



A CRITICAL ANALYSIS ON THE ROLE OF WORLD HEALTH ORGANISATION IN RELATION TO INTERNATIONAL LAW

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ABSTRACT

The World Health Organization (WHO) is one of the 16 specialized agencies of the United Nations established in 1948 to supplement international cooperation for improved public health conditions. After the realization of the importance of international public health, the WHO was formed and established and this structure has been discussed in this article. Although it inherited specific tasks relating to epidemic control, quarantine measures, and drug standardization from the Health Organization of the League of Nations, WHO was given a broader mandate under its constitution to promote the attainment of “the highest possible level of health” by all people. The constitutional principles under the WHO and its functions under the public health have been described in the article. The role of the WHO as an agency under the United Nations is required to maintain peace and security among nations through their workings. The contribution by WHO on matters related to international law shall include setting up of agendas and framing treaties and negotiations and thus act as a collective management system and coordinate the activities relating to health

between nations. This role performed by the WHO as role player in under United Nations has been highlighted. The active participation of the World Health Organization in the field of international law has contributed in the present world by eradicating and combating various communicable and non-communicable diseases. Out of the various achievements few have been discussed in this article that has made a huge impact in the health aspects of the world. The role of the WHO in respect to the international law has been significant but there is scope for more improvement. The role and contributions of the WHO have been analysed in this article.

Keywords: World Health Organization, public health, function of WHO, contribution and achievements of WHO.

INTRODUCTION

The World Health Organisation is an international agency under the United Nations for the purpose of coordinating health around the globe. In 1920, after League of Nations was formed, a health organisation under the League of Nations was established. Immediately after the World War II, the UN incorporated all health organisations to form the World Health Organisation. “The WHO was constituted on 7th April, 1948 which is celebrated as World Health day all around the world.”¹ The WHO became the first specialised agency of the United Nations to whose constitution all the member states signed.

The World health Organisation strives to provide for a better and healthier future to the people all around the world. The WHO has

¹ History of WHO, (last visited June 01, 2020) , <https://www.who.int/about/who-we-are/history>.



played a vital role in the field of international public health policy. “The most prominent achievements from its inception have been the eradication of small pox in 1979.”² But its inability to control HIV/AIDS is also visible. However, the role of WHO is more than eradication of deadly diseases.

The WHO currently has 194 member states that adopt and help in the formulation of guidelines to be followed to combat diseases which are beneficial for all of these member states. The aim of the WHO is to fight diseases like influenza, HIV, cancer or heart related diseases. The main role of the WHO is to coordinate the international health under the United Nations. Also, another important responsibility is to establish health systems, the response as to the functioning of such systems and prepare for any future contingences. With this the mission of the WHO is universal health coverage. For this the WHO tries to provide access to quality services, frame policies that can be adopted by the member countries and also be ratifies availability of medicines for chronic disease in underdeveloped nations, etc.

The WHO’s prequalification programme has tried to establish global standards of air and water quality. This is due to the increase in pollution in the world which affects the health and safety of individuals. Through vaccines an improvement in health or prevention for diseases has been possible. There have been guidelines framed to prevent and treat conditions of asthma, hepatitis, zika or malnutrition.

The contributions of the World Health Organisation to the International legislative process have been significant. A great impression has been put forward by the WHO when it comes to the aspect of development of international health law. The WHO has certain mechanisms to deal with the international problems including the deliberate and indecisive method of ratification by the states which gives a clear picture as to the uniformity in the application of a multilateral treaty. To deal with different issues the WHO has provisions under the constitution of WHO itself. This function of WHO has contributed in the development of international legal system and not only international health law per se.

From the past years the effectiveness of the WHO has been in question. With the increase in diseases, the demand for both global normative work and technical cooperation enhanced, where WHO functions more on coordination. Thus, the need to give importance to global functions has increased.

