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SYMPOSIUM ON GLOBAL HEALTH AT A CROSSROADS PART I

WHAT IS A GLOBAL HEALTH EMERGENCY AND WHO SHOULD DECIDE? AFRICA CDC'S DECLARATION OF A "PUBLIC HEALTH EMERGENCY OF CONTINENTAL SECURITY" IN A CRISIS-RIDDEN WORLD

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Introduction

On August 14, 2024, the upsurge of mpox across more than a dozen African countries was declared a public health emergency of international concern (PHEIC).[1] As is often the case, the World Health Organization's (WHO) director-general made this determination on the basis of advice tendered by an expert committee convened under the International Health Regulations (IHR)—the world's only international agreement on public health emergency prevention, preparedness, and response.[2] The timing of this declaration, however, differed in one crucial respect from past PHEIC declarations: just one day earlier, the Africa Centres for Disease Control and Prevention (Africa CDC) had issued its own regional alert, designating the outbreak a "Public Health Emergency of Continental Security" (PHECS).[3]

The introduction of parallel health emergency declaration authorities is not unique to Africa. Similar authorities were introduced in the European Union in 2022.[4] Regional alerts were also actively debated during the recently concluded negotiations to amend the IHR in 2022–2024, with several countries proposing to authorize the declaration of a "regional public health emergency of international concern," or a determination of similar character, by the WHO director-general or by WHO regional directors.[5]

Regional alerts may help catalyze faster, more contextualized responses, particularly where global mechanisms are perceived as slow, politicized, or inattentive to regional realities. Yet these alerts also raise other sets of questions.[6] As member of the WHO expert committee that was mandated to review and provide technical advice to countries on proposed IHR amendments, I joined the committee in encouraging countries to consider the

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[1] World Health Organization Press Release, WHO Director-General Declares Mpox Outbreak a Public Health Emergency of International Concern (Aug. 14, 2024).

[2] World Health Organization, International Health Regulations (3d ed. 2005).

[3] Africa CDC Press Release, Speech of the Director General/Africa CDC on the Declaration of Mpox as a Public Health Emergency of Continental Security (PHECS) (Aug. 13, 2024).

[4] Stefania Negri, *The European Union as a Global Health Actor: Challenges and Opportunities*, 52 J. L. Med. Ethics 755 (2024).

[5] Proposed Amendments to the International Health Regulations (2005) Submitted in Accordance with Decision WHA75(9) (2022).

[6] Clare Wenham et al., *Problems with Traffic Light Approaches to Public Health Emergencies of International Concern*, 397 The Lancet 1856 (2021).

practical difference between a regional alert mechanism and existing PHEIC powers. Since the latter set of authorities have been relied on in the past to address outbreaks confined largely to one region, our committee saw risk in duplicating or fragmenting already strained alert and response systems.[7]

Africa CDC's PHECS authority, however, cannot be understood in merely functional terms. As I discuss in this essay, the emergence of this authority should be read in light of historical injustices, and as a normative response to the structural inequities of the global health security architecture; an architecture that, both directly and indirectly, has long privileged lives in the Global North over those in the Global South.[8] In this sense, the PHECS mechanism reflects a deliberate effort to reclaim agency in the face of a global regime whose selective urgency has too often left African populations vulnerable and underserved.

Whether regional alerts can achieve this emancipatory purpose remains far from clear. Neither WHO nor Africa CDC possesses the financing or operational capacity to independently ensure the rapid deployment of treatments, vaccines, diagnostics, and health personnel.[9] In the absence of global solidarity and robust multilateral coordination, parallel declarations may exacerbate incoherence and inefficiency within an already fragmented system, marked by chronic cycles of panic, neglect, and heavily constrained health financing.

In the sections that follow, I examine the origins and contours of Africa CDC's emergency declaration authority, contextualizing the PHECS mechanism and comparing it to the IHR's PHEIC regime. Through a closer look at the political and normative drivers of this new regional alert authority, I argue that while the Africa CDC's authority represents a legitimate response to the longstanding marginalization of public health concerns on the continent, it may ultimately reproduce, rather than remedy, the shortcomings of the global system it seeks to challenge.

