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REPORT OF A CONSULTATION ON THE FORMULATION  
OF HEALTH LEGISLATION GUIDELINES

Geneva, 18-20 November 1975

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Agenda

1. Opening of the Consultation
2. Election of Chairman and Rapporteur
3. Adoption of the Agenda
4. Review of health legislation projects: experiences of individual consultants
5. Health legislation projects within the WHO health legislation programme
6. Problems posed by health legislation projects
7. Discussion of draft guidelines
8. Adoption of guidelines

List of participants

Dr G. Don, Senior Lecturer, Ross Institute of Tropical Hygiene, London School of Hygiene and Tropical Medicine, London (UK)

Dr R. Féry, Médecin général de la Santé, Inspecteur de la Région Midi-Pyrénées, Toulouse (France)

Professor S. Halter, Secretary-General, Ministry of Public Health and Family Welfare, Brussels (Belgium) (Chairman)

Dr I. Hay, Principal Medical Officer, Environmental and Special Health Services, Health Commission of New South Wales, Sydney (Australia) (Vice-Chairman)

Dr A. Hutchison, formerly Medical Officer of Health, Kingston-upon-Hull (UK) (Rapporteur)

Dr A. McGregor, formerly Senior Medical Officer, Department of Health and Social Security, London (UK)

Dr F. Rizk Hassan, Technical Counsellor, Ministry of Public Health, Cairo (Egypt)

Regional Offices

AFRO: Dr R. Lyonnet

AMRO: Dr J. L. Garcia Gutiérrez

EMRO: Dr M. O. Shoib

Headquarters

Legal Division (LEG) : Mr F. Gutteridge

Division of Strengthening of Health Services (SHS) : Dr M. Torfs

Health Legislation (HLE) : Dr J. De Moerloose (Secretary)  
Mr S. Fluss  
Mr G. Policard

Health Education (HED) : Dr C. N. D. Taylor

A Consultation on the Formulation of Health Legislation Guidelines was held in Geneva from 18 to 20 November 1975. The participants in the Consultation consisted mainly of the consultants who have, in the past, been engaged in health legislation project assignments in different countries of the world. Representatives of three WHO Regional Offices (AFRO, AMRO, and EMRO) attended the meeting together with the Director of the Legal Division, the staff of the Health Legislation unit at Headquarters, and a member of the staff of the Division of Strengthening of Health Services. The Regional Offices represented at the discussions were those at which most of the health legislation projects have been handled. Professor S. Halter, Secretary-General of the Ministry of Public Health and Family Welfare of Belgium, was designated as Chairman of the Consultation, Dr I. Hay as Vice-Chairman, and Dr A. Hutchison as Rapporteur.

One of the purposes of the Consultation was to outline the main difficulties which this type of project has presented. Comments relating to these difficulties were made both by the consultants and by representatives from Headquarters and the Regional Offices. The nature of the problems raised by the individual country health legislation projects, which constitute a new feature in the general WHO programme, has made it possible to draw up a number of recommendations which could be brought to the attention of health authorities who, in the future, request WHO advice. These recommendations are included within the guidelines appended to the present document.

The unanimous viewpoint of the consultants was that health legislation should not be regarded as an end in itself but must be considered in its proper perspective. Health legislation, in fact, constitutes only a means of implementing the health policy within the country and it must be supported by appropriate and effective administrative structures, resources, and services, as well as the cooperation of the public. Without adequate health delivery services, personnel, and material facilities, the passing of health legislation could lead to difficulties. Indeed, if health legislation is promulgated without being backed up by adequate structures and implementation services, it will be doomed to remain a dead letter. Nevertheless, if the consultancy is undertaken, a useful service can be rendered by the consultant by drawing attention to deficiencies and gaps and proposing a phased programme for the introduction of health legislation, with his assessment of priorities.

Another general comment related more particularly to the projects which envisage surveying and/or drafting the whole legislation of a particular country. For such comprehensive and ambitious projects, it was stated that the availability of suitable specialists is very limited indeed. Those specialists who would need to be released for a long period of time, most likely from active duty in public health services, are generally not available. The same difficulty usually does not occur in the case of consultants whose terms of reference are limited to health legislation projects relating to a specific subject (food, pharmaceuticals, air or water pollution control, etc.).

