

Episode 2: Study on NFP experiences of implementing the IHR (Part 2 of 2)

Katrina Litam (KL): Welcome back to the Make Me Smarter on IHR podcast, your regular mini dose of all things related to the International Health Regulations. I'm your host, Dr. Katrina Litam, from the Learning Solutions and Training unit in the Country Readiness Strengthening Department under the WHO Health Emergencies Program. For our second episode, we're going to continue the conversation we started in episode one about the 2019 study on the experiences of national IHR focal points in carrying out their functions under the IHR. In the previous episode, we talked about the context and main findings and recommendations of the study. Today we'll be focusing more on the expert insights our two resource persons gained as a result of conducting the study: Dr. Kumanan Wilson from the Ottawa Hospital and Professor Sam Halabi from Georgetown University. Welcome back to the podcast, Kumanan and Sam. Your study was conducted just before the COVID-19 pandemic. So far, did any of the barriers identified by your analysis play a role in the global response to the pandemic?

Kumanan Wilson (KW): Sam would likely be more qualified to speak to this, but I'll take my first stab. I think this issue, the lingering concerns about how the WHO may use information, is an important barrier. I think what we've learned from, unfortunately, from COVID-19, is this fundamental concept of the importance of surveillance and early notification so that we can prepare, and any delays, whether they are due to lingering concerns or whether due to the need to get intersectoral approval, can have a substantial impact on the world's ability to respond to these threats. And there were some concerns highlighted at the outset that some States Parties may have not reported as quickly as they could. Now this could be because there is a natural period of ascertaining what the level of the threat is. But there are other issues around; we don't want to report an uncertain advantage if it could have a negative impact on our country. And also there is the issue of having to get intersectoral approval and collecting information from other sectors. So I think those issues again recurred; it's understandable, it's an ongoing issue. That's always been a challenge and the IHR has made great strides in addressing that, but I do think it did cause some challenges early on with COVID-19.

Sam Halabi (SH): Yeah, I, you know, I think that's exactly right, I would, you know, I would add just a little bit of detail in that the structure of the NFP of the most important reporting state. You know, we still don't know precisely the chronology and everything, but for sure, there's evidence to suggest that officials at the provincial or even a municipal level, we're not sure what to do with the information with respect to the national reporting obligations. So it's consistent with one of the findings of the study. It'll be something that, you know, is sort of, you know, there's a lot of robust conversation about what might be done with respect to IHR amendment or improvement. And for sure, I think that that conversation about, sort of, how NFPs are empowered or independent, should be a feature.



Episode 2: Study on NFP experiences of implementing the IHR (Part 2 of 2)

KL: I'm reflecting on what you said about intersectorality. As you know, the IHR is less known outside of the NFP. Did you have an inkling from your interviews that members of the NFP should extend beyond the Ministry of Health?

SH: Um, so that I mean, as I understand the question, the answer's yes. So there were countries, so in the study, and in this conversation, we aren't divulging the identities of the countries that were interviewed separately, right, from the secondary literature. For example, El Salvador and the United States have national focal points that combine national bureaucracies. And there are advantages to that for the reasons that you articulate, right? So if you have a single convening, where it is the Ministry of Agriculture and the Ministry of Health, and the Ministry of Defense, that is a way to reduce the delays. I don't know how, about the capacity of an international instrument to reach to that extent into sort of sovereign decisions on bureaucratic structure. But I think that the question is exactly right, that it would improve the time of reporting and the coordination for sure.

KW: I'd like to echo those comments. With higher income countries, as I mentioned, they were often you know, large groups of individuals involved in fulfilling these functions and they have the resources to dedicate to that. In some of the LMICs, there may be a single individual and this would be a major challenge for them if they had to gather all of this information across several government sectors. And what was mentioned in some of the interviews was that the value of best practices or modules or learnings that could be shared across them that other people in their situation have had to deal with the same type of issues that are very specific. So a wealthy, higher income country couldn't really understand those challenges to the same degree, and there could be value in having sort of shared learnings in that regard.

KL: Very interesting. Focusing on your last point, can you think of any other additional support NFPs would need from governments and WHO to fulfill their functions under the IHR?

KW: I think what we found most interesting from our interviews was the value of peer to peer communication. It's an exceptionally dynamic area. The world we live in now is not the world that approved the IHR, [with] the digital transformations that occurred. There are limitations to sort of some of the annex 1 requirements that need to be updated to acknowledge this reality. This needs to be agile and having that peer to peer type of relationships facilitated and to be allowed for context-specific responses that I think is going to be critical as we re-envision the IHR for the post-COVID world or pandemic treaty, whatever it may be.



