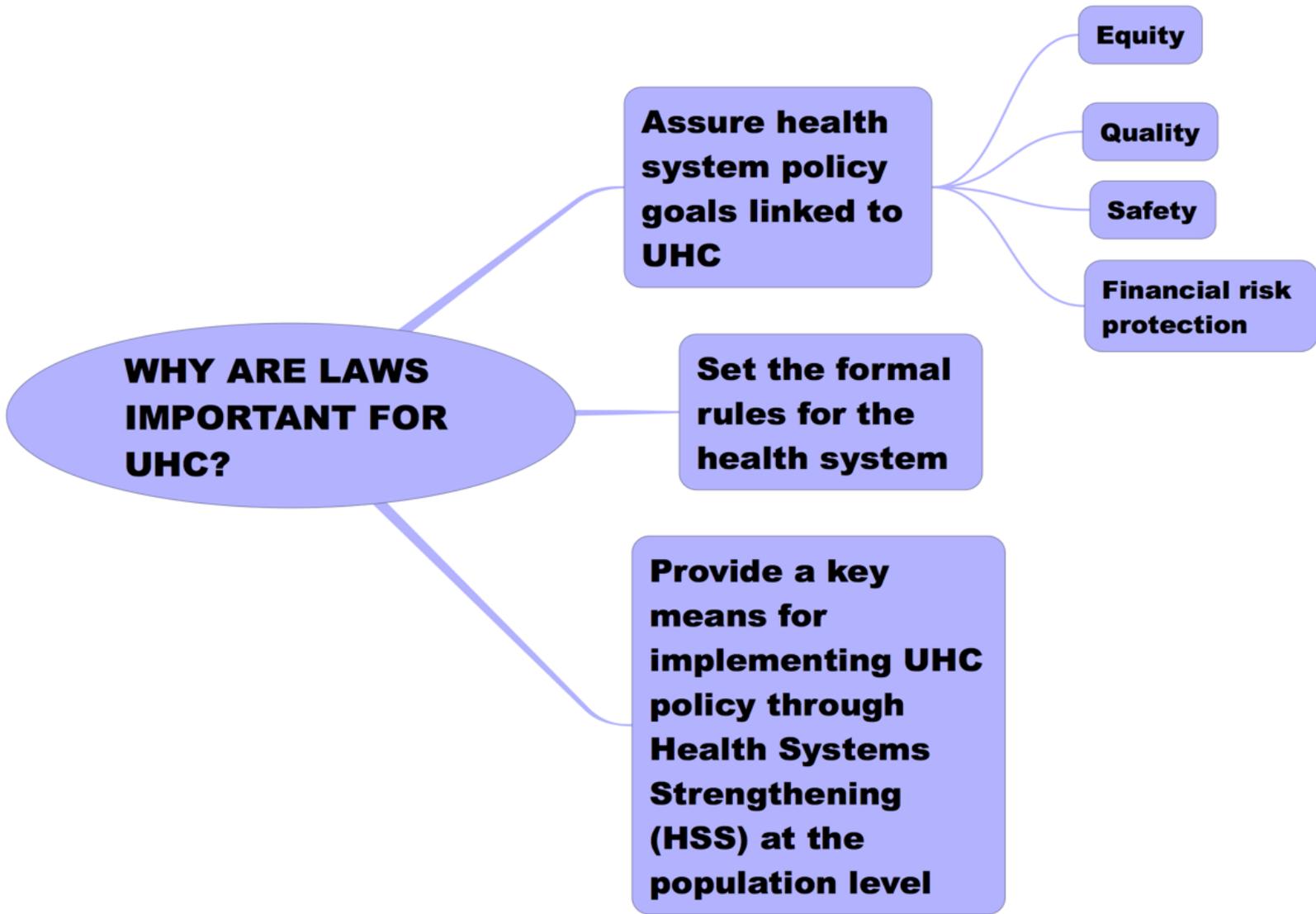