This paper will discuss about these ups and downs of the WHO and the role of WHO under the United Nations and in the development of International Health Law. The formation of WHO has had a great impact on the international health affairs, its constitution and functions have further given a debate as to the implementation of the policies are done effectively or there is a need of review to the policies in itself. These aspects will be discussed in the article with more focus on the WHO’S formation,

² What are the main functions of the World Health Organization?, ,

E-INTERNATIONAL RELATIONS , (last visited June 01, 2020), <https://www.e-ir.info/2010/11/08/what-are->

[the-main-functions-of-the-world-health-organization/](https://www.who.int/about/who-we-are/the-main-functions-of-the-world-health-organization/).



functions, role under United Nations and role with respect to international law.

RESEARCH OBJECTIVES

- To discuss the formation of the World Health Organisation.
- To focus upon the powers and functions of the World Health Organisation.
- To highlight the role played by the World Health Organisation under the United Nations.
- To analyse the contributions made by the World Health Organisation under International Health law.

RESEARCH QUESTIONS

1. Whether or not the World Health Organisation has been formulated effectively?
2. Whether or not the powers and functions of the World Health Organisation sufficient for its functioning?
3. Whether or not the World Health Organisation has fulfilled its role under the United Nations?
4. Whether or not the World Health Organisation contributed to the development of International Health?

RESEARCH METHODOLOGY

This article is a **doctrinal** research and **analytical** in approach. The focus of the article is in critically analysing the role of the World Health Organisation in the international law development. The article is **theoretical and historical** and brings out the formation, functions and role of the World Health Organisation under the United Nations. The sources of data are **secondary sources of data**. These include information from various books, articles, journals, etc.

LITERATURE REVIEW

1. INTERNATIONAL LAW BY MALCOLM N. SHAW

This book on International law is an authoritative book with comprehensive understanding on international law. The book contains an expanded treatment of relationship between international and domestic law, the principles of international humanitarian law, and international criminal law alongside international economic law.

This book has been useful in my paper. Under the powers of International Organisation, the book states that the WHO cannot act beyond the limited framework it is required to maintain.

2. GLOBAL GOVERNANCE, INTERNATIONAL HEALTH LAW AND WHO: LOOKING TOWARDS THE FUTURE BY ALLYN L. TAYLOR

This article enhances the usage of international law to create a method of coordination between states. The article also focuses on the reasons and the challenges ensuring the rise of international health law. The article also shows such a huge responsibility n hands on one body such as WHO is unreasonable but an effort can be made. The article contains the evolution of international health law in relation with expanding globalisation. The article also contains the concept of global health governance and its limitations. The gap is that only the present scenario has been given importance to and the previous efforts have not been judged.

3. WORLD HEALTH ORGANISATION BY FRANK A. CALDERONE



This article contains the details on international health conference, entire history of the formation of World Health Organisation. It includes the formation of WHO, inclusion of various committees like the interim committees, expert committees, their functions, the constitution and provisions under it and related aspects. The present article includes the history of formation of World health organisations, its functions and provisions under the constitution of WHO. The gap in the article is that only the formation has been included and has no analytical perspective since only facts are mentioned.

FORMATION OF THE WORLD HEALTH ORGANISATION

After the World War II and the failure of the League of Nations, an important international organization was sought to be developed which would prevent the world from another war. "As a result of the International Health Conference, also known as the San Francisco Conference, the United Nations organization was established in 1945 to maintain peace and security between the nations in the world."³ "In the coming sessions of this health conference, the idea of international organization extended towards the protection of food, drugs and biological product."⁴ Thus, World Health Organization was established as a special agency under the

Economic and Social Council of the United Nations, where the constitution for the same was drafted and signed by 51 countries. "The World Health organization is a result and combination of all the health organizations that existed before its formation including the international sanitary conference, **Pan American Sanitary Bureau, the Office International d'Hygiene Publique and the Health Organization under the League of Nations**. It became the first specialized agency under the UN to which all members had given subscription."⁵ "The WHO was established on 7th April 1948 and the headquarters in Geneva to focus on health through a global perspective."⁶ This day is celebrated as the World health day The WHO had five regional offices to lower the burden of work. Twenty-six member states had ratified with the WHO then. The symbol of WHO known as the **Rod of Asclepius**, represents healing. The use of the word 'world' gives a sense of belongingness and mutual exercise of responsibilities between nations for betterment of health. The apex decision-making body for WHO is the World Health Assembly whose main function is to determine the policies of the Organization. "The Health Assembly appoints the Director-General, supervises the financial policies of the Organization, and reviews and approves the proposed programme budget."⁷ The Secretariat of WHO is staffed by some 7000 health and other experts and support staff on fixed-term appointments, working at headquarters, in the six regional offices, and

³ Neville m. Goodman, International Health Organizations And Their Work 46 (2d ed. 1971).

