doi:10.1017/aju.2026.10058

SYMPOSIUM ON GLOBAL HEALTH AT A CROSSROADS PART II

HUMAN RIGHTS LIMITATIONS IN WORLD HEALTH ORGANIZATION REFORMS: STRENGTHENING HUMAN RIGHTS OBLIGATIONS IN GLOBAL HEALTH LAW TO ENSURE GLOBAL HEALTH EQUITY

Benjamin Mason Meier, Judith Bueno de Mesquita,** and Sharifah Sekalala****

Human rights have served as a central normative framework for global health law, with the World Health Organization (WHO) providing an institutional foundation to implement human rights law through global health governance. In implementing human rights obligations, WHO has sought to bring human rights into its normative standard-setting to promote health equity—within and between countries. Yet, WHO faced challenges in realizing human rights to ensure equity in the COVID-19 response, as its member states violated individual rights and undermined global solidarity. Despite this imperative to strengthen human rights as a foundation for global health equity, recent reforms have failed to advance human rights meaningfully in global health law, as WHO member states weakened necessary human rights provisions. This essay examines new opportunities to strengthen human rights in global health, ensuring systemic integration across international legal regimes and human rights operationalization in the implementation of global health law.

Introduction

Global health law reforms in response to the COVID-19 pandemic—amendments of the International Health Regulations (IHR) and the adoption of a novel Pandemic Agreement—offered a crucial opportunity to strengthen human rights in public health emergencies. However, intergovernmental negotiations saw WHO member states scale back the human rights obligations conducive to health equity through global solidarity. These limitations in WHO law reforms occurred amid rising international divisions that now threaten human rights across the structures and institutions of global health governance.

This essay examines human rights challenges to ensure health equity under global health law. It begins by chronicling evolving WHO efforts to bring human rights norms into public health standard-setting. The COVID-19 pandemic challenged these foundations, as governments violated human rights in the pandemic response and weakened human rights in WHO law reforms. This analysis concludes that strengthening health equity through global governance will necessitate systemic integration across international legal regimes and operationalization of human rights in the implementation of global health law.

** Professor of Global Health Policy at the University of North Carolina at Chapel Hill, USA.*

*** Senior Lecturer in International Human Rights Law at Essex Law School and Human Rights Centre, University of Essex, UK.*

**** Professor of Global Health Law at the University of Warwick and Director of the Warwick Global Health Centre, UK.* *This essay was made possible through the support from a Wellcome Trust Discovery Grant number: 225238/Z/22/Z, After the End: Lived Experiences and Aftermaths of Diseases, Disasters and Drugs in Global Health.*

Human Rights in Global Health Law

The modern structures of human rights under international law arose amid the atrocities, deprivations, and oppressions of World War II, as states looked to human rights as a pillar of international governance under the United Nations (UN). In codifying human rights for public health, the UN established WHO, with the 1946 WHO Constitution declaring that "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition." WHO governance would provide an institutional foundation for human rights to advance health equity.

Evolution of Human Rights Under International Law to Advance Health Equity

The WHO Constitution was rapidly followed by the UN's 1948 Universal Declaration of Human Rights, and there was great promise that human rights would support public health, with WHO advancing human rights in its international standards and state support. However, facing the international divisions of the Cold war era, WHO initially neglected the right to health, with the WHO Secretariat projecting itself as a "technical organization" that did not address "legal rights."[1] However, WHO member states came to see human rights as a political basis to achieve health equity.

Pressed by newly decolonized states to strengthen human rights obligations for health,[2] WHO came together with UNICEF to convene the International Conference on Primary Health Care in Alma-Ata, U.S.S.R. This 1978 Conference codified WHO's "Health For All" agenda, with the resulting Declaration of Alma-Ata: reaffirming the rights-based framing of the WHO Constitution; seeking a "New International Economic Order" to reduce health inequities across countries; and influencing a "health and human rights" movement that realigned human rights in global health governance.[3]

Although international law had long recognized infringements of individual rights as necessary to protect public health, WHO came to see respect for equal rights as a precondition for the HIV/AIDS response.[4] With governments responding to this novel disease threat through discriminatory health policies, human rights offered safeguards against inequitable public health infringements. The escalating pandemic laid bare the "inextricable linkages" between individual freedoms and public health,[5] with WHO's 1987 Global Strategy for the Prevention and Control of AIDS operationalizing human rights principles to frame equity in the HIV/AIDS response.