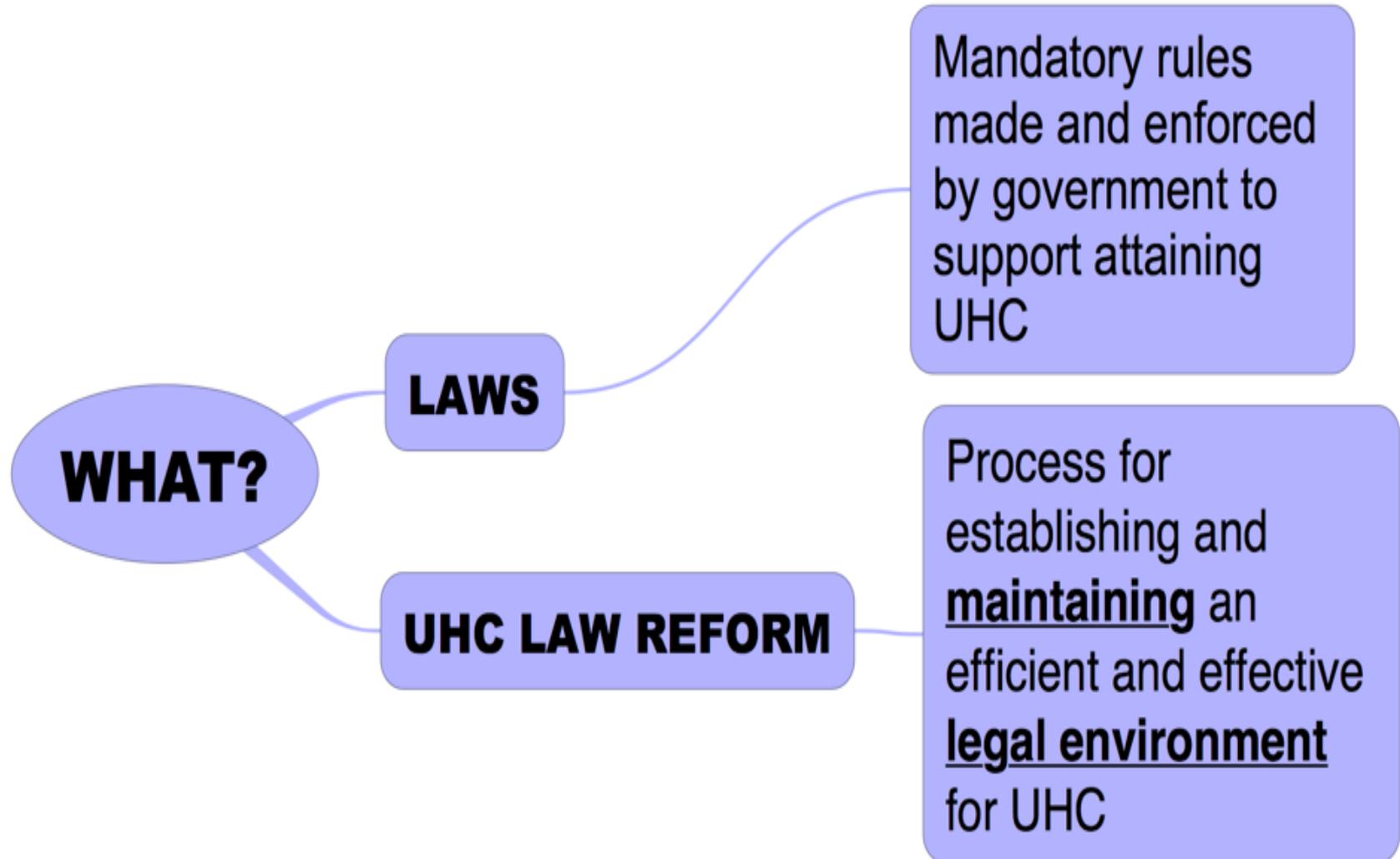


