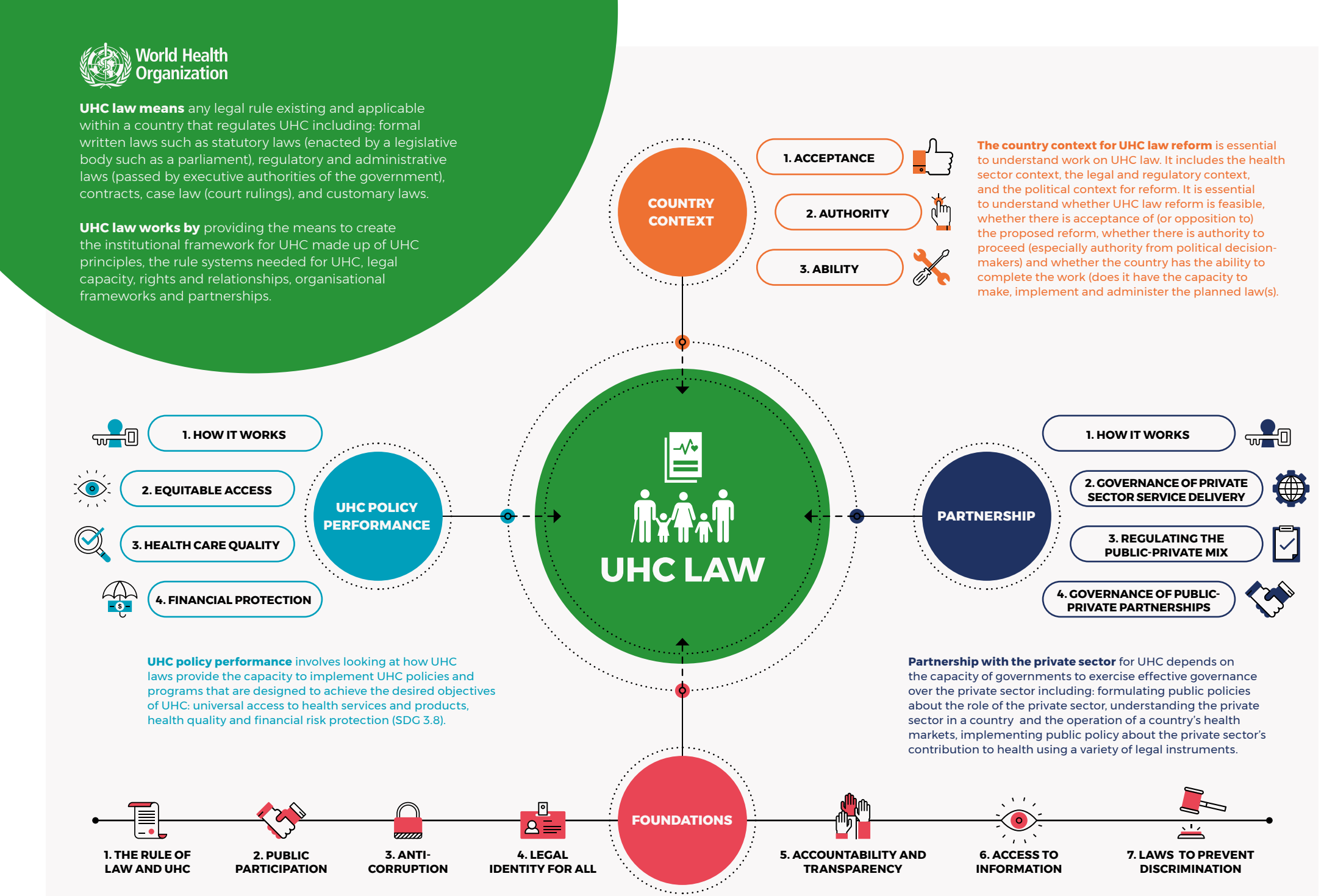
World Health Organization

UHC law means any legal rule existing and applicable within a country that regulates UHC including: formal written laws such as statutory laws (enacted by a legislative body such as a parliament), regulatory and administrative laws (passed by executive authorities of the government), contracts, case law (court rulings), and customary laws.

UHC law works by providing the means to create the institutional framework for UHC made up of UHC principles, the rule systems needed for UHC, legal capacity, rights and relationships, organisational frameworks and partnerships.



COUNTRY CONTEXT

1. Acceptance

Law is the result of a process of decision making; it follows that law is more likely to be made where there is acceptance:

- of the objectives of the proposed law
- of the need for the law
- of the costs and possible impact of the law
- of the new law by people and organisations who have the power to influence the success of the law.

2. Authority

Laws are made by people and organizations who have a mandate to making biding legal rules. In practice, the authority to make effective laws also depends on politics and power relationship in a country.

3. Ability

Law making is a highly technical process and can also be resource-intensive. Whether a country can make a law depends on whether it has the ability or the capacity to proceed. Key questions include:

- Is the necessary data for planning, analysis, and implementation available?
- Are there people with appropriate skills available to work on the law (lawyers, economists, legal drafters, people to monitor and enforce the law)?
- Does the country have the institutional capacity to proceed with the reform?
- Are there financial resources for the process and for implementation (if yes how much)?
- Are there any issues with timing, or time constraints that affect a country's ability to make a law?

World Health Organization

UHC POLICY PERFORMANCE

1. How it works

UHC policy performance is about the role of law in providing the capacity to achieve the desired policy objectives of UHC: universal access to health care, financial protection, quality health care.

2. Equitable access

Achieving UHC is, first and foremost, about providing all people with access to the health services and products they need. UHC law provides the means to formalise access to health services and products. For example, by including rights to access in a country's constitution or other legislation, or by establishing legal mechanisms for determining eligibility for health services, i.e. enrolment in a social health insurance scheme.

