

International agreements to prevent NCDs: what exists, what's proposed, and what difference might they make?

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The WHO-Unicef Lancet Commission on a future for the world's children recently called for a new protocol to the Convention on the Rights of the Child, which would cover harmful marketing to children like ultra-processed products. © Shutterstock

Could legally binding treaties help bridge the accountability gap? And if so, what are the current and potential opportunities to use them to enhance accountability for NCDs?

In February, I joined 400 civil society representatives from 85 countries at the third [Global NCD Alliance Forum](#) [1] in Sharjah, UAE.

The forum focused on 'bridging the gap' between promises made at the international level to address noncommunicable diseases (NCDs) and action taken at the national level. In its [recent discussion paper](#) [2], NCD Alliance breaks the issue down further into five specific gaps: in leadership, investment, care, community engagement, and accountability.

The gap in accountability for implementing NCD programs and policies came up often during several sessions I attended at the forum, and one of the workshops I co-organised on behalf of the [McCabe Centre for Law & Cancer](#) [3]. One idea put forward for how to address it was to **make more use of legally binding international treaties to strengthen accountability**.

Could legally binding treaties help bridge the accountability gap? And if so, **what are the current and potential opportunities to use them to enhance accountability for NCDs?** To explore these questions, let's look at what treaties currently exist, what new treaties have been proposed, and what additional avenues for accountability they might provide.

I will focus here primarily on proposals relating to regulating NCD risk factors, although there are also many treaties and treaty proposals relevant to NCD treatment. I will also treat the terms 'international agreement', 'treaty', 'convention', 'legally binding framework', and 'framework convention' as essentially interchangeable for the purposes of this post.

What international agreements currently govern the response to NCDs?

People working on NCDs will likely be familiar with the [WHO Framework Convention on Tobacco Control \(FCTC\)](#) [4], which brings together 181 parties to address the ‘**devastating health, social, economic, and environmental consequences of tobacco use and exposure to tobacco smoke**’.

Since entering into force 15 years ago, the [WHO FCTC has had a profound impact](#) [5] on both national action and international cooperation to address the global tobacco epidemic by accelerating the adoption of new tobacco control laws and supporting their defence from legal challenges by the tobacco industry. It remains the only treaty that the World Health Assembly has adopted under its power to negotiate international conventions.

Countries also have obligations under human rights treaties, such as the International Covenant on Economic, Social, and Cultural Rights, to protect and promote the right to health, including by adopting evidence-based policies to prevent and treat illness, and to report on their progress. **Many civil societies are using these monitoring mechanisms to ensure that governments act on NCDs.** Civil society organizations in the Americas, for example, have submitted [shadow reports](#) [6] to the Committee on the Elimination of Discrimination Against Women advocating for stronger tobacco control in Argentina (a non-party to the WHO FCTC), and participated in [hearings](#) [7] before the Inter-American Commission on Human Rights to ensure private sector accountability for the marketing of unhealthy commodities.

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With air pollution recognised as a major NCD risk factor [8] in 2018, and growing awareness of the [environmental impact of food systems](#) [9] and [tobacco production](#) [10], international environmental law is increasingly important to NCDs. The [Paris Agreement](#) [11] of the [UN Framework Convention on Climate Change](#) [12], for example, recognises the importance of the right to health and its links to climate in its preamble, while the [Convention on Long Range Transboundary Air Pollution \(CLRTAP\)](#) [13] and the [ASEAN Agreement on Transboundary Haze Pollution](#) [14] require actions to mitigate air pollution in Europe and South East Asia. **Given the shared causes of climate change and air pollution, both the Paris Agreement and the transboundary air pollution conventions are central to tackling air pollution as an NCD risk factor,** and environmental treaties may provide opportunities for coalition building for other risk factors as well.

What are some of the proposals for new international agreements on NCDs?

Many treaties modelled on the WHO FCTC have been proposed for other NCD risk factors. These include a proposed [Framework Convention on Alcohol Control](#) [15] and a [Global Convention on Healthy Diets](#) [16]. Like the WHO FCTC, these would aim to ensure measures are implemented at the domestic level, address issues relating to the globalization of businesses that sell unhealthy commodities, and establish new forums for international cooperation and information sharing.

