Examining State Obligations and Responsibilities Regarding the Right to Health of Citizens with Emphasis on Combating Infectious Diseases

1. Mohammad Yousef Fallah Khoshkchali : Department of Law, Faculty of Humanities and Arts, Za.C., Islamic Azad University, Zanjan, Iran
2. Abolfazl Lotfizadeh*: Department of Law, Faculty of Humanities and Arts, Za.C., Islamic Azad University, Zanjan, Iran
3. Peyman Bolouri : Department of Law, Faculty of Humanities and Arts, Za.C., Islamic Azad University, Zanjan, Iran

*Correspondence: S_lotfi_2010@yahoo.com

Abstract

Combating infectious diseases is one of the most important duties of states in fulfilling the right to health. States must take actions such as disease monitoring and surveillance, quarantine, vaccination, and public education to prevent the spread of infectious diseases and to enhance public health. The subject of this thesis is "Examining State Obligations and Responsibilities Regarding the Right to Health of Citizens with Emphasis on Combating Infectious Diseases," and the research method is descriptive-analytical. The right to health is one of the fundamental human rights that is recognized in international instruments and the national laws of many countries. States bear various obligations and responsibilities with respect to this right, including: supervision, public health emergencies, state civil liability in relation to infectious diseases, provision of public health services, combating infectious diseases, disease surveillance and quarantine, the World Health Organization, core obligations of states under the International Health Regulations (2005), public health emergencies of international concern, and theories of international responsibility including the fault-based or subjective responsibility theory and the risk-based or objective responsibility theory. The sources of international responsibility include the International Law Commission and the doctrine of international responsibility.

Keywords: Obligations, International Responsibility, States, Health, Citizens

Received: 22 January 2025
Revised: 08 May 2025
Accepted: 13 May 2025
Published: 01 October 2025

Citation: Fallah Khoshkchali, M. Y., Lotfizadeh, A., & Bolouri, P. (2025). Examining State Obligations and Responsibilities Regarding the Right to Health of Citizens with Emphasis on Combating Infectious Diseases. *Legal Studies in Digital Age,* 4(4), 1-14.

1. Introduction

The law of international responsibility has developed alongside international law itself, and state responsibility has always constituted one of the key issues of general international law. In recent decades, the responsibility of international organizations

and individuals has also been added to the scope of international responsibility. There is no doubt regarding the existence of international responsibility of states. Article 1 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts identifies international responsibility as arising from an internationally wrongful act, which may consist of one or more actions or omissions, or a combination of both. A wrongful act involves two elements: first, it must be attributable to the state, and second, it must constitute a breach of an international obligation. A review of international law reveals that all of its provisions give rise to international responsibility. In principle, the violation of any obligation, regardless of its source or nature, entails state responsibility. That is, any act by the state—be it through legislation, actions of administrative, executive, or judicial bodies, or actions of the armed forces during wartime or peacetime—is subject to international responsibility.

For state responsibility to be established, the wrongful act and breach of obligation must result in the violation of international legal requirements, since international responsibility must be grounded in international rules and principles. These obligations stem from *jus cogens* norms, general principles of international law, international custom, and binding bilateral, multilateral, or universal commitments. The scope of the breached obligation and the relationship between the injured parties and the responsible state, as well as other subjects of international law, all derive from these obligations. The structure of the international community and its relations are governed by these norms and duties. When these obligations are violated, the international order is disrupted, and international responsibility serves as a mechanism for restoring international relations and remedying the harm. The law of international responsibility concerns itself with breaches of international norms and obligations, and the fault or injury involved does not affect the applicability of responsibility.

Accordingly, the preservation of international public order has become so significant that safeguarding it is considered a duty of all states. As a result, there is a growing tendency within the international community to invoke international responsibility as a means of restoring this order. In this context, Article 48 of the 2001 Draft Articles on the Responsibility of States for Internationally Wrongful Acts, prepared by the International Law Commission (ILC), allows for the invocation of responsibility by states not directly injured by a breach of obligations. This article reflects a major development in the field of international responsibility, particularly with respect to the duty of states to uphold and maintain international public order—a development rooted in the growing communitarianism of the international legal system.

According to international custom, a state bears international responsibility for the breach of an international obligation if the act in question is attributable to it. This principle is affirmed in the ILC's Draft Articles on Responsibility of States for Internationally Wrongful Acts. Therefore, if an act or omission is attributable to a state and results in the breach of an international obligation, the state is deemed responsible under international law. It is now generally accepted that these rules also apply to international human rights law. Indeed, human rights treaty bodies such as the Human Rights Committee and the Committee Against Torture have applied the general principles of state responsibility explicitly or implicitly to fundamental human rights issues brought before them.

The existence of any human right implies a corresponding legal obligation. Every right entails a benefit, and every obligation involves a legal duty. International human rights law, broadly speaking, comprises a series of human rights and corresponding legal obligations. These human rights and legal obligations are so interwoven that they cannot be separated. Thus, in principle, every right implies a duty. Although neglect of these obligations may undermine the foundation of human rights, adherence to them provides a strong guarantee for the protection of such rights. This highlights the significance of international responsibility in both general international law and international human rights law in particular. If the system of international responsibility is weakened, international law—and, in this case, human rights law—cannot effectively achieve its objectives.