⁴ Frank A. Calderone, World Health Organization, 2 Food Drug Cosm. L.Q. 373 (1947).

⁵ World Health Organization. (1948). The British Medical Journal,2(4570), 302-303. Retrieved March 8, 2020, from www.jstor.org/stable/25364565

⁶ F. Godlee, WHO in retreat: is it losing its influence?, 309 BMJ 1491–1495 (1994).

⁷ "Governance", WHO, (last visited June 01, 2020), <https://www.who.int/governance/en/>



in countries. “The WHO, initially, was given a budget of US\$ 5 million under G. Brock Chisholm as Director General.”⁸ “WHO had initially prioritized its responsibilities towards eradication of diseases like tuberculosis, malaria, STD’s, improvement of child and maternal health along with nutrition and environmental well-being.”⁹

Today the WHO has continuously worked over seventy years since its establishment and promotes the purpose it constantly aimed to serve. The WHO governs on the principle of highest standards of health to all and claims health as an essential and inalienable right. The motive of WHO is better health for everyone and for it the WHO has made many progressive changes in the field of health.

FUNCTIONS OF THE WORLD HEALTH ORGANISATION

With the increase in the activities between the states forming a global village, as many as 150 country offices and six regional offices are required for the world Health Organization to perform its goal of Universal Health coverage among its 194 member states. The key function of WHO is to act as a coordinator under the UN on aspects of international health. They function to solve communicable and non-communicable disease along with lifelong health issues. The WHO also governs to be prepared for any disease outbreak and keeps surveillance on existing health issues and other corporate services. The WHO to extend its hand funds foundations and NGO’s to deal with health

matters and conduct treaties between countries on the same aspects.

PRINCIPLES IN THE CONSTITUTION OF WHO

“The constitution of the WHO under its preamble lays down certain principles that are obligatory for this organization to maintain.

1. The WHO considers health to be more than just lack of diseases. It means an individual shall be mentally, physically and socially well.
2. Irrespective of race, caste, religion, gender, political, economic or social situations, all human beings have an inheritable and natural right to health and standard of health.
3. Only if the people and states cooperate with each other than highest standards of health can be achieved which is essential to maintain peace and security in the world.
4. If any state improves its conditions of health, then all nations collectively will benefit from promotion of such health aspects.
5. The matter of danger is the gap between developed and developing countries and the unequal status of the countries is a loophole in improvement of health all over the world.
6. Every person shall be aware of the right of health and benefits available with increase in development of medical, psychological or mental and other health issues.
7. A child shall always be given adequate health facilities when required for his development.
8. For betterment of health, all the people must cooperate, take part and adhere to the guidelines.

⁸ World Health Organization. (1948), Supra Note 5.

⁹ Curtis A. Bradley & Jack L. Goldsmith, Customary International Law as Federal Common Law: A

Critique of the Modern Position, 110 HARV. L. REV. 816, 838-42 (1997).



9. The governments of the nations are required to maintain standards of health for its public.”¹⁰

10. **ROLE OF WHO IN PUBLIC HEALTH**

“In the Twelfth general Programme of Work, known as ‘Not merely the absence of disease’, the following are the main functions of the world Health Organization in respect to public health.”¹¹

- “Keeping track on health situations of various countries and asserting new health norms.”¹²
- Give opinions on important matters of health and collaborate with organizations promoting the same when needed.
- Making agendas and spreading awareness among nations and citizens, therein, to improve standard of health.
- Establishing of rules and regulations to implement various health standards.
- Analysing ethical and safe options for changes in field of health
- Act as a change and provide support to put a strong front in challenging the health issues.

ADDRESSING ISSUES BY WHO

In view of promoting health and giving solutions to the problems of disease affected people, the WHO takes steps to promote the standard of health for better life and taking care of emergency situations.

