



In Conversation with **David P. Fidler**, *Senior Fellow, Global Health and Cybersecurity*, Council on Foreign Relations (CFR)

on the proposed Pandemic Treaty, Global Health, and India.

"I do not think a pandemic treaty is a good response to the COVID-19 pandemic. Nothing in the WHO-sponsored negotiation process so far has changed my perspective," says [global health expert](#) David P. Fidler, Senior Fellow at CFR and the [author](#) of "[A New U.S. Foreign Policy For Global Health: COVID-19 and Climate Change Demand a Different Approach](#)" (June 2023). Animesh Roul of SSPC asked Mr Fidler about the proposed global accord on pandemic prevention, preparedness and response; key challenges before the proposed treaty, including the much-emphasized accountability framework; geopolitics; and the possible role of India in the negotiation process and beyond.

Animesh Roul: WHAT ARE THE KEY CHALLENGES BEFORE THE PROPOSED MULTILATERAL PANDEMIC TREATY?

David Fidler: Based on what I've read between the "zero draft" released in February 2023 and the version that appeared in May, WHO member states have started to take a more direct hand in determining the content of the proposed instrument. Hence, we hear complaints from global health and civil society groups that member states have "watered down" the zero draft in the May version. The biggest challenge facing the negotiations is overcoming the difficulties of getting countries with different national interests in pandemic preparedness, global health, and other issues to achieve agreement on meaningful substantive and procedural obligations. People who mainly think about global health underestimate the differences in the national interests of countries involved in the negotiations. Those differences arise from variations in domestic political dynamics and the intensification of geopolitical competition in the international system. The issue of pandemic preparedness after COVID-19 does not exist outside of how governments formulate national interests for domestic purposes, foreign policy rationales, and geopolitical reasons.

Animesh Roul: IS THE PRESENCE OF AN ACCOUNTABILITY FRAMEWORK INDISPENSABLE FOR ENSURING THE EFFECTIVENESS OF THE TREATY?

David Fidler: No, treaties can work without having a robust accountability framework. For example, the International Health Regulations (IHR (2005)) has no formal accountability mechanism, and I think the IHR (2005) functioned sufficiently well during the COVID-19 pandemic. Most importantly, the IHR (2005) worked in providing early warning of an unusual disease event in China at the start of 2020. The WHO received information from a non-governmental source about a disease event in Wuhan, asked China for confirmation, China confirmed, and the WHO shared the information it had with other WHO member states—all before the end of the first week of January 2020. The failure of many WHO member states, such as the U.S., to take this early warning seriously cannot be blamed on the IHR (2005). In my opinion, China's failure to provide updated information that SARS-CoV-2 was being transmitted from human to human in the first half of January 2020 did violate the IHR (2005). But recall that WHO was praising China's response to the Wuhan outbreak, despite knowing China was not transparent. WHO's praise gave China "cover" if any WHO member state had insisted on holding China accountable under the IHR (2005) through countermeasures permitted under international law. In addition, China was weaker during the SARS outbreak in 2003, but by 2020, China was a great power. As history teaches us, it is tough to hold such powers accountable, no matter how robust a treaty's accountability framework is.

Animesh Roul: IS REACHING A CONSENSUS ON THE ACCOUNTABILITY FRAMEWORK ACHIEVABLE?

David Fidler: States have reached consensus on accountability frameworks in various contexts, so WHO member states could agree on an accountability mechanism in a pandemic instrument. The real question is whether any mechanism that achieves consensus can actually hold a member state accountable for violating the treaty. The accountability mechanisms in human rights treaties have been proposed as models for the pandemic treaty. However, whether these mechanisms have protected human rights is a serious question often ignored by those proposing equivalents for the pandemic treaty. With rare exceptions, states are unwilling to agree to mandatory accountability mechanisms that result in determinations of treaty violations and the imposition of punitive measures. Finally, as geopolitics adversely affects every issue in international relations, how to meaningfully hold the great powers accountable is a hard question that is also ignored in global health discussions about this treaty. That hard question raises the

problem that any consensus mechanism is likely to have more impact on weaker countries, undermining—in terms of accountability—the "equity" that so many people in global health want this treaty to enshrine in global health governance.