It is generally acknowledged that human rights reflect the inherent dignity of the individual, and the obligation of states to ensure their respect stems from the recognition of this dignity—a principle long declared by the UN Charter and the Universal Declaration of Human Rights. If human rights are indeed inseparable from human dignity and grounded in the recognition of that dignity, then the duty to respect them must be considered an obligation arising from a *jus cogens* norm of international law and must be imposed on all states.

Within this framework and based on the foregoing discussion, the right to health is recognized as one of the fundamental human rights in the international human rights system. This right is firmly grounded in various international treaties and customary law and may be regarded as part of the general principles recognized by developed legal systems. The first and most general expression—albeit implicit—of the right to health in international treaties can be found in the UN Charter. Although

the Charter does not explicitly mention the right to health, Article 55 obliges the Organization to promote higher standards of living and to address international health-related problems.

The second formal expression of the right to health is found in the Constitution of the World Health Organization (WHO), adopted in 1946, which affirms that the enjoyment of the highest attainable standard of health is a fundamental right of every human being and that the health of individuals and nations is essential to peace and security. However, the clearest and most comprehensive articulation of the right to health appears in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 12(1) of the Covenant, inspired by the WHO Constitution, states that the States Parties recognize the right of everyone to the highest attainable standard of physical and mental health. Article 12(2) elaborates on the steps States must take to achieve the full realization of this right.

The right to health is also prominently featured in other human rights treaties. For instance, Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination requires States Parties to guarantee the right to public health, medical care, social security, and social services without discrimination. Similarly, Article 12 of the Convention on the Elimination of All Forms of Discrimination Against Women mandates that States Parties take all appropriate measures to ensure equal access to health care services for men and women. Article 24 of the Convention on the Rights of the Child affirms every child's right to a standard of living adequate for physical, mental, spiritual, moral, and social development, and the right to enjoy the highest attainable standard of health and access to medical services.

It is worth noting that beyond these specific instruments, nearly all human rights documents and declarations adopted by the United Nations since 1948 have referenced the Universal Declaration of Human Rights. This widespread recognition constitutes sufficient evidence for the classification of the right to health as a rule of customary international law, making its observance binding on all states for the promotion of public health. Therefore, the right to health is both a standalone right and a prerequisite for the enjoyment of many other human rights. Although it may contain conceptual ambiguities and complexities, it imposes duties on states to eliminate obstacles to its realization, protect individuals against third-party violations, and create the necessary conditions for its enjoyment. These duties encompass three dimensions: respect, protection, and fulfillment.

International health law—built upon a diverse range of international instruments and oversight mechanisms at the national, regional, and global levels, with the WHO at its core—is developing within the context of modern health challenges. These include primary health care, health equity, health promotion, and health security. The right to health, as a human right, plays a crucial role in building healthy societies and establishing equitable health systems. It is one of the broadest and most complex human rights within the international legal framework. International health law demonstrates that the fate of all humanity is interconnected. If the right to life is the central human right in the civil and political domain, then the right to health serves as the core of economic, social, and cultural rights.

The increasing prominence of human rights and international health law highlights the growing importance of human and health security as components of good governance. States are obligated to take all necessary measures to prevent the spread of pandemics such as SARS, Ebola, and, more recently, COVID-19, both within their own territories and globally, and to treat individuals infected with or at risk of such viruses by mobilizing all available resources.

If a state's international obligations regarding the health of its citizens are framed as a duty of "maximum effort," its obligation to ensure the survival of its people is considered a "duty of result." The WHO, as the principal body for international health, adopted the International Health Regulations (IHR) in 2005 under the UN Charter, which came into effect in 2007. These regulations represent the second version of health-related legal instruments first adopted in 1969 in response to epidemic outbreaks. The 1969 version addressed only a limited set of communicable diseases, while the 2005 revision significantly expanded state obligations.

This thesis seeks to analyze, within the framework of the right to health, the specific obligations and international responsibilities of states during the outbreak of infectious diseases, including COVID-19.

2. Definitions

1. **Right to Health:** The right to health, as an inherent right, means that every individual is entitled to the highest attainable standard of physical and mental health. This right encompasses all medical services, public health, adequate food, appropriate housing, a healthy work environment, and a clean environment (Elsan, 2009, p. 52).

2. **International Responsibility:** A legal institution under which a country that commits an act contrary to international law must compensate for the resulting damage. This damage may stem from an unlawful act or a failure to act, both in violation of international law (Beikzadeh, 2015, p. 741).
3. **International Instruments:** Generally refers to any official written resolution or agreement by states (subjects of international law) in the form of a document or record, outlining the objectives and intentions of those states (Alsan, 2009).
4. **Communicable Diseases:** Diseases whose infectious agents or toxic byproducts can be transmitted—directly or indirectly—from person to person, or from animals and insects to humans (Hosseini, 2015).
5. **Fundamental Human Rights:** Typically refers to the legal protections within a legal system based on inherent, inalienable rights or natural rights. The concept of human rights has been promoted based on the idea that individuals possess such rights beyond any jurisdiction. However, their application varies across different legal systems with differing emphases.
6. **Citizenship Rights:** A set of rules governing relationships among individuals in society, considered as innate and natural human rights. These rights are non-transferable, indivisible, and belong to individuals who possess the nationality of a country, regardless of their race, ethnicity, religion, or class (Khosravi, 2018).

