

# SAFEGUARDING HUMAN RIGHTS AND STAKEHOLDERS' PARTICIPATION IN THE NEW 'PANDEMIC TREATY'

## A primer for Parliamentarians

1 April 2022

### What is happening?

In December 2021, the World Health Assembly (WHA) [agreed upon](#) the development of a 'WHO convention, agreement or other international instrument on pandemic preparedness' – the so-called 'Pandemic Treaty'.

Negotiations will be conducted under the auspices of an Intergovernmental Negotiating Body (INB), which held its first sessions in February and March 2022 to elect bureau officers and agree on working methods and timelines. **All WHA Member States are members of the INB.** The INB *bureau* – whose role is to guide the negotiations - is composed as follows:

- Co-chair: Roland Driecq, the Netherlands;
- Vice-chair: Tovar da Silva Nunes, Brazil;
- Vice-chair: Kazuho Taguchi, Japan;
- Co-chair: Precious Matsoso, South Africa;
- Vice-chair: Ahmed Soliman, Egypt;
- Vice-chair: Viroj Tangcharoensathien, Thailand

During its first two meetings, the INB agreed upon a tentative timeline for drafting, methods of work, and modalities of stakeholders' engagement (all available [here](#)). Such methods of work seem to indicate that participation of civil society representatives in the drafting process may be limited on at least two fronts: on one side, INB Member States may decide to conduct some 'closed' instead of 'open' sessions, excluding non-state actors even as mere observers; on the other side, it remains unclear to what extent non-state actors which are not in official relations with WHO will be meaningfully engaged.

### Meaningful participation and consultation

All interested stakeholders have a right to participate in international fora, grounded in international human rights law and [standards](#). In the context of the INB's method of work, this right entails that the 'Pandemic Treaty' be developed through a robust participatory process allowing for the full, equal, meaningful, and effective participation of civil society and community organisations on global, regional and domestic levels; also in light of the essential contribution that civil society plays in pandemic prevention, preparedness and response. In this context, particular attention should be paid to vulnerable, marginalised and criminalised communities, which have been disproportionately impacted by COVID-19 and related responses.

To achieve these objectives, at this stage of the negotiating process, it is essential to ensure that:

- The drafting processes be transparently communicated from the outset, and inputs from all stakeholders be actively solicited and properly considered by the drafters;
- Formal opportunities for engagement be envisaged that include all stakeholders who wish to, including experts, organisations and groups not in official relations with WHO
- The INB and the WHO Secretariat address the fundamental differences between civil society and the private sector, and keep problematic private actors outside of the treaty-making process; learning from the lessons of the Framework Convention on Tobacco Control (FCTC).

### *Participation of Members of Parliament in the negotiation process*

Members of Parliament (MPs) have witnessed the harmful consequences of ill-thought COVID-19 responses on individual and public health, as well as on governance, in their respective constituencies; in some contexts, legislative powers have been suspended or weakened with simultaneous expansions of executive power, with potentially far-reaching consequences for the rule of law and human rights. **MPs advocacy and engagement in the initial development and ongoing refinement of the pandemic treaty will be critical** towards ensuring a whole-of-government and whole-of-society approach to pandemic preparedness and response. In this initial stage, MPs can:

- » Consult other MPs in their party, legislative assembly, and international networks to raise awareness of this opportunity, develop common objectives, and strategise around joint participation in the process;
- » Engage with their Ministry of Foreign Affairs and Ministry of Health to shape their country's position, and push for human rights and meaningful stakeholders' engagement to be advocated for as part of the new Treaty;
- » Actively participate in the negotiation process either as individual experts or through national and international networks;
- » Collaborate with domestic as well as international civil society and communities, including by promoting the presence of civil society representatives in their country's delegation to WHA.

### **The next step: public hearings**

The next step in the process are public hearings, which will be conducted on 12 and 13 April 2022. These hearings will be essential opportunities for interested stakeholders to provide input to the INB on the substantive elements of the treaty; meaning, the key issues that the Treaty should address, its overall objectives, and its guiding principles and values.

