

## *The Case for a Pandemic Prevention Treaty*

### *Executive Summary*

The COVID-19 pandemic is a global public health catastrophe. This was a preventable disaster. For more than 20 years, experts have warned us this was likely to happen if we did not pay attention to the governance, preparedness for the management of outbreaks and pandemics.

There is a gaping hole in the global governance and oversight of pandemics. The pandemic has cost over 4.5 million lives, trillions of dollars, and massive social disruption. Yet, this still may prove to be insufficient warning for global leaders and politicians to take decisive action on a pandemic prevention treaty. As members-states of the World Health Organization gather to decide the fate of pandemic prevention and management in the 21<sup>st</sup> Century at the World Health Assembly in late November, **it is imperative that government actors, civil society, and the public apply political pressure to demand a global treaty to prevent pandemics.**

The treaty that we need has two primary objectives: (1) manage outbreaks effectively to prevent pandemics, and (2) manage the pandemic if we fail to prevent it. While we already have a treaty, the International Health Regulations (IHR), governments have not complied with this treaty. These Regulations are inadequate for a pandemic of the scope of COVID-19 because they do not sufficiently address pandemic prevention, management and response. A treaty must grant authority to one or more agencies to coordinate pandemic prevention, preparedness, and response globally.

For a pandemic treaty to be effective, the proposed treaty must be negotiated, signed, and overseen by heads of state for two reasons: (1) pandemics affect every facet of societies: health, jobs, education, trade, international relations, development, economic growth, and security, and (2) an international agreement must include verification and compliance mechanisms to which only heads of state can agree.

Verification and compliance must be established at arm's length from WHO, which must maintain an amicable relationship with countries. WHO is needed to establish the standards for preparedness and response. An independent agency is needed to coordinate and provide oversight to the bodies responsible for verification, compliance and financing.

Compliance will require a system of incentives for countries. Rewarding compliance with tangible benefits, such as financial aid for pandemic prevention and preparedness will promote global accountability. Specifically, low- and many middle-income countries require financial support to properly prepare and respond to outbreaks and pandemics, and to avoid economic repercussions when reporting an outbreak.

The form of treaty that is needed is a Framework Convention. A Pandemic Prevention Treaty without mechanisms for verification and compliance will not make us any safer than we are. Without these mechanisms in place, we can expect future pandemics. A strong treaty makes it possible for us to stop outbreaks resulting in pandemics.

## *Panel for a Global Health Convention*

### *The Case for a Pandemic Prevention Treaty*

October 28, 2021

The COVID-19 pandemic is a global public health catastrophe. Across the world, more than 4.5 million people have already died and trillions of dollars have been lost, and we are not yet clear of the pandemic. The number of “excess deaths” will probably exceed 20 million before the pandemic is over. The economic costs have also been staggering, resulting in food and housing insecurity, and pushing more people into poverty. **This was a preventable disaster.** Global health experts have been warning for years that a pandemic was very likely to happen if we did not pay attention to the health systems, pandemic preparedness, and good governance. There are gaping holes in the global governance and oversight of pandemics.

#### **The Nature of the Problem and the Need for a New Treaty**

The International Health Regulations (IHR) is a legally binding treaty, but governments have not complied with the requirements of this treaty. Further, IHR has gaping holes in pandemic preparedness and response. These Regulations never mention the word “pandemic” and were not designed to regulate a pandemic of the size and scope of COVID-19. The IHR was intended to cover all hazards to health. But outbreaks rapidly escalate to pandemics because of their exponential nature. While for other hazards there may be a balance in the pros and cons of when to act and what to do, the precautionary principle applies for pandemics. We have observed that a “wait and see” approach taken by country leaders was a key element that allowed the SARS-COV-2 outbreaks to become a pandemic. There is growing agreement that the WHO should be able to declare a Public Health Emergency of International Concern much sooner to mobilize global action.

The most important reasons for needing a treaty include:

- The lack of compliance during COVID-19, not just with IHR, but also with WHO’s guidance and recommendations. Whether its regulations are global or focused on individual countries, WHO has simply not been given the authority nor the financial resources to hold governments to account.
- A treaty must be signed at Heads of State level because pandemics affect all aspects of society and government, and because Heads of State can commit countries to compliance and verification.
- A treaty can prevent outbreaks from developing into pandemics, but this requires countries to grant the necessary authority to a global body to coordinate prevention, preparedness and response globally. Additionally, countries must be willing to be held accountable by an independent monitoring and inspection body, including external verification of compliance with preparedness, detection, and response.

## Key Measures Required in the Treaty

### 1. *Country preparedness*

A treaty would allow independent verification of preparedness, rapid detection, reporting, and response. The peer reviews in WHO's joint external evaluations are a step forward but are not adequate because they lack an objective verification mechanism. Preparedness includes:

- Public health systems that are capable of directly reaching communities for testing, tracing, and isolating.
- Equitable access to pharmaceuticals, diagnostics, vaccines, and personal protective equipment.
- All-of-government understanding of the need for fast response because of the exponential nature of how infectious agents can turn into pandemics.
- An adequately resourced health care and public health system.

This will require significant external financing for low- and some middle-income countries.

