

A DISCUSSION ON STRENGTHENING ENFORCEMENT OF THE INTERNATIONAL HEALTH REGULATIONS:

Abstract:

The International Health Regulations are the primary legally binding document requiring countries to develop a minimum capacity to “detect, assess, notify and report” potential outbreaks and other public health emergencies and outlining international rules regarding prevention, surveillance, control and response. However, in light of the ever-increasing threat of infectious disease, including the recent Zika Virus outbreak, there remains much concern over the implementation, enforcement and overall effectiveness of The International Health Regulations. This Article addresses increasing and expanding enforcement measures in an increasingly interdependent world as well as broader incorporation of the One Health Model.

Editor’s Note:

This Article is an excerpt from a larger, comprehensive Article addressing legal, political and practical issues in connection with increasing the enforcement of the International Health Regulations in much greater depth, including broader incorporation of the One Health Model. A link to the Full-length Article will be included after the Citations Section, upon its completion.

The International Health Regulations are a singular development with respect to the prevention of infectious disease internationally. The Regulations were originally adopted in 1969 and served to [replace the International Sanitary Regulations](#).¹ Yet while the International Health Regulations currently act as the primary legally binding document requiring countries (by agreement) to develop a minimum capacity to “detect, assess, notify and report” potential outbreaks and other public health emergencies and outlining international rules regarding

¹ WHO, *Revision of the International Health Regulations, WHA Res. 58.3, World Health Assembly, 58th Ass. (May 23, 2005).*

prevention, surveillance, control and response, there remains much concern over their implementation, enforcement and [effectiveness](#).²

Efficient implementation and adequate enforcement of the International Health Regulations is of critical importance in today's world. The recent Zika Virus, an ever-increasing amount of infectious disease threats, increasing population, increasing travel, changes in land-use, increasing international trade, vulnerable national health systems, greater contacts between people and greater contacts between people and animals, to name just a few factors, have all contributed to an increase in "[global consciousness about global vulnerabilities to \[Emerging Infectious Diseases \(EIDs\)\]](#)."³ Many of these factors are present simultaneously in certain geographic [emerging diseases hotspots](#) such as Asia and sub-Saharan Africa.⁴

The world desperately needed Regulations requiring all adopting states to act to prevent the spread of infectious disease, both domestically and internationally and for all adopting states to have some framework within which to respond to infectious outbreaks. In accordance with the Regulations, all States must monitor infectious disease outbreak/spreading as well as provide notice to the WHO in specific instances in addition to verification of reported events. Moreover, States must work to strengthen their capacities for surveillance and response and institute a

² WHO, *Revision of the International Health Regulations, WHA Res. 58.3, World Health Assembly, 58th Ass. (May 23, 2005)*.

³ "The U.S. Government & Global Emerging Infectious Disease Preparedness and Response." The Henry J. Kaiser Family Foundation. December 8, 2014. <http://kff.org/global-health-policy/fact-sheet/the-u-s-government-global-emerging-infectious-disease-preparedness-and-response/>.

⁴ "The U.S. Government & Global Emerging Infectious Disease Preparedness and Response." The Henry J. Kaiser Family Foundation. December 8, 2014. <http://kff.org/global-health-policy/fact-sheet/the-u-s-government-global-emerging-infectious-disease-preparedness-and-response/>.

public health emergency response plan while working to reduce the risk of disease spreading via health services at ports and crossings, and the [like](#).⁵

As such, there is little doubt that the International Health Regulations have helped to make the world “[better prepared to cope with public-health emergencies](#)” and have resulted in the implementation of several fundamental preventative measures and safeguards, such as expert advice on the declaration of Public Health Emergency of International Concern.⁶ Nonetheless, as has been widely reported, *far too many Parties lack core capacities to detect health threats early enough, are unable to properly assess and [report potential health threats](#)* and/or often do not have the ability to properly communicate information related to public-health emergencies to WHO.⁷ Simply stated, for these and many other reasons, [global health security was, and remains, weak](#).⁸

In addition, the lack of enforceable sanctions and the seeming reluctance to promptly declare public emergencies of international concern remain fundamental problems for the World Health Organization. Generally, under the Regulations, states must act and respond to a “[public health emergency of international concern \(a PHIEC\)](#).”⁹ Specifically, pursuant to Article I of the Regulations, a PHIEC exists when there is a public health risk to other States through the international spread of disease for which there is the [potential of requiring a coordinated](#)

⁵ "Strengthening Health Security by Implementing the International Health Regulations (2005)." World Health Organization. 2005. <http://www.who.int/ihr/about/en/>.