The participants noted the approach that has been adopted for health legislation country projects by AMRO, namely the utilization of a medical-legal team (a consultant public health specialist and a consultant legal adviser). This team functions in close collaboration with a working group, representing the best available national experts in the fields under consideration.

It was agreed that, although the determination of penalties in legislation was a national responsibility, the consultant had an advisory responsibility in this respect in terms of the public health significance of the offence.

It was agreed that the recognized and supervised involvement of indigenous medicine in the delivery of health services, when need arises, was a matter for thorough consideration in relation to the drafting of new health legislation.

It was recommended that WHO should encourage training at the national level in health legislation.

The possibility of obtaining extra-budgetary funds for health legislation country projects should be examined and appropriate recommendations made.

The following specific recommendations relating to the WHO Secretariat were made by the Consultation:

#### Headquarters

1. It was recommended that Headquarters maintain an inventory of all legislative materials that could be of value for future consultancies.
2. Studies in greater detail with the aim of preparing guidelines on the form legislation should take in specific fields should be undertaken. The value of such documents as "Principles of legislation for nursing education and practice", the guidelines on legislation on protection against ionizing radiations, and the comparative surveys of health legislation was emphasized.

#### Regional Offices

1. The system of briefing should be maintained.
2. Regional Offices should designate an officer to act as a focal point for health legislation activities.
3. Regional Offices should endeavour to prepare compilations of existing health legislation in individual countries within their Region.

#### WHO Representatives

WHO Representatives ought to provide maximum assistance as follows: provision of background information as to existing health legislation, etc.; identification of ministries, institutions, and individuals with whom the consultant should have discussions during his assignment; assistance in the follow-up and provision of information to WHO on the implementation of the project after the departure of the consultant.



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GUIDELINES AND RECOMMENDATIONS  
RELATING TO HEALTH LEGISLATION PROJECTS

The following guidelines and recommendations were prepared by a WHO Consultation on the Formulation of Health Legislation Guidelines held in Geneva from 18 to 20 November 1975. In addition to WHO staff members from headquarters and regional offices, the principal participants in the Consultation were consultants who have, in the past, engaged in health legislation projects in different countries.

- (1) The terms of reference for consultantships should be precise and well defined.
- (2) The existing health legislation of a country should be collected and made available to the consultant for his consideration and study.
- (3) Planned and already drafted health legislation should similarly be handed to the consultant together with any existing health plans and programmes for the particular country. As much information as feasible should also be provided on the country's constitutional, political, and legal system as well as socio-economic development plans and programmes.
- (4) If the project entails study and revision of the whole of the public health legislation, as is frequently requested, the list of existing health legislation should be annexed in a form corresponding to the terms of reference together with the list of planned or already drafted legislation.
- (5) The available health legislation material should be received by the consultant before taking up his assignment or at least should be ready for him on his arrival.
- (6) While projects of limited scope ought normally to be undertaken on a single visit, two visits may be considered preferable for more comprehensive projects, subject to budgetary considerations. The consultant should be able to study the health structures and facilities, together with the available health legislation, as well as the general socio-economic situation in the country, at the time of his first visit. The duration of the second visit should likewise be determined at this stage.
- (7) On the consultant's arrival, a national health legislation counterpart and a legal adviser should have been designated. The consultant should be provided with the necessary secretarial and other assistance and office materials. In selecting the counterpart and legal adviser, preference should where possible be given to persons who will be in a position to maintain a continuing interest in the project and its implementation.
- (8) For comprehensive health legislation projects, consideration might be given to the establishment of a national health legislation group. This group will cooperate with the consultant in the preparation of the proposed health legislation.
- (9) Priorities should be established as to the order in which health legislation texts drafted by the consultant are to be implemented.
- (10) For health legislation projects in specific subjects (food, pharmaceuticals, air and water pollution control, etc.), it could be appropriate to call on the services of specialist consultants.

(11) Although the objectives of public health legislation in all countries are similar, it is difficult to envisage using model texts owing to differences in the situations existing in the different countries. Valuable information is available as to the existing health legislation of other countries in the International Digest of Health Legislation and other sources.

(12) It is anticipated that, subject to acceptance of the consultant's proposals, governments will make every endeavour to implement these and will keep WHO informed on this subject.