

Increasing Compliance with International Pandemic Law: lessons from international relations for new global health agreements

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Summary

Across multiple pandemics, global health governance institutions have struggled to secure compliance by countries with international legal and political commitments ranging from data sharing to observing WHO guidance to sharing vaccines. In response governments are negotiating a new pandemic treaty and revising the International Health Regulations. Achieving compliance remains challenging. International relations (IR) research and international law outside health can help. This article reviews IR research on the reasons states comply with international law, even in the absence of sanctions. Drawing on human rights, trade, finance, tobacco, and environmental law, we demonstrate compliance mechanisms we categorize as police patrol, fire alarm, or community organizer types. We show that, to date, current and proposed global health law only incorporates a handful of the mechanisms shown effective in other areas. We propose six specific, politically feasible mechanisms for new international agreements that, together, could create compliance pressures shown to shift state behavior.

Introduction

In the wake COVID-19, analyses have highlighted the failure of global health governance mechanisms, focusing on noncompliance with the legal regime under the International Health Regulations (IHRs).¹⁻³ This failure to comply with international legal obligations rooted in public health evidence increases the risks of pathogen spread, of outbreaks becoming pandemics, and of associated negative externalities.

In response to these failures, states have launched negotiations for a new international convention, agreement or instrument CA+ (herein "Pandemic Treaty") on pandemic prevention,

preparedness and response and targeted amendments to the IHR. The success of both initiatives will depend on whether they include appropriate mechanisms to secure greater compliance by states in future health emergencies. This article draws on international relations literature to review compliance mechanisms and how they can be adapted to the current negotiations.

The IHRs are legally binding international law, as is the planned Pandemic Treaty. Yet compliance gaps—both in the letter and spirit of the IHRs—have been commonplace in global health emergencies. As one review committee found, lack of compliance “contributed to the COVID-19 pandemic becoming a protracted global health emergency.”⁴ During pandemics these have included inadequate data sharing (Article 6); disregarding temporary recommendations to mitigate disease transmission (Article 15); imposing health measures beyond WHO recommendations without providing sufficient evidence (Article 43);⁵ and ignoring requirements for bilateral or multilateral collaboration and assistance (Article 44). Political pledges to equitably distribute vaccines and transfer pandemic-related medical technology were not fulfilled, highlighting the lack of clear international legal obligations.⁶ In addition, preparedness before a pandemic hits is an important obligation under the IHRs and, by most measures, state compliance has been and remains inadequate.⁷

Five main justifications have been offered this pattern of noncompliance: First, the limited resources in poorer states to prevent, detect and respond to emerging infectious diseases. Second, lack of awareness among governments of their precise obligations. Third, the existence of administrative, legal, or political obstacles.^{8,9} Fourth, the prioritization of compliance with treaties regulating finance, trade, and intellectual property rights over international commitments to global health. Finally, the absence of a robust compliance mechanism within the WHO.¹⁰

This paper looks beyond global health to what international relations (IR) research on compliance mechanisms reveals about why states comply with international law and to identify practical lessons for negotiators to improve compliance in global health. The IR literature analyzes a variety of monitoring and review mechanisms—including in trade, human rights, environmental protection, and finance and investment—that induce states to comply with international commitments and pledges, broadly defined. Importantly, although these domains often lack a third party sanctioning or enforcement mechanism, such as a court, evidence demonstrates that other types of monitoring and review mechanisms can nonetheless be influential in shaping the behavior of governments.¹¹ IR research also reveals that compliance is not a binary—partial or variable compliance is common.¹² Hard sanctions are unlikely in pandemic law, but there are many other ways to secure implementation.¹³

We explore these issues theoretically and empirically, analyzing the compliance models existing across international law. We conclude by offering policy recommendations for improving the compliance mechanisms of the Treaty and IHR amendments.

