working with partners, in strengthening national legal capacity to respond to NCDs for inclusion in the Task Force work plan for 2016-2017.
4. Identify other possible actions at global, regional and national levels to advance research, capacity building and networking on NCDs and law.

¹ See <http://www.who.int/nmh/ncd-task-force/unitaf-18-march-2015.pdf> page 10 item 20.

² <http://www.who.int/ncds/un-task-force/events/feb-2016-unitaf-sixth-meeting/en/>

³ The views expressed in this publication are the views of the authors and do not necessarily reflect the views or policies of IDLO or its Member Parties, nor of WHO or UNDP. IDLO would like to acknowledge the contribution of Dr. Shamiso Zinzombe for her contribution to this report.

Opening session

Welcome by the Co-hosts

Mr. David Patterson, Senior Legal Expert, Health, Department of Global Initiatives, International Development Law Organization (IDLO) welcomed the participants on behalf of Ms. Irene Khan, Director-General of IDLO. He noted that IDLO is the only intergovernmental organization exclusively devoted to promoting the rule of law. The IDLO health law strategy 2014-2016 included NCDs, with a focus on obesity, diabetes, cardiovascular diseases and healthy diets and physical activity. IDLO is also a member of the UN NCD Interagency Task Force.

Dr. Douglas Webb, United Nations Development Program (UNDP) Team Leader for Health and Innovative Financing in the Health and HIV Development Group, welcomed participants on behalf of Dr. Mandeep Dhaliwal, Director, HIV, Health and Development Practice. He noted that in implementing the Global Action Plan on NCDs, UNDP's role is supportive, geared toward strengthening legal and regulatory environments to address NCDs, including access to medicines. He noted the increase in demand for legal and regulatory work around NCDs, where the field is experiencing a clash between politics and economics affecting the nature and extent of public goods.

"In this battle ground, different actors have very different incentives... the simple act of ingesting a commercial product constitutes a market share for one actor, a consumption behavior for another, a revenue stream for somebody else and a risk factor for somebody else".

Dr. Douglas Webb, UNDP

Dr. Webb noted that the WHO Framework Convention on Tobacco Control (WHO FCTC) has already provided inspiration for action in other development contexts. These include the Addis Ababa Action Agenda Draft Outcome Document 7, July 2015, which proposed the use of tobacco taxation to fund health services (para. 32).⁴ UNDP is also examining the economic aspects of NCDs and their impact. He concluded by noting that UNDP also addresses access to medicines. He anticipated battles will also be fought beyond the health sector, in areas such as finance, trade, and in the courts. This underscores the importance of developing a collective approach, noting the links between Sustainable Development Goals (SDGs) 3 and 16.

"We must be very persistent.... these legal and regulatory components are going to be absolutely critical - they intersect with everything we are doing."

Dr. Douglas Bettcher, WHO

Dr. Douglas Bettcher, Director of Prevention of Noncommunicable Diseases for the World Health Organization (WHO), welcomed the meeting as a milestone affirming NCDs on the public health agenda. He noted that almost every health area involves a regulatory or legal framework. He recalled the crucial role of State political will, coupled with the leadership of WHO's Director-General, which shifted the public health legal and regulatory space to include the issue of tobacco control. The WHO Framework Convention on Tobacco Control (WHO FCTC) demonstrates the feasibility of Article 19 of the WHO Constitution, which permits the World Health Assembly (WHA) to adopt binding health treaties⁵. He noted that the FCTC Protocol to Eliminate Illicit Trade in Tobacco Products illustrates

further widespread acceptance of international health legislation⁶. Drawing parallels between other NCDs and the WHO FCTC experience, Dr. Bettcher observed that today we are in the same place as we were with tobacco before the WHO FCTC.

Dr. Bettcher noted that essential, ongoing tobacco control work includes actively defending the WHO FCTC from challenges, such as the law suits against plain packaging. Litigation funds helping to defend tobacco control measures had been established by, among others, the Bill and Melinda Gates Foundation and Bloomberg Philanthropies. He noted that WHO and the Pan American Health Organization (PAHO) had submitted sealed amicus curiae briefs in the Philip Morris International Inc. suit challenging Uruguay's tobacco control laws.

Other relevant initiatives include the MPOWER Initiative (a WHO-Bloomberg Philanthropies collaboration), the Commission on Ending Childhood Obesity, and the Global Strategy on Diet, Physical Activity and Health. He concluded by noting the critical need for new problem solving for mechanisms such as Investor-State Dispute Settlements (ISDS).

