

Legal and Regulatory Dimensions of Health Governance: Impacts on Health Outcomes

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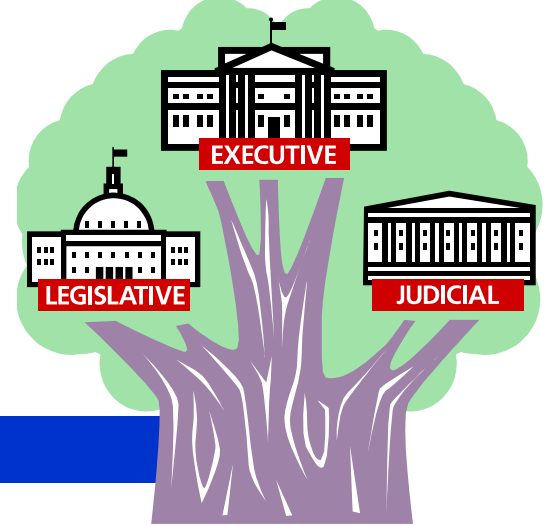


Rule of Law



- **Goal - Government bound by the law**
 - **Order and security**
 - **Checks and balances – separation of powers**
 - **Fairness**
 - Equal and effective application of the law
 - Protection of human rights
 - Civil liberties
 - Access to justice and procedural fairness
- **Requirements**
 - **Institutions**
 - Well-functioning courts - predictable and efficient rulings
 - Effective law enforcement agencies
 - A comprehensive body of laws

Basic Sources of Laws and Regulations



- International laws – treaties, customary law
- Constitutional provisions
- Statutes
- Regulations (administrative measures)
- Court rulings
- Ordinances
- Policies adopted by public sector bodies such as school boards
- Legal theories and systems

Legal and regulatory dimensions of governance

- An approach to solve problems or accomplish goals with rational selections of laws, regulations and jurisdictional authority.
- Basic sources of laws and regulations
- Legal Interventions
 - Mechanisms - tax, spend, regulate
 - Remedies – sanctions, fines, suspensions, jail
 - Tools – damages, equitable relief
- Jurisdictional authority – MOH or other?

Legal and Regulatory Approach

- Solve problems or accomplish goals with rational selections of laws, regulations and appropriate jurisdictional authority.
- Apply or augment basic sources of law and regulation.
- Utilize interventions based in the law.
 - Mechanisms - tax, spend, regulate
 - Remedies – sanctions, fines, suspensions, jail
 - Tools – damages, equitable relief
- Evaluate relevant jurisdictional authority.

Existing Best Practice



- Different law types advance health
 1. Health Law defines
 - Responsibilities of government for the health of the population
 - Relationship between govt. and the populace
 - Services to promote the public's health
 - Powers to coerce individuals and businesses for communities protection
 2. Other realms of substantive law
 - Criminal, Customs, Trade, Administrative, Labor ~

Existing Best Practice



- The law is a tool
- Complement not supplant, can be pivotal
- Shapes public health infrastructure
- Promote program goals
- Bolster or expand spectrum of effective strategies
- Integrated with legal system - holistic approach
- Direct or indirect intervention
- Dimensions of Regulatory Quality
 - Provides a framework for MOH functions
 - Meets global standards
 - Right for the context
 - Comprehensive
 - Integrated with other ministries
 - Longevity

Existing Best Practice



- Ten Essential Public Health Functions

(1994 APHA, ASPH ASTHO, et al.)

- 1 policy development
- 2 monitor health status
- 3 enforce health and safety laws

- Essential public health functions (PAHO 2000)

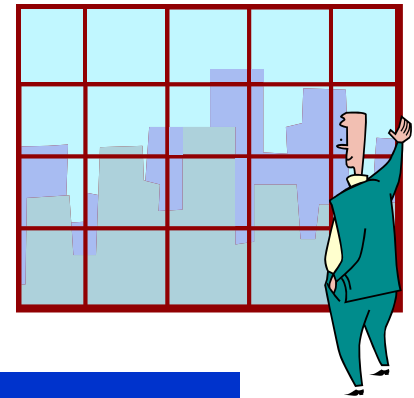
- 1 Enforcement of public health laws and regulations
- 2 Health policy development
- 3 Citizen participation and empowerment
- 4 Service quality
- 5 Equitable access