David Clarke, Health Systems Advisor
Legal, HGF, WHO

(Re-) Building a enabling legal environment for UHC









PROGRAMMING TO STRENGTHEN THE ENABLING ENVIRONMENT

Programming to strengthen the enabling environment

- The role of the Global Fund in relation to Human Rights, Gender and Community Systems
- The role of UNDP in relation to critical enablers
- UNDP and the Global Fund partnership
- What are critical enablers and why are they important?
- Rights-Based Approach
- Strengthening Legal

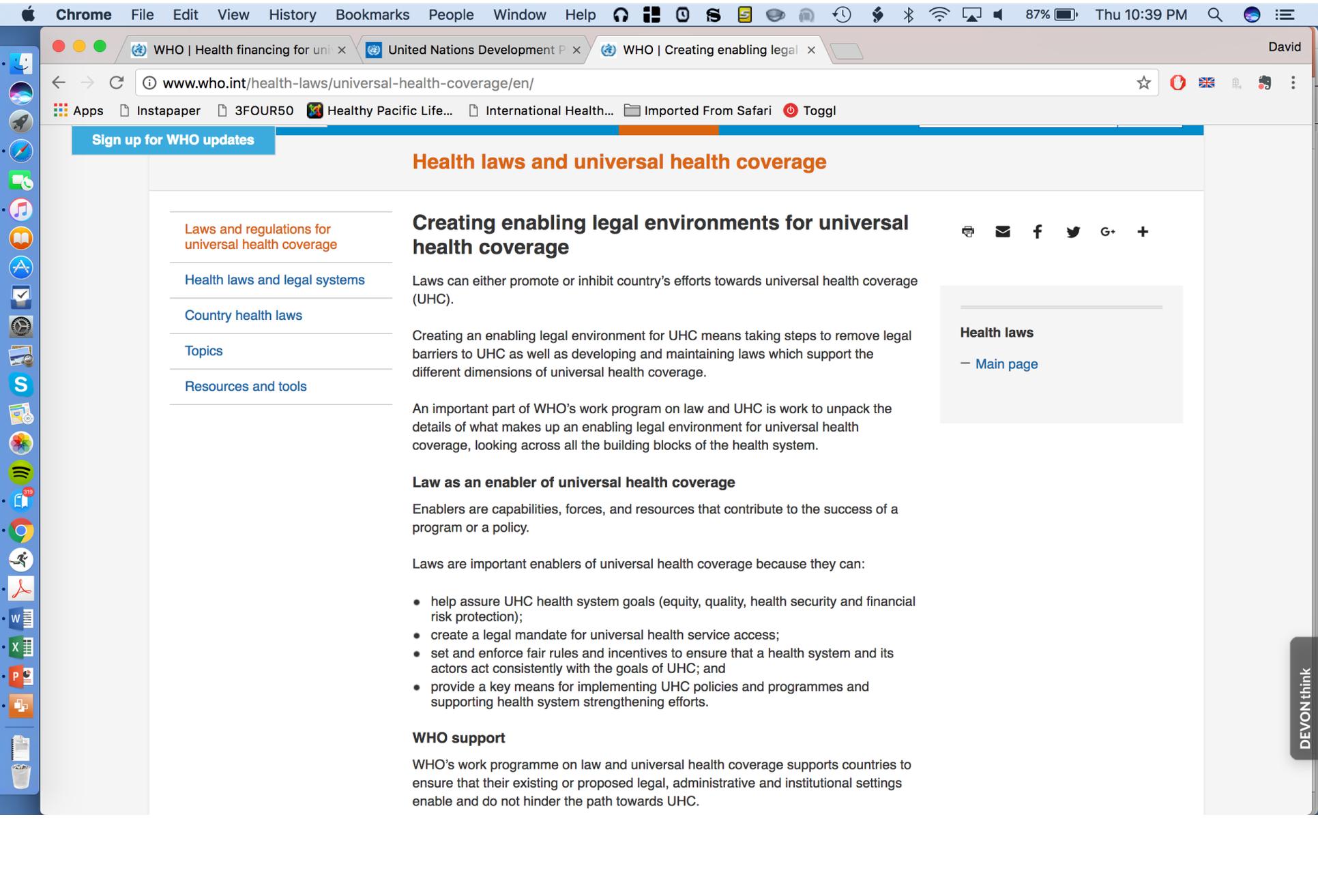
Programming to strengthen the enabling environment