3. History of International Efforts

We begin by examining the history of international cooperation and the use of international law in controlling and combating infectious diseases. This historical trajectory can be traced back to European countries concerned about the spread of infectious diseases, typically introduced through trade routes from Asian countries.

3.1. The World Health Organization (WHO)

Following the establishment of the United Nations in 1945, the UN made efforts to unify and coordinate fragmented health initiatives. In 1946, the International Health Conference was held in New York with the participation of 64 countries and 10 international observer organizations. As a result, the Constitution of the World Health Organization was adopted and came into effect on July 10, 1947. Since then, the WHO has functioned as one of the UN's specialized agencies (Beikzadeh, 2015).

Currently, the WHO has 194 member states, and its headquarters is in Geneva. Article 21 of the WHO Constitution authorizes the organization to adopt regulations concerning health requirements and quarantine measures, as well as other methods designed to prevent the spread of diseases. These provisions enable updates to align with scientific and technological advancements and with evolving global health conditions. Under this authority, the World Health Assembly adopted the International Sanitary Regulations in 1951 to replace various fragmented and binding treaties among member states. In 1969, as part of the reform process, the title was changed to the International Health Regulations (IHR). With 196 states bound to it—including 194 WHO member states, the Holy See, and Liechtenstein—the IHR is among the most universally accepted international legal instruments.

According to Article 2 of the IHR, the goal of the WHO is to prevent, protect against, control, and provide a public health response to the international spread of diseases in ways that are proportionate to public health risks and that avoid unnecessary interference with international traffic and trade.

The IHR (2005) adopt a preventive approach. Rather than focusing only on confirmed causes for action, these regulations emphasize signs, evidence, and risks of international concern, adhering to the precautionary principle in international law. It is logical that a document concerning global health would adopt this approach, and the regulations and obligations designed for states follow the same principle. It has been stated that one of the key motivations for revising the regulations was the adoption of a preventive stance to enhance the effectiveness of global virus surveillance systems. States must understand that when it comes to public health, action should not rely solely on confirmed evidence—potential threats alone should trigger prevention and control measures.

3.2. Core Obligations of States under the 2005 International Health Regulations

The scope of the new regulations covers any event that could potentially spread internationally and goes beyond the natural spread of infectious agents. The expectation is that this open-ended approach will be upheld through the procedural and substantive obligations of member states, as well as the coordinating role of the World Health Organization (Fibi, 2011). In this regard, we begin by examining the first and most fundamental obligation of states regarding infectious diseases—an obligation that enables the implementation of subsequent responsibilities by the state itself, by other states, and by the WHO.

3.3. Surveillance

Surveillance systems refer to the continuous and systematic collection, aggregation, analysis, and timely dissemination of public health-related data to assess the health situation and, where necessary, evaluate the impact of public health interventions. The 2005 regulations specify the health-related events that each state, bound by these regulations, must report to the WHO. According to Article 6.1 of the regulations, all events that may constitute a public health emergency of international concern (PHEIC) must be identified and reported to the Organization. The origin of the situation is irrelevant to the obligation to report. These regulations aim to broaden their applicability through an open-ended structure.

3.4. Public Health Emergency of International Concern

To properly understand the duties and responsibilities under the International Health Regulations (IHR), it is essential to define this key term. The IHR outline a system for surveillance and notification, under which this type of situation must be detected and reported to the WHO. According to the IHR, this term refers to an extraordinary event as determined by relevant criteria (Fibi, 2011).

3.5. Analyzing the Evolution of Rules Based on the Concept of "Right"

Legal philosophers have presented various definitions of rights, each with its own content and legal implications. The "will theory" of rights emphasizes empowerment and autonomy, granting the right-holder control over their legal entitlements. In contrast, the "interest theory" focuses on safeguarding the interests of the right-holder (Solhchi, 2014). A more precise analysis requires distinguishing between rights as they currently exist and rights as they ought to be (Palagos, 2020).

3.6. State Civil Liability for Infectious Diseases

Regarding state civil liability in relation to infectious diseases, the issue must be analyzed under two major scenarios. The first pertains to infectious diseases whose outbreak is deemed unforeseeable. Here, it must be clarified that the concept of "unforeseeability" is very narrow, referring only to unprecedented and singular incidents with no historical precedent. Evidently, diseases such as plague, influenza, or other previously recorded infectious diseases are considered foreseeable in subsequent years. Therefore, a state cannot claim that its failure to take preventive measures is excusable due to the unpredictability of the exact timing of an outbreak. As stated earlier, holding the state responsible for infectious diseases aims to ensure stability and continuity in disease prevention. While actions such as public notification and implementing restrictions like quarantine fall within the scope of state obligations, they are superficial measures. The state is fundamentally obliged to eliminate the causes and sources of infectious diseases as much as possible through extensive research, mass vaccination, and related actions.