Episode 2: Study on NFP experiences of implementing the IHR (Part 2 of 2)

KL: Sam, would you like to share if you have any other thoughts on that?

SH: Yeah, I agree 100%. I mean, I, you know, I think one of the commitments that can be made in an international agreement is to commit to the sufficient resourcing of national focal points. I think Dr. Wilson's point is a really important one, which is, you know, there needs to be something like a cohort approach to those NFPs. If you can imagine, like a Slack channel for the world's NFPs or a regionally-based Slack channel. Clearly, there are some governments that are going to hesitate at that kind of openness but I think that that is the kind of world in which information will be readily transmitted and response will be facilitated.

KL: Excellent points. Thank you very much. It's great to hear both of you talk about the value of a more informal kind of peer-to-peer communication because this is exactly what we want to do. Under the umbrella of WHO, it can be really difficult to have something a bit more informal in terms of peer-to-peer collaboration. We're trying to do the best that we can, in fact, we've started and have had some modest successes with the NFP Knowledge Networks, but the traction is not yet there. Regardless, it's heartening to hear that and we hope that this podcast is one step towards reaching this goal. Going back to what you've mentioned about different contexts and situations, when you were conducting the interviews, and without mentioning any names, did you notice any significant differences in the responses of those coming from federated states, small island nations, or LMICs?

KW: There were certain regions we had more challenge getting responses from and that might reflect some anxiety about these types of projects, or it could have just it, I think, largely did reflect lack of availability, because, as mentioned, if it's a single individual, they're extremely busy. We did find sometimes a bit of different-ness in openness in discussing some of these issues that may have not as was the issue in certain areas than it was a, you know, I don't want to say where, when, but it would be sort of contradictory to what you might expect. In some of our interviews, areas where you thought they might be a bit more open, they were actually a bit more guarded, and vice versa. So, you know, I can't otherwise delve too much deeper into the, the regional differences. Sam, I don't know if you have any further insights on this?

SH: Yeah, I mean, I did. There's a tremendous amount of nuance and detail in the backgrounds of the reporting countries. So you know, sort of countries that have recently dealt with a reportable significant event, clearly reflected a kind of preparedness and willingness to engage, versus those that have never reported and actually doubted their ability to report. Very low resource countries where the NFP may in fact via a kind of a shared cell phone, sort of reported very differently than very wealthy reporting...



Episode 2: Study on NFP experiences of implementing the IHR (Part 2 of 2)

SH: ...countries with extensive bureaucracies. So I don't know, that is entirely helpful only to suggest that you were exactly right, that there's a tremendous amount of diversity in how NFPs are structured based on a number of factors, including a bit sort of access to resources, but also sort of recent experience with an IHR reporting event. So there's, from my perspective, there's tremendous amount of work to be done in understanding more. But you were certainly correct that those additional contextual details matter for sure.

KL: Thank you very much for providing those insights. Pivoting now to the results of the recent IHR Review Committee on COVID-19: under the IHR the NFP has a key functionality role as the official hub of communication between governments and WHO, and within each country. However, while NFPs are responsible for the transmission and collation of urgent public health information, the recent IHR Review Committee on COVID-19 found that the overall responsibility of implementing the IHR is with the government, including the requirements under articles 4 to 12. Do you agree with this finding?

SH: Yeah, that's 100% correct. And you know again, to this sort of, so Dr. Wilson has studied this issue in even more depth than I have. But so there is the possibility of issuing some reservations under the IHR. For countries that have, you know, constitutionally federal systems or systems that provide a great deal of deference to local decision makers, the opportunity for those kinds of reservations need to be rethought. Because there have been significant problems with local decision makers either not knowing or being fearful or incorrectly transmitting information to national decision makers, which are the responsible agents under the IHR. So on the one hand, the responsibility is with governments but legally, the channels for circumvention are embedded within the instrument and they need to be revisited.

KW: Yeah, I think this is a fundamental challenge, not just to the IHR but to any international agreement where the agreement is signed or approved by a national entity specific to that area. And then in order for it to be effectively executed, it does require a collaboration vertically and horizontally. So to Sam's point, we have had challenges with, in federal systems of government where there isn't such a Supremacy Clause or constitutional power that can mandate functions that are necessary for the execution of the IHR. Similarly, to the point that was made in the document you referred to, if the NFP are the focus of the IHR and the responsibilities are outside the NFP, it becomes really hard to hold them accountable for the functions of parallel organizations. You know, central to all of this is the issue of state sovereignty and the degree to which signing an international agreement can infringe with state sovereignty. You know, presumably at the horizontal government level that should be addressable because that level of government has signed the agreement. But when you're looking at vertical governments and sub-national governments that are not bound by the agreement, it becomes more problematic.