The Promises and Pitfalls of Emergency Alerts Under the IHR

Since the International Sanitary Conferences of the nineteenth century, the international community has sought to balance international responses to public health threats against the need for minimal interference with international traffic and trade.[10] Today, this balancing act is captured by the IHR, a legally binding international agreement adopted by 196 states parties under the auspices of WHO.[11]

The WHO director-general's authority to determine a PHEIC was among the most significant innovations introduced during the wholesale revision of the IHR in 2005.[12] The elements of a PHEIC are beguilingly straightforward: Under Article 12, the determination can be issued where an "extraordinary event" constitutes a "public health risk to other states through the international spread of disease" and where such an event "*potentially* requires a coordinated international response [emphasis added]."[13] A great many public health events in the world may therefore meet the standards of a PHEIC.

[7] Report of the Review Committee Regarding Amendments to the International Health Regulations (2005) (2023).

[8] David McCoy et al., *Global Health Security and the Health-Security Nexus: Principles, Politics and Praxis*, 8 BMJ GLOB. HEALTH e013067 (2023).

[9] *The Mpox Response: African Leadership, Global Responsibility*, 405 THE LANCET 2179 (2025).

[10] David P. Fidler, *From International Sanitary Conventions to Global Health Security: The New International Health Regulations*, 4 CHINESE J. INT'L L. 325 (2005).

[11] WORLD HEALTH ORGANIZATION, *supra* note 2.

[12] David P. Fidler & Lawrence O. Gostin, *The New International Health Regulations: An Historic Development for International Law and Public Health*, J. L. MED. ETHICS 85 (2006).

[13] WORLD HEALTH ORGANIZATION, *supra* note 2.

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In general, the director-general exercises this authority after consulting an emergency committee of experts convened under Articles 47 to 49 of the IHR. Although the director-general is not legally bound to follow the committee's views, the advice of the emergency committee is almost always followed in practice. More than fifteen years since the IHR's entry into force, the director-general has departed from the committee's recommendations only once.[14]

Despite being crucial to the PHEIC determination process, the IHR says little about the procedural rules governing the emergency committee's work. Deliberations take place behind closed doors and the reasoning behind decisions is only partially disclosed. This opacity has fueled concerns that decisions of the emergency committee frequently apply strict legal criteria inconsistently.[15]

To some extent, the WHO director-general and the emergency committee may have no choice but to account for political and economic considerations alongside scientific or legal ones. As the highest level of alert under the IHR, a PHEIC signals the need for international cooperation to mobilize resources, health personnel, and technical support. For affected countries, however, a PHEIC determination may also mark the beginning of punitive (and often illegal) trade and travel restrictions.[16]

Yet PHEIC alerts have also often been triggered unevenly in the past, reflecting geopolitical hierarchies of concern. The West African Ebola outbreak of 2014–2016 made these dynamics painfully clear. Nearly six months elapsed between the first WHO country office report of an outbreak from Guinea in March 2014 and the eventual PHEIC declaration in August.[17] The delay squandered precious time for Sierra Leone, Guinea, and Liberia, where the virus was already spreading widely. The timing of the declaration, coming shortly after evidence of international spread to Nigeria and the United States, underscored the perception that WHO moved decisively only once the Global North was directly implicated. By the outbreak's end in 2016, more than 11,000 lives had been lost in West Africa,[18] and WHO faced intense criticism for privileging the interests of wealthy states over the urgent needs of African populations.[19]

Africa CDC: Charting a New Public Health Order for Africa

While talks of a continental public health agency for Africa stretched back more than a decade, it was this failure of international solidarity in the 2014–2016 Ebola virus outbreak response that accelerated Africa CDC's establishment in 2016.[20] Headquartered in Addis Abiba, Ethiopia, Africa CDC is often described as the driver of a "new public health order" on the continent.[21] It took up this mantle ably during the COVID-19 pandemic, leading on several high impact partnerships and mechanisms, including Africa Joint Continental Strategy for COVID-19, African Vaccine Acquisition Task Team, the Africa Medical Supplies Platform, Africa

[14] Clare Wenham & Mark Eccleston-Turner, *Monkeypox as a PHEIC: Implications for Global Health Governance*, 400 THE LANCET 2169 (2022).

