CASES OF MAPPING OUTCOMES

Priority Setting and Constitutional Mandates in Health

Since 2010, in barely three years, coalitions[1] that formed regionally and nationally in Latin American countries have influenced institutional changes in favor of the constitutional right to health. These changes not only united seven Latin American countries (Argentina, Brazil, Chile, Colombia, Costa Rica, Peru and Uruguay), but also have had an international ripple effect, with countries in Africa and the Middle East identifying a need for similar multi-stakeholder processes. WBI's Constitutional Mandates in Health initiative supported the emergence of these coalitions.

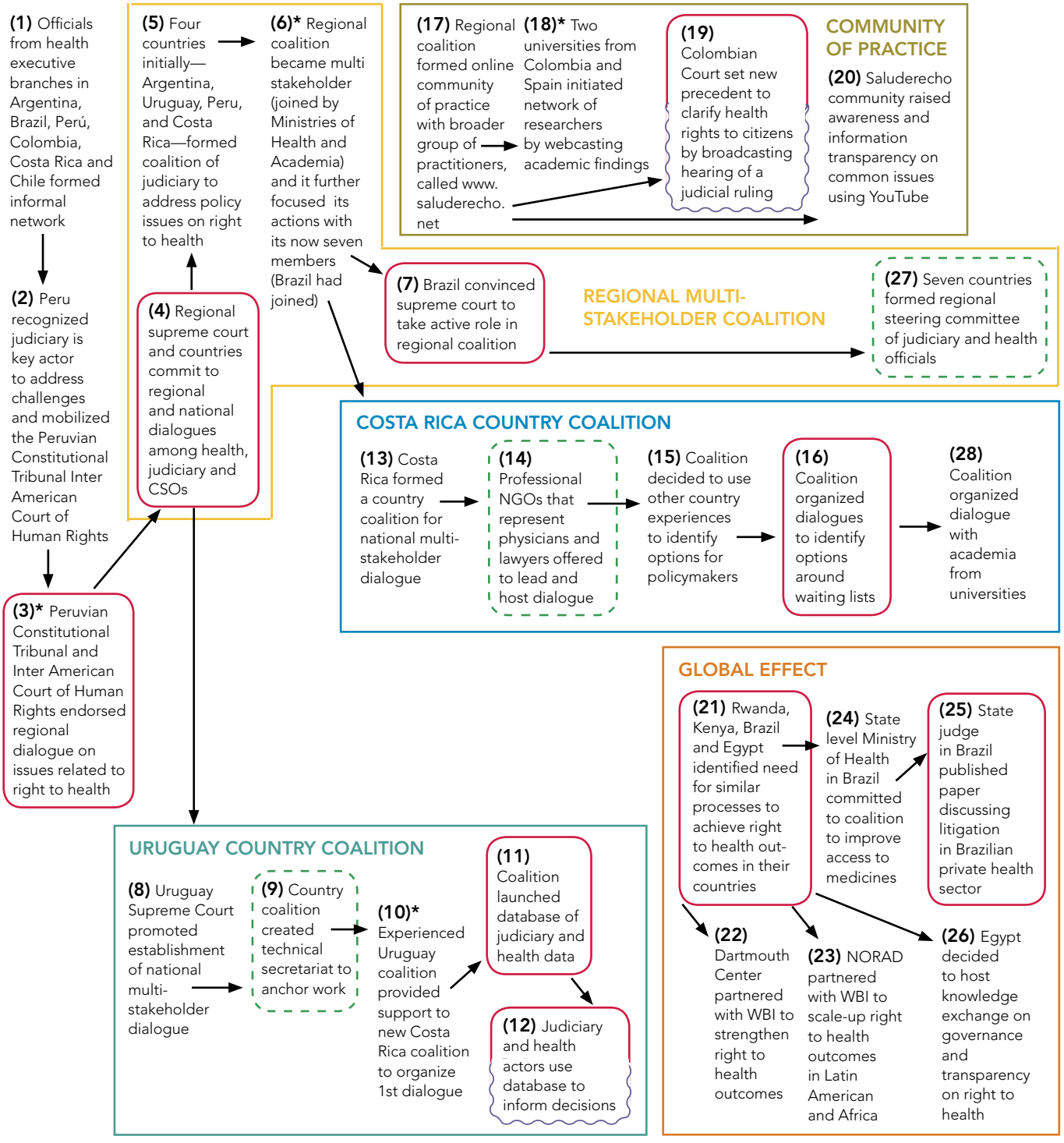
In January–March 2013, WBI mapped outcomes[2] of this initiative using a customized outcome mapping tool.[3] The visual map (Figure 1) presents the sequence of outcomes achieved by change agents—the leaders, coalitions and organizations involved in the initiative. It

Development Objective
Improve the level and distribution of health outcomes by applying rights-based principles to health policy.