The criterion for determining whether an event is foreseeable or unforeseeable is a global standard. Thus, the state is obligated to equip itself with advanced tools for forecasting and preventing the spread of infectious diseases and cannot escape liability by citing a lack of necessary resources. The second scenario concerns diseases that are indeed foreseeable. Here, if Article 11 of the Civil Liability Law is taken as a reference, a distinction can be made between damages caused by the negligence of employees, the inadequacy of state facilities and equipment, or the general failure of the state to act—regardless of whether the omission is attributable to a specific individual. Nevertheless, the necessity of full compensation for those infected demands that victims should not be left to pursue unknown parties who—even if identified—may lack the capacity to

provide immediate or full redress. Instead, the state, which possesses the means to offer rapid and comprehensive compensation, must be held accountable. Of course, the state may seek recourse from employees or other affiliates whose actions or omissions contributed to the harm.

The distinction between foreseeable and unforeseeable infectious diseases can also be observed in customary norms. In many countries, certain diseases—having been registered and reported to the WHO—are no longer considered unexpected, whereas a rare illness that might occur only once in history is often seen as "abnormal." However, the rarity or exceptional nature of a disease does not exempt the state from its obligations to prevent its spread and to manage treatment and care for patients as swiftly as possible.

Public Health Provision: States are obligated to enhance the general health level of society through measures such as providing access to safe drinking water, sewage disposal, pollution control, and public health education.

Provision of Health and Medical Services: States must ensure that health and medical services are accessible and equitably available to all individuals, regardless of economic, social, or cultural distinctions.

Combating Infectious Diseases: States are required to take actions such as disease surveillance, quarantine enforcement, mass vaccination, and public education to prevent the spread of infectious diseases (Kashani, 2016).

3.7. Combating Infectious Diseases

Infectious diseases are among the most serious threats to public health. To combat these diseases, states are obligated to undertake the following actions:

Disease Surveillance and Monitoring: States must establish public health surveillance systems to continuously monitor and assess the status of diseases within their territories.

Quarantine: In the event of the outbreak of infectious diseases, states may impose quarantine measures to prevent the spread of the disease.

Vaccination: States must implement national vaccination programs to prevent infectious diseases.

Public Education: States are obligated to educate the public about infectious diseases and prevention strategies through widespread public health campaigns.

4. Foundations of International State Responsibility

4.1. Fault-Based Theory (Subjective Responsibility):

According to this theory, an act or omission that violates international law results in international responsibility only if it is committed through fault, negligence, or misconduct. The fault-based theory was first articulated by Hugo Grotius, who derived it from Roman law.

4.2. Risk-Based Theory (Objective Responsibility):

Given the principle of state sovereignty and non-intervention on one hand, and the absence of an effective enforcement mechanism in international law on the other, legal scholars have argued that the traditional fault-based theory is insufficient in international law, unlike in domestic legal systems. As a result, a new theory emerged—now known as the risk-based or objective theory of responsibility. Under this theory, any violation of international norms—whether customary or treaty-based—and any act contrary to international law entails responsibility, regardless of fault or negligence.

5. Sources of International State Responsibility

In this section, we examine the sources of state responsibility:

5.1. The International Law Commission (ILC)

The ILC, through extensive and continuous study, completed the draft articles on the responsibility of states for internationally wrongful acts during its 48th session, held in Geneva from July 6 to July 26, 1996. This work clarified several ambiguities in the field.

The ILC has thoroughly investigated international state responsibility. As stated in Article 1 of the Draft Articles, "Every internationally wrongful act of a state entails the international responsibility of that state" (Habibi Mojandeh, 1989).

The rules governing legal responsibility define the legal consequences of breaching other rules of international law, whether treaty-based, customary, or general principles (Setayeshpour & Abedini, 2016). Importantly, the establishment of responsibility does not necessarily require material damage. Any violation of international obligations may give rise to responsibility. States may incur responsibility through legislative acts, executive decisions, judicial rulings, actions by private individuals, and even acts committed during wars or internal revolutions.

5.2. International Responsibility

A breach of an international obligation—whether by action or omission—automatically results in international responsibility for the offending state, regardless of the origin of the obligation and even without a formal claim from the injured party (Ziaei Bigdeli, 2012). This is why the rules on responsibility are sometimes referred to as secondary obligations.

As international society transitions from coexistence to cooperation (MirMohammadi, 2010), despite its many positive and humanitarian implications, instances of collaborative breaches of international law have increased. It is now rare for internationally wrongful acts to be committed by a single state acting alone (Setayeshpour & Abedini, 2016).

Article 4 of the ILC Draft Articles provides that the conduct of any state organ is considered an act of the state under international law, regardless of whether the organ exercises legislative, executive, or judicial functions, and irrespective of its position within the governmental hierarchy—central or local.

To establish international state responsibility, the following conditions must be met:

1. A violation of an international obligation by the state;
2. Occurrence of harm or damage to another party;
3. A causal link between the state's act and the harm suffered;
4. Attribution of the harmful act to the state or one of its responsible organs or agents.

Regarding the fourth condition, which is critical in determining international responsibility, jurists agree that if the claimant cannot prove that the harmful act is attributable to a state organ, it is unlikely that a ruling for compensation will be granted.

Nonetheless, not all legal scholars agree on the current formulation of international state responsibility. Many jurists from developing countries argue that these principles require reforms favoring weaker states. According to "Nouro," the law of state responsibility has developed not only without considering the perspectives of smaller states but indeed against them. It is argued that this body of law is almost entirely built upon the unequal relationships between powerful and weaker states.