- ❖ “Universal Health Coverage
 - Increase the availability of services of essential health care
 - Increase the production and availability of medicines
 - Skill and train the health staff
 - Maintain sustainable financing methods
 - Keep a check on betterment of availability of data on various health aspects.¹³
 - Involvement of public by abiding to health norms.

- ❖ Health Emergency
 - Prepare previously for any emergency by identification and management of risk
 - Prevent emergency and develop technology to prevent any outbreak
 - Identify and solve heightened emergency
 - Set up to provide health requirements in delicate areas.

- ❖ Health and well-being
 - Deal with any social factors
 - Endorse intersectoral methods
- In law regulations health should be made a priority. Thus, the issues addressed by WHO are human capital across the life-course, non-communicable diseases prevention, mental health promotion, climate change in small island developing states, antimicrobial resistance and elimination and eradication of high-impact communicable diseases.”¹⁴

¹⁰ Constitution of the World Health Organization (WHO) | Global Health Rights,(last visited Mar 09, 2020),<https://www.globalhealthrights.org/instrument/constitution-of-the-world-health-organization-who/>.

¹¹Charles Clift, The Role of The World Health Organisation in the International Law,(2013).

¹² Chriqui JF, O’Connor JC, Chaloupka FJ. What gets measured, gets changed: evaluating law and policy for

maximum impact. J Law Med Ethics. 2011 Mar;39 Suppl 1:21–6.

¹³ Burris S, Hitchcock L, Ibrahim JK, Penn M, Ramanathan T. Policy surveillance: a vital public health practice comes of age. J Health Polit Policy Law. (2016).

¹⁴ About WHO, What We Do, World Health Organization (WHO) | Global Health Rights, (last



ROLE OF WHO UNDER UNITED NATIONS

The United Nations functions with its chief outline to maintain peace and security in the world. This international organisation aims to solve conflicts that may arise in the world between nations and other issues that may cause trouble to the citizens. For solving and settlement of such conflicts, the UN conducts various conventions and treaties between nations that may provide a win-win situation. To solve the obstacles in relation to health, UN relies upon its specialized agency the World Health Organization for this.

COORDINATION AND COLLECTIVE MANAGEMENT

The WHO being the largest health organisation in the world has the responsibility to facilitate as a coordinator for smooth and effective implementation of the health policies formulated around the world for the welfare of the people. "The agenda of WHO under UN is to communicate and act as a medium of linkage between various nations. This will ensure the enactment of rational health policies from the issues of health collected around the world and also, provide orderly implementation of these health policies around the world in a peaceful and united manner."¹⁵ Further, the WHO would enable to make settled collective agreements on health matters which can prove to be a legal regime and also will show

collective health management. Through this the primary objective of peace and security between nations under the UN is protected and abided by the WHO is dealing with health concerns internationally.

AGENDA SETTING AND PROMOTING DIALOGUE

Given the position of WHO as a highly visible international organization, it has the opportunity to play a pivotal role in setting the international health law agenda and, thereby, to contribute to the articulate development of health law. Through setting up of agendas and other measures, WHO may promote global dialogue, build active partnerships. "Setting a priority list among matters of health law can kindle effective, and more coordinated, governmental and intergovernmental action."¹⁶ Thus, facilitating the role of UN, the WHO can serve as a neutral actor for all states participating in the negotiation exercise, while simultaneously maintaining the institution's vigilance for protection of public health.

PLATFORM FOR TREATY NEGOTIATIONS

The WHO provides a platform to enter into treaties between nations to solve the problems relating to dispute, various trade agreements for medicines and medical services or the technology and formula for such medicine is shared or agreed upon. These treaties facilitate the workings of the

visited Mar 09,2020),
<https://www.who.int/about/what-we-do>

¹⁵ Allyn L Taylor, Global Governance, International Health Law And Who: Looking Towards The Future, BULL. WORLD HEALTH ORGAN. 6 (2002). (last

visited June 01,2020),
[https://www.who.int/bulletin/archives/80\(12\)975.pdf](https://www.who.int/bulletin/archives/80(12)975.pdf)

¹⁶ Taylor A., Making the World Health Organization work: a legal framework for universal access to the conditions for health. *American Journal of Law and Medicine* 1992;18:301-46



WHO under the UN. The member states get a common space to deliberate upon topics and agendas to maintain highest standards of health and cure diseases. The member states don't have to separately structure agreements on health aspects since they have ratified to the WHO. With this, any conflicts between nations on matters of health can be settled peacefully by WHO without any disruption to people and property and hence fulfils the objective of the UN, thereby performing its role.