Seeking to "mainstream" human rights across health challenges, the WHO Secretariat enlisted its first human rights officials to build institutional capacity to advance human rights through WHO's normative authorities.[6] WHO member states supported these human rights advancements, embedding rights in international legal

[1] Benjamin Mason Meier, *Global Health Governance and the Contentious Politics of Human Rights: Mainstreaming the Right to Health for Public Health Advancement*, 46 STAN. J. INT'L L. 1 (2010).

[2] Osita C. Eze, *Right to Health as a Human Right in Africa*, *in* THE RIGHT TO HEALTH AS A HUMAN RIGHT: WORKSHOP, THE HAGUE 27–29 (René-Jean Dupuy ed., 1979).

[3] HENRIETTE ROSCAM ABBING, INTERNATIONAL ORGANIZATIONS IN EUROPE AND THE RIGHT TO HEALTH CARE (1979); CHARLES O. PANNENBORG, A NEW INTERNATIONAL HEALTH ORDER: AN INQUIRY IN THE INTERNATIONAL RELATION OF WORLD HEALTH AND MEDICAL CARE (1980).

[4] Sofia Gruskin, Edward J. Mills & Daniel Tarantola, *History, Principles, and Practice of Health and Human Rights*, 370 LANCET 449 (2007).

[5] Jonathan Mann & Manuel Carballo, *Social, Cultural and Political Aspects: Overview*, 3 AIDS S221 (1989).

[6] Benjamin Mason Meier & Lawrence O. Gostin, *Framing Human Rights in Global Health Governance*, *in* HUMAN RIGHTS IN GLOBAL HEALTH: RIGHTS-BASED GOVERNANCE FOR A GLOBALIZING WORLD 63 (Benjamin Mason Meier et al. eds., 2018).

responses to public health emergencies. Under the 2005 revision of the IHR, national health measures must be taken "with full respect for the dignity, human rights and fundamental freedoms of persons"[7] and be no more intrusive than reasonably available alternatives, operationalizing human rights as a basis for health equity.

Realizing Equity Under Global Health Law Through Human Rights

Human rights principles of equality and non-discrimination advanced health equity under WHO's normative standard-setting, providing a basis to alleviate unfair, avoidable, or remediable differences within and across nations. WHO Secretariat programming to advance equity in women's health, children's health, reproductive health, and mental health expanded WHO's institutional leadership to integrate human rights in global health policy, with broader work across WHO to address discrimination on the basis of race, gender, disability, and sexual orientation. WHO worked with both its member states and UN human rights structures to adopt guidance to ensure health equity through human rights.[8]

These WHO efforts were complemented by non-governmental activists, who looked to the right to health to advance health equity across legal regimes. At the forefront of this effort, social movements advanced the right to health as a legal, political, and moral foundation to seek equitable access to essential medicines, challenging patent protections that undermine pharmaceutical affordability.[9] Building from this activism, an unprecedented 2001 UN General Assembly Special Session on HIV affirmed access to medicines as a global imperative. These emerging global norms supported national claims for health equity and pressed states to guarantee treatment access under the right to health.[10]

Human rights came to play a central role across contemporary health equity challenges. Responding to longstanding inequities in development policy, human rights offered a normative foundation for equity under the 2015 Sustainable Development Goals (SDGs), with SDG 3 establishing health equity targets to "ensure healthy lives and promote wellbeing for all at all ages." Health concerns would advance climate change governance, with WHO recognizing the inequitable health impacts of climate change and supporting states to incorporate the right to health under the 2015 Paris Climate Agreement. Human rights were reshaping global governance; yet, this rights-based governance faced new challenges in the COVID-19 response.