Existing Best Practice



- **Core disciplines and competency domains (ASPH 2006)**
- **Competency domains**
 - 1 **Analytics/Assessment** – define a problem
 - 2 **Policy development** – capable of articulating the health, fiscal, *legal*, administrative, social and political implications of each policy.
 - 3 **Leadership and systems thinking skills** - use *legal* and political system to effect change
- **Stewardship domains (World Health Report 2000)**
 - 1 Information and evidence
 - 2 Strategic policy
 - 3 Implementation via incentives and sanctions
 - 4 Building coalitions and partnerships
 - 5 Developing a fit between objectives, structures and cultures
 - 6 Ensuring accountability

Where do we stand now?



- “...health sector reformers have only rarely used a governance lens through which to design, implement and assess programs.” HS20/20 Feb. 2008
- AiDA Search: Sectors: Health
Status: Planned
Date: From 2008 to 2015
Keyword: Governance
No results
- While, USAID Global Bureau is the champion of governance as an explicit component of health systems agenda, the law is an underutilized tool.

<http://aida.developmentgateway.org/index.do>

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A new initiative

- Add legal and regulatory dimensions to health sector development and governance.
- Connect point of entry with needs
 - Health systems operations, financing and capacity building, other points
- Require legal analysis at the start
 - Develop indicators - add to M& E
- Consider all options – depends on the point of entry
 - Stand alone interventions
 - Integrate with other interventions
 - Add health sector focus to D & G programs
 - Support international health initiatives

Success stories: Laws that prevent disease

- Smoking bans
- Zoning and land use
- Seat belt and helmet laws
- Blood alcohol limits
- Water fluoridation
- Food fortification
- Childhood immunization
- Quarantine
- Professional licensing
- Occupational safety
- Product standards

Success stories: Global health issues and the law

- Fighting Corruption
- International Health Regulations
- Global Strategy on innovation, public health, and intellectual property
- Female Genital Cutting
- MOH transition from service provider to regulator
 - Nigeria, Albania
- NGOs, professional standards and associations
 - Authority, accountability and sanctions

