Review

WHO and its Commitments to the Covid-19 Pandemic: An Approach to the Right to Healthcare

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Abstract

International human rights law guarantees everyone the right to the highest standard of health and obligates governments to take all measures necessary to prevent threats to public health and provide medical care to those in need. The human rights law also emphasizes that in the conditions of serious threats to public health and public emergencies that threaten the lives of the nation, restrictions on some rights can be justified if they have a legal basis. These absolutely necessary measures should be based on scientific evidence (and not arbitrary) without any discriminatory aspects, limited in duration, with respect for human dignity, subject to review, and proportionally designed and implemented. On March 11, 2020, the World Health Organization (WHO) announced that the outbreak of the viral disease COVID-19 - first identified in December 2019 in Wuhan, China - has reached the level of a global pandemic. Citing concerns about "alarming levels of prevalence and severity," the WHO, therefore, called on governments to take immediate and aggressive measures to prevent the spread of the virus. The scale and severity of the Covid-19 pandemic are clearly rising to the level of a public health threat that can justify restrictions on certain rights, such as those resulting from the imposition of quarantine and restrictions on freedom of movement. At the same time, careful attention to human rights such as non-discrimination and principles of human rights such as transparency and respect for human dignity can create an effective response, and harm limits what it can create. This research is a review of the performance of the World Health Organization regarding human rights concerns and emphasizing "the Right to Healthcare".

Keywords: WHO, Covid-19, Right to Healthcare.

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Introduction

The right to health is central to the actions of the United Nations and is the core of the Universal Declaration of Human Rights (1948) and other international human rights instruments. As the International Covenant on Economic, Social and Cultural Rights (Covenant) states, "Member States recognize the right of all individuals to enjoy the highest standards of physical and mental health" (1).

The Universal Declaration of Human Rights (UDHR) appears to address the human right to health relatively succinctly, stating that humans have the right to a standard of living adequate for health, and other determinants of health, such as food. Clothing and housing, as well as medical care, are rights holders. However, the drafters of the International Covenant on Economic, Social and Cultural Rights (ICESCR) went much further and created a universal right to the highest attainable standards of physical and mental health are recognized

However, the concept of the "highest attainable standard of health" in the statement is a controversial challenge for health advocates. The highest attainable standard for a resource-poor environment such as rural India or sub-Saharan Africa is a utopian standard. If we mean the highest locally achievable standard, we set our goals very low. The aforementioned General Comment No. 14 on the Right to Health will be the basis of international obligations in this field. Based on this, governments are obliged to be committed to the right to health in other countries as well (2). The international community promoted the right to health movement in the United Nations (UN) Declaration of Human Rights in 1948 and several subsequent international treaties (3).

The World Health Organization (WHO) Constitution of 1946 declared "the enjoyment of the highest attainable standard of health" defined as "a state of complete physical, mental, and social well-being and not merely the absence of disease or disability." "It is one of the fundamental rights of every human being" (4). This law adds that "governments are responsible for the health of their people, which can only be achieved by providing adequate health and social measures" (5). With these statements, the World Health Organization reached two important milestones: defining health in the framework of social factors and establishing the right to health as an international law.

The WHO is also committed to integrating human rights into the health care programs and policies of governments at the national and regional levels. In this way, the WHO promotes a concise and integrated framework that builds on existing approaches in gender, equity, and human rights to create more precise and robust solutions to overcome health inequalities. The 1948 Constitution of the World Health Organization declared that "the enjoyment of the highest standards of health is one of the fundamental rights of every human being," and this has framed the organization's agenda for advancing human rights in global health for the past year.

In the same way, the responsibility of countries and human rights organizations towards international aid and cooperation in the field of health has also received considerable attention and has become more necessary during the Covid-19 pandemic. Fulfilling this responsibility is often envisaged through high or even low-income countries as well as multilateral and bilateral trade agreements.