Episode 2: Study on NFP experiences of implementing the IHR (Part 2 of 2)

KL: I'd now like to ask whether you see a sort of contradiction in that, on the one hand, according to Article 4, the NFPs are the official hub of communication responsible for carrying out reporting as required under the IHR, but on the other hand, the eventual responsibility and accountability for whether to report an event and to share information needed for its risk assessment with WHO is not necessarily with the NFP. How do you think this should be resolved?

KW: So I think for high-income countries, it is their responsibility to organize their systems of government and such, to ensure that the NFPs have the support they need: that they are adequately resourced, they have had sufficient time with the agreement to ensure that this occurs at a horizontal level. I do, am sympathetic to the situation in LMICs where that just simply may not be the case and they have other priorities; they have other endemic diseases that they're always dealing with. And it just, this may not be a sufficiently high priority within those countries. So to Sam's point, you know, in those circumstances, I think there is an importance of the international community to support those countries as much as possible in addressing this challenge.

SH: Yeah, so structurally, you know, there are two, kind of, aspects of Article 4 compliance or deficiencies in Article 4 compliance. One is the inability to report as the instrument requires and the other is the unwillingness to report as the instrument requires. Both of those can be addressed through international mechanisms, right? So with respect to the inability, that's just straightforward financial support and that could be facilitated by WHO. WHO clearly on its own doesn't have the resources to do that, but it could be arranged through WHO. With respect to unwillingness, there was one quote from one NFP that said all public health emergencies are political. So there could be an international commitment to protect against the significant financial fallout that can ensue from candid and robust reporting. I don't know if those are politically feasible outcomes. But I think that you're exactly right, that it is an internal tension in the article 4 mechanism, but it is one that can be addressed through international coordination.

KW: Yeah and obviously this does not need to be said but COVID-19 has illustrated the consequences of not addressing these issues. The human costs is enormous. I think in 2021, the pandemic cost 10 trillion just in- Sorry, in 2020 it cost the world 10 trillion. So this is an easy win from a cost-benefit analysis. The devotion of some resources, comparatively minimal to these issues will have huge benefits. I'd also like to emphasize that this is our sixth major, sort of global outbreak since [2000]. We've had SARS, we had H1N1, we've had Ebola, we had Zika, we have Yellow Fever in Africa; these are frequent occurrences. Investing in preparation for these events is absolutely easily worth it and any resource that can be provided will benefit every country in the world.



Episode 2: Study on NFP experiences of implementing the IHR (Part 2 of 2)

KL: All very excellent points. The review committee also found that there has been too much emphasis on the NFP as if the NFP should resolve all IHR-related issues. Instead, it is the competent authority in each country that is responsible for IHR implementation. According to Article 4.1, the IHR review committee found that the competent authority needs to be more recognized and held to account for the functionality of the NFP and the delivery of other IHR obligations. In this context, the committee suggested that WHO should develop an accountability framework for the authorities responsible for implementing the IHR. In addition, WHO should report to the governing bodies the level of countries' compliance as an incentive for governments to fulfill their IHR obligations. So far, there is no mechanism to monitor compliance with the timelines for information sharing, as required under Article 6 to 10. What do you think about these ideas?

KW: Let me take a first stab as this is a legal question, so Sam would have far more expertise than myself. You know, I think the question is, what is the competent authority? Is it the Sovereign of the State? Is it the minister in charge of the bureaucracy? Just some of my experience working in this area at the domestic level is: there's so much turnover in bureaucracies, in ministers, even at the level of the leadership. Having a single individual or group, like a CDC or a Public Health Agency of Canada, having ongoing responsibility brings corporate memory and value. And I think for something like the IHR, which can be fairly technical, there is real value in maintaining that. I appreciate the fact that legally or as per the IHR, the responsibility may not specifically lay there, but having a minister or a deputy minister, who doesn't really have any familiarity with the document, suddenly thrust into a global crisis, having to try to resolve some of these issues and being accountable, I mean, ultimately, I think they would just defer to the NFP anyway. But that's sort of just my general observations.

