

Basel/Geneva, 8 October 2020

Statement by Medicus Mundi International - Network Health for All related to the International Health Regulations Review Committee open meeting, 7 October 2020

Dear Chair,
Dear Members,

We appreciate all the hard work being done by the International Health Regulations Review Committee and its sub-groups to review the functioning of IHR during the COVID-19 response. We write* to share some concerns and related recommendations for the committee to consider in its deliberations.

1.

In the COVID-19 response, we have unfortunately seen numerous countries violate human rights in the name of responding to an emergency. Article 2 of the International Health Regulations assert that their implementation should fully respect “the dignity, human rights and fundamental freedoms of persons”, and article 32 addresses the human rights of travelers. However, we urge the committee to consider an amendment to the Regulations to clarify that in their response to an outbreak, **countries should not pit the right to health against other rights.**

In particular, the Regulations should **explicitly reference the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights**, which advise how and when civil and political rights could be restricted in a crisis “which threatens the life of the nation” (such as a public health crisis). These restrictions must be necessary and proportionate to a legitimate aim, prescribed by law, and applied as a last resort, using the least restrictive means available. While some of these provisions have been incorporated into the IHR in the 2005 revisions, the **existing language could be strengthened** in regards to arbitrary detention, non-discrimination, privacy violations, and in clarifying that some rights must continue to be upheld in a crisis. For example, individuals (including travelers or other persons affected by the Regulations) must always continue to have access to legal redress if they believe their rights have been infringed.

2.

In reviewing the functioning of the Regulations during the COVID response, it is clear that existing **systems of health surveillance failed to move information as rapidly as needed to WHO.** Information about the initial COVID-19 outbreak circulated in social media and on health mapping websites such as the Program for Monitoring Emerging Diseases (Promed) well before WHO was notified. This has happened in other outbreaks in the past: doctors, medical workers, and civil society organizations may see outbreaks locally and share that information among themselves days or weeks before countries

officially notify WHO, and may face retaliation or suppression by local or national authorities for political and economic reasons.

Consistent with article 9 of the Regulations, we **recommend that WHO establish independent, multilingual channels for these local reports**, in order to enable WHO to monitor emerging trends and identify those requiring formal investigation. An existing model for consideration is the UNAIDS Key Populations Atlas, which is co-sponsored by WHO, an online map that gathers data on HIV from peer-reviewed journals, the private sector, civil society and other reliable sources, enabling UNAIDS to spot emerging incidence trends at an early date.

In any recommendations of expanded surveillance, data-gathering, and other applications of digital technologies that the committee may consider recommending, we underscore that article 45 of the Regulations rightly state that **any intrusion into personal privacy must be done only when strictly necessary, and should be grounded in law.**

3.

It has proven difficult to compel member states to respect the Regulations, in part due to lack of a robust and credible independent accountability mechanism. We were pleased to hear that WHO is exploring approaches and models at other agencies. **We especially recommend the model used by UN Human Rights treaty bodies**, because they rely on independent experts, incorporate input from civil society through shadow reports, and importantly, involve independent review and discussion of information provided by member states and other sources.

As former UN Special Rapporteur on the Right to Health Paul Hunt has observed, “Monitoring is not accountability, it is one step towards accountability,” and another step must include formal and independent review.

4.

We further recommend that the Regulations incorporate a requirement to **consult with affected communities** in emergency preparedness and response, including civil society organizations.

5.

As a publicly-funded process, the IHR Review Committee should **uphold standards of transparency by publishing the names and organizations of all those who participate in open meetings**, including the 25 non-state actors who participated in the first September meeting.

Thank you.

** Based on the oral statement by Dr. Sara L.M. Davis during the meeting on 7 October, sara.davis@graduateinstitute.ch (please reach out to Dr. Davis directly for follow-up)*

Institutional contacts:

Carlos Mediano, MMI President, federacion2@medicusmundi.es

Thomas Schwarz, MMI Executive Secretary, schwarz@medicusmundi.org