6. Conditions for the Realization of State International Responsibility

6.1. Internationally Wrongful Act

An internationally wrongful act constitutes the basis for state responsibility, since the legislative authority is considered a state organ and thus subject to responsibility. However, the mere enactment of a law does not automatically constitute a violation of an international obligation—especially when states have the capacity to implement that law in ways that do not violate their international commitments. In such cases, whether a violation has occurred depends on how the law is applied or enforced.

Article 13 of the International Law Commission's Draft Articles states that for a state's act to constitute a violation of an international obligation, that obligation must have been binding on the state at the time the act occurred.

Article 13 affirms the fundamental principle that a state can only be held responsible for breaching obligations that were binding at the time of the act. This reflects the principle of *intertemporal law* in international legal responsibility, as emphasized

by Judge Huber in the Island of Palmas case, where he stated that a legal event must be evaluated under the law applicable at the time of its occurrence (Habibi Mojandeh, 1989).

Article 2 of the Draft Articles defines state responsibility as arising from an internationally wrongful act, which may consist of one or more acts, omissions, or a combination of both. The wrongful act must meet two criteria: (1) it must be attributable to the state, and (2) it must breach an international obligation. The term "act" is preferred over "wrongful act" to encompass both action and omission. Many legal scholars who have used the term "wrongful act" have ultimately described it to include both actions and omissions—an approach adopted more out of necessity than precision. The term “act” or “conduct” is therefore more appropriate, as it includes both.

In international law, any act—whether legislative, administrative, executive, judicial, or military—may give rise to responsibility if it violates international obligations. For international responsibility to be established, the wrongful act must breach an international legal obligation, since international responsibility must be grounded in international norms and principles. These obligations derive from *jus cogens*, general principles of international law, customary law, and bilateral, multilateral, or universally applicable obligations. The scope and relevance of a violated obligation are shaped by the relationships between the injured parties, the breaching state, and other subjects of international law. The international legal order and relations among its members are regulated by these obligations. A breach disrupts this order, and international responsibility serves as a mechanism to repair relationships and compensate for the damage. The law of state responsibility focuses on the breach of obligations and rules of international law, and neither fault nor the occurrence of damage is necessary to trigger responsibility.

6.2. Attributability to the State:

The internationally wrongful act must be attributable to the state under international law. This is one of the key elements of a wrongful act, clearly stated in Article 1 of the Draft Articles on State Responsibility. For an act to be attributable—regardless of its legality—there must be a causal link between the actor and the act. It must be established that the act was committed by the state.

After the Iranian Revolution, when students following the line of Imam Khomeini occupied the U.S. embassy in Tehran, the United States filed a complaint with the International Court of Justice, citing the Vienna Convention on Diplomatic Relations and the 1955 Treaty of Amity. In the case of *United States Diplomatic and Consular Staff in Tehran*, the ICJ stated that to establish Iran’s responsibility, it must be shown: (1) that the conduct was legally attributable to Iran, and (2) that the conduct was in violation of Iran’s obligations under binding treaties or applicable rules of international law.

Thus, attribution is valid only when the conduct is carried out by official state organs or authorities. No distinction is made between the legislative, judicial, or executive branches, military or police forces, or any other organs, because the principle of state unity governs all.

6.3. States’ Supervisory Obligations:

Given the previously discussed notion of a public health emergency of international concern (PHEIC), we now return to the surveillance system mandated under these regulations. The WHO requires states to notify the Organization, to the extent possible, of any PHEICs detected outside their territories—especially those associated with human travel, insect vectors, or contaminated goods capable of transmitting disease.

Another duty under the surveillance system is to report situations that do not meet the strict criteria of a PHEIC but may still raise significant concern, particularly when there is insufficient information to inform decision-making.

Expanding the range of public health events under surveillance and incorporating risk assessment into the decision-making process is the most significant advancement of the new regulatory framework. As noted earlier, this change significantly strengthens effective monitoring of emerging infectious diseases—those that have newly appeared in a population or previously existed but are now increasing in incidence or geographic spread. The new regulatory strategy was designed to apply directly to such emerging infectious diseases, which are often unexpected and carry the risk of international spread.

6.4. The Obligation to Notify:

Another crucial obligation that complements surveillance is the duty to notify, which plays a key role in combating and controlling infectious diseases and preventing their international spread.

Article 6 of the 2005 IHR states that:

1. Each State Party shall assess events occurring within its territory using the decision instrument. All events that may constitute a public health emergency of international concern, based on collected health data and the decision-making instrument, must be reported.
2. The national IHR focal point shall notify the WHO within 24 hours using the most efficient communication channels available, and include public health measures taken in response. If the notification received by WHO falls within the domain of the International Atomic Energy Agency (IAEA), WHO must immediately inform the relevant agency.

Article 7 further provides that if a State Party has evidence of an unusual or unexpected public health event within its territory that may constitute a public health emergency of international concern—regardless of its origin or source—it must provide all relevant public health information to the WHO. In such cases, all requirements of Article 6 must be fully implemented.