Right to health standards and COVID-19

The extraordinary impact of COVID-19 on human rights underscores that all human rights are indivisible and interrelated (6), and that health and human rights are inextricably intertwined (7). These interconnections are evident in how race, income, age, and disability are proving to be key determinants of both COVID-19-related morbidity and mortality (8) and of the disproportionate enforcement of COVID-19 policies on such groups (9-10). This recognition underscores the recognition of the WHO, the United Nations (11), and the Council of Europe

for Human Rights (2020), among others, that a human rights approach is crucial to an effective public health response to COVID-19. The standards of the right to health hold particular importance for effective pandemic care and responses.

The most authoritative form of this right is found in the International Covenant on Economic, Social and Cultural Rights (ICESCR), a treaty ratified by a majority of states globally (11). ICESCR recognizes "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health," and elaborates steps to be taken to fully achieve this right include to prevent, treating, and controlling epidemics and other diseases and to assure medical services for all in the event of sickness.

These duties have obvious significance for state responses to COVID-19. Indeed, the UN Committee on Economic, Social and Cultural Rights (the Committee) specifically elaborated these duties in relation to infectious disease outbreaks to include creating systems of "urgent medical care in cases of epidemics and similar health hazards," and requiring states to use "technologies, epidemiological surveillance and data collection, immunization programs and other strategies of infectious disease control" (11).

Similarly relevant to COVID-19 is the general right to health duty to ensure access to available, accessible, acceptable, and good-quality health facilities, goods, and services, and to provide the underlying determinants of health such as safe and potable water, sanitation, food, housing, health-related information, and education, and gender equality (12).

World Health Organization and its responsibilities

The World Health Organization (WHO) was established in 1948 under the auspices of the United Nations to ensure "the attainment by all peoples of the highest attainable standard of health". WHO defines health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity" (13).

Therefore, WHO is committed to improving health care practices and establishing health care standards for the international community, as well as improving the capacity of health care organizations in developing countries (both through direct funding and through facilitating private and public partnerships). He tries. This organization is known as the first international organization responsible for monitoring and recording global health statistics and trends. The Constitution of the World Health Organization (1946) considers the highest attainable standards of health as a fundamental right of every human being, as emphasizes: Understanding health as a human right creates a legal obligation for governments to provide access to timely, acceptable and affordable health care of appropriate quality, as well as the provision of health determinants such as safe drinking water, sanitation , food, housing, health-related information and education, and gender equality(4).

• The commitment of governments to protect the right to health - including through the allocation of "maximum available resources" for the progressive realization of this goal - through various international human rights mechanisms, such as the Universal Periodic Review, or the Economic, Social, Review Committee will be And cultural rights in many cases, the right to health has been accepted in domestic laws or the constitution.

• A rights-based approach to health requires that health policies and programs prioritize the needs of those who are further behind inequality. This principle is also repeated in the recent 2030 Agenda for Sustainable Development and Universal Health Coverage.

• The right to health must be enjoyed without discrimination based on race, age, ethnicity or any other status. Non-discrimination and equality require governments to take steps to remedy any discriminatory law, practice or policy.

• Another characteristic of rights-based approaches is meaningful participation.

Participation means ensuring that national stakeholders – including non-state actors such as NGOs – are meaningfully involved in all stages of planning: assessment, analysis, planning, implementation, monitoring and evaluation.

The "right to the highest attainable standard of health" implies a clear set of legal obligations on governments to ensure adequate conditions for the enjoyment of health for all people without discrimination. The right to health is one of a set of internationally agreed human rights standards and is inseparable or "indivisible" from these rights. This means that achieving the right to health is central and dependent on the realization of other human rights, such as food, housing, work, education, information and participation. The right to health, like other rights, includes freedoms and rights:

• The nature of freedoms include the right to control one's health and body (eg, sexual and reproductive rights) and freedom from interference (eg, freedom from torture and non-consensual medical treatment and testing).

• Rights include the right to a health protection system that gives everyone an equal opportunity to enjoy the highest attainable level of health.

The main elements of the right to health

In the context of a pandemic, governments should not allow existing protections for economic, social and cultural rights to deteriorate unless there are strong justifications for regressive action. The right to health (1) is defined in a way that includes the following main components:

1- Adequate access to public health facilities and health care, goods and services, as well as public programs, such that they include the following:

• Nondiscrimination

• Physical access

• Economic access (affordable)

• Access to information

2- Acceptability, which requires that facilities, goods, services and health programs are people-centered and meet the specific needs of diverse population groups in accordance with international standards of medical ethics for confidentiality and informed consent.