CONTRIBUTION OF WHO TO INTERNATIONAL HEALTH

In the recent times, the world has seen global health pandemic issues. The unhealthy lifestyle of the people has contributed in many ways. With the rise in technology and medicines, the WHO has come up with solutions to combat many diseases, both communicable and non-communicable which were spread around the world. The collective management system of the WHO has proved to be effective. Some of the achievements of WHO include:

ERADICATION OF SMALL POX

“The fight with small pox resulted in the fee of \$300 million worldwide. The WHO was

¹⁷ Strassburg MA, The Global Eradication of Smallpox, NCBI, (last visited June 01,2020), <https://www.ncbi.nlm.nih.gov/pubmed/7044193>

¹⁸ Kim, Y., World Health Organization and Early Global Response to HIV/AIDS: Emergence and Development of International Norms. Journal of

successful in eradicating small pox and no case has been noted since 1979.”¹⁷This was the first victory of WHO against an epidemic and the success and performance of the WHO made believe that the establishment of WHO was a correct decision.

INITIATIVES TO CONTROL AIDS

The WHO has not been able to eradicate HIV/AIDS from the world completely due to the nature of the infection. However, many efforts have been put into by the WHO for its reduction which includes collaboration with the governments of all the nations. “The UN security council has considered the pandemic created by AIDS and in 1996, created a joint program on HIV/AIDS to prevent its spread by creating a strategy for its control.”¹⁸ The WHO plays a crucial role in this program with suggestive measure to inculcate all norms and strategies for mobilization of resources for health policies. “As of 2015, there has been 50% reduction in the number of people between age group of 15 -24 years. Also, a 25% decrease in the deaths caused by HIV/AIDS and the scope of new HIV infection among children has come down to 90%.”¹⁹

POLIO ERADICATION

Polio mainly occurs among children and paralyses them for life as the nerve cells of the brain and spinal cord are affected. With

International and Area Studies,22(1), 19-40., (2015), www.jstor.org/stable/43490278

¹⁹ "Global health sector strategy on HIV/AIDS 2011–2015" (WHO,2011), https://apps.who.int/iris/bitstream/handle/10665/44606/9789241501651_eng.pdf;jsessionid=9F2B4AB35A778DDE56D093A8E4F561A2?sequence=1



the initiatives taken by WHO, polio no longer is present among the world in large scale but continues to affect the poor sections of the society. "The Global Polio Eradication Initiative of the WHO in 1988 has reduced 99% cases of polio along with the support of UNICEF, Centre's for Disease Control and Prevention and many more organisations. Polio is almost extinct after the Global Vaccination Drive of the WHO saving lives of millions of people."²⁰

CONTROL OF TUBERCULOSIS

Tuberculosis (TB) is a bacterium that infects the lungs and is communicable just by coughing or breathing in the air. People with low immune systems have a higher risk to be infected with this disease. "In 20 years from 1990 to 2010, there has been 40% less deaths due to TB. Furthermore, 46 million people have been treated and millions of lives saved due to the guidelines promoted by the WHO. In 2018, there was again a rise of 10 million patients with TB but this disease can be cured."²¹

COMBAT MALARIA

Malaria is a disease spread by bites of mosquitoes. "The intention of malaria

eradication seemed too far-fetched by WHO, hence they started a Global Malaria Programme to control the malaria cases by keeping track. In 2012, there was a viable option for malaria vaccine but nothing has been found."²² This health damaging insects continue to exist and further spread around the world.