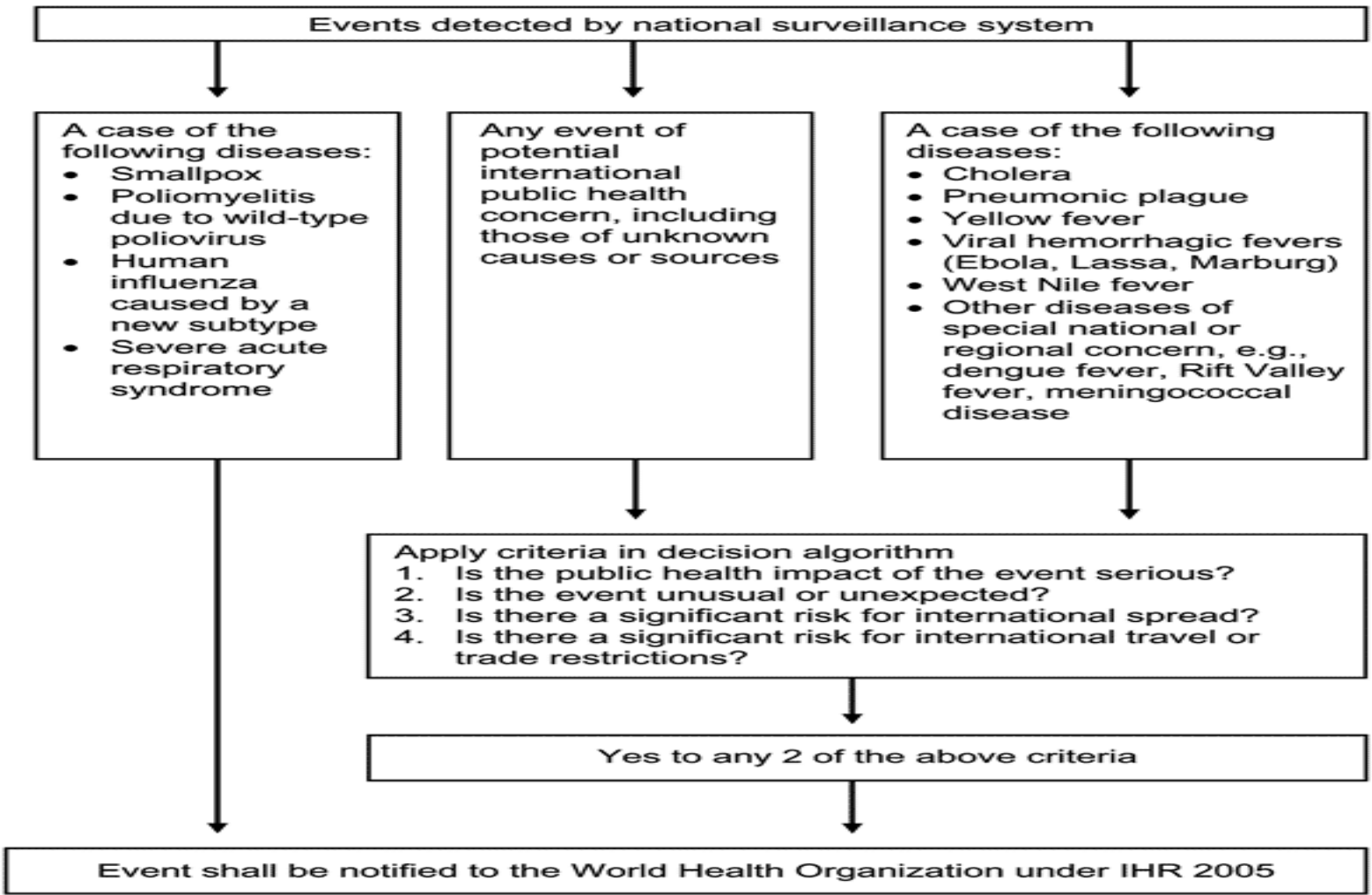
Success stories: Fighting Corruption

- Convention Against Corruption 2003 (CAC)
 - Anti-corruption body
 - Code of conduct for public officials
 - Appropriate systems for public procurement and mgt of public finances
 - Transparency, judicial and prosecutorial independence, civil society participation
 - Define crimes
 - Prosecute, adjudicate and sanction

Success stories: Fighting Corruption

CAC Applies Where HS20/20 Works

- HS20/20 Where We Work
http://www.healthsystems2020.org/section/where_we_work/
- CAC 2005 – 140 Parties – Tool Kit
<http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>