[15] *Id.*

[16] Roojin Habibi et al., *The Stellenbosch Consensus on Legal National Responses to Public Health Risks: Clarifying Article 43 of the International Health Regulations*, 19 INT'L ORG. L. REV. 90 (2020).

[17] Matiangai Sirleaf, *Ebola Does Not Fall from the Sky: Structural Violence & International Responsibility*, 51 VAND. J. TRANSNAT'L L. 477 (2018).

[18] World Health Organization, *Ebola Outbreak 2014–2016: West Africa* (last visited Sept. 22, 2025).

[19] Suerie Moon et al., *Post-Ebola Reforms: Ample Analysis, Inadequate Action*, 356 BMJ (2017).

[20] Carl Manlan, *Africa's CDC Can End Malaria*, 317 SCIENTIFIC AMERICAN (2017).

[21] Nelson Aghogho Evaborhene, Sheila Mburu & Cynthia Waliaula, *Building a New Public Health Order in Africa*, THINK GLOB. HEALTH (Feb. 23, 2023); John N. Nkengasong, *A New Public Health Order for Africa*, FINANCE & DEV. MAG. - IMF (2021).

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Pathogen Genomics Initiative, Partnership to Accelerate COVID-19 Testing, and the Partnership for African Vaccine Manufacturing Initiative.

The egregious resource inequities of the COVID-19 pandemic, however, left an indelible mark on the agency and on the collective memory of African health leaders.[22] The authority to declare a PHECS emerged against the backdrop of broader conversations on African public health sovereignty and self-reliance. In 2022, in tandem with the Agency's elevation from a technical arm of the African Union to an autonomous public health agency, a new PHECS authority was established.[23]

The aggressive spread of the mpox outbreak in July 2024 served as the first definitive test of the declaration on August 13, 2024. Announcing the agency's decision to declare a PHECS, Jean Kaseya, then-director of the agency, cited the strong imperative for Africa to take action in the face of mpox "alone rather than relying on WHO."[24] For the agency, the declaration of a PHECS amounted to a "strategic decision to strengthen the collective and coordinated response to the outbreak across the continent."[25] Nicaise Ndembi and colleagues, who served on the twenty-member "Emergency Consultative Group" that advised the Africa CDC director the day before the declaration, also called the decision a major step toward driving "regional ownership" of outbreak response, fostering a more "resilient and self-reliant Africa."[26]

Africa CDC's PHECS declaration may have forced WHO's hand. The Organization issued its own PHEIC determination the next day, and by September 2024, Africa CDC and WHO's African Regional Office issued a joint continental preparedness and response plan for Africa, using a "one team, one plan, one budget, and one monitoring and evaluation framework" approach to address the outbreak.[27] While this coordination helped strengthen disease surveillance, expand laboratory testing, roll out vaccination, and improve treatment and care of people with mpox, shortfalls remain – aggravated by the lapse of financial support for global health efforts in the wake of the new U.S. administration.

From a legal standpoint, the definition of a PHECS is even more slippery than that of a PHEIC. The Africa CDC's Statute acknowledges the possibility of an alert, but does not define the term, nor does it specify who makes the determination or according to what criteria. The Agency's amended Statute simply states that the Agency can declare a PHECS "in close consultation with affected member states and, as appropriate, relevant stakeholders."[28]

While the legal contours of a PHECS are unclear, practice may be somewhat more instructive. According to Ndembi and colleagues, the mpox "Emergency Consultative Group" decided to "expand" on the meaning of a PHECS within the Africa CDC Statute, defining it as "a significant event posing a risk to other countries, requiring immediate continental-level action to prevent and mitigate disease spread."[29] The group moreover "developed specific criteria," grouped into nine areas, to assist with situation assessment, including disease

[22] Caesar A. Atuire & Olivia U. Rutazibwa, *An African Reading of the Covid-19 Pandemic and the Stakes of Decolonization*, YLS TODAY (July 29, 2021).

[23] Statute of the Africa Centers for Disease Control and Prevention (2023).