6.5. Accountability

Following the obligation to notify, the next issue addressed is the requirement of a public health response. Article 13 of the International Health Regulations (IHR) states:

1. Each State Party shall, within five years from the entry into force of these Regulations, develop, strengthen, and maintain the capacity to respond promptly and effectively to public health risks and public health emergencies of international concern as outlined in Annex 1. The World Health Organization (WHO), in consultation with States Parties, shall publish guidelines to support the development of such public health response capacities in those countries.
2. Following an assessment based on Annex 1, a State Party may request a two-year extension for fulfilling the requirements of paragraph 1 of this article, provided it submits a justified needs report and an action plan. In exceptional circumstances, with the submission of a revised action plan, a State Party may request a second two-year extension from the Director-General of WHO. The Director-General, considering the technical recommendations of the Review Committee established under Article 50, shall decide on the request.

After the five-year period specified in paragraph 1, or after any approved extensions (either the first or second two-year term), the State must submit annual progress reports to WHO on the full implementation of these Regulations.

3. Upon the request of a State Party, WHO shall collaborate in responding to public health risks and other events by: providing technical guidance and assistance, assessing the effectiveness of control measures in place, and, where necessary, deploying international expert teams to assist in the affected region.
4. If, in consultation with the State Party, WHO determines under Article 12 that a public health emergency of international concern is occurring, in addition to the support outlined in paragraph 3, it may offer further assistance, including assessments of the international risk level and the adequacy of control measures. Such collaboration may also include mobilizing international aid to support national authorities and coordinate environmental assessments. Upon request, WHO must explain its rationale for proposed assistance.
5. Upon WHO's request, other State Parties shall, to the extent possible, support a health response coordinated by WHO.
6. If other countries are affected or threatened by the public health emergency, WHO shall provide them with appropriate guidance and assistance upon request.

Annex 1 of the Regulations defines the core public health response capacities as follows:

a) Rapid identification of necessary control measures to prevent the national and international spread of the event;

b) Required support through the deployment of experts, laboratory testing of samples in national or international reference labs, or logistical support such as equipment, supplies, and transport;

c) Regional support in case further investigation of the event is necessary;

d) Direct communication with higher-level health authorities and other officials for the rapid approval and implementation of control and containment measures;

e) Direct coordination with other relevant ministries;

f) Efficient communication with hospitals, clinics (primary health service centers), airports, seaports, ground crossings, laboratories, and other key operational points for disseminating WHO guidance on events within and beyond national borders;

g) Development, implementation, and maintenance of a national public health emergency response plan, including the establishment of multidisciplinary/intersectoral teams to respond to events that could become public health emergencies of international concern;

h) Provision of all the above within 24 hours.

6.6. Dispute Settlement Mechanism

The IHR address dispute resolution concerning the interpretation and application of the Regulations in Article 56. Initially, as in many international instruments, the article states that if a dispute arises between two or more States Parties, the parties must attempt to resolve it at the earliest opportunity through negotiation or other peaceful means such as informal arbitration, mediation, or conciliation. If such efforts fail, the parties may agree to refer the matter to the Director-General, who shall exert all efforts to resolve the dispute.

The Regulations also allow any State Party, at any time, to declare in writing to the Director-General that it accepts arbitration for all disputes concerning the interpretation or application of the Regulations or specific disputes involving another State Party. Arbitration shall be conducted in accordance with the Optional Rules for Arbitrating Disputes Between Two States of the Permanent Court of Arbitration and shall be binding if requested. Any State Party that has accepted the binding nature of arbitration shall consider the arbitral award final and binding. The Director-General shall appropriately inform the World Health Assembly of such cases.

Paragraph 4 of this article states that these provisions do not impair the rights of State Parties to invoke dispute resolution mechanisms available under other international agreements or established by other intergovernmental organizations, as long as they are applicable.

In the event of a dispute between WHO and one or more State Parties concerning the interpretation or implementation of the IHR, the matter shall be referred to the World Health Assembly.

Article 75 of the WHO Constitution provides that any question or dispute concerning the interpretation or application of the Constitution not resolved through negotiation or by the World Health Assembly shall be referred to the International Court of Justice (ICJ). However, the parties may agree on an alternative method of dispute settlement. The ICJ affirmed the validity of this article in the *Armed Activities on the Territory of the Congo* case.

This raises the question of whether disputes concerning the implementation and interpretation of the IHR may also be referred to the ICJ. As previously noted, Article 21 of the WHO Constitution authorizes the World Health Assembly to adopt regulations concerning sanitary measures, quarantine, and other procedures designed to prevent the international spread of disease. The IHR were adopted in this context. Therefore, it may be inferred that disputes over the implementation and interpretation of the IHR can ultimately be brought before the ICJ.

For example, it could be argued that China failed to fulfill its reporting obligations, which are rooted in the WHO Constitution, thereby providing grounds for a case before the ICJ. However, proving such a claim would be procedurally and legally complex (Spanillo, 2017).

6.7. States' Obligations from the Perspective of International Economic Law

In today's interconnected world, it is unsurprising that public health is closely linked to international economic law. Even during health-focused summits, trade has consistently remained a primary concern for states and a major incentive behind harmonizing quarantine measures, negotiations, and the establishment of various conventions. There is no doubt that the expansion of international trade has played a significant role in human progress and has brought numerous benefits. The improvement of living standards and public health is itself a result of economic development, influenced by the increasing volume of international trade. Nonetheless, international trade can also be a vehicle for the transmission of infectious diseases. As observed during the COVID-19 pandemic, many countries faced severe shortages of essential goods and raw materials, which significantly impacted their imports and exports. Given the direct correlation between public health and international

economic law, the emergence of health-related issues within the realm of economic law—especially during pandemics—is entirely justified.