Problem
In recent years and in different settings, citizens are increasingly litigating their health rights. Courts are favorably responding to these petitions and they are holding States accountable for their (in)actions. However, this increasing trend of litigation may have negative unintended consequences (such as, it may be regressive since the poorest may not be benefitting) while its potential positive consequences may not be fully exploited (such as improved service delivery).

Specific Objectives
Enhance the effectiveness of health and judiciary arrangements, and the transparency, accountability and participatory process for setting priorities and delivery services to realize the right to health for all citizens.

Figure 1. Map showing how the initiative's outcomes connected and built over a four-year timeframe



Institutional changes

Outcomes related to societal, policy and organizational changes.

- Ownership of health and judiciary systems/transparent and participatory priority setting that progressively realize right to health
- Efficient policy to respond to citizens' right to health
- Effectiveness of health and judiciary arrangements to realize citizens' right to health

Learning/capacity changes

Other outcomes related to awareness, knowledge or skills, collaborative action, or the use of knowledge or innovative solutions.

* Outcomes selected for substantiation; see page 5 sidebar.

illustrates how key outcomes to date have connected and built on each other over time to form multi-actor, institutional processes for change to address the initiative's objectives and goal.

WBI team members identified and formulated the outcomes, presenting an explanation of their significance and how they had contributed—directly or indirectly, in a small or big way, intentionally or not—by catalyzing or empowering the change agents to take new actions. Then, roughly 20% of the outcomes were independently substantiated for credibility in the mapping exercise.

BACKGROUND

Most Latin American countries have enshrined in their constitutions articles granting their citizens the right to health. Since the majority of these constitutions also provide mechanisms that expedite the judicial protection of this right, individuals can seek swift court protection. This implies that the actions of the judiciary and civil society now play a critical role in holding the State accountable in realizing the right to health.

As the number of litigated cases on the right to health increased dramatically since the 1990s, the majority of litigation demands the provision of services already included in the basic list (revealing difficulties in complying with policies) or the supply of new and expensive technologies (revealing difficulties in setting or enforcing priorities). While lawsuits may provide individual access to health services, the judicialization of this right can collide with the limited availability of resources faced by health systems, and may even increase inequality in access to healthcare.

WBI's Initiative on Constitutional Mandates in Health is based on the theory of collaborative change: because these multiple actors view the same problem from different perspectives, their joint action becomes an effective mechanism in finding innovative solutions toward the progressive and sustainable realization of the right to health. In this sense, these multi-stakeholder collaborative processes contribute to improve the level and distribution of health outcomes across Latin America.

OUTCOME AREAS

The change strategy achieved so far by this initiative can be seen through streams of outcomes (Figure 2) that are described in the following sections. The streams include changes in: leadership of judiciary and health officials; multi-stakeholder arrangements to realize the right to health; transparent and participatory decisions to strengthen policy; and global learning to scale-up right to health outcomes. These outcomes were analyzed and classified according to the types of change they achieved, then grouped based on how they connected and built on each other to affect change.

Outcome Area 1: Leadership of health and judiciary officials

Judiciary and health officials have not customarily communicated with each other on challenges related to litigation on the right to health in their countries, yet the decisions of the courts affect the health sector.