[24] Luke Taylor, *Mpox in Africa: WHO and Africa CDC Consider Declaring Public Health Emergency as Cases Spike*, BMJ q1795 (2024).

[25] Africa CDC, *Explainer – Declaration of Public Health Emergency of Continental Security* (2024).

[26] Nicaise Ndembi et al., *Mpox Outbreaks in Africa Constitute a Public Health Emergency of Continental Security*, 12 THE LANCET GLOB. HEALTH e1577 (2024).

[27] Nicaise Ndembi et al., *Africa's Mpox Strategic Preparedness and Response Plan: A Coordinated Continental Effort to Boost Health Security*, 13 THE LANCET GLOB. HEALTH e191 (2025).

[28] Africa CDC, *supra* note 25, Art. 3(e).

[29] Ndembi et al., *supra* note 27.

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severity, transmission dynamics, health system impact, availability of health products, public concern or fear, economic and social impact, and global health security (including alignment with the IHR).[30] According to Ndembi and colleagues, this framework was developed to "guide a transparent and consistent decision-making process for declaring a PHECS in Africa."[31]

The use of emergency declarations, however, is never without consequence. For affected countries, such designations may undermine sovereignty and carry reputational, political, and economic costs. To ensure the staying power and legitimacy of the criteria underpinning a PHECS declaration, broad and transparent consultation, negotiation, and ultimately, legal drafting is needed. Without this intentional heavy lifting to clarify the legal and procedural contours of the declaration, criteria for future PHECS may be changed on the whims of the next group of individuals overseeing an outbreak response.

Conclusion

The web of possible emergency alerts became even more intricate in September 2025, with the entry into force of the amended IHR and the WHO director-general's authority to declare a "pandemic emergency." Whether global or regional, this proliferation of authorities to declare a public health crisis first begs a practical question: Who has authority to declare what, on what basis, and with what consequences? It also raises deeper and more existential quandaries: Have emergencies become the only reliable trigger for international cooperation on global health issues? If so, what does this reveal about the limitations of the current global order and the difficulty of sustaining cooperation outside moments of acute crisis?

The growing resort to emergency declarations speaks to both the possibilities and the pathologies of contemporary global health governance. On one hand, emergency declarations can mobilize resources, draw global attention to neglected crises, and provide political cover for collective action. For Africa CDC, the PHECS represents an important assertion of regional agency, a visible institutional mechanism through which African states signal that their populations merit urgent and coordinated protection even in the absence of recognition from Geneva or other global power centers. It may also jolt global bodies into action—if anything out of a concern for maintaining institutional authority and relevance.

On the other hand, emergency politics is a double-edged sword. First, proliferating declarations may fragment authority, generate confusion among states when rapid action is needed, and undermine already fragile coordination. The dual declarations on mpox in 2024 illustrate this risk, highlighting, at least momentarily, a period of institutional rivalry and the absence of a coherent global architecture for alert and response. Second, over-reliance on emergency declarations entrenches a reactive cycle of "panic and neglect" in global health in which attention and resources are mobilized only after crises reach catastrophic proportions. This crisis logic is ill-suited to the structural and long-term investments in health systems, workforce, and equity that global health security requires.[32]

The emergence of Africa CDC's PHECS authority must therefore be read in two registers. Normatively, it constitutes a corrective and a refusal to accept the selective urgency of a global system that has historically marginalized African lives. Functionally, however, it risks reproducing the very shortcomings it seeks to overcome, reinforcing a fragmented and crisis-driven architecture in which declarations and emergency actions dissemble the weaknesses of cooperation in times of "normalcy."

[30] *Id.*

[31] *Id.*

[32] McCoy et al., *supra* note 8.

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The challenge moving forward is to harness the normative power of emergency declarations without allowing them to become ends in themselves. Regional institutions like Africa CDC will play an increasingly important role in this effort. Their credibility will depend not only on asserting agency through parallel alerts, but on demonstrating that such mechanisms can enhance coherence, accountability, and equity in practice. This, in turn, requires greater clarity in legal and procedural frameworks, sustained investment in operational capacity, and, above all, commitment by global actors, including WHO and high-income states, to take regional voices seriously in shaping the collective response.

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