

**Annex to Report on Legal Tools for Pandemic Preparedness and Response:
WHO Collaborating Center Support
for New Coordinating Mechanism**

Summary Report for Consultation with NGO and Civil Society Representatives

November 2021

I. About the Panel for a Global Public Health Convention

The Panel for a Global Public Health Convention (GPHC) is an independent coalition of global leaders working to strengthen the world's ability to prevent, prepare, and respond to infectious disease outbreaks before they become widespread pandemics. It was founded in response to the emergence of the COVID-19 pandemic with the aim of bridging critical gaps in the global public health architecture and policy frameworks by promulgating for a new international agreement to ensure another pandemic of such magnitude does not happen again. The Panel is chaired by Dame Barbara Stocking, former President of Murray Edwards College, University of Cambridge, and former Chief Executive of Oxfam GB; it consists of nine high-level global leaders with expertise in public health, finance, law, parliamentary, national and international governance, and pandemics.

II. About this Annex Document

The COVID-19 pandemic is a global public health catastrophe. Many feel this was a preventable disaster that underscored the gaping holes in global governance and oversight of pandemics. As members of the World Health Assembly (WHA) gather to consider the development of a convention, agreement, or other international instrument on pandemic preparedness and response, the Panel for a Global Public Health Convention, in collaboration with the O'Neill Institute and FNIH convened a consultation with representatives from various NGO's representing regions in the Americas, Africa, and Europe. This consultation took place on 3 November 2021, meeting to gain information on the perspective of NGO representatives on a potential international agreement on pandemic prevention and response. Written responses were also submitted for inclusion in the report by NGO and civil society representatives unable to attend the live session.

NGOs and civil society are integral parts of the global health ecosystem. Their expertise and experience in advocating, mobilizing, and implementing fundamental change in the world's public health ecology is unparalleled in both scope and breadth. These organizations work hand in hand with a wide variety of actors from local providers to global experts and international leaders. Their voice is uniquely informed by a perspective gained through decades of combined specialized work to further the health of communities across the globe. This Annex has been compiled as an addition to the report drafted by the O'Neill Institute and the FNIH, as a vehicle for representatives of NGOs and civil society to voice their perspective on an international agreement on pandemic prevention.

Responses collected from participants have been compiled, analyzed, and drafted here by the Panel’s Secretariat in collaboration with the O’Neill Institute. The discussions were facilitated by José Szapocznik, PhD, Head of Secretariat, and Dr. Jorge Saavedra, Director of the AHF Global Public Health Institute at the University of Miami. The consultation for this annex was organized by the Panel for a Public Health Convention Secretariat in collaboration with the O’Neill Center and FNIH.

This summary does not necessarily reflect the views or positions of the participants, their institutions, the Panel for a Global Public Health Convention, the O’Neill Institute, or FNIH. This is intended as a summary of the voices of this collective.

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III. Substantive Content of the Discussion

The substantive content of this report focuses on NGO perspectives on the following issues: (A) perspectives on the need for an international agreement or treaty to prevent pandemics; (B) what should be included (or excluded) from such an agreement or treaty; and (C) who should be involved and at what stage.

A. On the Need for an International Agreement to Prevent Pandemics

Many NGOs feel that there is a need for an international treaty or agreement. While recognizing that a binding agreement may be difficult to obtain, the existing international agreement, the IHR, has not been able to address all matters of serious concern in preparation and response to a global pandemic. The COVID-19 pandemic showed us that even for those countries that were assessed to be best prepared – this was not the case. Historical experience in previous outbreak responses had sounded the alarm of vulnerabilities in the global systems covering alert to response. Organizations have called out constraints in effective response linked to the (a) political failure to sound the alarm, (b) ineffective surveillance and alert mechanisms, (c) lack of interest and investment from major global actors, and (d) absence of fully effective leadership from WHO, and often from national authorities, (e) few accountability mechanisms,. Any future pandemic preparedness and response mechanism, therefore, must address the whole management cycle, which means both preparedness *and* response to both outbreaks and pandemics. Pandemics can be prevented by immediately and effectively responding to outbreaks.

In addition, there is a need for uniform rules to be applied to all countries. This pandemic has made clear the discrepancies between *the world that has* and *the world that has not*. For the last two years, the world has witnessed gaps in the response to COVID-19, especially the severe inequity in access to COVID-19

vaccines, medicines, diagnostic and other treatment and prevention measures in many low- and middle-income countries. To this end, a potential treaty or agreement needs to address these gaps.

Equity must be at the center of the response when distributing vaccines, treatment, and diagnostics. The partnership between private and public actors must be redesigned to deliver these public health goods in an equitable manner, independent from market functionality and constraints. Regional and local capacities must be taken into consideration and fully integrated into any global architecture to maximize impact at the regional and country level. In addition, local production of essential medical tools must be supported, which would contribute to sustainable diversification and scale of essential medical tools to respond to future pandemics.