International relations theories of why states comply with international law

The IR literature begins from the premise that international law lacks the legislative, judicial and executive institutions that domestic legal systems use to compel compliance. Compliance is the conformity between state behavior and an international rule, which is linked to (but distinct from) effectiveness, which is “observable, desired changes in behavior” attributable to that rule.¹⁴ IR research has uncovered a variety of explanations for when and why states comply with international law in the absence of the kind of coercive courts and law-enforcement institutions in domestic law and how this can hopefully motivate not just formalistic compliance but changes in behavior.^{15–20}

First, states comply with international law to develop and maintain a positive international reputation and be seen as a good ally or partner. Reputation can be especially important for states seeking leadership in multilateral or regional treaties and cooperation initiatives (such as the EU, ASEAN, the G7) and low- and middle-income states in search of foreign investment and aid. Creating opportunities to publicize potential violations or enhance peer pressure can also increase reputation’s influence on state behavior.²¹

Second, states comply with agreements because they want other countries to do the same. Many international agreements contain reciprocal commitments, creating a “shadow of the future” in which a potential violating state follows international law today, even when it’s not in its immediate interest, because it recognizes it will benefit from compliance by other treaty parties tomorrow, and in doing so foster trust within the international community.^{22,23}

Third, states may comply with international law because they fear retaliation or for material reasons. Economic sanctions, diplomatic isolation, or military intervention are examples, but softer forms of retaliation can include withholding the rewards of cooperation and compliance, including the sharing of benefits like access to financing, preferential markets, or strategic information.²⁴ Conversely, states may comply because they are materially induced to do so.

A fourth explanation focuses on legitimacy, acculturation, and internalization.^{25,26} Legalized agreements have particular pull toward compliance.²⁷ Government officials who participate in international institutions may become acculturated to following the law as normatively appropriate. States may also comply to avoid the burdens of participating legal processes and offering plausible justifications to defend their actions.²⁸

Fifth, domestic politics, constituents, and social movements can hold governments accountable for compliance, as seen recently in domestic campaigns to induce states to comply with the Paris Agreement on Climate Change.^{29–31}

Mechanisms for Compliance: Police Patrols, Fire Alarms, and Community Organizers

Institutional design choices that trigger the forces above can have a significant impact on how and whether states comply.¹⁸ The choice of mechanism often reflects the type of cooperation problem an international agreement seeks to address. Multiple mechanisms may also be

designed to trigger different types of compliance pressures (e.g. reputation, retaliation, reciprocity).

The IR literature highlights two types of compliance mechanisms: “police patrols” and “fire alarms.”^{32,33} Police patrols are trust-building review mechanisms in which a standing body systematically monitors compliance to detect violations. Periodic inspections by international central authorities under the Chemical Weapons Convention, for example, or in global health voluntary Joint External Evaluations (JEE) are both police patrol mechanisms. Fire alarms, on the other hand, delegate the search for violations to other actors (such as a state, civil society group, or individual) which trigger an alert to indicate a violation. Examples include a country challenging unfair trade practices in the WTO, an individual complaining to the Inter-American Commission on Human Rights, and the (albeit unused) dispute resolution within IHR (Article 56).

Continuing the analogy, we call a third compliance mechanism especially relevant to contemporary global health challenges the “community organizer.” A community-organizer addresses challenges not by patrolling or waiting for individuals to pull an alarm, but by creating platforms and calling together a community to identify problems and build power through sharing resources among them. By analogy, by building cooperation and resources, these international legal mechanisms identify, or allow states to self-identify, where they fall short on compliance due to capacity gaps and facilitate financial, technical, and other assistance to address those gaps. This is partly what scholars have called “managerial” compliance, but goes further by creating new bidirectional information relationships, and can also encompass nonbinding pledges and other forms of “soft law.”³⁴ An example is the platform through which states can identify their need for help to preserve biological diversity under the Nagoya Protocol. Pandemic governance has a particular need to pair compliance obligations with the provision of resources for equity across higher and lower income countries that often face different compliance challenges.

Mechanisms in international law outside global health

Below we detail the key tenets of compliance mechanisms in other spheres of governance, which we intend to have useful lessons for the IHR and Treaty. We consider these amid the understanding of police patrols, fire alarms, and community organizer.

