

CISDI Proposes a Checks and Balances Mechanism from Civil Society in the Pandemic Agreement

On February 21-22, 2024, the Center for Indonesia's Strategic Development Initiatives (CISDI) had the opportunity to participate in the civil society hearing sessions for the pandemic agreement¹ hosted by the Pandemic Action Network (PAN) at the World Health Organization's premises. The session was attended by the Co-chairs of the Intergovernmental Negotiating Body² (INB) and representatives from member states, including Australia, Canada, Germany, the European Union, Pakistan, Japan, Norway, Singapore, Botswana, Kenya, the United States, France, Bangladesh, the United Kingdom, Thailand, and the Netherlands.

Despite these hearing sessions, CISDI observes that the negotiating process of the pandemic agreement has not applied the whole-of-society approach principle, as indicated by the lack of a formal mechanism for CSOs to engage in the overall negotiation process meaningfully.

Diah Satyani Saminarsih, the Founder and CEO of CISDI, specifically emphasised **concerns about the governance aspect of the monitoring and compliance mechanism³ in the agreement**. She delivered the message in a two-minute intervention during the second hearing session, which focused on the institutional arrangements of the pandemic agreement. The current draft is seen as proposing "a self-policing echo chamber," a term coined by Nina Schwalbe. This implies that the mechanism relies on health ministers, technocrats, or diplomats to police themselves on whether their respective countries are fulfilling their national commitments outlined in the pandemic agreement ([Schwalbe, et al, 2024](#)).

The Pandemic Agreement October 2023 Draft Chapter III

Article 25. Implementation and Compliance Committee

1. The Parties hereby establish an Implementation and Compliance Committee as a subsidiary body of the Governing Body, to facilitate and consider the implementation of and promote compliance with the provisions of the WHO Pandemic Agreement. The committee shall be facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive.
2. The Implementation and Compliance Committee shall consist of members possessing appropriate qualifications and experience, nominated by the Parties and elected by the Conference of the Parties, with due consideration to gender balance and equitable geographical representation.

What is currently missing from the proposal is related to the independence of the implementation and compliance committee and civil society contribution, among others. In the latest draft, the implementation and compliance committee proposal suggests that it will serve as a subsidiary body of the governing body, with all members nominated and selected by the countries within the governing body. Therefore, it is

¹ International agreement aimed at enhancing national, regional, and global capacities and resilience to potential future pandemics.

² A body comprises WHO member states tasked with drafting and negotiating the pandemic agreement.

³ A mechanism to monitor and evaluate the overall performance and compliance of State Parties against the objectives and obligations stipulated in the pandemic agreement.

unclear how civil society can be meaningfully involved to ensure a mechanism of 'checks and balances' and to encourage state compliance through the committee.

During the second hearing session, CISDI proposed that the pandemic agreement stipulates the establishment of **an independent monitoring committee**. This is to ensure the committee's independence, which is crucial to actualising accountability and transparency principles. Hence, several key principles should guide this independent monitoring committee:

1. The monitoring committee, independent in nature, **should not function as a subsidiary entity to the governing body**. The committee must possess what Nina Schwalbe and other global health scholars referred to as political, technical, and operational independence. This means it is free from influence by member states, the WHO, and donors ([Schwalbe, et al, 2023](#)).
2. **The committee would cross-reference self-reporting with various public and private sources to ensure a 'check-and-balance' mechanism** for assessing countries' self-reports on their obligations. This should involve implementing a formal shadow reporting system by CSOs, confidential reports from the public, country visits, and making direct inquiries to the State Parties—similar to the mechanism employed by human rights treaties ([Lehtimaki, et al, 2021](#)). **This mechanism would allow the meaningful engagement of CSOs and most affected communities in ensuring State Parties' compliance.**
3. **The committee, following a “constructive dialogue,” would share reports transparently with the State Parties, the governing body, and the public to enhance public accountability**, emphasising best practices as a positive reputational incentive and encouraging mutual learning, thereby complementing an approach that involves ‘naming and shaming’ negative reputational approach.

This practice of independent monitoring committees allows the acknowledgement of reports issued by civil society, the most affected communities, or others as official submissions to ensure a country's compliance with the treaties. Human rights treaties have adopted this practice of monitoring committees and shadow reporting systems.

Furthermore, CISDI recommends that the independent committee and shadow reporting system provisions should be incorporated into the body of the pandemic agreement, enabling these mechanisms to be directly implemented upon ratification by member countries. This is to learn from the case of the human rights treaties, in which the regulation concerning the shadow reporting system is treated as an optional protocol, giving countries the discretion not to ratify that protocol.

With adopting these recommendations, meaningful engagement of civil society and most affected communities in monitoring countries to prevent, prepare, and respond to a future pandemic can significantly increase. Thereby reducing the risk of unilateral poor reporting by countries that ratify their compliance with pandemic prevention, preparedness, and response. CISDI hopes that civil societies in Indonesia and other Global South countries will also call to action the open governance of the soon-to-be-endorsed pandemic agreement.

REFERENCE

Lehtimäki, et al. "Independent Review and Investigation Mechanisms to Prevent Future Pandemics. International Institute for Global Health, United Nations University. 2021. https://collections.unu.edu/eserv/UNU:8032/nIndependent_Review_Final.pdf

Schwalbe, et al. "Independent Monitoring and the New Pandemic Agreement." *BMJ Global Health* 8, no. 11 (November 2023): e013348. <https://doi.org/10.1136/bmjgh-2023-013348>. <https://gh.bmj.com/content/bmjgh/8/11/e013348.full.pdf>

Schwalbe, et al. "The New Pandemic Treaty: Are We in Safer Hands? Probably Not." *BMJ*, February 22, 2024. <https://doi.org/10.1136/bmj.q477>. <https://www.bmj.com/content/384/bmj.q477>