

We declare no competing interests.

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Legal determinants of health: facing global health challenges



Law is crucial for protecting the health and wellbeing of society. Robust legal systems strive to create a society that is fair. Laws influence every aspect of society and health, from regulating individual lives to stipulating expected behaviours of individuals, states, and corporate entities.

Today, *The Lancet* publishes the report of the *Lancet*-O'Neill Institute Commission on Global Health and Law, The legal determinants of health: harnessing the power of law for global health and sustainable development.¹ Initiated in 2015, the Commission was led by Lawrence Gostin and John Monahan of the O'Neill Institute for National and Global Health Law, Georgetown University, Washington, DC, USA, and convened experts from health, governance, and law to examine the central role of law in responding to global health and to define the legal determinants of health.

The report¹ provides a timely and important contribution as the world and global health community grapple with challenges to human civilisation and humanity. Among these challenges are the catastrophic health conditions caused by conflict in Yemen² and Syria, the persecution of the Rohingya refugee population,³ the slow response and defiant rejection by some governments to act on scientific evidence for climate change⁴ and its impact on human health, the increasing burden of non-communicable diseases, the work to build stronger health systems, and the hatred and intolerance for religious and cultural diversity seen in the act of terrorism in New Zealand. All such events

affect health and are impacted by the enforcement—or design—of laws.

The *Lancet*-O'Neill Institute Commission is structured around four legal determinants of health. First, law provides the mechanisms, frameworks, and accountability measures to achieve the Sustainable Development Goals, particularly universal health coverage. Second, law can strengthen the governance of national and global health institutions. Third, law can be used to implement fair and evidence-based health interventions. Fourth, law can build legal capacities for health. The Commission makes key recommendations, particularly pertinent to WHO and governments. Recommendations include that governments and the global health community work to create legal frameworks towards good governance of national health systems and global institutions, and towards rights-based universal health coverage through mechanisms such as a constitutional or statutory right to health.

Social, political,⁵ planetary,⁶ and commercial determinants⁷ of health are the subject of intense and growing scholarship within global health. Legal instruments and litigation have had crucial roles in, for example, the history of access to medicines and tobacco control. There are also now emerging opportunities in planetary health to collaborate on environmental challenges to the right to health of current and future generations, the specific use of human rights law,⁸ and on the emergence of new actors in global health,⁹ including corporations. Law

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is required to address all of these complex challenges. *The Lancet* therefore welcomes the overarching message of this Commission for the strengthening of the legal capacity of the global health community and ultimately for the strategic use of law in the pursuit of health equity.

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Health rights are the bridge between law and health

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The *Lancet*–O’Neill Institute Commission on Global Health and Law¹ is a welcome attempt to bridge the divide between the health and legal professions.² The Commission’s report¹ shows the ubiquity of law and its contribution to health and health care. It is an exhaustive compilation that positions law as a legal determinant of health. The Commission aims to increase health workforce awareness of law by demonstrating the extent to which they already function within legal parameters. The corollary of such an understanding, and we anticipate the ultimate purpose of the Commission, is to promote engagement of the health profession and the global health community in shaping legal determinants of health.

We welcome how the Commission’s report incorporates the right to health as part of international human rights law. It explains the legal basis of the right to health and the obligations this confers on “many countries”. An alternative phrasing of this as a legal entitlement conferred on all people might better

promote its relevance to health workers by placing people, rather than countries, in the frame. But the report also offers pragmatic advice—for example, it refers to technical guidelines, including a human rights-based approach to reducing maternal mortality,³ the UNDP’s Global Commission on HIV and the Law,⁴ and the important Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights that balance individual human rights against public health imperatives in times of epidemics or other health crises.

Having expertly laid this comprehensive foundation for the bridge between law and health, we now ask the Commission, what next? How do health workers and actors in global health take all this information and use it? We recommend a deeper and integrated use of human rights.

Rights-based approaches to health and right to health entitlements do not frame this first report or inform, in any detail, the case studies. We believe doing so in the next stage of work would confer two major benefits.

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