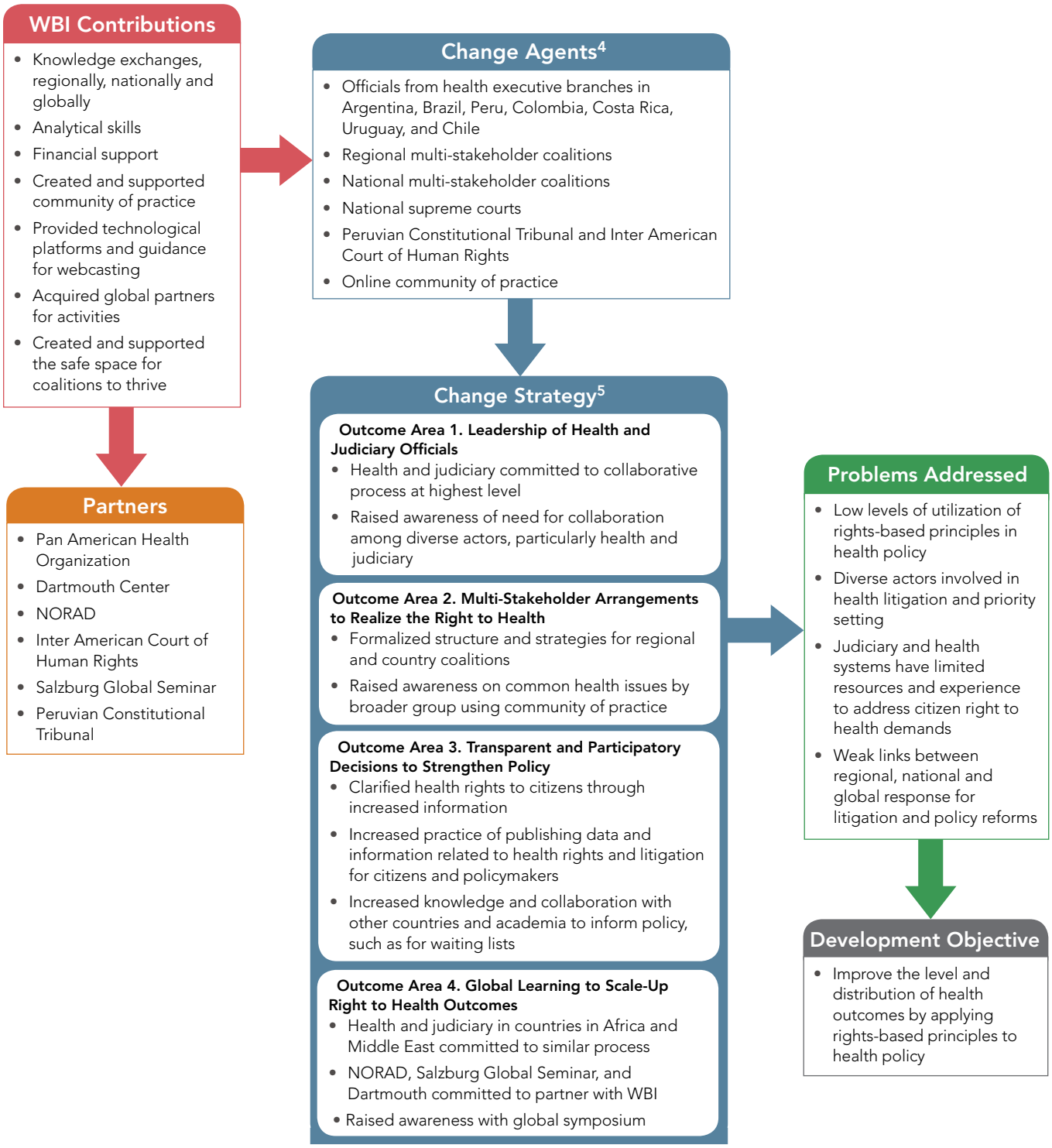
Initially in 2010, officials from the health ministries of Argentina, Brazil, Peru, Colombia, Costa Rica, and Chile who faced similar challenges regarding increasing litigation on the right to health formed, for the first time, an informal network. [1][6] The network aimed to share experiences and lessons learned on issues related to litigation on the right to health in their countries and in the region. This knowledge exchange led health officials in Peru to realize that a network among health executives alone could not address the problems and judiciary leadership was required. They mobilized the Peruvian Constitutional Tribunal to become involved in the right to health dialogue. [2]

After a process of engagement led by the Peruvian Constitutional Tribunal, in April 2011 the Inter American Court of Human Rights endorsed the regional dialogue on the right to health. Consequently, both courts committed to co-host the first and second Regional Latin American Symposia in June and December 2011. [3] As the first courts to support an open conversation on the need for collaboration, their leadership encouraged strong engagement of judiciary branches of government in the participating countries.

In June 2011, during the first Regional Latin American Symposium, the regional Supreme Court justices decided to promote multi-stakeholder dialogues with regional and national health authorities on the realization of the right to health. [4] Such leadership encouraged the participating countries to consider multi-stakeholder perspectives in their decision-making process on right to health issues.