A number of resources have been developed to assist in the review, design, implementation and evaluation of programs that aim to strengthen an enabling environment.

The [Global Fund Human Rights Info Note](#) and [UNAIDS Guidance Note on Human Rights and the Law](#) highlight the following process and approaches to HIV, TB and Malaria programming:

1. **Identify who is at risk of the 3 diseases**, who has the disease and what activities are needed to address human rights barriers and effectively reach key populations – for example, this can be done via a comprehensive situational analysis and through open, in-depth discussions with a wide range representative of key stakeholders during a County Dialogue:
 - a) Analyze existing and new quantitative and qualitative health and human rights data looking at incidence and prevalence; as well as coverage, quality and uptake of prevention, testing, treatment, care and support for key populations
 - b) Identify activities, form partnerships and design programmes with a human rights approach
 - c) Engage in partnerships using an inter-governmental approach working with health and non-government ministries, NGOs, civil society and development partners to ensure a comprehensive and





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Health laws and universal health coverage

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- [Health laws and legal systems](#)
- [Country health laws](#)
- [Topics](#)
- [Resources and tools](#)

Creating enabling legal environments for universal health coverage

Laws can either promote or inhibit country's efforts towards universal health coverage (UHC).

Creating an enabling legal environment for UHC means taking steps to remove legal barriers to UHC as well as developing and maintaining laws which support the different dimensions of universal health coverage.

An important part of WHO's work program on law and UHC is work to unpack the details of what makes up an enabling legal environment for universal health coverage, looking across all the building blocks of the health system.

Law as an enabler of universal health coverage

Enablers are capabilities, forces, and resources that contribute to the success of a program or a policy.

Laws are important enablers of universal health coverage because they can:

- help assure UHC health system goals (equity, quality, health security and financial risk protection);
- create a legal mandate for universal health service access;
- set and enforce fair rules and incentives to ensure that a health system and its actors act consistently with the goals of UHC; and
- provide a key means for implementing UHC policies and programmes and supporting health system strengthening efforts.