[Table 1 about here]

International Human Rights

UN, regional and sub-regional human rights treaties ratified by numerous states protect the fundamental rights of individuals and groups. These treaties cover civil and political rights (e.g. freedom from torture or discrimination) and economic, social and cultural rights (including the right to the highest attainable standard of health). The numerous and diverse compliance mechanisms in human rights include police patrol, fire alarm, and community organizer approaches, sometime mixing the three.

Police patrol-types include 10 UN treaty bodies (such as the Committee on the Elimination of All forms of Discrimination Against Women), comprised of human rights experts who monitor implementation by evaluating state party reports, reviewing individual complaints, and adopting authoritative legal interpretations. This system runs in parallel to the *Universal Periodic Review (UPR)*, a peer review process by which all 194 UN members assess each other's compliance with international human rights standards writ large.

Fire alarms are primarily found in the three regional human rights courts in Africa, the Americas, and Europe, and sub-regional courts in East and West Africa that issue legally binding judgments in response to complaints from individuals, NGOs, and states.

Hybrid mechanisms include more than sixty special rapporteurs, independent experts, and working groups elected by the UN Human Rights Council or regional systems. These individuals and working groups investigate and review thematic topics (such as human rights and climate change) or states where human rights violations are especially grave (such as Syria and North Korea) based on their own initiative and third-party complaints.

Community-organizer type advisory services and technical assistance are facilitated by the High Commissioner for Human Rights, to bring national laws in line with international human rights standards, assists in implementing the recommendations, and elaborating national plans of action.

Mechanisms at the international level are complemented by a variety of domestic institutions that protect human rights. These domestic-level institutions include constitutional, supreme, and high courts that adjudicate violations of rights protected in domesticated treaties, constitutions, and statutes; national human rights institutions (NHRIs), government-created independent bodies with a mandate to protect and promote human rights and gender within a particular country; and government agencies and ombudsman offices, such as the Office of the Health Ombud in South Africa, which investigate complaints and monitor adherence by public and private actors.

Trade

International trade law governs key rules and customs shaping economic activity between countries. It is an area where countries have direct economic incentives to make significant promises and not follow through on them. The international trade system has developed a robust set of measures to deal with this. While some might see this as irrelevant to pandemics, since countries are unlikely to apply economic and trade sanctions against one another to enforce the IHRs or Treaty, the reality is the most important and oft-used compliance mechanisms to enforce trade rules do not rely on retaliation but instead on public reviews, complaint mechanisms, and state-to-state dialogue, all available to pandemic lawmaking. While there is a "spaghetti bowl" of intersecting trade agreements between states,³⁵ for simplicity we focus here on the WTO's two major compliance mechanisms.

First is the police patrol-type Trade Policy Review Mechanism. All WTO member are required to undergo a review—with the biggest traders like the US, China, and EU examined about every two years and others less frequently. A team of WTO economists produces an independent report on the trade policies and practices of the country vis a vis WTO agreements and the member

prepares its own report. All member states can ask the state extensive questions in open session and they are required to reply. In this way it functions similarly to the human rights UPR above. Summaries of the debate are public and published online. These reviews have no legal effect—and domestic action is entirely voluntary.³⁶ While far from perfect, research on this mechanism show it has often triggered changes in policies, and is effective due to the interaction of member states and peer pressure generated.³⁷

Second, in the fire alarm-type Dispute Settlement Mechanism any member state can bring a public complaint against another member state for not complying with its obligations under WTO law through the WTO-administered body. States conduct formal discussions to see if the dispute can be resolved. If it cannot, then a panel of individuals well qualified in WTO law and not citizens of either party is established to adjudicate the dispute. WTO members found to be non-compliant with WTO law are supposed to quickly change their policies or practices or else compensate the complaining country. If this does not happen in a reasonable time, then the complaining state can retaliate by temporarily suspending its own compliance with WTO law toward the member state concerned (e.g. imposing tariffs, etc.). While this is a powerful tool for wealthy countries, small countries that cannot affect their terms of trade exercise much less pressure on large countries.^{38,39} But overall retaliation plays only a small role in resolving even heated disputes. In most (55%) of cases, the dispute is solved through negotiations of members; only in 19 of 607 cases (3%) between 1995 and 2021 did the case reach the stage in which the complaining country sought retaliatory measures.⁴⁰ Thus much of the “work” of ensuring compliance comes from allowing individual states to bring complaints and a formal process of discussion, which is replicable in pandemic law.

