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HR EXCELLENCE IN RESEARCH

**Webinar**

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# International health law: An overview

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# 1. Role and history of international law in the public health field

- 1851, first International sanitary conference: international law and infectious diseases. The impact of globalization on public health
- 1851 – 1945: treaties on infectious diseases, plant and animal diseases, trade of health-damaging products. First half XX century: creation of four international organizations on health
- 1948: WHO Constitution
- The widening of international law scope of application: increasing relevance of health in international law

## 2. Sources of international health law

- A. WHO instruments: the International health regulations (IHR)
- B. International human rights law
- C. International trade law
- D. International environmental law

## *A. WHO instruments: IHR*

- Adopted in 1969; binding upon 196 States
- Purpose: to ensure the maximum security against international spread of diseases with minimum interference with trade and traffic
- Scope of application: any event which may constitute a public health emergency of international concern (flexible approach)
- Content: global surveillance system for diseases; WHO recommendations; obligations to develop core capacities; obligations to cooperate

## B. *International human rights law*

- Human right to health (Art. 12 UN Covenant on economic, social, and cultural rights)
- Prohibition of torture (Art. 7 UN Covenant on civil and political rights; Convention against torture; Art. 3 European Convention on Human Rights)
- Human right to life (Art. 6 UN Covenant on civil and political rights; Art. 2 European Convention on Human Rights)

## *C. International trade law*

- Liberal market and trade restrictions to protect human health (General agreement on tariffs and trade)
- Intellectual property rights and access to pharmaceutical products (Agreement on Trade Related Aspects of Intellectual Property Rights): the case of Covid-19 vaccines scarcity

## D. *International environmental law*

- Anthropocentric approach: environmental protection to protect human health and life. Environmental protection enforced by human rights courts
- European Court of Human Rights, environment, and health
- Interamerican Court of Human Rights: the human right to a healthy environment



# 3. WHO's role and powers

## *A. WHO Constitution*

- WHO objective: the attainment by all peoples of the highest possible level of health (Art. 1)
- WHO coordinating and directing role (Art. 2)
- WHO normative power: treaties, regulations and recommendations

## B. *International health regulations*

- Surveillance power over infectious diseases: collection and sharing of information
- Declaration of public health emergency of international concern
- Recommendations on how to respond → in order to attain a coordinated response
- Technical assistance to States
- Control over IHR implementation: States' annual reports

## *C. WHO limits*

- Governance deficit during Ebola crisis and Covid-19
- Causes:
  - Dependence on Member States
  - Financial resources scarcity
  - Lack of mechanisms for effective enforcement and control

# 4. Security Council and health

- Legal basis for SC intervention in public health emergencies: Art. 24 UN Charter. The notion of “international peace and security”
- Epidemic diseases in context of armed conflicts and epidemic disease as threat to the peace
- SC Resolutions on health:
  - Res. 1308 (2000) and 1983 (2011) on HIV/AIDS
  - Res. 2177 (2014) on Ebola virus
  - Res. 2532 (2020) on Covid-19

# 5. Conclusion

- International health law is widening its scope and relevance but it has limits, especially in case of major emergencies
- States' unwillingness to cooperate
  - weakness of international organizations
- Possible solutions:
  - Human rights courts' role in enforcing States obligations on health
  - Covid-19 as an opportunity to enhance cooperation

# Recommended readings

- Fidler, *International law and global public health*, in *Articles by Maurer faculty*, 1999 (available in <https://www.repository.law.indiana.edu/facpub/652/>)
- Villarreal, *The Security Council and COVID-19: towards medicalization of international peace and security*, in *ESIL Reflections*, 2021 (available in <https://esil-sedi.eu/esil-reflections-covid-19-series-the-security-council-and-covid-19-towards-a-medicalization-of-international-peace-and-security/>)