3- The quality of facilities, goods and services must be scientifically and medically approved. Quality is a key component of universal health coverage and includes the experience as well as the perception of health care. Quality health services should be provided safely, effectively, people-centered, timely, equitable, integrated and efficient.

According to the document, the WHO is committed to the internationally accepted principles of human rights, which provide an important and non-negotiable ethical framework for work and research in health and health care" (14).

In order to achieve these goals, in dealing with the spread of infectious diseases, WHO also recommends to curb their spread with diagnostic tests, tracing their contacts, quarantining suspected cases and treating them based on approved protocols. In case of disease outbreak, governments should ensure that health facilities are available for patients who need hospital care (15). In addition, international human rights law refers to the "collective responsibility" of the international community for the outbreak of infectious diseases.

The World Health Organization and Covid-19

On December 31, 2019, the WHO Representative Office in China received a report of a case of an unknown virus that may be responsible for a number of pneumonia cases in Wuhan. This was the pathogen that on January 12, 2020, the Chinese government made the genetic sequence of the virus available to the public (16).

These measures were needed to facilitate international efforts to develop diagnostic tools, speed up research into vaccine development, and ensure preparedness in the event of an outbreak. At the same time, the situation worsened rapidly and on January 30, 2020, the Director General of the World Health Organization declared a "Public Health Emergency of International Concern". The WHO Emergency Committee issued interim

recommendations that: "All countries should take measures to contain, including active surveillance, early detection, isolation and management of cases, contact tracing and prevention of the spread of 2019-nCoV infection and share complete information with WHO should be ready" (17).

In the context of COVID-19, ensuring non-discriminatory access to health care requires attention to specific vulnerable groups, and preliminary data analysis suggests that social inequalities exacerbate the risks posed by COVID-19. Vulnerable groups include elderly people with chronic diseases, ethnic minorities, people belonging to the lowest quintile of wealth, and non-Covid patients with another serious underlying disease (18).

International cooperation regarding COVID-19 has been weak at first, for example, Italy's request for help was met with silence from other European countries (WHO, 2020). Perhaps for this reason, the head of the European Commission, the Secretary General of the United Nations and the World Health Organization called for more solidarity between countries. Globally, many countries contributed to the COVID-19 Solidarity Response Fund (19).

However, this generosity was soon overshadowed by President Trump's announcement that the United States would cut funding to the WHO. Therefore, the international cooperation has not been very satisfactory and the reactions to the epidemic turned into a war between different policies. Some country leaders blamed China and banned the export of medicine.

In such a situation, the binding 2005 International Health Regulations and the non-binding 2011 Pandemic Influenza Preparedness Framework were key international documents that could be applied to all WHO member countries. However, these procedures did not propose a special legal approach and needed to be updated in order to prepare for situations similar to an epidemic such as Covid-19.

Some argue that "despite their commitment to human rights and health, the WHO and others have been virtually silent on how rights and pandemic management go together, relying largely on techniques that date back to the 1918 Pandemic Influenza." COVID-19 has made the tension between the protection of public health and the protection of human rights painfully apparent. The "rights-based approach" to health advocated by the WHO must consider how public health and human rights may interact in times of crisis. In conflict with the objectives, it should be revised.

However, the WHO is subject to the mandates of member states and therefore, despite the independence of its secretariat, can reflect geopolitical concerns. However, from the mid-20th century until the 1990s, WHO pursued a completely different approach to development than nation-states: WHO preferred to emphasize the social and health dimensions of development over the economic dimensions. This organization has always emphasized poor people and health rather than profitability (3). As some observers have argued, it has carved out a broad role for itself in the emergency management of epidemics (1).

Although WHO has a broad mandate, it has limited funding to achieve its enormous portfolio. Just over $6.27 billion for 2018-2019 (20). On the other hand, the organization is limited because it cannot force member states to do anything: for example, some countries ignored its recommendations during the H1N1 pandemic and did not impose travel restrictions (21). Thus, to a large extent, the WHO is actually a global information center and coordinator of government activities during the pandemic (22), with limited operational capabilities (23, 20).