Finance and investment

International investment law governs foreign direct investment and disputes between foreign investors and sovereign states. It includes a range of compliance mechanisms, including unique fire alarms. Most agreements in this area include a strong Investor-State Dispute Settlement (ISDS) provision, which provides private parties (investors) or states the ability to file complaints, which are adjudicated not under the domestic law and judicial systems, but in an ad hoc neutral setting. Arbitration is compulsory once a claim is filed. Depending on the treaty, investors can choose from several arbitration venues, including the World Bank, UN, International Chamber of Commerce, and regional bodies. Many of the more recent investment treaties have sought to expand transparency since there have been long complaints that these mechanisms, while effective for investors, are opaque to the public and civil society.⁴¹

A softer form of dispute resolution is seen in international tax agreements. Most tax disputes between a taxpayer and a revenue authority are addressed by the domestic courts. But international economic law includes Double Taxation Agreements, which set out precise provisions on how taxpayers subject to two jurisdictions will be treated. Each country has an incentive to recoup as much tax as it can rather than cede to other countries and so a fire alarm-type mechanism has been developed. Disputes are settled through a Mutual Agreement

Procedure in which representatives of each government engage in negotiation over both individual cases and interpretation. Importantly, the original MAP article, in the 1963 OECD Convention, does not compel governments to actually reach agreement or resolve the dispute—only to use their best endeavors to do so. It is the formal conversation structure itself that drives compliance.⁴² While arbitration has been incorporated into some agreements, others have chosen to remain with this more cooperative and open form of holding each other accountable for compliance with agreements.⁴³ Both model conventions of double taxation treaties treat arbitration as a mere complement to the MAP, the prime means of redress.

The OECD and Financial Action Task Force (FATF) have created a unique police patrol system that lists countries the intragovernmental organization considers non-cooperative in the global cooperating on illicit financing. The FATF maintains a black list of countries that have significant deficiencies in their policies to counter money laundering or terrorist financing, a grey list that have committed to addressing deficiencies, and a white list compliant with the legal framework OECD and FATF consider mandatory. It has been controversial, however, as the listing impacts' countries attractiveness to investors and includes countries that are not members of the OECD.

Tobacco Control

After litigation in the United States exposed the extent of global collusion between major tobacco companies to hide the risks of cigarette consumption, market tobacco products to young and vulnerable populations, and manipulate governments and international organizations, consensus built that only a coordinated, treaty-based response could address the threat posed by tobacco consumption. The resulting agreement, the Framework Convention on Tobacco Control, was the first public health convention adopted pursuant to the World Health Organization's formal treaty-making power. It holds significant lessons for a pandemic agreement.

As a police patrol, compliance with the FCTC is accomplished through regular assessment by the WHO Convention Secretariat; reporting by civil society organizations both within the structures of the agreement and through related reporting to human rights bodies; and the published periodic reviews undertaken by States Parties pursuant to Article 5 and 21 of the agreement. From its earliest negotiations, civil society organizations were incorporated, and have enjoyed subsequent access and influence as guidelines have been issued by the Conference of the Parties.

As a quasi-community organizer intervention, there is a significant relationship between the strength of the evidence base underlying each intervention, the costs of recommended measures and number of States Parties that have adopted such measures. Smoke-free laws, health warnings and education campaigns, youth access laws, and reporting/information exchange are widely adopted and robustly implemented whereas relatively few countries have adopted measures targeting tobacco industry interference.⁴⁴ Relatedly, compliance is stronger for those articles of the agreement for which guidelines have issued.

International Environmental Law

The assortment of compliance mechanisms in international environmental law reflects the numerous approaches needed to build global cooperation in addressing environmental issues such as hazardous substance management or atmospheric emissions controls.