Human Rights Challenges in the COVID-19 Pandemic

As the COVID-19 pandemic unfolded, governments neglected public health obligations under the IHR and international legal obligations for human rights, exacerbating health inequities and weakening global solidarity. These WHO limitations and rights violations amid a global crisis revealed the need to strengthen human rights under global health law. However, international divisions undermined the promise of human rights in WHO reforms to facilitate equity in future public health emergencies.

[7] WHO, International Health Regulations, Art. 3 (2005).

[8] Office of the High Commissioner for Human Rights, General Comment No. 14 (Art. 12), The Right to the Highest Attainable Standard of Health, Committee on Economic, Social and Cultural Rights, UN Doc. E/C.12/2000/4 (2000); Helena Nygren-Krug, *Health and Human Rights at the World Health Organization*, 1 Saúde e Direitos Humanos 7–14 (2004).

[9] Lisa Forman, *From the Universal Declaration of Human Rights to a Pandemic Treaty: Will a Right to Medicines Forever Be "Under Construction"?*, 15 J. Hum. Rts. Prac. 715 (2023).

[10] Hans V. Hogerzeil, Melanie Samson, Jaume Vidal Casanovas & Ladan Rahmani-Ocora, *Is Access to Essential Medicines as Part of the Fulfilment of the Right to Health Enforceable Through the Courts?*, 311 Lancet 305 (2006).

Human Rights Violations in National and Global Responses

The UN and WHO led early calls to respect human rights in public health responses to COVID-19, but states reacted instead with a "pandemic of human rights abuses," pursuing emergency measures that escalated discrimination, threatened liberties, and neglected economic, health, and social needs—exacerbating health inequities.[11] Beyond domestic violations, states threatened global solidarity in facing a common challenge, as many governments instituted sweeping border closures and discriminatory travel bans inconsistent with human rights obligations under IHR (2005). These discriminatory nationalist policies proved disastrous for vulnerable populations and poorer nations, as the world experienced rising inequity amid unprepared health systems and weak social protections.

These human rights violations persisted in global vaccination efforts. As high-income states dominated vaccine contracts and hoarded vaccine doses, this nationalism in vaccine procurement undermined extraterritorial human rights obligations to ensure international assistance and cooperation. Pharmaceutical patents further limited international cooperation to realize the right to health, with the World Trade Organization (WTO) disregarding widespread calls for waivers of intellectual property agreements to enhance vaccine production at the height of the pandemic. As the global response looked to charitable donations over rights obligations, widening disparities in vaccine access challenged international human rights obligations, leading to charges of "vaccine apartheid" as vulnerable populations remained dependent on inadequate donations and faced inequitable death.[12]

WHO's early guidance at the outset of the pandemic had called on states to uphold human rights as "key to the COVID-19 response," emphasizing obligations to address discrimination, respect the rights of marginalized groups, and ensure international assistance and cooperation.[13] Yet even as these obligations were reaffirmed and elaborated by the UN human rights system, global health governance came to sideline human rights, with WHO falling back on moral appeals to equity rather than legal obligations for rights.[14] The inadequacy of these moral appeals amid expanding inequities prompted widespread calls to strengthen human rights in global health law reforms.

Human Rights Advocacy in WHO Negotiations

The development of global health law reforms offered a critical opportunity to codify human rights under WHO governance. Drawing from independent analyses that had faulted inequities in the COVID-19 response, WHO spearheaded calls for member states to negotiate twin global health law reforms—amendments of IHR (2005) and the development of a novel Pandemic Agreement—establishing new legal authorities for public health emergencies. Yet despite ongoing UN support to codify equity obligations through human rights,[15]

[11] Sharifah Sekalala, Lisa Forman, Roojin Habibi & Benajamin Mason Meier, *Health and Human Rights Are Inextricably Linked in the COVID-19 Response*, 5 BMJ GLOB. HEALTH, Art. No. e003359 (2020).