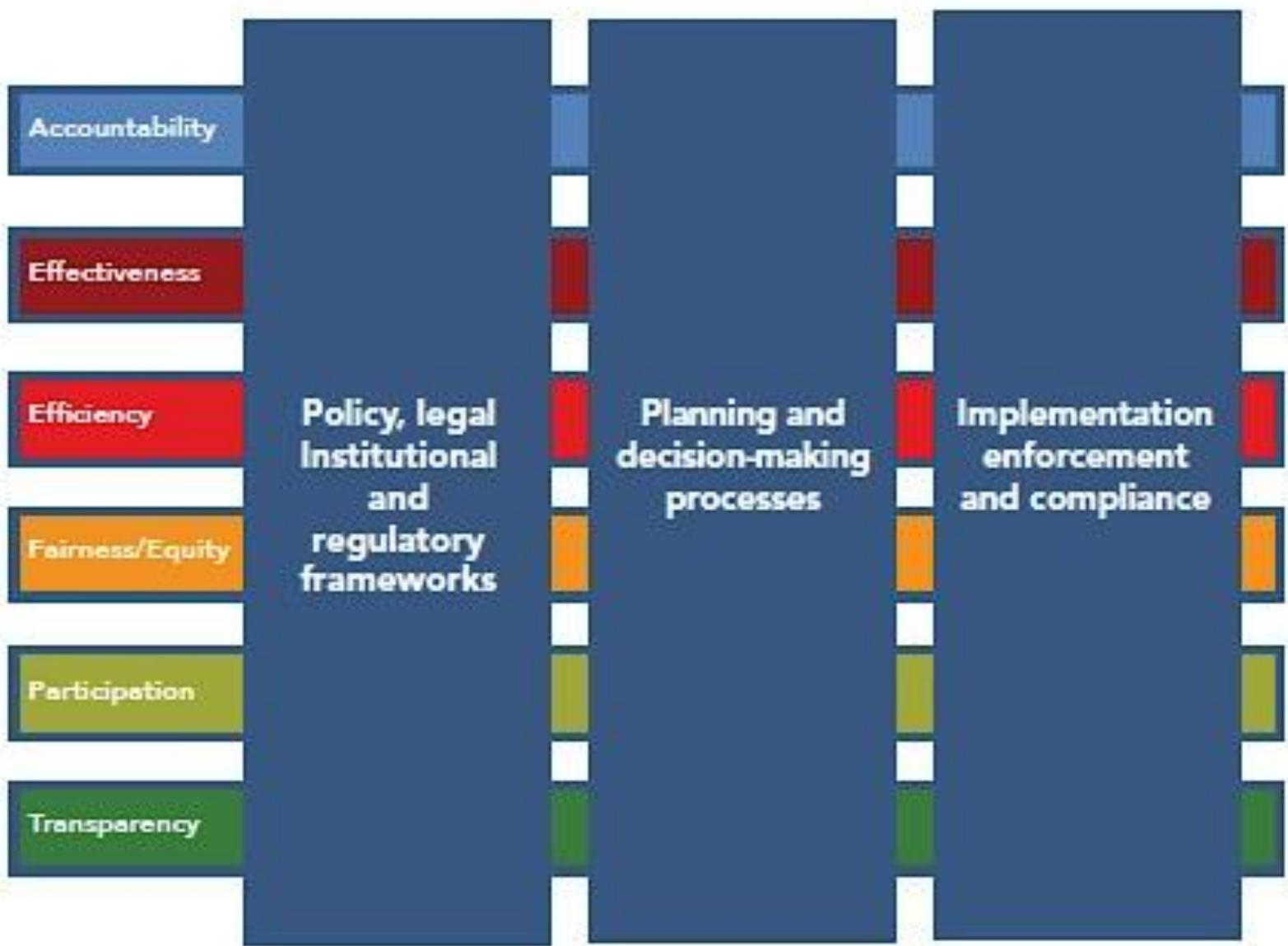
WHO support

WHO's work programme on law and universal health coverage supports countries to ensure that their existing or proposed legal, administrative and institutional settings enable and do not hinder the path towards UHC.



Health laws

- [Main page](#)



Accountability

Effectiveness

Efficiency

Fairness/Equity

Participation

Transparency

Policy, legal
Institutional
and
regulatory
frameworks

Planning and
decision-making
processes

Implementation
enforcement
and compliance

PILLAR 1: POLICY, LEGAL, INSTITUTIONAL AND REGULATORY FRAMEWORKS

UHC LAWS

- Existence and quality of laws and regulations to support health system functions For transition that could include **new procurement laws, laws which establish norms and standards of quality, laws which govern the HTA process.**
- Ensure that health-related laws and regulations facilitate and don't block the effective and efficient implementation of UHC **In transition, reform laws to allow social contracting**
- Ensure consistency of health-related laws with relevant international commitments and obligations **support for health voice treaty making process impact on purchase of vaccines assistance with trade law disputes**

LEGAL FRAMEWORKS TO SUPPORT HEALTH RIGHTS

- Extent to which the legal framework recognizes and protects health related rights address human **rights issues related to HIV and TB but also but also other rights problems with other conditions and excluded population groups**
- Extent to which the legal framework provides effective means of enforcing rights and resolving disputes by due process