While there have been critiques of individual agreements, the impact of the regime together has led to real progress in regulating national conduct and mitigating transboundary environmental harm.⁴⁵ Treaty secretariats, compliance or standing enforcement committees, commissions, ad hoc working groups, and subsidiary organs are all channels employed to facilitate and promote compliance.⁴⁶ Institutional compliance mechanisms monitor progress through police patrols by assessing implementation via the information provided from reporting requirements and formulate suggestions to the Parties involved.⁴⁷

Non-Compliance Response Procedures (NCP) identify compliance deficits and aim to facilitate better compliance. Often in a non-adversarial manner, cases of non-compliance can be brought to the attention of an NCP body by the Secretariat of the Agreement, by a State Party, or via third party monitoring—offering a chance for both police patrol and fire alarm type measures.

A leading example of a community-organizer type model is found in the “self-triggered” mechanism by which the Party experiencing compliance difficulties can request support. Many agreements set up an elected, stand-alone implementation committee or compliance committee (of Party representatives or experts) to make recommendations or administer NCPs directly to the Conference of the Parties.

Response measures are triggered when non-compliance is identified, triggered automatically or by determination of an NCP. Measures can be punitive or incentive-based, and range from requiring compliance action plans, mandatory verification missions, fact-finding investigations, provision of technical support, transfer of information, financial support, warnings, suspension of privileges, imposition of trade sanctions, or liability for increased commitments.

Dispute resolution procedures provide fire alarms varying in sophistication, resolved via provisions that range from requiring Parties to negotiate bilaterally, to compulsory conciliation, to voluntary (binding) arbitration. Compulsory conciliation has emerged as the preferred compromise. Conciliation is invoked upon request of a party, but does not culminate in a binding determination. The importance here is that there are mechanisms for a fire alarm which can exist without sanctioning interventions.

Compliance provisions in current global health law drafts

Compliance has been championed as a vital piece of the Treaty negotiations. The most recent secretariat draft text of the pandemic accord, which was released May 22, 2023 and is likely to change significantly in negotiations, is broad in scope, covering virtually all aspects of pandemic prevention, preparedness, response, and recovery. It includes two primary compliance mechanisms: a Conference of Parties (COP) will engage in a regular periodic review of national

plans accompanied by peer review and information sharing. An Implementation and Compliance Committee is designated in Article 22 of the draft, empowered to hear written submissions from Parties with respect to compliance, and issue recommendations with respect to compliance, though it is required to undertake its work in a non-adversarial manner. The form of the committee is not yet clear—it has some police-patrol aspects such as reviewing written submissions and some community organizer-type goals such as making recommendations toward facilitating and providing support for implementation but without clear link to resources. Notably absent from Article 22.6—and thus reducing the likelihood that the Committee will develop a fire alarm function—is the presence or participation of civil society. Its membership is unclear mentioning “independent experts” but in brackets—suggesting the committee may be a political body rather than independent and therefore less effective as a compliance mechanism. Dispute settlement is mentioned, only agreeing governments “shall seek through diplomatic channels a settlement of the dispute...” with standard international language that does not establishing a formal mechanism for complainants. Further compliance mechanisms may be established in the first meetings following adoption. Negotiators are considering the opt-in/opt-out nature of the Treaty. Related to compliance, this triggers a potential tradeoff between an agreement that covers all WHO members by default and avoids free riding but where compliance mechanisms may be weakened to accommodate states with low preference for monitoring versus bolder more concrete mechanisms of which key states are not part.⁴⁸

The IHR amendments contain three proposals to enhance compliance: a Conference of the Parties (COP) (new Article 53A); a compliance committee of 6 government experts from each WHO region that can gather information from any relevant source (new 53 bis quater); and a formal review mechanism at WHA (54 bis).

As the discussion above reveals, these proposals reflect only a small subset of international compliance mechanisms. Given that negotiations over the Treaty and IHR amendments are ongoing, this is a prime time to consider the range of police patrol, fire alarm and community organizer structures that exist in other areas of international law and could enhance compliance.