UHC law also works by helping remove UHC access barriers. Countries work to remove access barriers as part of efforts to stop people from being excluded from health care, and to ensure that "no one is left behind on the road to UHC." Legal efforts to help remove access barriers include implementing measures to stop the discrimination that results in disadvantaged or marginalised populations accessing health services and products. For example, UHC law can be used to prohibit people from being denied access on the grounds of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability.

3. Health care quality

UHC law provides the basis for regulating the quality of care and the institutional basis for work on health care quality. Examples of how UHC laws contribute to the regulation of quality include legal requirements for licensing or certification to operate a health facility or service or to practice as a health worker. UHC law establishes mandatory standards for facilities, health services, the practice of health workers and for medicines, vaccines and other health products. These standards might deal with the technical aspects of quality or focus on different aspects of quality of care (e.g. patient safety, rules on people-centredness, or guidelines about services and clinical practice). UHC law provides the authority to monitor compliance with standards and to take enforcement or corrective action where required.

Examples of how UHC law provides for the institutional basis for quality include authorising the establishment of regulatory agencies, their duties powers and governance arrangements.

4. Financial protection

UHC law contributes to efforts to provide people with protection from the potentially catastrophic effects of high out of pocket health expenditure. WHO's approach to health financing focuses on three core functions:

- Revenue raising (sources of funds, including government budgets, compulsory or voluntary prepaid insurance schemes, direct out-of-pocket payments by users, and external aid).
- The pooling of funds (the accumulation of prepaid funds on behalf of some or all of the population).
- Purchasing services (paying service providers or allocating resources to health service providers).

UHC law provides the capacity to perform all three of these functions.

- First, it authorises revenue raising. For example, in countries with tax-based systems, there are constitutional or statutory provisions which allow taxes. Tax laws can approve revenue-raising derived from different tax sources, such as income tax, indirect taxes , earmarked tax revenue (e.g. tobacco taxes). In health systems which operate health insurance systems, laws authorises compulsory social health insurance for both population coverage and mandatory contributions to insurance fund(s) (e.g. through a social health insurance act).
- Second, it authorises the pooling of funds. For example, UHC law may allow the creation of a national pool or several subnational pools.
- Third, it provides the capacity to carry out the purchasing function, through the use of contracts, and by establishing the governance and accountability arrangements for purchasing and purchasing agencies.

UHC law also provides the basis for the regulation of a country's health benefits package, including the process for establishing the package and the basis for creating service entitlements.

PARTNERSHIP

1. How it works
SDG 17 calls for cooperation, collaboration and partnership between government, civil society and businesses. In the health context, this means an increased focus on private sector engagement and the use of public-private partnerships to help achieve UHC. Practical governance arrangements deployed to govern these arrangements differ significantly from those used to guide public-only services.

2. Governance of private sector service delivery
There are five 'tasks' associated with effective governance of private sector service delivery. It is about maintaining the strategic direction for the health system aligned to UHC values, collecting and using intelligence to correct undesirable trends and distortions, articulating the case for health in national development, exerting influence, and establishing transparent and effective accountability mechanisms.

3. Regulating the public-private mix
Managing the public/private mix in a health system is likely to be a central element of every government's health policy and management functions. It requires careful thought about the most appropriate legal instruments for a particular context and a specific action and policy goal. Equally important is the need to think through the strategies that can be used in developing and implementing those legal instruments.

4. Governance of public-private partnerships
Partnerships between the state and private actors are increasingly used to deliver health services and products. While this type of co-operation between state and private actors usually refers to partnerships with for-profit businesses, many partnerships also involve civil society actors and non-profit organisations. Legal tools are used to establish these partnerships and to establish the rules for their operation.

FOUNDATIONS

UHC law contributes to several cross-cutting functions and issues which act as accelerators for work on the health related SDGs.

1. The rule of law for UHC
UHC law provides the basis for implementing the rule of law for health (SDG 16.3). The rule of law for health is essential because "good governance" depends heavily on securing adherence to the rule of law. The rule of law means that a country both possesses and observes formal codes or norms that effectively constrain individual, institutional and governmental behaviour. Key components defining attributes of the rule of law include:

- A rights-based approach to health and development.
- Legal identity for all.
- Access to justice for all.
- Personal health security.
- Ensuring and protecting health rights which are implicit in a number of goals concerning discrimination, inequality and responsive institutions.

Societies that institutionalise and govern themselves by these conditions tend to thrive because they possess rules-based stability, and avoid self-harm through arbitrary actions such as corruption and violence.

2. Public participation
UHC law creates the right to participate in health-related decision making and regulates the decision-making processes (SDG 16.7).

3. Anti-corruption
UHC law provides the basis for anti-corruption (SDG 16.5) efforts and specifically a country's anti-corruption laws affecting the health sector.

4. Legal identity for all
UHC law provides the basis for the legal identity of individuals, which in turn provides the basis for the legal right to access health care and exercise other health rights (SDG 16.9)

5. Accountability and transparency
Law contributes to accountability and transparency by establishing: clear standards and legal duties that must be met by duty holders, requirements for effective accountability relationships, legal requirements for transparency and information disclosure, legal and formal institutions and mechanisms to hold duty holders to account, and sanctions for those who are not accountable.

6. Access to information
UHC law provides the basis for establishing the right to access information and the means to recognise other fundamental rights and freedoms included in international human rights agreements.

7. Laws to prevent discrimination
UHC law acts to remove barriers to service access by prohibiting discrimination.

World Health Organization