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Towards Equity and Decolonization?

An Introduction into the Blog Debate on the World Health System after the Pandemic

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26.03.2024 doi: 10.59704/6aede02d2c17cb85

The COVID-19 pandemic exposed systemic problems in the global health system. It revealed that the global health system perpetuates global health inequalities rather than effectively reducing them: The international community, particularly the countries of the Global North, failed to make COVID-19 vaccines widely available to the populations of the world's poorest countries. This blog debate takes stock of the reform debate about a just and decolonizing transformation of the health system. Bringing together scholars from various disciplines, the contributions of this debate ask what a fair global health system could look like and what role the law plays in it.

Fragmented Global Health Law

Global health law is fragmented. On the one hand, it is divided into different legal regimes, intertwined with trade and patent law or human rights. On the other hand, it is fragmented into conflicting rationalities.

The notion of global health emerged in the mid-19th century, evolving from colonial, tropical, and population medicine. The WHO, in turn, was founded in 1948 to assist the international community of nations in providing all people "[t]he enjoyment of the highest attainable standard of health," as the preamble to the WHO Constitution puts it. The WHO's International Health Regulations (IHR) explicitly aim to respond to pandemic emergencies without unduly disrupting travel and international trade. Global Health Law and Policies are still oscillating between Sanitary Security and Public Health, balancing both the social right to health and the realization of free trade.

The numerous appeals for greater equity and solidarity during and after the COVID-19 pandemic illustrate that global health institutions have yet to overcome global inequalities and post-colonial continuities. In this context, the universal realization of the right to health is also part of reparative justice against the backdrop of the global impact of colonialism.

Proposals for the reform of the global health system, particularly the WHO, relate both to (concrete) changes in legal regimes and institutions, and to the process of change itself. The discussions in this symposium aim to critically reflect on and participate in the reform process, addressing its various dimensions.

Current discussion on reforming the global health system

The current discourse on reforming the global health system focuses on several key areas. In particular, there are calls for improved funding of the WHO, appropriate accountability and enforcement mechanisms, more solidarity concerning the use of technological, informational, and biomedical resources, and improved coordination and cooperation among the international community.

In addition, the discussion of "One Health" as a concept could broaden the understanding of health and improve interactions with related or interwoven legal regimes such as human rights and environmental law. These aims are to be achieved primarily through reforms of the International Health Regulations (IHR) and a new international treaty that is being negotiated at the moment: the Pandemic Treaty. Work on both sets of rules has been ongoing since the start of the pandemic.

Firstly, the World Health Assembly (WHA) decided in May 2022 to revise the 2005 version of the International Health Regulations. These binding regulations for the prevention and control of pandemic emergen-

cies were first adopted in 1969 on the basis of Article 21 of the WHO Constitution. An IHR Review Committee set up by the WHO Director-General has been working on the revision since 2010. The seventh meeting of the working group on Amendments to the International Health Regulations in February 2024 still leaves many important issues open.

Secondly, as a result of the Covid-19 pandemic, a proposal was made to draft a completely new treaty to improve the pandemic preparedness of the international community. An intergovernmental Negotiating Body (INB) put together for this purpose is to "draft and negotiate a WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response" on the basis of Art. 21 or 19 of the WHO Constitution. The first draft (zero draft)[1] was published on February 1, 2022, and has since been further revised.[2] The latest draft, the "Proposal for negotiating text of the WHO Pandemic Agreement", was discussed in two meetings in November and December 2023.

However, the WHO and health issues are also to be strengthened in relation to the WTO (and TRIPS), as well as the UN security regime. Moreover, functioning national health systems are essential for a functional global health system. What measures are conceivable, possible, and necessary to transform the global health system and implement equity, solidarity, and the right to health care? Which measures could enable a decolonial transformation?

Structural questions of reform processes

However, reform and transformation processes in the field of global health involve not only states and public institutions, but also non-governmental organizations, private foundations, and businesses. While non-commercial, community-based NGOs may struggle to be heard, other private organizations are highly influential in the field of public health. Prominent examples include the Bill and Melinda Gates Foundation, which distributes money and pursues its own priorities in global health, particularly through public-private initiatives such as COVAX or the Global Fund to Fight AIDS, Tuberculosis and Malaria. Consulting firms also have an impact on global health reform.

Yet, the question is not only what role non-state actors play today in ensuring global health and shaping global health infrastructures, but also what role they *should* play. How can their involvement be legally regulated, monitored and coordinated? How should reform and transformation processes be organized to achieve comprehensive and sustainable results?

The contributions to this blog symposium critically examine the reform process in the field of global health after the COVID-19 pandemic. They offer perspectives on the transformation and decolonization of the global health system. What does decolonization of the global health system require on a material and prodecural level? How can decolonization be implemented in terms of (reparative/restorative) justice, as a human right, as a principle of solidarity? With a focus on legal changes at the core, the contributions will incorporate interdisciplinary perspectives.

The editorial deadline for this symposium was in on March 1st. Therefore it doesn't take into account developments after this date, in particular the new negotiating text for the Pandemic Agreement and the respective INB Meeting at the end of march.

[1] https://apps.who.int/gb/inb/pdf_files/inb4/A_INB4_3-en.pdf
[2] An „Advanced Unedited Version" from October 16, 2023, can be accessed here

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SUGGESTED CITATION

Hasche, Lilli; von Achenbach, Jelena; Fischer-Lescano, Andreas: Towards Equity and Decolonization?: An Introduction into the Blog Debate on the World Health System after the Pandemic, Verfassungsblog, 26.03.2024, doi: 10.59704/6aede02d2c17cb85.

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Langzeitarchiviert bei IntRechtDok unter: doi.org/10.17176/20240326-220521-0.