[12] Sharifah Sekalala, Lisa Forman, Timothy Hodgson, Moses Mulumba, Hadijah Namyalo-Ganafa & Benjamin Mason Meier, *Decolonising Human Rights: How Intellectual Property Laws Result in Unequal Access to the COVID-19 Vaccine*, 6 BMJ GLOB. HEALTH., Art. No. e006169 (2021).

[13] WHO, Addressing Human Rights as Key to the COVID-19 Response 21 (2020).

[14] Judith Bueno de Mesquita, Anuj Kapilashrami & Benjamin Mason Meier, *Strengthening Human Rights in Global Health Law: Lessons from the COVID-19 Response*, 49 J. L. MED. & ETHICS 328 (2021).

[15] Open Letter of the United Nations High Commissioner for Human Rights on Human Rights in the Pandemics Accord (Mar. 19, 2024).

intergovernmental negotiations steadily weakened obligations for human rights, equity, and accountability in global health law.[16]

Seeking to uphold human rights in the reform process, states in the Global South united under the "Equity Group" to draw attention to health inequities in the pandemic, including inequitable vaccine access, and call for legal obligations to shape health equity.[17] Civil society groups sought to support these state efforts to advance human rights obligations, looking to establish accountability for equity and solidarity under global health law.[18] However, with many states viewing international human rights obligations as an infringement of national sovereignty, pushing instead for norms of health security, these global health law reforms would realize only vague, aspirational references to human rights.[19]

Human Rights Limitations in Global Health Law Reforms

The 2024 amendments of IHR (2005) neglected to strengthen human rights in future public health emergencies. Although these amendments offered novel language on rights-related themes—including equity, solidarity, access to vaccines, and financing—these norms were not framed as legal obligations. Silent on the balance between public health promotion and human rights protections, these new IHR provisions leave the application of human rights to the interpretation of each state. This failure to link IHR amendments to human rights obligations, including in provisions with significant human rights implications (e.g., social measures and medical countermeasures), was compounded by the limited focus of IHR provisions on health financing, international assistance, and state implementation.[20] Even as the amendments added equity and solidarity as guiding "principles" alongside human rights (with new provisions promoting equity in access to health products), advocates saw these amended regulations as insufficient to realize equity or rights, looking to continuing negotiations on the Pandemic Agreement.

Despite ongoing human rights advocacy to codify equity obligations under the Pandemic Agreement, international negotiations continued to step back from early commitments to human rights. The Pandemic Agreement mirrored the faults of the IHR Amendments, centering objectives on equity and solidarity while diluting the human rights obligations necessary to underpin these objectives.[21] States agreed to respect human rights as a cross-cutting principle, including through non-discrimination and gender equality, yet ambiguity on human rights provisions, without a shared legal definition of equity and solidarity, has weakened accountability for Pandemic Agreement commitments. The adopted Pandemic Agreement ultimately recognized human rights as only a guide, appealing to moral aspirations of equity and solidarity over legal obligations of human rights, with

[16] Benjamin Mason Meier, Luciano Bottini Filho, Judith Bueno de Mesquita, Roojin Habibi & Sharifah Sekalala, *A Critical Juncture for Human Rights in Global Health: Strengthening Human Rights Through Global Health Law Reforms*, 3 PLOS GLOB. PUB. HEALTH, Art. No. e0002663 (2023).

[17] Pramiti Parwani, *From Human Rights to the Pandemic Agreement and Beyond: Reframing Vaccines Access Through a Framework of "States' Capabilities,"* 2 J. GLOB. HEALTH L. 55 (2025).

[18] Benjamin Mason Meier et al., *Human Rights Challenges in the Pandemic Treaty Negotiations*, GENEVA HEALTH FILES (2023).

[19] Dinah V. Parums, *The 2025 World Health Assembly Pandemic Agreement and the 2024 Amendments to the International Health Regulations Combine for Pandemic Preparedness and Response*, 31 MED. SCI. MONITOR e950411 (2025).

[20] Lisa Forman, Judith Bueno de Mesquita, Luciano Bottini Filho, Benjamin Mason Meier & Matiangai Sirleaf, *How Did Human Rights Fare in Amendments to the International Health Regulations?*, 52 J. L. MED. & ETHICS 907 (2024).

