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Indicators and the international protection of health-related human rights. A study of the World Health Organization's practices during the COVID-19 pandemic

SUMMARY

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The COVID-19 pandemic revealed the limited effectiveness of the global health governance system. This stems largely from the existence of divergent social, economic and political interests of actors whose actions shape the functioning of that system, as well as from the deep interdependencies occurring among them. Despite the presence of institutional frameworks, procedures and mechanisms designed to respond to global health threats, state responses proved inconsistent and fragmented, as they were often driven primarily by national priorities, with little regard for the global needs.

The World Health Organization (WHO), as the specialized agency of the United Nations responsible for directing and coordinating international health work, despite its constitutional mandate to exercise leadership at the global level, was significantly constrained in its actions by structural and political factors. The guidelines issued by the WHO were often contested or implemented only partially, and their enforcement depended largely on the willingness of states to cooperate. Furthermore, financial dependence on voluntary contributions from member states and the presence of other actors in the field of global health governance further weakened the Organization's effectiveness. Unable to ensure equitable access to health products or to enforce compliance with the 2005 International Health Regulations, the WHO increasingly relied on institutional instruments intended to steer states towards desired action – contextual analysis, expert assessments and indicators. The use of such tools reflects a broader evolution in global governance: a shift from the normative language of law to the technical language of data. This, however, raises a fundamental question concerning the implications of using indicators for the protection of human rights.

The aim of this dissertation is to determine whether indicators developed and applied within the WHO's institutional practices can influence the understanding of human rights related to individual health – not only as interpretative tools clarifying the content of legal obligations but also as instruments shaping their implementation and monitoring. The use of indicators may exert a significant impact on the actual enjoyment of health-related human rights, revealing both the legal and epistemic implications of governance through measurement tools.

Given the indeterminate nature of health-related human rights standards, and of the right to health in particular, their interpretation often faces challenges in defining the precise scope of state obligations. This indeterminacy underscores the need for interpretative tools capable of translating abstract legal principles into concrete expectations of conduct. Among such

instruments, indicators have gained particular importance as they render otherwise open-ended commitments measurable. While lacking formal legal force, indicators influence both how compliance with human rights obligations is understood and how institutional practices are shaped within global health governance structures. As tools used in the protection of human rights, indicators also orient institutional actions and facilitate continuous observation and assessment of situations. Indicators thus emerge as instruments applicable across various levels of governance, used by both state and non-state actors.

The increasing use of such tools by the Organization, including during the COVID-19 pandemic, suggests that they form part of a broader process through which the practical dimension of legal obligations and institutional activities is shaped. Against this background, the dissertation suggests that through the use of indicators, the WHO sought to translate the general principles of health-related human rights (particularly the right to health) into concrete standards capable of guiding national and international action.

The use of indicators, however, is not without risks. It entails processes of simplification and selection of analysed phenomena, which may affect the understanding and implementation of legal obligations. This dynamic was particularly visible during the COVID-19 pandemic, when the WHO used indicators not only to monitor national responses to rising infection rates but also to guide the global allocation of health resources and the coordination of international efforts. The pandemic thus provided a context in which the consequences of governance through indicators could be observed in practice. The institutional practice of the WHO appears to confirm that indicators can affect both the interpretation and implementation of health-related human rights.

The analysis begins by situating the WHO within the broader context of global health governance. Particular attention is given to the evolution of the Organization's constitutional mandate and to its current role as a standard-setting institution. At the same time, it is emphasized that, as an organization lacking enforcement powers and dependent on the willingness of member states to cooperate, the WHO has limited capacity to ensure compliance with adopted standards. Its influence in international legal landscape thus rests primarily on scientific authority, technical expertise and the power of persuasion. This mode of operation has led indicators to become one of the Organization's key instruments of governance.

The study then turns to the protection of health-related human rights, with particular focus on the right to health as enshrined in the International Covenant on Economic, Social and Cultural Rights. The analysis highlights that the scope of this right remains conceptually ambiguous. In this context, the model of Availability, Accessibility, Acceptability and Quality (AAAQ) is examined as the first step toward specifying the content of states' obligations under the right to health. This model serves as a point of departure for further delineating the substance of this right. Indicators, in turn, enable its operationalisation by linking its individual dimensions with specific measures to be taken by states. The analysis thus demonstrates both the normative and practical dimensions of the right to health, showing that the need for indicators arises from the very nature of international obligations, which are concretised in response to specific factual circumstances.

The dissertation further examines the use of indicators in international human rights law, explaining their functions within institutional practice. Indicators appear as both (*quasi*-)legal and methodological tools that connect the sphere of legal obligations with processes of evaluation and decision-making at various levels. The analysis distinguishes between structural, process and outcome indicators, showing that each reflects a different aspect of state performance under human rights law. Based on documents prepared by the Office of the United Nations High Commissioner for Human Rights, it also demonstrates how indicators influence the interpretation of human rights, the understanding of compliance and the attribution of responsibility.

Subsequently, indicators were examined as instruments of global governance. These tools have gained in attractiveness due to their capacity to present complex phenomena in a seemingly objective and neutral form. Such a framing of reality facilitates the achievement of consensus in contentious matters and legitimises the actions undertaken. The use of indicators, however, entails certain consequences, including the privileging of those areas of reality in which data are easily accessible and measurable, at the expense of those where they remain limited. When indicators are employed unreflectively, their apparent neutrality may reinforce specific models of governance and modes of legal reasoning – an outcome that does not necessarily translate into positive effects for the actual enjoyment of human rights by individuals. The analysis therefore demonstrates that indicators generate both legal effects (by shaping expectations concerning the fulfilment of obligations) and epistemic effects (by

defining which aspects of reality should be taken into account in processes of observation and evaluation).

In light of the preceding theoretical findings, the dissertation examines selected WHO documents in which indicators played a significant role in shaping the Organization's response to the COVID-19 crisis. This analysis demonstrates how indicators supported the monitoring of national health systems, guided the assessment of pandemic preparedness and influenced the distribution of global health resources. It also shows how the WHO operationalised key dimensions of the right to health in practice. The use of indicators affected both the interpretation and implementation of health-related human rights, while at the same time revealing epistemic tensions arising from processes of quantification.

The findings of the analysis indicate that indicators occupy an important position in international law. In the face of the continuously evolving system of global health governance, in which data increasingly inform processes of legal interpretation and decision-making, policymakers face a significant challenge. It is essential to ensure that indicators serve to enhance justice rather than reduce it to a matter of technical or administrative efficiency. When used responsibly and reflectively, they hold the potential to bridge the gap between aspiration and implementation, contributing to the meaningful realisation of human rights.

In conclusion, the role of indicators in international law extends beyond their technical function and may be constitutive of how obligations concerning health-related human rights are understood.