As previously noted, this aspect of the compensation system is associated with the general theory of responsibility. State civil liability may result from the fault of actors with either a direct (e.g., government employees) or indirect (e.g., contractors) relationship to the state, particularly when such actors fail to act despite having the capacity to prevent harm.

For example, if state or non-state actors operating under government oversight in the fields of health or social control fail to fulfill their obligations—such as implementing quarantine or restrictions on movement and gatherings—the state bears direct civil liability for such omissions. This is because, customarily, the state is presumed to have the capacity to oversee its subordinate agents, and the harmful consequences of failure to fulfill legal duties must initially be borne by the state itself. Whether the state can subsequently seek recourse against the actual wrongdoer is irrelevant to the injured party.

6.8. The Restitutive System (System of Restitution)

This approach to civil liability aims to restore the injured party to the state they were in before the harm occurred. Accordingly, an infected individual should, as far as possible, be restored to their pre-illness condition in terms of both physical health and economic status. Clearly, this is the most equitable system conceivable for liability and compensation. However, the reality is that achieving this ideal is often impossible—for instance, how can one compensate a young child who lost their mother to COVID-19? It is evident that many harms resulting from patient deaths cannot be remedied with money.

The restitutive system (Nejandi Manesh, 2012), in theory, is like water that takes the shape of any vessel. Nevertheless, achieving conformity with the standard often requires non-monetary forms of compensation—such as criminal penalties, moral remedies, and symbolic acts. Certain elements of this system can be borrowed to enrich the general theory of responsibility, particularly the idea that the responsible state must make every effort to restore the previous condition—even if, in the case of fatal losses, such efforts are ultimately futile. These efforts serve to echo the conscience of victims of infectious diseases and should prompt policymakers to think more sustainably and adopt “prevention” as the path to aligning redress with harm.

Additionally, although the restitutive system is more advanced than the basic compensation model, it still retains punitive aspects. In cases where negligence exacerbates the effects of infectious disease, it may be necessary to publicly shame or impose harsher punishments on the responsible parties.

The foregoing considerations demonstrate that the restitutive system is highly situational and specific in nature, and applying it to the vast array of damages caused by infectious diseases over a short period is extremely challenging. Thus, a more comprehensive solution must be sought by examining the broader goals of civil liability.

6.9. The Integrated-Deterrent System

From a perspective grounded in human equality and sovereign responsibility, a particular infectious disease (e.g., COVID-19) should cause relatively equal levels of illness, mortality, and broadly defined "damage" in all similarly situated countries—whether developed or developing. The minimum level of loss recorded in a country that has followed necessary standards and engaged in long-term planning is the baseline. Other countries that fail to meet this baseline—whether due to negligence or unscientific responses lacking legal or managerial enforcement—demonstrate a failure in duty. If a state's overarching and sustainable policy in response to infectious disease aims to meet this baseline, then designing a civil liability system as a core tool to achieve this goal becomes feasible even under current conditions.

6.10. The Hybrid-Deterrent System

This model combines state civil liability with civil-criminal liability for public officials and others whose negligence, recklessness, carelessness, incompetence, fraud, embezzlement, or other offenses directly or indirectly intensified the impacts of infectious disease. At the apex, the state bears full responsibility for compensating all losses incurred. Except for basic humanitarian aid, the state has no right to demand financial contributions from the public. After providing full compensation, the state may pursue the real or legal persons responsible for the crisis—whether civilly, criminally, or both.

Despite criticisms that may be directed at this approach, it is, under current conditions, the only model that can realistically serve the goal of preventing the spread and damage of infectious diseases. When policymakers recognize that their positions—and possibly their lives—are at risk of sanction, they are far more likely to manage public health with diligence and accountability. They can no longer evade administrative or executive responsibility under vague or unenforceable standards.

Achieving this goal requires the state to adopt long-term, sustainable planning. In the not-so-distant future, we may observe severe infectious diseases that cause no significant losses or whose damage has been reduced to globally acceptable levels. Such progress would allow us to move beyond abstract notions of civil liability and celebrate pragmatic, life-saving governance that protects both human lives and public property.

6.11. The Compensation System

Perhaps the earliest goal envisaged for civil liability was the compensation of harm resulting from the actions of one person causing damage to another. In the modern society, the harm experienced by an individual—even if minimal—due to illness deprives them of a benefit and therefore raises the issue of entitlement to compensation (Khosravi, 2018). This objective of civil liability reflects a shift from criminal responsibility to civil responsibility and a reduction in disputes when financial harm is involved. Historically, if harm to personal property would trigger a tribal feud, the compensation system sought to minimize such hostility at the earliest opportunity. This system possesses the following features:

1. The occurrence of harm is a prerequisite for compensation. Thus, one cannot claim compensation for harm that is uncertain or where a causal relationship between the alleged agent and the damage has not been conclusively established. In the compensation system, the occurrence of an act is a necessary condition for asserting the right to compensation. Although the element of omission was later incorporated into the discourse, this expansion still did not extend to force majeure or natural disasters.
2. In the compensation system, damages are awarded only to the extent that they are definitively proven. Therefore, moral damages, loss of profit, and speculative losses are generally subject to doubt and contention. Additionally, there are fixed limits for personal and financial damages, beyond which no further claims can be made.