⁴ The final document refers to funding development. See http://www.un.org/esa/ffd/wp-content/uploads/2015/08/AAAA_Outcome.pdf

⁵ http://www.who.int/governance/eb/who_constitution_en.pdf

⁶ <http://www.who.int/fctc/protocol/en/>

The UN Interagency NCD Task Force

Mr. Nicholas Banatvala, Senior Advisor, Office of the Assistant Director General, NCDs and Mental Health noted that the Task Force was formed in 2013, and reports to United Nation Economic and Social Council (ECOSOC). Task Force members include about 30 UN agencies, and other intergovernmental organizations with a relevant mandate. The Task Force works on the basis of two-year work plans. The Task Force aims to support action at country level, including through UN country teams, as in Mozambique and India. Similar work is being undertaken through Global Joint Programmes in Thematic Groups such as on areas relating to cancer and the harmful use of alcohol. He noted that civil society, including NGOs and academia, is also critical to moving forward the NCD legal and policy response.

The global coordinating mechanism

Dr. Bente Mikkelsen, Senior Advisor, Office of the Assistant Director General, NCDs and Mental Health, WHO, noted the new UN NCD Global Coordinating Mechanism (GCM) has members from all UN Member States and Agencies, plus some non-state actors. Its broad membership base shows recognition of an understanding for the need for a multi-sectoral approach and stakeholder engagement to address NCDs.

GCM's work plans and activities are determined by its mandate.⁷ Activities include facilitating dialogue through mechanisms such as working groups. The members and co-chairs of these working groups are nominated and selected by States.

Other GCM activities include providing platforms to bring together all GCM participants, and raising awareness of bottlenecks and solutions. Work is underway to create a portal with information on concrete solutions to identified obstacles to scale-up the NCD response. Also, the GCM is testing a new technology for communities of practice. A global communication campaign is also planned.

⁷ <http://www.who.int/global-coordination-mechanism/history/en/>

Law and NCD Prevention and Control

Professor Larry Gostin, Georgetown University, observed there was no clear defining line between communicable and noncommunicable diseases.⁸ While the global epidemiological transition is from infectious diseases to NCDs, prominence was still given to infectious diseases such as Ebola and Zika. WHO has identified major NCDs as diabetes, cardio-vascular disease, cancer and respiratory illnesses. There are major four causes, or pathways, tobacco use, alcohol abuse, poor diets and lack of exercise. Not all NCDs had these four causes – e.g. mental illness.

Professor Gostin noted that an advantage of the rule of law was it addressed problems in society in an orderly way - embracing legislation, regulation and litigation on multiple levels - local, domestic, regional and International. He noted that the rule of law is relevant to NCD prevention, treatment and mitigation. Many legal domains outside health, such as labor law, were also relevant. Legislation regulates human behavior. However, in public health focusing on human behavior is seldom the most effective strategy because individuals are embedded in societies and environments which are not necessarily conducive to healthy life styles.

Even where society is conducive to a healthy environment, it is not always easy to make a healthy choice. For example, a food may be low fat but high in sugar. As a result, we need to focus on the environment and communities in which we are embedded. Manipulation of our ability to choose occurs because unhealthy food items like sugar are addictive, similar to tobacco and alcohol. Pepsi and Coca Cola use marketing strategies learnt from the tobacco industry. Both sell their products claiming to be selling happiness and love.

We tend to think that it's an individual or parental responsibility, and so you can tell a mother... make sure that your kid eats right. But if she doesn't have access to affordable fruits, vegetables, and the education that she needs to prepare those meals for her family and the time; then it's useless giving her that information.

Similarly, telling mothers to make sure their children get enough exercise is futile advice if they live in a neighborhood where it is not safe for children to go out to play. We have to embed health in families, communities and societies.

Prof. Larry Gostin, O'Neill Institute

Prof. Gostin noted that States need to eliminate subsidies on certain foods, like fructose corn syrup. At the moment territories like the European Union (EU) and the United States of America (USA) subsidize the wrong foods, as was the case with tobacco in the past

Prof. Gostin noted the important need for a bottom-up approach, because of concerns raised by some of paternalism - illustrated in use of the term 'nanny state.' Yet industry is allowed to circumvent personal autonomy regularly. Our approach must be evidence based

"The Framework Convention doesn't allow big tobacco in the room when policy is being made but there is a lot of pressure to allow

预览已结束，完整报告链接和二维码如下：

https://www.yunbaogao.cn/report/index/report?reportId=5_27113