Despite tools to support the right to health and human rights in general, the WHO has been relatively silent on human rights during the Covid-19 pandemic. The analysis of WHO's timeline of events and actions in Figure 1 shows that the organization quickly responded to the COVID-19 pandemic through initial draft guidelines, institutional responses such as field visits to the

epicenter of the disease, and outreach to the public. . However, little information appears to be available on new outbreaks and no large-scale recommendations have been made (24).

Since the World Health Organization (WHO) proclaimed COVID-19 a pandemic in March 2020, almost all countries globally have introduced extraordinary and unprecedented legal and policy measures to combat the spread of SARS-CoV-2, the virus that causes COVID-19, including quarantines, emergency orders, extensive lockdowns, and travel restrictions. The impact on a range of human rights has been significant, with the pandemic being used to justify police violence, authoritarian power grabs, and corruption. Yet as a health crisis, this pandemic directly invokes the right to health in international human rights law and its specific protections regarding health- care and the social determinants of health. Health systems in high-income countries have struggled to provide adequate COVID-19 testing, tracing, and treatment (25-26), with non-COVID-19 healthcare-restricted (27), vulnerable populations at high risk of infection and negative health and social impacts, and lockdowns exacerbating poverty, domestic violence, and mental health problems (28).

Similar impacts are starting to be seen in low- and middle-income countries (LMIC) where COVID-19 infection rates are rising and will place significant pressures on clinical and public health systems already grappling with the challenge of realizing universal health coverage (UHC) under the Sustainable Development Goals (SGDs). The right to health is an important framework for advancing more equitable COVID-19-related law and policy, both prescribing appropriate care and policy and delimiting restrictions of this right in the service of public health. In this article, we first outline the relevance of the right to health standards for related COVID-19 policy. We then focus on two key right-to-health challenges: COVID-19-related impacts on the realization of the right to health and UHC, and potential challenges in access to future COVID-19 therapies and vaccines. We conclude with reflections on what the pandemic may mean for the evolution of human rights, and the right to health in particular.

Conclusion:

Based on the experiences of governments' response to COVID-19, international experts in the field of human rights, health systems, infectious diseases, non-communicable diseases, emergency care and humanitarian disasters should develop a strong framework of protections based on the Right. to Health to be applicable in cases of similar epidemics. The mandatory items of this framework can include access to immediate and non-discriminatory medical care as a universal right based on the Right to Health, including screening, rapid diagnosis, treatment, and continuous care for non-communicable diseases, in a non-discriminatory manner. In order to continue progress towards the goal of sustainable development.

As soon as scientific evidence indicates the potentially dangerous effects of a virus or other pathogen, governments should be ready and take appropriate action based on a national response plan as soon as possible to control the spread of diseases. Also, without political interference, collect and disseminate accurate data based on gender, ethnicity, and social and economic status through authoritative assemblies. Carrying out these measures, especially among vulnerable groups, will be of special importance. On the other hand, governments can work with the World Health Organization and use social media platforms to control the spread of false, fake information and rumors about viruses and related diseases, including racial and victim blaming. Ensuring the regular flow of health essentials, food (especially for disadvantaged social groups), medical staff having the necessary resources for their activities (including PPE), disinfectants, and necessary medical equipment, training health and social care professionals in the field Infection

prevention and control (in public and private sectors) will also be very important.

In addition, based on the basic principles of the right to health, which is specified in international human rights law, non-discriminatory access to emergency care should be ensured. In general and based on WHO's six building blocks, the duty of governments is to create and support strong and flexible health systems including: governance, financing, workforce, products and technologies, information and research, and service delivery.

In this regard, this paper adopts the view that the human right to health creates a set of obligations for individuals, governments, corporations, non-governmental organizations and the international community, to the extent that each of them has identifiable human rights duties. However, considering the specific obligations of each party, it can be argued that the government through its laws and executive authorities should take the lead in performing the necessary duties to effectively guarantee this right. We present this discussion here by looking at fundamental philosophical questions about the nature of duties, and how the law affects human rights duties.

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