Animesh Roul: CONSIDERING INDIA'S CURRENT ROLE IN GLOBAL AFFAIRS, WHAT SPECIFIC CONTRIBUTIONS COULD IT MAKE WITHIN THE BROADER CONTEXT OF IMPLEMENTING THE PANDEMIC TREATY?

David Fidler: To answer that question, I'd need to examine why India would want a leading role in this proposed treaty. Any such role would have to be anchored in India's national interests in protecting its national security, strengthening its economic power, advancing its development agenda in the Global South, and contributing to its humanitarian assistance activities. For example, the analysis of U.S. global health leadership since the end of the Cold War in my CFR report indicates that such leadership did not protect the U.S. from a pandemic, did not commit the U.S. to take climate change seriously as a health threat, did not help stem the global decline of democracy and spread of authoritarianism, and did not provide the U.S. with geopolitical advantages vis-a-vis the rise of China and the re-assertiveness of Russia. The foreign policy benefits of global health leadership for the U.S. are less than rhetoric about such leadership claims. I am not an expert on India's foreign policy, but I doubt that global health leadership related to the pandemic treaty will help India address the geopolitical threat China poses to India's national security, make significant contributions to India's economic power, or transform its approaches to development and humanitarian assistance. So, regarding foreign policy and national interests, the case for India seeking a leadership role in implementing the pandemic treaty is unclear to me.

Animesh Roul: IN LIGHT OF INDIA'S EXPERIENCE IN MANAGING COVID-19 AND WITH THE G20 PRESIDENCY NOW, HOW CAN IT PLAY A PIVOTAL ROLE IN EFFECTIVELY IMPLEMENTING THE TREATY?

David Fidler: This question is hard to answer because, first, as noted earlier, I'm not sure how Indian leadership under this treaty aligns with the country's national interests and foreign policy priorities. Second, we do not know what obligations the treaty will contain that will require serious implementation roles for important member states, such as India. Even so, I'm skeptical that India will expend much diplomatic capital in being a leader on the implementation of treaty provisions that don't require much from state parties, such as "should" rather than "shall" provisions that are not binding. Similarly, suppose the treaty contains serious substantive obligations, the

implementation of which will require diplomatic confrontations. In that case, I also doubt that India wants to be at the forefront of accusing state parties of violating the treaty and pushing for punitive measures under the treaty. Both of these observations again underscore the question why India would want to play a pivotal role in implementing a pandemic treaty.

As I have surveyed the global landscape in the aftermath of COVID-19, I've mulled over a different role for India—develop and implement a strategy for global health that strengthens the capabilities and solidarity of LMICs in the Global South. India does not need a WHO treaty to pursue this strategy. Such a strategy might dovetail with other national interests that India is defending and advancing in its foreign policy, such as navigating through the increasingly dangerous geopolitical competition among the U.S., China, and Russia.

Animesh Roul: WHAT ADVANTAGES CAN COUNTRIES LIKE INDIA GAIN FROM ACTIVELY PARTICIPATING IN AND SUPPORTING THE IMPLEMENTATION OF THE PANDEMIC TREATY?

David Fidler: Again, any benefits that India can reap from a pandemic treaty will depend on, first, what the final treaty contains, and, second, how well the final treaty aligns with what the Indian government needs to do to protect public health in a nation with the world's largest population. Given the problems that the Indian government experienced during COVID-19, I would imagine—as is the case in the U.S., which performed terribly during the pandemic—that the Indian government has much it can do for its population regardless of what the final treaty looks like. The Indian government has full sovereignty to undertake such domestic public health reforms. It doesn't need a WHO treaty to take robust, comprehensive action at home. The nation's population is more likely to benefit from those domestic reforms than anything the treaty contains, or the treaty could simply reinforce steps the Indian government wants to take—and can already take without a treaty—to improve India's population health. Further, if the final treaty is weak in substance and process, a vital role for India in such a treaty is unlikely to produce many benefits for India's population health. Conversely, if the final treaty is strong, then a vital role for India will have to mean fully implementing the treaty within India—and that's when arguments about sovereignty and questions about scarce resources and more pressing priorities for Indian health, such as climate change, will put the Indian government in a difficult political situation.

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