### 2. *Transparency and external verification*

This includes:

- Initial immediate notification of an outbreak and ongoing reporting as the pandemic develops.
- Providing samples for genetic analysis as well as other scientific and epidemiological data and research.
- Allowing access for external verification based on clearly defined guidelines.

## The System of Compliance

WHO must be the standard-setting body. It must also be the body for establishing scientifically- based technical guidelines and for providing technical assistance to countries. It now seems likely that the new, more encompassing Treaty might be based in WHO, but even if this is this case, it must be placed at arm's length. The Treaty must have its own secretariat to convene the Conference of Parties. There are concerns, though, that once the immediate crisis is over, the responsibility could fall back to Ministers of Health rather than engagement through Heads of State in a whole government approach. The Conference of Parties must be responsible for ensuring this does not happen.

Even if the Treaty were housed in WHO, there are options about where to place oversight for monitoring, inspection, and compliance. Because WHO has to maintain an amicable relationship with all countries, it has to act as a friend and supporter, in which case it may be difficult to also be its inspector. A second option is to have the inspectorate outside of WHO, though using the WHO standards for its inspection. We believe this second option is much more preferable because it gives the inspectorate greater independence.

An independent inspectorate should report to a global high-level oversight body. The Independent Panel for Pandemic Preparedness and Response has recommended the creation of a Global Health Threats Council. The governance of such a body would include Heads of State/Government and include broad representation from different sectors of society. If established, the Global Health Threats Council could serve as an oversight body for the Treaty and for an independent inspectorate. It would also oversee pandemic preparedness and response, while supporting WHO's role as the standard setter.

### **Financing, Incentives and Disincentives**

Low- and middle-income countries (LMICs) must be adequately supported financially to prepare for and respond to outbreaks and pandemics. This funding can function as a robust system of incentives. Incentives must include funds for preparedness, early detection, and the release of immediate finance when a country declares an outbreak. The G20 is currently considering the logistics of financing for all aspects of pandemics— that is, whether the financing scheme would solely support LMICs, or additionally, high-income countries and WHO for emergency action. A dedicated fund is needed for Pandemic Preparedness and Response. It is likely that the IMF and World Bank will be involved, as well as the Global Fund.

Because high-income countries are less reliant on external funding for pandemic preparedness and response than LMICs, the development of effective incentives for compliance is more challenging. The International Monetary Fund's Article IV, which currently assesses the financial stability of economies, has been proposed as a form of disincentive for countries, rich and poor. Pandemic preparedness and response could be assessed as one measure of the financial stability of a country. The potential instability from lack of preparedness or inadequate response could then be included in the IMF's reports, which would arguably be reflected in reduced ratings by external credit rating agencies. This measure is appropriate because the lack of pandemic preparedness and response places economies at risk.

There is another aspect of incentives that is critical to discuss to ensure the timely reporting of outbreaks. Countries in the past have been hesitant to report outbreaks, fearing the economic and social consequences of reporting. That is, typically after a country reports an outbreak of a feared pathogen, other countries block tourism, travel and trade. To prevent the disincentives resulting from immediate reporting of an outbreak, countries demonstrating transparency should be able to access immediate financial support. Such funding would incentivize reporting. This is particularly appropriate for LMICs.

Finally, on incentives, we should highlight the human aspect, not just financial. COVID-19 has made it clear just how much we are all dependent on each other. Every effort needs to be made to ensure that countries realize that noncompliance puts the world — not only domestic populations — at risk. The general public and the organizations that represent them must understand this degree of interdependence and press governments to deliver on a treaty that will assure compliance. Not doing so is likely to reverberate back to their own countries.

## The Form of a Treaty

Our final issue is the nature of the Treaty. We believe, as do many others, that a Framework Convention is the most appropriate treaty form. The overarching Convention\* should be clear that this is a hard law, not just a treaty setting out good intent on solidarity and working together. The central Convention should set out the compliance mechanisms and the body, or bodies that will oversee these processes.

The advantage of a Framework Convention is that it can also have:

- A number of protocols covering different issues
- Protocols that can be revised as our understanding of pandemics continues to grow
- New protocols for specific areas that can be developed at the request of the Conference of Parties

For example, the first protocol might cover the responsibilities of countries in complying with requirements for managing a pandemic. Another protocol might cover responsibilities to achieve global equity in global public goods such as drugs and vaccines. A protocol on reducing the likelihood of zoonoses is likely to take longer to negotiate because it will impact agriculture, the environment and trade. Consequently, there are several additional bodies (WTO, FAO) that may need to be brought together to define such a protocol.

## Conclusion

To prevent pandemics, the world needs a new Framework Convention for Pandemic Preparedness and Response with binding provisions that provide authority for coordination of global pandemic preparedness and response and mechanisms for verification and compliance. COVID-19 showed us that countries ignored the existing regulations, which were also insufficient to address prevention of pandemics in the 21<sup>st</sup> century (Duff et al., 2021). A Pandemic Prevention Treaty without mechanisms for verification and compliance will not make us any safer than we are. Without mechanisms for verification and compliance we can expect future pandemics. A strong treaty makes it possible for us to stop outbreaks resulting in pandemics.

\*The terms convention and treaty are used interchangeably.

## References

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*Originally released on October 18, 2021. Last updated October 28, 2021.  
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