Then, in June of 2012, the Brazilian Supreme Court decided to host the Third Latin American Symposium in June 2013. [7] This decision is noteworthy given Brazil's leading regional role in knowledge developments on the right to health, its strong endorsement of

Figure 2. Change strategy map showing how change happened to advance progress toward goal



a regional multi-stakeholder dialogue and its working methodology representing a strategic and technical milestone. It also signals the possible leverage of these countries to work together long-term to improve the right to health.

WBI contributed to these outcomes by acting as a convener, researcher and facilitator, supporting the country officials to form the informal network. WBI also organized knowledge exchanges for health executives, which identified the need for judiciary involvement. After developing an approach to health that was interesting for the judiciary, WBI engaged these courts in the regional Latin American symposia, and helped co-organize events that

SUBSTANTIATION OF OUTCOMES

To verify the accuracy of the outcomes and enrich WBI's understanding of them, the external consultant selected four outcomes [3, 6, 10 and 18] and asked 13 people who are independent of WBI but knowledgeable about the change to review each and record whether they agree with the outcome as described. Nine people responded. Eight fully agreed with the description, significance and contribution of WBI to outcomes 3, 6 and 10. One provided additional information to clarify the description, significance and contribution of outcome 18. Excerpts of the substantiators' comments on the outcomes achieved:

> "In general, I feel that the establishment of the secretariat [that anchors the Uruguayan stakeholder work], although essential, should be considered as just the first step in dealing with so complex and sensitive a topic. Its success will depend on its permanence over time and the incorporation of new members."
>
> *—Nilza Salvo, Director of CEJU and Minister of the Court of Civil Appeals, Uruguay*

> "I think that bringing the parties together [at the First Latin American Symposium on the Right to Health and Health Systems in Costa Rica] is a first step toward understanding of both positions, which can eventually facilitate commitments in decision-making."
>
> *—Ana Virginia Calzada Miranda, President, Supreme Court of Costa Rica*

> "Dissemination of the judicial hearing, but not the judgment, as the text would seem to suggest, guarantees not only the right of everyone to have access to public information on the problem of the regulation and control of resources earmarked for financing health systems, but also will afford the general public a means of obtaining direct information on the follow up of Ruling T-760 of 2008, issued by the Constitutional Court of Colombia, which directs the competent authorities to correct the regulatory lapses that affect the health system in order to ensure the effective exercise of this basic right." *—Jorge Ivan Palacio, President, Colombia's Constitutional Court*

> "I feel that the way in which the WBI addressed the issue [technical secretariat] is quite adequate, because it offered its collaboration while encouraging local stakeholders to seek their own means of analysis and discussion. This has made it possible to take advantage of both external experience and internal contributions."
>
> *—Leticia Gómez, Head of Legal Department, National Resources Fund of Uruguay*

allowed for a safe space for discussion among strategic partners. WBI also invited potential champions within the Brazilian judiciary branch to the second Latin American Symposium in December 2011 and to participate in the Roundtable on Universal Health Coverage and the Right to Health in Washington, D.C. in June 2012.

In sum, the change strategy of this initiative included outcomes to raise awareness of the need for judiciary, health and other stakeholder collaboration to address right to health issues. These changes strengthened the leadership and commitment of health and judiciary officials at the highest level to address the problems, especially among governmental health and judiciary officials in seven Latin American countries (Argentina, Brazil, Chile, Colombia, Costa Rica, Peru and Uruguay).

Outcome Area 2: Multi-stakeholder arrangements to realize the right to health

Multi-stakeholder arrangements were not yet in place to support regional and national dialogue among judiciary, health and other stakeholders to inform policy issues on the right to health. Since 2011, regional and country level multi-stakeholder processes have emerged to engage stakeholders.

Regional coalition

At the regional level, in June 2011, four countries initially—Argentina, Costa Rica, Peru and Uruguay—formed a coalition of judiciary to address policy issues on right to health. [5] Priority actions included systematizing judiciary data, building the capacity of judges to understand health system decisions and health systems to understand judiciary decisions, and developing a broader network of practitioners outside the regional or country coalition membership for awareness-raising and dialogue.