UHC LAW AND HEALTH IN ALL POLICIES

- Consistency and coordination of non-health policies, laws and regulations with UHC policies, laws and regulations

LAW AND INSTITUTIONAL FRAMEWORKS FOR UHC

- Extent to which the mandates of national agencies for the performance of health functions are formalized in law and are clear and mutually supportive **laws to set up new purchasing agencies and establish their mandate**
- Extent to which the health-related mandates of national and subnational governments are expressed in law clear and mutually supportive **addressing issues of fragmentation, establishing a single national health insurance scheme**

LAW, INCENTIVES AND BENEFIT SHARING FOR UHC

- Existence of legal provisions and mechanisms for ensuring the equitable distribution of health resources
- Openness and competitiveness of procedures, such as health purchasing and procurement
- Existence and adequacy of regulatory safeguards against health market failure **laws to address NCD related harm tobacco, alcohol, sugar**

PILLAR 2: PLANNING AND DECISION-MAKING PROCESSES

STAKEHOLDER PARTICIPATION

- **Extent to which the legal framework provides opportunities for public participation in health-related policies and decisions and provide opportunities for redress and remedy**
- Existence and effectiveness of legal requirements that ensure participation by key stakeholders, including legal sanctions for failure to facilitate stakeholder participation
- **Legal requirements about transparency of processes and accessibility of guidance on how to participate in health-related planning, decision-making and implementation at all levels**
- Existence and effectiveness of conflict resolution and grievance mechanisms

TRANSPARENCY AND ACCOUNTABILITY

- **Extent to which the legal framework supports public access to information and imposes sanctions for failure of agencies to meet obligations to disclose information**
- Quality, timeliness, comprehensiveness and accessibility of health-related information available to stakeholders.
- **Transparency of health information, health budgeting, expenditure, accounting, redistribution and audit**
- Existence, effectiveness and independence of governmental oversight mechanisms external to health agencies
- Existence and extent of use of internal accountability mechanisms, such as internal monitoring bodies, performance standards and performance-based rewards and penalties
- **Transparency and accountability of private agencies, corporate entities, businesses and civil society organizations operating in the health sector**

PILLAR 3: IMPLEMENTATION, ENFORCEMENT AND COMPLIANCE

ADMINISTRATION OF HEALTH LAWS

- Adequacy of staff capacity and effectiveness of agencies tasked with the implementation of health law

HEALTH LAW ENFORCEMENT

- Appropriateness and consistency of application of penalties for breaches of health laws and regulations
- Effectiveness of division of jurisdictional authority and responsibility for health law enforcement
- Effectiveness of incentives for officers and agencies to enforce health laws, including investigation and prosecution
- Capacity and willingness of the judiciary agencies to address health related issues effectively
- Extent to which courts are accessible, fair, honest and independent; work in a timely manner and are affordable; and deliver enforceable outcomes

MEASURES TO ADDRESS HEALTH SYSTEM CORRUPTION

- **Implementation and effectiveness of health-related procurement rules in the public sector**
- Existence, adequacy and effectiveness of legal standards of conduct for civil servants, political appointees and elected officials
- Private sector participation in efforts to address corruption, including **adoption of legal mandated codes of conduct and ensuring transparency of payments**
- **Existence and effectiveness of legal channels for reporting health corruption and whistleblower protection**

Key messages

- Building and rebuilding domestic institutions for HSS will require us to build and rebuild countries legal infrastructure for health
- Laws can have unintended negative effects on HSS efforts for UHC and may act as a barrier to work on transition
- The work of UNDP and the Global Fund on legal environments for the 3 diseases could transition and merge with efforts to create enabling legal environments for UHC and health security

For the TWG to consider

- Incorporating a focus on legal assessments into work on transition planning
- Refocus legal efforts to strengthen health systems and health system transition issues
- Support domestic legal reform efforts to build the legal infrastructure of health systems to support UHC and health security
- Importance of implementation support