Implications from IR Improving IHR & Pandemic Treaty

Based on IR theories of compliance and the mechanisms developed to promote compliance in other areas of international law, we propose 6 mechanisms for the Pandemic Treaty and/or IHR amendments. As detailed in Table 2, these mechanisms seek to trigger different kinds of pressures that push states to comply.

1. **Conference of the parties (COP).** A global governance mechanism with oversight of compliance is important. A COP, proposed in the current draft, could play a police patrol role if it has certain characteristics built in from the start. This is a relatively new peer to peer, universal governance mechanism for multilateral treaties and presides over the Framework Convention on Tobacco Control, as well as that of United Nations Framework on Climate Change. Given the trend towards using these, and their relative success, the proposed COP for the pandemic agreement is unsurprising. But in contrast to COPs in other contexts, we recommend a legislative

body making the rules for compliance that enjoys authority to empower states to fulfill the object and purpose of the agreement through ensuring direction on how to implement a treaty via regular review, through the multiple metrics that already exist in the global health governance space, or a Universal Health Periodic Review proposed to allow governments to demonstrate their compliance voluntarily, to enhance trust. The COP should also be able to order investigations where necessary. For a COP to function, it needs to have sufficient funding to undertake its mandate including a well-functioning secretariat to monitor compliance. Equitable participation from all states must be supported, noting the resource burden for LMIC participation. Civil society representation should explicitly be included. We presume that, with the proposed amendments to the IHR, the Director General will continue to report on IHR compliance to the World Health Assembly annually, making WHA a key continuing key part of the compliance loop. Whether the COP should function as a committee of the WHA, as current text suggests, should depend on whether the conditions we describe can be met.

2. Independent rapporteurs with investigatory missions. Research has shown that self-monitoring of compliance alone is insufficient.⁴⁹ Creating a fire-alarm and police patrol combined role for independent rapporteurs with investigatory missions could help compliance and be an important augmentation to the proposed compliance committee. The current text's focus on a panel of experts is not likely to meet this criteria without a clearer structure and mandate. Learning from special rapporteurs in the human rights regime, such experts can take on missions to explore key aspects of the agreement, issue thematic reports on areas of concern to the COP, and accept and review complaints including from individuals and entities that are not part of a dispute body (i.e. non-state actors). These mechanisms are subject to the consent of the country and can be controversial, but nonetheless add important aspects to a web of compliance. Other mechanisms could be strengthened or combined with these, like international monitoring efforts that have made contributions at global level.⁷ Placed explicitly within an international legal mandate and framework they could be better linked to country-focused mechanisms generating independent reporting, investigatory missions, and other insights into the behavior of states.

3. Dispute settlement with standing for individual countries and potential for soft retaliation. Individual states should be able to pull the fire alarm by filing disputes not only on interpretation of the agreement but also on the behavior of other states. This goes well beyond a compliance committee that receives reports and beyond the current text's references to using diplomatic channels to resolve disputes. Learning from the trade context, a dispute settlement that starts with formal consultations observed by all other parties triggers peer-pressure and reputational incentives to comply. Formation of a panel of experts, similar to the WTO's DSB, could outsource interpretation, with the final report of recommendations. Even without a formal sanctions structure, this would create an important platform for diplomacy and negotiation over issues like the imposition of border restrictions or sharing of data or technology. Explicit opportunities for politically feasible retaliation should also be considered. While economic and military sanctions are unfathomable, softer forms of retaliation through withdrawing cooperation or benefits within the Treaty, COP, or WHO could shift behavior. A recent proposal suggested that countries facing unfair, non-evidence-based travel restrictions on their citizens as South

Africa did during Omicron might consider withdrawing cooperation in data sharing and specimen sharing with those countries that impose such bans.⁵⁰

4. Formal structure for civil society reporting and accountability. Learning from the human rights and environment regime, a formal structure that includes not just observer status but shadow reporting by academic and civil society sources to the COP could be a fire-alarm to trigger compliance through threats to reputation and potential to domestic activists. Efforts should also include public communication and engagement in the outcomes of the Treaty so that the public knows what their government is committed to, and so may be more willing to hold them to account.