At the second regional symposium, in December 2011, the regional coalition became multi-stakeholder (joined by ministries of health and academia). The coalition further focused its actions with its now seven members (Brazil, Colombia and Chile had joined), to improve knowledge on how to address right to health

and link country and regional dialogues on key issues. [7] Then in 2013, individuals from each of the seven countries formed a regional steering committee for the coalition building process. [27] The steering committee should further strengthen the collaborative arrangements among the countries to inform policy reforms..

WBI contributed by engaging the countries in the process of the regional Latin American symposia, and by facilitating knowledge exchanges among countries participating in the regional coalition.

Country coalitions

In September 2011, the first signs of a country-level ripple effect had emerged when Uruguay started a country-level multi-stakeholder coalition-building process. The president of the Uruguay Supreme Court promoted the establishment of a national multi-stakeholder dialogue in his country to overcome the tense relationship that existed between key agents, such as the Ministry of Health, Catastrophic Social Health Insurance Agency, and the Judicial sector. [8]

The realization of the value of a multi-stakeholder dialogue by Uruguay's top justices swayed the country's executive decision-makers. The agencies involved in this multi-stakeholder coalition building process established a technical secretariat to maintain the momentum and coherence of their dialogue. [9] This secretariat anchors the Uruguayan stakeholder work and co-hosts periodic meetings, the last held in May 2013.

Following the example of (and to some extent supported by) Uruguay, in June 2012 in Costa Rica, the Social Health Insurance Agency, the Supreme Court of Justice, the Ministry of Health, the Ombudsman office, universities, and the physicians' and lawyers' associations formed a country-level coalition to inform policy reforms on the right to health. [10] The coalition hosted a national multi-stakeholder dialogue and identified several actions that include an improvement in the management of waiting lists for health services, the improvement of health benefit plans, and the provision of expert sources to guide judiciary decisions. Two professional non-governmental organizations (NGOs) that represent physicians and lawyers offered to lead and host the dialogue. [11] The experienced Uruguayan coalition provided support to Costa Rica in the organization of their first national dialogue. [13] Uruguay's support was important to strengthen the link between the country and regional coalition-building process.

WBI contributed to these in-country coalition building processes by co-organizing the first regional Latin American symposium held in June 2011, in which the president of the Uruguay Supreme Court attended. WBI also facilitated the first coalition-building activities in both Uruguay and Costa Rica. WBI also provided technical guidance to set up the mentorship between Uruguay and Costa Rica.

Community of practice

In 2011, the regional coalition formed an online community of practice with a broader group of practitioners, called www.saluderecho.net. Involving CSOs, representatives of the judiciary and health practitioners, www.saluderecho.net has reached over 600 active members. [17] Throughout 2013, 30 of these individuals voluntarily contributed a total of 131 blogs, with between 15 and 50 members of the online community of practice reading each one.

Members also started to use the community to post videos using "YouTube.com/saluderecho," which have been viewed more than 2,350 times. [20] This activity shows that a broader group of practitioners are starting to use the community of practice to discuss and raise awareness around health and judiciary rights issues.

WBI contributed by establishing and managing www.saluderecho.net.

In sum, the change strategy of this initiative includes outcomes that anchor multi-stakeholder arrangements at the regional, country and community of practice levels. This is done to sustain and empower the multi-stakeholder dialogue and to focus it on priority action areas owned and led by the stakeholders. The establishment of a community of practice is important in order to involve a broader set of practitioners—not necessarily engaged in the higher-level change processes—in feedback and to raise awareness around policy issues.

Outcome Area 3: Transparent and participatory decisions to strengthen policy

Since 2012, the countries participating in this initiative and the broader community of practice are increasingly positioned to inform policy around right to health issues.

Uruguay country coalition

In 2012, the Uruguay country coalition launched a database of judiciary and health data. [14] Uruguayan

judiciary and health actors have used the database for research and to inform financially sustainable decisions. [15] This is the first time that important information on health and judiciary rights becomes available in one location to efficiently inform judiciary decision-making.

WBI contributed by designing and hosting the regional and national dialogues that led the coalition to realize the importance of such a database. WBI also provided technical support in the creation of the database.

Costa Rica country coalition

In 2012, the country coalition in Costa Rica decided to use the initiative to learn from the experiences of other countries' and to identify alternative policy options for their decisionmakers. [15] This was important because the Costa Ricans faced key national challenges but had few clear solutions.

