Meeting Report

Local Participants: Lawrence Gostin, John Monahan, Luisa Cabal, Katherine DeLand, Tim Evans, David Fidler, Eric Goosby, Gorik Ooms, Mirta Roses Periago, Rodrigo Uprimny, Alicia Ely Yamin

Remote Participants: Gian Luca Burci, Sara Hossain, Howard Koh

1. The Co-Chairs of the Commission (Lawrence Gostin and John Monahan) welcomed all Commissioners, thanked them for their participation, and briefly expressed their hopes and goals for the Commission. They stressed the need to reflect on past events and acknowledged that the relationship between law and global health extends beyond discrete laws to other aspects of the rule of law, such as transparency, evaluation and monitoring.

2. Richard Horton welcomed the Commissioners, expressed his interest in the Commission and challenged the Commission to critically examine the role of law in global health in relationship to the concept of global justice.

3. The O’Neill Institute for National and Global Health Law provided an overview of the Institute, an introduction to the concept of the Commission and an argument as to how law can be viewed as a tool to improve health. The O’Neill Institute will act as the Secretariat for the Commission.

4. The Commissioners began by introducing themselves, explaining their interest in the Commission, and potential goals for the Commission. Some of the issues the Commissioners highlighted included:
   a. The need for a systemic review on how law affects global health and a reflection on the O’Neill Institute’s experiences.
   b. The need to build capacity around the world on the subject of public health law.
   c. A realization that there must be boundaries to the Commission’s review.
   d. How law can be a mechanism for accountability, transparency, addressing inequalities, social transformation, standard setting, benchmarking, monitoring,
and justice while acknowledging how law can be used as a hindrance towards achieving these aims.

e. The role of law as a method for justiciability and the positive and negative effects litigation can have on health issues.

f. The role of evidence in legal interventions, including the use of evidence in the creation of laws and the use of evidence to prove the effect of a law.


g. Implementation challenges, including, among others, the fragmentation of international law, the relationship between international and national legal regimes, the reactive nature of lawmaking, and the inability to administer and adhere to laws.

5. The Commissioners and Secretariat reiterated their desire to have realistic, actionable and measurable recommendations.

6. Lawrence Gostin provided an introduction the subject of global health law, the areas where law can be a tool for addressing health challenges, while acknowledging the law’s ability to act as a barrier or hindrance to improving population health.

7. The Commissioners discussed what are the perceived functions of law. They discussed the role of human rights, the right to health and a rights-based approach to evaluating the functions of law.

8. The Commissioners were presented with the concept of framing the final report in three parts: (1) a high-level examination of the relationship between law and health, including establishment of working definitions for purposes of the Commission, a historical overview, introductory synthesis, and acknowledgement of gaps; (2) an examination of how law could potentially be used as a tool to improve health for specific health priorities, including case studies; and (3) practical, actionable recommendations related to the highlighted gaps and health priorities.

9. The Commissioners discussed potential specific health priorities and risk factors to examine in the Commission’s report. The Commission aimed to identify issues that are of high importance in the global health community and where the law may have a strong influence. The Commissioners considered topics within the priorities of universal health coverage (e.g. proposed Sustainable Development Goals and sexual/reproductive rights), global health security (e.g. antimicrobial resistance and pandemics), non-communicable diseases (e.g. tobacco control and the relationship between food and health), multi-sectorial relationships (e.g. climate change, migration, and trade and intellectual property considerations) and injuries. The Commissioners also acknowledged many cross-cutting values including the functions of law, transparency, appropriate legal mechanisms, human rights and using a rights based approach, the use of law to address discrimination and equity, and the role of law in standard setting and benchmarking. The Commissioners acknowledged that this exercise could be carried out with many different health priorities and the non-exclusive nature of the identified priorities must be acknowledged in the final report of the Commission.
10. The Commissioners reviewed and commented on a proposed outline of the framework for the final report based on their discussion. The Commissioners continued their discussion on the functions of law and various legal themes including, but not limited to, human rights, rule of law, the justiciability of law, and the distinction between “hard” and “soft” law. The Commissioners highlighted that each legal theme has a unique analysis depending, for example, on the health topic, risk factor identified, actor and level government where the legal theme is considered. Overall the Commission stressed the need to find a balance between being too broad and with too lofty of aspirations versus becoming too granular and narrow with regards to the Commission’s analysis and recommendations.