5. Platform for assistance and resource request. Ready financing when a pandemic hits, plus ahead of emergencies to build capacity long-term, is an important economic incentive for compliance, and recognized in discussions about common but differentiated responsibilities to be prepared. Adapting from environmental agreements, language in the text explicitly providing a community-organizer type platform for identifying where countries that intend to comply with obligations under the agreement but lack capacity and can request assistance, technical or financial, to address collective action in a crisis. This could be both initiated by self-reporting or triggered by mechanisms 1-4, including issues identified through regular simulation efforts to understand compliance gaps that remain. The global health financing architecture is deeply fragmented, which can often lead to clear capacity gaps unfilled and barely visible. An effective mechanism would need to include concrete ways to match needs with financing and therefore include the major global health funding institutions or a pooled financial pot for which the COP has oversight, with a commitment to fill further capacity gaps through bilateral or multilateral solidarity of high-income countries as part of their treaty obligations. A strengthened WHO, multilateral or regional banks and funding mechanisms, and UN could play a key part. It is likely that new lines of credit and financing will be needed to ensure predictable rather than a periodic infusion of resources.

6. Formal activities meant to build trust. The Treaty could further develop trust as a means of enhancing compliance, supporting joint activities or unified action between states as a mechanism for socializing compliance, noting that trusting relationships are delicate and need fostering. This is included to a certain extent in Treaty, but could go further to ensure the purpose of such exercises. Although infrequent and subject to unpredictable funding availability, occasions where IHR National Focal Points had the opportunity to convene regionally or multilaterally gave them not only a more informed sense of their role, but a community for support or information.

[TABLE 2 ABOUT HERE]

Finally, we note that the new agreement is an important opportunity to link funding and agreement obligations. This is where we conceive the community organizer understanding as vital as described in point 5. Currently the Pandemic Fund deals only with preparedness, while the Global Fund's pandemic mission is unclear. Critical to compliance in an emergency is a rapid bolus of resources. When the WHO declares a Public Health Emergency of International Concern or a

“pandemic event” as currently being discussed, this should immediately trigger access to pooled funding, perhaps with a mix of contributions from member states, private donors, and multilateral development and regional banks, to enable compliance.

Conclusion

In a pandemic, lives and economies depend on cooperation between states. At this moment of intense global health lawmaking to improve the precision and effectiveness of law in achieving this cooperating, there are important insights from outside health that could be incorporated to increase the likelihood of states complying with ambitious text, even when doing so may not be in their immediate interest. To date, current and proposed global health law only incorporates a handful of the mechanisms shown effective in other areas. States comply with international law for a range of reasons, explored widely in international relations research—most of which do not depend on sanctions. Particularly, where international legal mechanisms are designed to trigger states interest in their reputations, desire for reciprocity, fear of retaliation, regard for legalized agreements as particularly legitimate, and pressures from domestic constituencies, compliance can be increased by the institutions created in law. Attention to using a mix of what we label police patrol, fire alarm, and community organizer-type mechanisms can help achieve this goal. We detail the range of mechanisms used human rights, trade, finance, tobacco, and environmental law. From this, we propose six specific mechanisms that could be incorporated into new international agreements.

Once an agreement has been signed, the likelihood of working out better compliance mechanisms reduces significantly. We therefore propose an amended article that replaces the current discussion focused on a COP, periodic reporting, and implementation/compliance committee with one that explicitly sets out the parameters of a COP and establishes independent rapporteurs not just experts, a formal dispute settlement mechanism, structure for civil society reporting and accountability, and a platform for assistance requests alongside text committing states to regularly engage in trust-building activities named as such. Given that states comply with international law for varying reasons and motivations, there is no single perfect mechanism. It is the combination of each of these in a web of compliance which would give the best chance of realizing the ambitions of international pandemic lawmaking. Ambitious global commitments to prevent and stop pandemics are urgently necessary, and this should include deploying a range of mechanisms that can help translate commitments into action before and during the next public health emergency.

Conflict of interest: CW served on the IHR Review Committee for Amendments to IHR, and subsequently has acted as a consultant for WHO EURO; MK serves as a special advisor to the United Nations Joint Programme on HIV/AIDS.

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