⁶ The, Report Of, Review Committee On The Functioning Of The, International Health Regulations (2005), and And On Pandemic Influenza (H1N1) 2009. http://apps.who.int/iris/bitstream/10665/75235/1/9789241564335_eng.pdf.

⁷ WHO Director General. "International Health Regulations." *SpringerReference*, May 5, 2011. doi:10.1007/springerreference_83222.

⁸ *Gostin, Lawrence, The International Health Regulations and Beyond; The Lancet, Vol 4., eIssue 10, 606.*

⁹ WHO Director General. "International Health Regulations." *SpringerReference*, May 5, 2011. doi:10.1007/springerreference_83222.

[international response](#).¹⁰ Pursuant to Article 6, States must report a potential PHEIC threat within 24 hours of identifying a potential threat.¹¹

The performance of the Who with respect to declarations of an “emergency” has been criticized, some going so far as take the position that the WHO has been “[too willing to accommodate the wishes of governments \[at the risk of overall\] world health](#).” Several instances of slow movement and too much deference to world leaders has resulted in a [closely scrutinized](#) WHO.¹² Indeed, the WHO did not declare an emergency with respect to the Ebola virus [until some 1, 000 Africans had perished and the virus was actively spreading](#).¹³ And many found the arguments of the WHO that it does not have the ability to supervise its regional officers and/or [put boots on the ground](#) unconvincing.¹⁴

Although there are several areas where reforms are needed, one of the most significant problems with enforcement lies in ineffective local and regional enforcement. There is no formal enforcement mechanism in place subjecting regional outposts to WHO Authority in Geneva. As such, in addition to recommending a formal review of the procedures involved in

¹⁰ WHO Director General. "International Health Regulations." *SpringerReference*, May 5, 2011. doi:10.1007/springerreference_83222.

¹¹ WHO Director General. "International Health Regulations." *SpringerReference*, May 5, 2011. doi:10.1007/springerreference_83222.

¹² "Effort on Ebola Hurt W.H.O. Chief." The New York Times. January 6, 2015. http://www.nytimes.com/2015/01/07/world/leader-of-world-health-organization-defends-ebola-response.html?_r=1.

¹³ "Effort on Ebola Hurt W.H.O. Chief." The New York Times. January 6, 2015. http://www.nytimes.com/2015/01/07/world/leader-of-world-health-organization-defends-ebola-response.html?_r=1.

¹⁴ "Effort on Ebola Hurt W.H.O. Chief." The New York Times. January 6, 2015. http://www.nytimes.com/2015/01/07/world/leader-of-world-health-organization-defends-ebola-response.html?_r=1.

implementing and enforcing the International Health Regulations, below are several recommendations with respect address to these (and several remaining additional) concerns.

In regards to bolstering regional enforcement and the like, several operational programs could help to address this structural, world-wide, impediment. First, revised, regional standards helping to establish increasing threshold abilities to accurately detect the outbreak of infectious diseases that may lead to a public health event with regional outposts directly accountable to the WHO would [help](#).¹⁵ Implementation could include a standard, enforceable “Revised Automatic Health Response Plan” (RAHRP) requiring all Member States on a bi-yearly basis, to both establish and/or update existing written response plans and establish and/or update a designated number of trained rapid response teams by every Member State. The difference with this proposed requirement and the general recommendations for similar items in the past is the inclusion of several additional considerations when making recommendations establishing a given State’s AHRP. First, the size, wealth and location of the State would be considered. Second, the amount of foreign aid (such as USAID) that the State receives would be factored in (the more aid the State receives, the more intractable their AHRP).

The States’ self-designed comprehensive AHRPs and rapid response team designations would contain clearer, yet (somewhat) flexible certain benchmarks and would need formal written approval (and filing in an online open database). Additionally, these could contain much-needed enforcement measures. If the above objectives are not reached, then the non-compliant State would be required to assist in the strengthening of regional outposts through

¹⁵ . Nolte, Ellen. "International Benchmarking of Healthcare Quality: A Review of the Literature: Summary." *PsycEXTRA Dataset*. Accessed 2010. doi:10.1037/e526852010-001.

financial contributions or “mandatory” “volunteer regional team members” (VRTMs) (these could be implemented through existing government-directed public health work-force plans).