SH: Yeah, I mean, as I heard the question, it sounds like it has sort of significant overlap with the JEE exercise and SPAR. There is currently an, you know, sort of an extensive effort to review the adequacy of the measures and transparency through those mechanisms. So far as I know, nobody has established a correlation between high JEE scores, which include things like, you know, internal infrastructure for communication, and sort of, response to COVID-19, or success of response to COVID-19. So I think it is an important question to ask, I think we need to first sort of really answer why our current mechanisms for transparency and measurement seem to fail, before we start building a new transparency model that I think would be informed by the same evidence that I mean, I'll speak like a little bit sweeping over here, didn't seem to work. So I do think that that is important. I think we need to really think about what good evidence-based transparency would look like.



Episode 2: Study on NFP experiences of implementing the IHR (Part 2 of 2)

KL: Thank you for raising those important questions. There does certainly seem to be a disconnect, looking at article 4, between the authority of NFPs and the accountability of responsible or competent authorities. And we have never collected the contact details of the competent authorities within each country.

KW: Yeah, as a non-legal person, I look at that, and I don't know what they mean by competent authority. So I do agree that it would be worthwhile defining that. And it seems not only worthwhile, it's absolutely critical if accountability is going to be emphasized with respect to the IHR.

SH: I agree with you 100%. But I will say, sort of, you can't look at article 4 alone, either, right? So the World Health Organization's authority to look at, quote unquote, other reports, textually it must do so in consultation with the competent authorities, right? The State Party. So the difference between the IHR is delegation of responsibility to NFPs, and its delegation of authority to act is mixed and blended and even within the other textbook provisions of the instrument. But I certainly agree with you that the idea of collecting information on who the competent authority is, as one step toward accountability is a very good idea. I probably, like you, I wonder how much willingness there would be to make that kind of commitment from the States Parties.

KL: Another recommendation provides that WHO should monitor and document countries' compliance with their IHR requirements for information sharing and verification requests and to report its findings in WHO's annual report to the World Health Assembly on IHR implementation. Looking at this recommendation, which has not been officially endorsed yet by the Assembly, so it has no legal weight yet, from your perspective, which is the authority to be held to account for complying with the obligations of States Parties to notify events that are notifiable according to annex 2 within 24 hours, to share the information with WHO following the notification, to respond to WHO's verification request within 24 hours, provide the necessary information and so on? All of these obligations put on the shoulders of the NFP who, looking at article four, is just responsible for carrying out the communication aspect, and not to decide, not necessarily responsible for carrying out a notification assessment or decide what information is to be shared with WHO.

KW: My sense is, it's better to not disaggregate those responsibilities. There's a lot of technical knowledge that's required for this. You know, one of the clear messages from our interviews was, you know, we really care about the IHR and have studied it a lot and a lot of people have never heard of this document. And if that responsibilities fall to groups that have never heard of the IHR, it does become problematic. The NFP is often the one with the deep knowledge of all issues, IHR, and even that we...



Episode 2: Study on NFP experiences of implementing the IHR (Part 2 of 2)

KW: ...found in M&LICs, can be a challenge. And when there's turnover, there has to be re-learning. So in theory, and as it's written, I understand what the IHR is saying that the NFP isn't responsible, but practically, it makes sense in my mind that there's a lot of knowledge that's required to execute these functions and it's only increasingly getting more technically challenging as the world is confronting these new and emerging challenges. I think, practically speaking, it needs to be the NFP or the entity that houses the NFP that needs to really take ownership of this.

SH: Yeah, I mean, uh, I mean, as I understand your question, the answer is no, under the current instrument, you cannot expect the National Focal Point to be held accountable by the World Health Organization or the World Health Assembly. Those obligations need to be more firmly tied to the politically responsible agents in the State Party. That's very easily stated and not very easily accomplished. And I will tell you, what your question raises to me is this question of dispute resolution in the IHR, which is extraordinarily deferential to State Party conduct. Sort of the, you know, the World Health Organization is under an obligation to review its own measures in decision making after each declaration of a public health emergency. There actually isn't a mechanism for one State Party, for example, to meaningfully allege that another State Party has fallen short of its communication obligations. Again, that's a very politically sensitive and diplomatically sensitive and difficult issue, but I think it does go to the heart of what you're asking.

KL: Alright. Thank you both for sharing your thoughts on this complex and important issue. Now, going back to your original study, at this point I'd like to ask, what are your future plans or are there any further plans now that the study has been conducted and the findings published?