[21] Neiloy R. Sircar, Safura Abdool Karim, Lisa Forman, & Benjamin Mason Meier, *Human Rights Limitations in Global Health Law Reforms*, 250 PUB. HEALTH 106081 (2026).

WHO member states still divided in negotiating the final remaining hope for binding equity obligations through an annex on pathogen access and benefit sharing (PABS).

Overcoming Human Rights Limitations to Ensure Equity Under Global Health Law

An expanding legal framework to structure global health governance is being established under WHO, but these global health law reforms have not codified human rights obligations to meet future pandemic challenges. States missed this initial opportunity to strengthen human rights in global health law, as rising international divisions undermined global solidarity in intergovernmental negotiations. However, the implementation of these global health law reforms can offer new opportunities to rebalance public health and human rights, realize equity under international law, and facilitate systemic integration across international legal regimes.

Rebalancing Public Health and Human Rights

Where the COVID-19 response compounded health inequities, it will be crucial to clarify human rights obligations in public health emergencies. The 2023 Principles and Guidelines on Human Rights and Public Health Emergencies (PHE Principles) offer such legal clarification on international human rights obligations before, during, and after public health crises.[22] Developed through a three-year consultation between health and human rights scholars—alongside 150 representatives from civil society, health systems, and impacted communities—the PHE Principles interpret international human rights law in the context of pandemics, setting out legal standards for lockdowns, quarantines, travel restrictions, international cooperation, and vaccine distribution. These interpretations have already begun to shape national and global health efforts to realize health equity, with policymakers increasingly referencing the PHE Principles in legislative debates on pandemic preparedness.[23] Operationalizing the PHE Principles offers an initial path to ensure that human rights uphold health equitably under global health law.

Implementing Global Health Law to Realize Equity in Global Health

The promise of reform through global health governance lies not only in the development of new legal norms but in their implementation, translating international legal commitments to equity into public health practice across nations. Even before the completion of global health law reforms under WHO, steps are already being taken to address the implementation of these respective reforms—through the new IHR States Parties Committee and the Pandemic Agreement Conference of the Parties.[24] Human rights must be central to these implementation bodies, which provide institutional mechanisms to clarify obligations in global health law and hold states to account for implementing international legal obligations.[25] Where pandemics belie the assumption that public health governance is primarily a matter of national sovereignty, realizing human rights through the

[22] Global Health Law Consortium & Int'l Comm'n of Jurists, *The Principles and Guidelines on Human Rights and Public Health Emergencies*, 1 J. GLOB. HEALTH L. 122 (2024); Roojin Habibi, *Informal Consensus-Building as an Emerging Praxis in International Human Rights Law* (PhD Dissertation, York University, 2025).

[23] Lisa Forman, *The Evolving International Law Standards Governing Restrictions of Economic, Social, and Cultural Rights During Public Health Emergencies*, 1 J. GLOB. HEALTH L. 171 (2024).

[24] Taran K. Deol, Elliot Hannon, Susanna Lehtimaki, Matthew M. Kavanagh & Nina Schwalbe, *Adoption of Pandemic Treaty Is Historic: Compliance and Accountability Must Now Follow*, 5 PLOS GLOB. PUB. HEALTH e0004969 (2025).

[25] Neiloy R. Sircar, Safura Abdool Karim, Roojin Habibi & Benjamin Mason Meier, *Building Rights-Based Implementation After the Pandemic Agreement*, HEALTH & HUM. RTS. BLOG (2025).

implementation of global health law can facilitate equity and accountability in global health, making clear that collective challenges give rise to collective duties for global solidarity.