In October, the director of hospitals of the Social Health Insurance of Costa Rica co-hosted a series of knowledge exchanges with Spain, Sweden, Chile and Uruguay, for the top and middle level decision-makers of. [16] These exchanges allowed Costa Ricans to learn from the policy options used by these countries to improve health service waiting lists, a major issue in Costa Rica.

In 2013, the country coalition in Costa Rica also organized a dialogue with the academia to discuss possible solutions to key national challenges. [28] Involving academia in the multi-stakeholder dialogue was a priority to the Costa Rica coalition, as well as to the regional coalition-building process to bring other perspectives to the dialogue.

WBI contributed by guiding the search for and liaison with relevant country experiences for the knowledge exchanges. WBI also provided the technological platforms, including www.saluderecho.net, to host the knowledge exchanges.

Community of practice

In 2012, the Saluderecho community of practice started to influence the transparency of information on right to health issues and the participation of stakeholders to inform policy dialogue.

In March 2012, two prestigious universities from Colombia and Spain, Pontificia Javeriana University and Menendez Pelayo University, started to use the website to broadcast key academic meetings. [18] This further opened and strengthened the involvement of academia in addressing right to health issues in the region and encouraged other universities in the region to engage.

Then in May 2012, the Colombian Constitutional Court set a new precedent by using the community of practice to communicate information to citizens on judiciary decisions on issues around the right to health. They transmitted live on www.saluderecho.net the follow-up to the judicial hearing of Ruling T-760 of 2008 that mandates a structural adjustment of the health care system in Colombia. [19] More than 400 viewers watched the proceedings. This was the first time the Colombian Constitutional Court webcasted it live as a follow-up of a health-related judicial ruling.

WBI contributed by providing the technological platforms, including www.saluderecho.net, to host these exchanges. WBI also requested the court's permission in Colombia to webcast the hearing, recognizing the possible precedent it could set to influence other courts.

In sum, countries are increasingly using the coalitions and community of practice to improve transparent and participatory actions to inform policy options that can be sustained by health services and address stakeholder rights. This stream of changes exemplifies early outcomes in an ongoing process to open up rights to health issues to citizens through broadcasting judicial findings (led by Colombia), and to use participatory processes and sound information to inform policy options and accountable decisions on rights to health (in Costa Rica and Uruguay).

Outcome Area 4: Global learning to scale-up right to health outcomes

Since 2012, this initiative has influenced the broader learning process on around how to effectively address the rights to health issues. Representatives from Egypt, Kenya, Morocco and Rwanda identified the need for a similar multi-stakeholder model to support the realization of this fundamental right in their respective countries. [21] The Dartmouth Center for Health Care Delivery Science (United States) and the Salzburg Global Seminar (Austria) decided to establish a partnership with WBI to further strengthen health outcomes in the area of right to health. [22]

In 2012, the Ministry of Health of the Brazilian state of Minais Gerais publicly announced it would form a coalition to improve transparency in the flow of and access to essential medicines. [24] This was significant because previously the state did not see this as an

issue they could address. In early 2013, Evangelina Castilho Duarte, a Brazilian judge from Minais Gerais, published a paper in the journal *I Justiça & Cidadania* discussing the main issues related to litigation in the Brazilian private health sector. [25] Judge Duarte's reflections illustrated the acquisition of new knowledge during her participation in the First Global Seminar on the Right to Health and Health Systems. Judge Duarte is a key actor in the Minais Gerais multi-stakeholder coalition.

In addition, Egypt decided to host knowledge exchanges to improve governance and transparency issues related to the right to health. [26] And Kenyan and Moroccan delegations are joining the Third Latin American Symposium on the Right to Health (June 2013).

The Norwegian Agency for Development Cooperation (NORAD) also began collaborating with WBI to expand implementation of the right to health model. [23] This partnership has the potential to support Latin American and African regional activities, as well as content development on the issue. Partnering with key global players validates the value proposition that underscores this initiative, and it also enhances outreach and effectiveness.

WBI contributed by conceptualizing strategic complementaries between the global and regional activities. WBI co-organized the first global symposium on the right to health in Austria in November 2012 and invited Egypt to participate, linking to another WBI initiative in the Middle East and North Africa on improving governance and social accountability in health services. WBI also co-sponsored the Learning Exchange Seminar on Operationalizing Human Rights in Development in Oslo in 2012 with NORAD.