B. On What Should be Included (or Excluded) from an International Agreement

Substantive content of the treaty needs to implement considerations from the lessons learned from this pandemic. The lack of structural solutions to respond to outbreaks and the current lack of capacity to act more quickly track some of the serious mistakes observed while responding to the COVID-19 disaster. Among the solutions discussed was the need for different binding rules or provisions that would apply at different times during the course or progression of an outbreak to that of a full, blown-out pandemic. Concerns underpinned by issues such as the inequitable distribution of vaccines and the hoarding of pharmaceuticals, biologicals, and other essential medical supplies serve as examples for the need of binding rules that all countries should follow during a time of world crisis. Simply counting on non-binding norms and the good will of countries isn't enough to guide equitable multilateral action among countries – there is a need for clear language and compulsory obligations for countries to follow during a pandemic – with consequences for failing to comply.

The sentiment that many in the public health community have expressed the need for an international agreement that is backed by more than words on paper was expressed, along with frustration over the fact that governments often pay lip-service to but do not, in fact, substantially engage with NGO or civil society to solve major public health challenges. A potential treaty or agreement needs to demonstrate in practical terms, not just theoretical terms, why a treaty is in the benefit of the collective. NGOs and civil society should be made an intrinsic part of the process.

The pandemic demonstrated again that involvement of the community is critical and that there is a need for greater engagement and representation of NGOs and civil society in the governance structure of international organizations. An international agreement should include solutions and channels for input that account for a more active representation of NGOs and civil society in decision-making processes. There was an expressed need for non-government actors to be fully recognized by WHO and other pandemic prevention/management bodies, as they were in previous negotiations like the International Code on the Marketing of Breast-milk Substitutes and the Framework Convention on Tobacco Control.

Looking to organizations like the Global Fund, which has a governing board that represents the non-government sector, could function as a useful model: not only because it offers international agencies and governments an opportunity to vertically integrate high-level policy with what is needed on the ground at the country-level, but also because these organizations offer a wealth of expert knowledge and technical knowhow in helping to implement policy. Further, the involvement of NGOs and civil society in decision-making processes also give more credibility to governments and international agencies. The challenge is to overcome the traditional exclusion of non-governmental actors from international lawmaking.

When looking for a legally binding treaty or agreement, there is a need for national plans that scale up to a global agreement. There is space for advocacy in this structure. Treaties or roadmaps to guide the construction of national planning is of tremendous value during a crisis. There is also a need for a renewed focus on outbreak and pandemic prevention.

There was consensus among the NGO leaders that changes around pandemics need to be implemented and enforced but that a treaty should not get in the way of the things that are working at the national and regional levels. Considering the amount of public funding channeled for the research and development, transparency and accountability for these investments are critical. Enforceable access conditions to R&D funding should be accounted for to ensure benefit-sharing and access to resulting medical technologies for low- and middle-income countries. Innovation in funding and seeking alternative mechanisms (e.g., emergency funding streams) must be considered to ensure that existing streams do not divert from established public health programs. A rights-based, ethical and principled approach must be ensured as the lens through which decisions are made.

C. Who Should be Involved and at What Stage?

The idea that the greatest driver of the current disaster is lack of political leadership and attendant accountability over the short and long-terms reinforce the need for a council or entity to enforce norms and commitments among countries. Without political will, policies are not planned and implemented on the ground. Regional and local representation must be ensured at all stages including community or civil society – specially from the Global South. The input and participation of local communities is critical because local leadership is essential to implement many strategies, for example getting people vaccinated, understanding public health measures, and apportioning responsibility. NGOs and civil society are an essential part of this process and ecosystem, which is why they should be engaged by decision makers throughout.

This current crisis presents an opportunity for alliances to be made in academia, the private sector, and across NGOs to leverage their knowledge, position, and expertise to strengthen health services. Global movements are needed to unite organizations at the local, regional, and national levels to solve the great global problems of the 21st century. A global movement is necessary because the world is facing so many challenges that “talk to each other.” Therefore, there was a discussion on the need for alignment in the advocacy process. There was recognition that forces of inertia often oppose reform by pinning potential allies against each other. To this end, amplifying voices from academia, private sector and NGOs by reaching agreements to approach advocacy from a unified position is critical.

IV. Conclusion

This annex to the O'Neill-FNIH consultation has been compiled to give voice to and offer the perspective of NGOs and civil society regarding the need for a pandemic treaty or agreement. The report herein explored the question of whether there is a need for a pandemic treaty or agreement; what participants thought should be included or excluded from the treaty; and the timing and involvement of relevant actors in this process.

The COVID-19 pandemic has showed us that the world was not prepared for this pandemic and that action must be taken in order to prevent the next pandemic from happening. There is a need for uniform rules to be applied to all countries in an effective and equitable way. However, mere words on paper won't suffice. We need the political will and the commitments of countries and their leaders to guide multilateral action now and in the future. This current crisis presents an opportunity for the world to come together and tackle common problems. NGOs and civil society are an integral part of this conversation and should be made part of the process of discussions on a pandemic agreement or treaty on pandemic prevention.

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