The financing of this implementation can serve either to reinforce existing inequalities or to reconfigure global health governance to realize human rights. To ensure equity through IHR implementation, continuing efforts to establish a Coordinating Financing Scheme must operationalize duties of international cooperation under human rights law, including extraterritorial obligations to support global health governance during public health emergencies, shifting international assistance from acts of charity to duties of solidarity.[26] This expansion of international assistance and cooperation can be complemented by WHO efforts to support regional pharmaceutical manufacturing in the Global South, building national capacity to end the cycle of extraction and dependency, improve technology transfer, establish just PABS agreements, and ensure the promise of equity in access to essential medicines—through global health law and across legal regimes.[27]

Aligning International Legal Regimes to Ensure Equity

Global health law does not operate alone to influence global health, as seen in the context of international trade, economic development, and intellectual property governance, where a range of legal regimes influence global health inequities.[28] Ensuring health equity will require greater alignment between global health law and other international legal regimes that underlie global health. However, each body of international law follows distinct legal principles, some of which prioritize commercial, security, or other interests over public health. Despite missed opportunities to advance human rights under WHO reforms, human rights remain central in the advancement of global health. International human rights law can facilitate systemic integration across legal regimes to advance health equity, resolving tensions between global health law and the larger legal landscape that underlies health. By harmonizing diverse international legal systems around a shared commitment to equity under human rights law—embedding human rights obligations into trade, development, and environmental law—human rights can facilitate a more equitable international order for global health.

Systemic integration under human rights law can thus provide the normative foundation for coherence across international legal regimes to realize the highest attainable standard of health for all. However, there remain implementation challenges to ensure that health equity takes precedence over narrow economic interests. In challenging commercial or financial interests, for example it will be necessary to regulate multinational corporations to facilitate accountability for human rights.[29] Corporate accountability currently relies on non-binding frameworks, with the limitations of these voluntary systems seen in failed efforts to realize vaccine equity in the COVID-19 response. The 2011 UN Guiding Principles on Business and Human Rights provide an initial framework for states to protect human rights, businesses to respect them, and victims to have access to remedies. Yet, while this framework provides a foundation for corporate responsibility, legal enforceability remains a challenge, with transnational corporations continuing to act in ways that undermine human rights with

[26] Benjamin Mason Meier, Judith Bueno de Mesquita & Caitlin R. Williams, *Global Obligations to Ensure the Right to Health: Strengthening Global Health Governance to Realise Human Rights in Global Health*, 3 Y.B. Int'l Disaster L. 3 (2022); Obijiofor Aginam, *The Globalization of Public Health and the Right to Solidarity*, *in* Research Handbook on International Solidarity and the Law 223 (Cecilia M. Baillet ed., 2024).

[27] Abbie-Rose Hampton, Mark Eccleston-Turner, Michelle Rourke et al., *Equity in the Pandemic Treaty: Access and Benefit-Sharing as a Policy Device or a Rhetorical Device?*, 51 J. L. Med. & Ethics 217 (2023).

[28] Sekalala et al., *supra* note 11.

[29] Emeka Duruigbo, *Corporate Accountability and Liability for International Human Rights Abuses: Recent Changes and Recurring Challenges*, 6 Nw. J. Int'l Hum. Rts. 222 (2008); Ann Danaiya Usher, *A Beautiful Idea: How COVAX Has Fallen Short*, 397 Lancet 10292 (2021).

international impunity. Continuing UN efforts will be necessary to strengthen corporate accountability through a binding treaty on business and human rights,[30] establishing enforceable standards for health equity under international law.

Conclusion

The limitations of WHO reforms amid the COVID-19 response have raised an imperative to reconceptualize the necessary interconnections between human rights law and global health law. Reorientating global health governance through human rights will require reframing global health priorities to reflect our shared humanity. Overcoming international divisions to realize global solidarity, future reforms will be needed to shift global health law toward a renewed foundation in human rights, codifying legal obligations to support health equity.

[30] Roojin Habibi & Thana C. de Campos-Rudinsky, *Commercial Determinants of Health: Corporate Social Responsibility as Smokescreen or Global Health Policy?*, *in* GLOBAL HEALTH LAW & POLICY: ENSURING JUSTICE FOR A HEALTHIER WORLD (Lawrence O. Gostin & Benjamin Mason Meier eds., 2023).