

Most countries are violating international law during the COVID-19 pandemic, legal experts says

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Most countries are not fulfilling their international legal obligations during COVID-19 and other public health emergencies, reveals new research by a consortium of 13 leading global health law scholars, hosted

by the Global Strategy Lab (GSL) at York University.

In 2019, members of the Global Health Law Consortium analyzed key aspects of the International Health Regulations (IHR) to authoritatively interpret what countries are legally allowed to do to each other during future public health crises like Ebola and SARS.

This work became even more relevant when the COVID-19 pandemic began spreading around the world early this year; the Global Health Law Consortium members reviewed how countries reacted to the outbreak based on the International Health Regulations that legally bind 196 countries in how they prevent, detect and respond to public health crises.

Subsequently, during a conference in South Africa, this group of legal experts developed consensus statements that authoritatively interpret Article 43 of the IHR, which identifies the additional health measures countries can legally enact when responding to public health risks, and Article 44, which outlines countries' legal duty to collaborate and assist one another in building national public health systems.

The consensus statements were published today in the prestigious *International Organizations Law Review*.

Professor Steven J. Hoffman, director of the Global Strategy Lab at York University, is senior author on both consensus statements, and Roojin Habibi, research fellow at the GSL and [doctoral candidate](#) at Osgoode Hall Law School, is lead author on the consensus statement that interprets Article 43 of the IHR.

"Many countries have taken overbroad measures, both in the past and now during the coronavirus outbreak, which indicate that the provisions within Article 43 of the International Health Regulations are not well understood and perhaps not fit for purpose," says lead author Habibi.

Under Article 43 of the IHR, countries are permitted to exercise their sovereignty in taking additional health measures to respond to [public health emergencies](#), provided that these measures are proportionate to the risk at hand, aligned with human rights imperatives, and backed by scientific evidence.

"COVID-19 has clearly shown that proper international cooperation is required to prevent infectious diseases from spreading across borders," Habibi points out. "Based on our analysis, we believe that the global community needs a common understanding of the law at hand. We recommend revision and clarification of legal obligations contained in these Articles to facilitate collaboration and enhance pandemic responses in the future."

According to Article 44, there is a common and shared responsibility among countries to make it possible for every country to achieve the core public health capacities identified in the IHR, which is overseen by the World Health Organization.

"Most countries in the world are currently violating their international legal obligations under Articles 43 and 44 of the International Health Regulations," notes Hoffman. "This means that the rules that were supposed to guide governments' responses to pandemics like COVID-19 are either misunderstood, toothless, or insufficient—most likely a combination of all three. The Global Health Law Consortium's analyses of the International Health Regulations that were published today will help bring clarity to countries' legal obligations during global [health](#) emergencies, but ultimately these regulations need to be urgently updated to better reflect the realities of the globalized world in which we all live."

The two statements published today are the first consensus-based collaboration by members of the Global Health Law Consortium.

More information: Roojin Habibi et al, The Stellenbosch Consensus on Legal National Responses to Public Health Risks, *International Organizations Law Review* (2020). [DOI: 10.1163/15723747-20200023](https://doi.org/10.1163/15723747-20200023)

Provided by York University

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