THE SPREAD OF COVID-19

The spread of covid 19 has created a pandemic in the world. The daily routine lives of the people have come to a halt. Till now no cure for the virus has been found out and the nations have implemented lockdown as the only solution to prevent further spreading of covid 19. To combat the virus, the WHO has laid guidelines for the layman to follow on a daily basis to prevent attaining the virus. "These include maintaining sanitation, social distancing, washing of hands on a regular basis, use alcohol-based sanitizers, stay at home, avoid going to public places and seek medical assistance when there are symptoms like cough, fever or shortness of breath."²³ "The fight the deadly covid 19, the strategy update as of April 2020 of WHO includes the Strategic Preparedness and Response Plan and also the Global Humanitarian Response Plan."²⁴ The WHO

²⁰ "Poliomyelitis Fact Sheet", WHO Media Centre, WHO,(October 2011),(last visited June 01,2020),<https://www.who.int/en/news-room/fact-sheets/detail/poliomyelitis>

²¹ "Tuberculosis Fact Sheet", , WHO Media Centre, WHO,(April 2012),(last visited June 01,2020),<https://www.who.int/en/news-room/fact-sheets/detail/tuberculosis>

²² "Malaria Fact Sheet", WHO Media Centre, WHO,(April 2012)(last visited June 01,2020),<https://www.who.int/en/news-room/fact-sheets/detail/malaria>

²³ Coronavirus Disease (Covid 19) advice for the public, World Health Organisation,(April 2020), (last visited June 01,2020),<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public>

²⁴ Covid 19 strategy Update, World Health Organisation,(14 April 2020), (last visited June 01,2020),https://www.who.int/docs/default-source/coronaviruse/covid-strategy-update-14april2020.pdf?sfvrsn=29da3ba0_19



has although spread the awareness regarding the difficulties in health caused by covid 19 and acted as a proper collective management system by incorporating the response from various nations but has not put enough efforts from the medical point of view to combat the virus.

SUGGESTION

The goal of the international health law is to act as a blueprint to the national health law for the attainment of well-being of people, globally. The current mechanism of health law has is not efficient to deal with large scale health problems. Furthermore, the WHO should increase the capacity of services offered due to change in the population structure over the years. Guiding the developing countries stuck in poverty to maintain hygiene is important for the WHO to prevent the risk of diseases in large numbers.

To maintain the health internationally, a global health jurisprudence should be followed for easy monitoring of health activities. This global jurisprudence on health will facilitate the work of the WHO to maintain records of health and laws together. This role of WHO to formulate and monitor the global health jurisprudence will be a great development to the international law and be useful for the nations in general to follow laws on health matters that they don't have legislations for. This development by the WHO will supplement the principle of the United Nations of peace and security on health matters for which this specialised agency was constituted.

CONCLUSION

The priority of the World Health Organisation from its very inception has been good health care for all people around the world. With universal health care as its agenda, the WHO has a constant system of monitoring the health status and activities of the people in the various nations. The WHO keeps in check with nations whether the International Health Regulations are being monitored or not. Since social, economic, environmental and mental factors play a role in causing disease among the people, WHO promotes health lifestyle as a key objective for the people to introduce good habits in their strenuous and hectic lives. Also, the increase in population demands for an increase in the supply of medical services and norms by the nations under the WHO. The WHO must achieve the health goals.

The WHO has been a leading example for all the health communities in world. It has inspired the way in which a health organisation should work and meet the health needs of the people, thereby living a social and economically productive lifestyle. The WHO functions to educate various organisations, countries and states to meet the health goals by providing regulations to be followed. The WHO with its collective management system has time and again proved, that the world can become a global village when the need so arises, to meet with the challenges presented by the diseases. The WHO acts hope and unity in times of health crisis.

Thus, in conclusion, The World Health Organisation is an extensive organisation with vast duties and responsibilities. The process of formation of the World Health



Organisation apart from the core functions it is required to fulfil has been done sufficiently and effectively making the WHO the primary international organisation for public international health and related laws. With the changing times it is clear that WHO has gone through many ups and downs while performing these functions. The WHO has focused on important agendas but shall be more alert to prevent any disease outbreak that may change the shape of the population and health. The role of WHO under United Nations which has been discussed should also be abided by keeping in mind the changing demands of international community. The contribution of WHO in the development of international health law has been significant. More and more achievements over time have been secured by WHO but there is still scope for more possible results to cure diseases and prevent the same.

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