PHEIC Decision Instrument

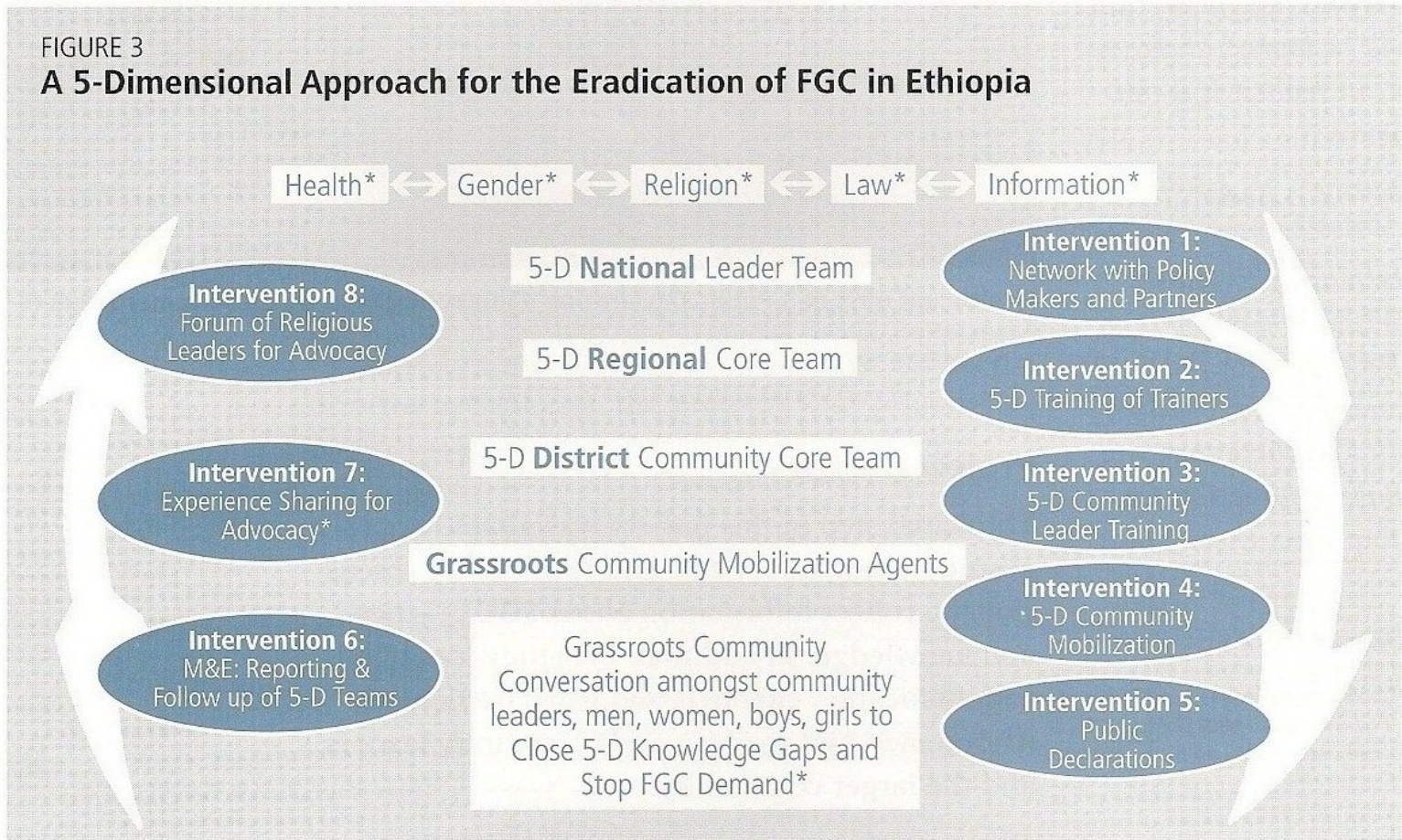
Success Stories: Global strategy on public health, innovation and intellectual property

- Standard setting: Enumerates what is necessary to integrate into national law to balance trade and health in the realm of drug access.
- Participation in law making: Promote the active participation of health representatives in IP related negotiations, in order to reflect public health needs.
- Application and enforcement of the law: Strengthen, educate, train and build capacity on application and management of IP

Success Stories: FGC

FIGURE 3

A 5-Dimensional Approach for the Eradication of FGC in Ethiopia



Model courtesy of IntraHealth.

Success Stories: Legal Competencies Applied



Prof. Associations, NGOs

- Albanian Pharmacists
 - Model By Laws
 - Authority to self police
 - Separates from MOH

MOH Transition

- Provider to regulator
 - Nigerian health insurance industry adopts primary health package
- Albanian Health Law
 - Drug law
 - Health insurance

How?



- ✓ Incorporate governance into long term health sector development plans
 - Centrally-funded mechanisms designed to provide legal acumen to all projects
 - Review all projects to identify legal components
 - Clarify jurisdictional levels and nature of support
 - Direct field support
 - Identify and utilize local resources
 - Build local capacity for now and the future
 - Build local legal capacity – short and long term
 - Educate health professionals on the role of law

How?



- ✓ Resource library – health legal materials
 - Laws, models, guides
 - Electronic storage and access
- ✓ Modify/customize existing tools
 - CAC, Legislative guides
- ✓ Utilize Legal Competencies
 - Counseling, interviewing, drafting, negotiating
 - Standard operating procedures, policy manuals based on local law, finding applicable law
- Build a knowledge base
 - Research, training, dissemination best practice

Leverage the Law!



- Law can play a decisive role in health outcomes.
- There are best practices in legal frameworks.
- Adding a legal and regulatory dimensions to health governance will strengthen health development and improve outcomes.
- Questions?
- Contact Information
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- **Thank you for participating today!**