Thus, in late 2012 and early 2013, the regional coalition had expanded its influence to countries outside of Latin America. Several of the outcomes here described helped advance the scale-up of this learning process around how countries and development partners conceptualize, understand and support actions to address the right to health.

CONCLUSION

The ultimate goal of WBI's Constitutional Mandates Initiative is to increase the level and distribution of health outcomes. It is advancing this goal by sup¬porting new collaborative leadership among judiciary and health officials, as well as the creation of effective multi-stakeholder processes to influence policy around the right to health.

Multi-stakeholder coalitions have the potential to understand the underlying causes of the rapid increase in litigation from different perspectives and to act accordingly. They can also potentially increase the level of fairness and effectiveness arising from the health system and from the judiciary system as well. The achieved outcomes described in this case demonstrate how coalitions can have a positive effect, by increasing transparency and participatory decisions to inform policy options to address rights to health. In the process, change agents are empowered in the most advanced countries such as Uruguay, Costa Rica and Brazil, where coalitions are already leading the discussions and the agenda.

That being said, understanding the causes of litigation and effectively transforming them into improved policies—thus contributing to the realization of the right to health—is a lengthy and complex task. This is, therefore, not a on-off engagement but rather a dynamic process in which coalitions will encounter new challenges that will need innovative and adaptive solutions. Many challenges still exist—for example, fiscal and administrative costs of litigation or para-judicial conflict resolution mechanisms are a challenge in upcoming coalition discussions.

Even though the results obtained so far have been mainly concentrated in Latin America, the flexibility of the change strategy supported by this initiative has drawn interest from countries globally that face right to health challenges and lack practices to address them. There is also an increasing interest to use this initiative to systematically and adaptively learn how to apply rights-based principles to context-specific health policy needs of countries.

NEXT STEPS

Over the next two years, new outcomes to improve the efficiency of policy instruments and strengthen the effectiveness of multi-stakeholder arrangements are expected. Four categories of outcomes will most likely arise:

1. Appearance of new pieces of legislation or administrative policies aimed at improving the effectiveness and transparency of the decisions made in the judiciary and health sectors.

2. Improved health service delivery, particularly benefiting the poor and marginalized.

3. Increased number of qualitative and quantitative assessments of the causes and ultimate impact of health litigation.

4. New countries working with multi-stakeholder coalitions. ■

NOTES

[1] The stakeholders in the coalitions include executive, legislative and judicial branches as well as other government institutions at the central and sub-national levels, health care organizations, physicians, patients, academic institutions, civil society organizations and the private sector. Source: Brochure *"Creating a Sustainable Platform for Multi-Stakeholders to Coalesce and Address the Progressive Realization of the Right to Health."*

[2] Mapping outcomes—and related outputs and milestones—can help us learn from change processes that occur during program delivery that often seem complex and opaque because they involve multiple actors and address large development problems. An outcome is what each social actor (or change agent) did, or is doing, that reflects a significant change in their behavior, relationships, activities, actions, policies or practice. The program may influence these changes, directly or indirectly, partially or wholly, intended or not. Outcomes are identified at two levels in relation to the goal: institutional changes relate to societal, policy and organizational changes; and learning/capacity changes relate to awareness, knowledge or skills, collaborative action, or the use of knowledge or innovative solutions. These levels are based on the Capacity Development and Results Framework. The framework provides a systematic yet flexible approach to designing capacity development strategies and programs, monitoring and adaptively managing interventions, and evaluating and learning from their results.

[3] Outcome harvesting is a practical assessment tool from the outcome mapping community of practice. It can be used for real-time monitoring and evidence gathering from complex development processes that involve multiple stakeholders. It is based on a similar concept of locally driven change from the Capacity Development and Results Framework. The tool was customized to gather information on outcomes—and related outputs and milestones—to learn from what changed, for whom, when and where, the significance of the change and how the program contributed to each change.

[4] Change agents are leaders, groups or organizations from government or non-state that drive change.

[5] Change strategy refers to how change happened to advance progress toward the development objectives—the development problems addressed, types of outcomes achieved, WBI contributions, and partners involved. A change strategy may include different types of change processes or outcome areas depending on the complexity of the multi-actor institutional changes involved in a program.

[6] The numbers in brackets correspond to the outcomes. The text that usually follows each outcome refers to its significance. The process of change represented by the outcomes can be seen in Figure 2.

FOR MORE INFORMATION

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