Second, countries with adequate resources (and there are many) need to provide additional, tailored, international aid akin to that of the U.S. Agency for International Development via its Emerging Pandemic Threats Program. This is a Program that has been implemented in twenty countries and provides crucial technical and operational support for “preventing, detecting and responding to” [new and emerging zoonotic disease threats.](#)¹⁶ States that provide additional resources above baseline requirements would have access to the regional sites. Similarly, States with substantial resources will need to strengthen their engagement efforts in areas specifically aimed at increasing regional reporting abilities (facilitated by smoother communication between these offices and the WHO). The “strengthening of domestic and international systems needed to detect, report, and respond is critical given the increased potential for the emergence of fast-moving global infectious disease and the corresponding need for detection.”¹⁷

These objectives can be furthered through the use of existing and new partnerships and donors, many of which have already formed and/or utilized to strengthen the global response to public health threats. Examples include the Global Health Security Agenda addressing several

¹⁶ "Office of Global Affairs (OGA)." U.S. Department of Health and Human Services. March 22, 2016. <http://www.globalhealth.gov/global-health-topics/global-health-security/usgovernmentrole.html>.

¹⁷ "The U.S. Government & Global Emerging Infectious Disease Preparedness and Response." The Henry J. Kaiser Family Foundation. December 8, 2014. <http://kff.org/global-health-policy/fact-sheet/the-u-s-government-global-emerging-infectious-disease-preparedness-and-response/>.

high-priority, global infectious disease threats as well as the emergence of the World Bank in an increasing role in assisting global health preparedness and response. In addition, regional offices most in need (in terms of ineffectiveness) could be better served through the promotion of One Health similar to that in Kenya, where the creation of One Health helped to establish [stronger] coordination structures and partnerships and allowing for human-animal health linkage and inclusion of “[the environmental sector \(entomology, microbiology, meteorology, geology, ecology\)](#) .”¹⁸

There has never been a more important time with respect to the prevention of infectious disease than the present. Specifically, from January 2014 to February 2015, 321 possible PHEICs were reported to WHO and the WHO posted more than 400 updates and announcements on their event information site for National IHR Focal Points [relating to 79 public health events and regional updates \(primarily concerning MERS, influenza A and Ebola\)](#).¹⁹ Yet, [fewer than 20](#)

¹⁸ "Figure 1." The Pan African Medical Journal. September 29, 2014.
<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4337352/figure/F0001/>.

¹⁹ "Global Health Security: International Health Regulations (IHR)."
[Http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen](http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen).
<http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen>.

[countries](#), as of the ²⁰WHO's first target date, had adequate core capacities.²¹ This number only increased to 64 as of 2014 ([fully achieving core capacities](#)).²²

Lastly, and most recently, the world was stunned by the Zika virus and its effects on pregnant women and their children. One of the world's largest economies, Brazil, has been hit particularly hard by the virus where it has arguably transitioned from an epidemic disease to an endemic disease, a "[permanent feature of \[Brazil's\] ecology](#)."²³ Although Zika was declared an emergency, it runs the risk of mirroring yellow fever, dengue and chikungunya permanently damaging the region's health and economic systems. Its effects are still being studied and there are even more links to additional brain disease than [initially stated](#).²⁴

As the Zika virus spread, there was understandable apprehension as to whether the World Health Organization was going to declare an emergency. This apprehension is not needed and the WHO must be given more enforcement tools. As such, although fortunately the WHO acted relatively quickly in regards to Zika, much more must be done to accelerate WHO's capacities,

²⁰ "Global Health Security: International Health Regulations (IHR)." [Http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen](http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen).
<http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen>.

²¹ "Global Health Security: International Health Regulations (IHR)." [Http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen](http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen).
<http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen>.

²² "Global Health Security: International Health Regulations (IHR)." [Http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen](http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen).
<http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen>.

²³ "Figure 1." *The Pan African Medical Journal*. September 29, 2014. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4337352/figure/F0001/>.

²⁴ Li, David K. "Zika Virus Tied to Brain Disease Similar to Multiple Sclerosis." *New York Post*. April 11, 2016. <http://nypost.com/2016/04/11/zika-virus-tied-to-brain-disease-similar-to-multiple-sclerosis/>.

and to increase the enforceability of the International Health Regulations,²⁵ strengthen regional outposts and increase the core capacities of each State. The above-referenced suggestions (along with internal structural changes and increased internal funding by the WHO with respect to their regional offices and increased [designations for capacity building](#)²⁶ in nations of need) are places to start.²⁷

²⁵ ²⁵ "Global Health Security: International Health Regulations (IHR)."
[Http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen.](http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen)

²⁶ ²⁶ "Global Health Security: International Health Regulations (IHR)."
[Http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen.](http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen)
[http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen.](http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen)

²⁷ ²⁷ "Global Health Security: International Health Regulations (IHR)."
[Http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen.](http://www.cdc.gov/globalhealth/healthprotection/ghs/ihr/#thirteen)
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