#### *Before the hearings: advocate for meaningful participation and consultation*

As of 2 April, no details have been officially published about the modalities of the public hearings. Ahead of the hearings, it is thus essential that all interested stakeholders, including MPs, engage with their state representatives (including Ministry of Foreign Affairs), the INB bureau, and WHO to ensure inclusive and participatory hearings. In practice, this requires:

- Publishing the guiding documents for the public hearings as soon as possible, and allowing interested actors to review them and provide feedback to the WHO Secretariat;
- Extending the public hearings beyond non-state actors in official relations with WHO, by inviting a broad range of stakeholders;
- Organising the public hearings in all WHO languages and at inclusive hours, to allow broad input.
- Keeping the public hearings open for at least two weeks, so that communities, social movements, and grassroots civil society organizations can be informed and involved.
- For better integration of the input received through the public consultation, using the same approach for the public hearings as for collecting input from Member States: an online tool with a set of guiding questions plus the opportunity to provide "open ended" input.
- Make all input received via public hearings publicly available.

#### *During the hearings: advocate for mainstreaming human rights among the substantive elements of the Treaty*

MPs can and should participate to the public hearings, including through their national and international networks, to provide input on the substantive elements of the treaty. Building on the experience of the COVID-19 pandemic, it is essential that the 'Pandemic Treaty' is developed in conformity with international human rights law and standards, while **building upon and enhancing current human rights protections**. Ongoing discussions and resources around the development of a new international instrument on pandemic preparedness – including the [IPPPR Report](#) – are limited in their acknowledgment of human rights as central tenets of this potential new source of international law.

To support negotiations and advocacy, a broad coalition of NGOs and experts has developed a set of Human Rights Principles for a Pandemic Treaty, which undergo continuous refinement and can be [accessed here](#). Among others, these include: Consultation and participation; equality and non-discrimination; accountability and access to justice. These Principles can be a useful reference for crafting inputs and recommendations to the INB.

*After the hearings: share your recommendations and continue engaging in the process*

INB Member States will also provide input on the substantive elements of the treaty, through a consultation process that will be open until 29 April. Once MPs have developed and provided recommendations through the public hearings, the same recommendations can be shared with government actors engaged in the negotiations, to influence the country's own position.

Ongoing engagement with other MPs and civil society actors is also key, to remain updated on the process and share resources and strategies.

**Additional resources:**

- » The Panel for a Global Public Health Convention, 'The Case for a Pandemic Prevention Treaty': <https://bit.ly/2ZkB9z7>
  - » Duff et al., 'A Global public health convention for the 21<sup>st</sup> century' (The Lancet): [https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667\(21\)00070-0/fulltext](https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667(21)00070-0/fulltext);
  - » Davis et al., 'An International Pandemic Treaty Must Centre on Human Rights' (BMJ): <https://blogs.bmj.com/bmj/2021/05/10/an-international-pandemic-treaty-must-centre-on-human-rights/>
  - » Ten Human Rights Principles for a Pandemic Treaty [Working Draft]: <https://www.dropbox.com/s/s34vb3cplyit5fl/Pandemic%20Treaty%20HR%20Principles%2028%20Oct.pdf?dl=0>; <https://www.icj.org/wp-content/uploads/2021/12/Pandemic-Treaty-Principles.pdf>
  - » Open letter to INB Bureau on 'meaningful engagement of civil society and communities in the development of the Pandemic Treaty' (11 March 2022): <https://stopaids.org.uk/wp-content/uploads/2022/03/Open-letter-to-Members-of-the-Intergovernmental-Negotiating-Body-Bureau-ahead-of-the-resumed-session-14-15-March-2022.pdf>
  - » Open civil society letter to INB Bureau on key issues to be addressed in the INB process (12 March 2022): <https://g2h2.org/posts/inb-openletter-march2022/>
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