This system is not adequately suited to establishing state civil liability in the context of infectious diseases. This is because the compensation system requires that the harmful act or omission be committed by a human agent or their representatives. However, in the case of infectious diseases, the cause of harm is often considered force majeure, and even when human factors are involved, they are typically perceived as distant. Nevertheless, the compensation system has a third feature that can be employed to establish state liability for infectious diseases:

3. It may be argued that compensation, when derived from a new basis or cause, should only apply to loss of life and not property. However, this argument lacks logical foundation and is not widely supported. In liability law, no distinction is made between personal and financial damage with respect to compensation, though priority is given to personal injury. Financial losses are also significant and must be compensated, consistent with the overall philosophy of redress. This principle is especially evident in cases where financial loss is extensive and cannot be remedied by private individuals.
4. In the compensation system, civil and criminal responsibilities are intertwined. The liable party must provide compensation because their civil responsibility serves as a substitute for criminal punishment. In effect, someone who would have been punished under criminal law has had their liability converted over time. In some cases, compensation is accompanied by criminal sanctions—for instance, a thief might both reimburse the victim and be barred permanently from engaging in criminal behavior.

7. Conclusion

The right to health, as a fundamental human right, becomes even more critical in the face of diseases, epidemics, and pandemics, heightening states' responsibilities in safeguarding public health. This international responsibility becomes more significant in light of the duty to respect, protect, and fulfill obligations during pandemics and epidemics.

States must fulfill their responsibility to protect public health effectively and comply with their international obligations. Any breach of treaty obligations during pandemics results in international state responsibility. Therefore, respecting and

adhering to international law is of paramount importance for the global protection of fundamental human rights, including the right to health. Any breach of such obligations entails international responsibility.

International responsibility is one of the most vital and foundational institutions in international law. Any international legal obligation ignored by subjects of international law triggers their international responsibility. When we speak of international responsibility, we refer to secondary rules, which differ from primary rules. While primary rules directly establish obligations (such as treaty law), secondary rules govern the enforcement and consequences of breaching those primary rules. The consequences of non-compliance with primary rules are addressed through the legal institution of international responsibility, which mandates that a state committing an internationally wrongful act must compensate the injured state under international law.

International responsibility arises when a state breaches an obligation toward another state. Health is not merely defined as the absence of disease but encompasses complete physical and mental well-being. The objective of the WHO and all states is the promotion of health to the highest attainable standard for all individuals.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

Acknowledgments

Authors thank all individuals who helped us do this study.

Conflict of Interest

The authors report no conflict of interest.

Funding/Financial Support

According to the authors, this article has no financial support.

References

Alsan, M. (2009). Civil Liability for Natural Disasters (Comparative Analysis of Foundations, Limitations, and Judicial Practices with Emphasis on Earthquakes). *Biannual Journal of Legal Research (Shahr-e Danesh)*, *8*(16).

Beikzadeh, E. (2015). *International Organizations*. Majd Scientific and Cultural Assembly.

Fibi, E. L. (2011). Environmental Liability and the Tort System [comments] Rethinking Tort and Environmental Liability Laws. *Houston Law Review*, *24*(1).

Habibi Mojandeh, M. (1989). The Right to Health in the International Human Rights System. *Human Rights Journal*, *2*(1).

Hosseini, S. M. (2015). The Subsidiary Responsibility of the State in Compensating Unrecoverable Damages to Citizens. *Quarterly Journal of Comparative Legal Studies in Iran and International Law, Islamic Azad University*, *8*(28).

Kashani, J. (2016). Competent Authority for Addressing Liability Claims Against the State. *Biannual Journal of Judicial Legal Perspectives*(73).

Khosravi, H. (2018). Agency Theory in Light of Political Philosophy and Public Law. *Legal Research Journal of Shahid Beheshti University*, *21*(83).

MirMohammadi, M. (2010). *The Political Realism School: A Review of Philosophical Schools of International Law*. Mizan Legal Foundation.

Nejandi Manesh, H. (2012). State Sovereignty and International Human Rights Documents: Influence and Interaction. *Human Rights Journal*, *7*(2).

Palagos, B. A. (2020). Negligence, Medical Malpractice, Vicarious Liability, or Patient Responsibility: Who Should Pay When a Patient Contracts MRSA from a Healthcare Facility? *Indiana Law Review*, *7*.

Setayeshpour, M., & Abedini, A. (2016). Saudi Arabia's Use of Chemical Weapons Against Iran During the Imposed War: Public Responsibility. 112-116.

Solhchi, M. A. (2014). State Responsibility for Violations of International Human Rights Law by Multinational Corporations. *Quarterly Journal of Public Law ResearchVL - 16*(43).

Spanillo, M. (2017). *Philosophy of Law: Introduction*. Rutledge.

Ziaei Bigdeli, M. R. (2012). *Public International Law*. Ganj-e Danesh Publishing.