

BOX 1. EXAMPLES OF THE LAW AS A DETERMINANT OF HEALTH

DEVELOPED COUNTRY EXAMPLES:

(1) CORRUPTION – In the United States, the Columbia/HCA hospital network engaged in corrupt practices such as kickbacks to referring doctors, setting targets for complication rates (which Medicare reimburses at higher prices), and false billing. Whistleblowers used the False Claims Act to sue Columbia/HCA. The company admitted its crimes and settled with the US government for over \$1 billion, and the whistleblowers pocketed millions of that. The law empowers private whistleblowers, to supplement government law enforcement, and rewards them generously for their risk.⁴⁷

(2) ENFORCEMENT OF HEALTH RIGHTS – In Canada, after an epidemic of fatal overdoses among injection drug users in Vancouver, the government licensed researchers to operate a medically-supervised injection site on a trial basis. Trials conducted at that site demonstrated major reductions in overdose fatalities, and HIV and hepatitis incidence. When a new, conservative government refused to renew the site's licence, drug users and advocates sued and alleged a violation of the constitutional right to health. The Supreme Court of Canada ordered the government to reissue the license, and laid down parameters under which other such safe-injection sites may operate.⁴⁸

(3) EQUITY - In Saudi Arabia, women broadly lack equality of rights and social opportunities or protection under law. Saudi women cannot be admitted to government hospitals without a male guardian, and have limited autonomy over care, particularly in reproduction. These constraints are reflected in many health comes, such as a much higher rate of obesity in women compared to men, and below-average rates of maternal and child mortality ratio compared to other developed countries.⁴⁹

DEVELOPING COUNTRY EXAMPLES:

(1) CORRUPTION – In Kenya, employees of the National AIDS Control Council (NACC) used public funds for private gain. The director, Margaret Gachara, paid herself a salary seven-fold higher than her entitlement, and other NACC employees diverted funds for private utility bills. Some \$48 million of British aid money was unaccounted for. Ms. Gachara was ordered to refund \$340,000 and sentenced to jail, but the legal outcome was subverted by a presidential pardon that freed her after only a few months. The other officials went unpunished.⁴⁷

(2) ENFORCEMENT OF HEALTH RIGHTS – In India, the government's long failure (or refusal) to pass tobacco control legislation led to a court challenge, in which it was argued that the secondhand smoking violated the right to life in the Constitution. The High Court agreed and ordered a ban on smoking in public places in Kerala. Later, the Supreme Court of India extended the ban nationwide, and the government followed-up with comprehensive tobacco control legislation.⁵⁰

(3) EQUITY - in Brazil, where overall health equity is poor, the federal government in 2003 introduced a conditional cash transfer for low-income households known as *Bolsa Família*, which legally and administratively merged four already-existing social benefits spread across government departments. Eligible families qualified for payments of up to \$175 monthly if children are kept in school and receive routine paediatric care. Child mortality of poverty-related causes dropped significantly in the new administrative scheme, with the largest gains in municipalities that made most use of Bolsa Família.⁵¹

BOX 2. BRIEF DEFINITION OF RULE OF LAW INDEX SUB-FACTORS

Limited Government Powers	Governmental and non-governmental check and balances on the government powers
Absence of Corruption	Control of corruption in all branches of government
Order and Security	Control of crime, civil conflicts and the use of violence
Fundamental Rights	Equal protection, right to life and security, freedom of speech, assembly, religion and due process of law
Open Government	Right to information and petition
Regulatory Enforcement	Impartial and effective enforcement of government regulations
Civil Justice	Impartial and effective delivery of civil justice
Criminal Justice	Impartial and effective delivery of criminal justice