KW: I think the logical next step for us is to see how the findings did relate to the response to COVID-19. I think we were in a very unique position, thanks to the prescience of some individuals in the WHO to have supported a study in advance of what ultimately ensued. And it gives us a very unique lens to say, this is where the world was prior to this catastrophic event; what was right, what wasn't right. And I think we can work with, we would be happy to work with the WHO and other international authorities to bring this knowledge forward. In retrospect, you're going to see a colored view of how people were prepared. We saw at the time what they were thinking.

SH: That's exactly right, to use the evidence that we do use which were, I mean, I don't think I'm overstating it when I say that that kind of study can only be done with WHO's assistance and facilitation. And so it is looking to sort of make those findings as useful as possible as the, you know, the whole world and the special session in November for sure sort of contemplates what we knew in what level of detail;



Episode 2: Study on NFP experiences of implementing the IHR (Part 2 of 2)

SH: I think this study serendipitously, but I think, Kumanan's right, sort of with really prescient and careful planning at WHO, that we really have a snapshot on the eve of the pandemic, what the structure and function of the NFPs looked like. So I think that's exactly right, we want to make it as useful as possible. I would even say more specifically to this special session because that is where the meaningful deliberations about what pandemic prevention response looks like, you know, for the next three to five years, and probably thereafter.

KL: Very timely, indeed. Before we wrap up, would you like to make a concluding statement?

KW: I think it's more evident than ever, how important the work that's occurring in the WHO and the international agreements are. I have already stated the enormous human cost. I believe in the US now soon the death toll from COVID-19 is going to exceed the 1918 pandemic flu. This is a terrible situation. But the IHR is also not just a health document, it is an economic document as we know, and the economic consequences and the economic harm have been enormous as well. The investment we put into this beforehand is, you know, never been more in doubt that- no, there has never been less doubt about its value. When we look at the amount of investment we put into other areas of security, they dwarf what we put into public health. And a lot of these arguments that we have in public health about resourcing or competitive needs; those aren't the right arguments to be having. They all should be supported and by supporting them, you know, avoiding trillion dollar public health emergencies is easily in the best interest of everybody. I think what we're seeing here, the National Focal Points need to be supported, they need to be supported by their own countries for their own benefit of those countries, they need to be supported globally. We need to ensure that they are empowered both through their legislation and governance authorities, but also through reciprocal responses by the WHO and the international community. And we're seeing challenges with that with immunization. You know, if for LMICs, if they do, in response to fulfilling their function, are provided with the necessary capacity to respond to the public health threats within their own jurisdiction, they are thus empowered to be able to better execute their functions. So I think we need to look at this differently. I know that's happening, I think less as a public health issue but more as a global health security issue.

KL: Thank you Kumanan. Sam, any concluding remarks?

SH: Yeah, I think Dr. Wilson did a really eloquent job of articulating the most important sort of conclusions. I will just add two, sort of, reflections. The first is, you know, a tremendous amount of gratitude is due to the World Health Organization for sort of sponsoring this study. I think it took a risk that the findings could end up being embarrassing or sensitive. And I think what it ultimately showed...



Episode 2: Study on NFP experiences of implementing the IHR (Part 2 of 2)

SH: ...was that the World Health Organization does an extraordinarily praiseworthy job of trying to make the IHR work. So I'm sort of very grateful to it for making this study possible. I would say second, that what we came away with at the end of the day, in our conversations with real breathing human beings, was this tremendous commitment to global health security and to the functioning of the IHR. So it isn't that you have people who don't want to do their jobs well, who don't believe in good global health governance; it really is sort of where they are in the machinery of national infrastructures that can either facilitate or hinder that participation. So there's a lot of political goodwill towards effective international instruments to keep the world safe and I don't want anybody to lose sight of that.

KW: Thanks Sam. And I was remiss in, you know, I'd like to further emphasize our gratitude to the WHO for enabling this project. And not only supporting and sponsoring it, but as Sam said, we couldn't have done this without them facilitating the communications with the NFPs.

KL: Excellent. And with that, many thanks again to Dr. Kumanan Wilson and Professor Sam Halabi for joining us and sharing their findings and expert insights on the experiences of NFPs in carrying out their functions under the IHR. We've now come to the end of this two-part series, but we certainly had a full and fruitful discussion today. For more information, links to the published study will be available in the summary of this podcast episode, which will also contain the contact details of our resource persons in case you have any further questions. Thank you for tuning in. I'm your host, Dr. Katrina Litam, for the Make Me Smarter on IHR podcast. See you next time.

(End of episode 2)

- PAGE 10 OF 10 -