Other proposals aim to more clearly embed NCDs into existing international agreements. Health and human rights experts recently published an [open letter](#) [17] calling for WHO and the Office of the High Commissioner for Human Rights (OHCHR) to adopt human rights guidelines on healthy and sustainable food systems, modelled on the [International Guidelines on HIV/AIDS and Human Rights](#) [18] adopted by UNAIDS and OHCHR in the late 1990s and early 2000s. Health and environment groups are increasingly cooperating to ensure that Paris Agreement implementation maximises [health co-benefits](#) [19], while the parties to the CLRTAP recently [amended one of its protocols](#) [20] to cover particulate matter – **a leading cause of the health impacts of air pollution.**

International agreements outside the health sector can also advance NCD action. An example is the call for a new protocol to the Convention on the Rights of the Child in the recent [WHO-UNICEF Lancet Commission on a future for the world's children](#) [21], which would cover harmful marketing to children like unhealthy products marketing and harmful social media advertising.

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The health sector might also learn from creative proposals relating to trade and the environment, such as the [Agreement on Climate Change, Trade, and Sustainability](#) [22] currently being negotiated by New Zealand, Fiji, Costa Rica, Iceland, and Norway, which aims to phase out fossil fuel subsidies, reduce barriers to trade for environmental goods such as solar panels, and harmonise environmental labelling standards. And there are ongoing negotiations on a treaty on [business and human rights](#) [23] taking place in the UN Human Rights Council, which will have implications for how to regulate the private sector in relation to NCDs.

Will treaties provide more avenues for accountability?

Do such legally binding instruments provide more opportunities to hold states accountable in practice? Or do they simply create another set of promises at the international level, with all the same implementation gaps as non-binding political commitments?

The answer is that it will depend on the treaty. Many treaties do create accountability mechanisms, including:

- reporting systems that allow for monitoring of commitments (which exist under the WHO FCTC and environmental treaties)
- new forums for political engagement (such as the Conferences of the Parties of the WHO FCTC and environmental treaties)
- implementation review mechanisms which can identify and help remedy gaps (common in environmental and human rights law, and being piloted under the WHO FCTC)
- access to formal dispute settlement at the international level (generally between states but in the case of human rights treaties, also between individuals and the state)
- the creation of new accountability mechanisms at the domestic level (which is provided for in some human rights treaties)

However, creating a treaty does not inherently ensure strong accountability mechanisms. How any new treaty will be monitored, implemented, reviewed, and enforced has to be negotiated and agreed on by the relevant countries. At least at the international level, a strong accountability mechanism is not an automatic consequence of reaching agreement on a legally binding instrument – countries can agree to legal obligations without committing to strong oversight of them.

Conversely, it is possible for countries to agree to accountability mechanisms, particularly transparency requirements and monitoring, without necessarily taking on new legal obligations. Non-legal reporting and monitoring systems in NCDs include the [WHO NCD progress monitor](#) [24] (for the WHO Best Buys for NCDs), the [WHO Report on the Global Tobacco Epidemic](#) [25] (which reviews implementation of a subset of WHO FCTC policies for all WHO members including non-parties) and the SDG [Voluntary National Reviews](#) [26].

That said, formal legal obligations can often make a difference at the domestic level, even if they are only softly enforced at the international level. In many countries, a binding treaty may open opportunities that a non-binding instrument will not – it might allow civil society to bring litigation before domestic courts to compel stronger laws and policies, create legal duties on public officials to align their actions with the treaty, or change how constitutional rights are interpreted. Domestic constitutions often incorporate international legal obligations, but not international political commitments. Further, treaties can be more strongly embedded in political accountability mechanisms at the national level, because they may be negotiated over longer periods of time by a wider cross-section of ministries, and because ratifying and implementing them is often a process involving parliamentary oversight (although conversely, this can make it harder to achieve strong commitments in them).

Overall, the global governance of NCDs is diverse, and each of the existing and potential agreements I've discussed has opportunities and limitations in terms of their potential to advance accountability for NCDs. But understanding what options are available at the international level and how they might work can help us think about how they relate to the implementation of NCD prevention and control at the national level – and in doing so, **help bridge the gap between the two.**

About the Author

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supporting countries to adopt and defend laws and policies to prevent NCDs and on policy coherence between health and international economic law. Suzanne is an international lawyer by training, and has previously worked for the UN Special Rapporteur on the Right to Health and for the Lawyers Collective, a New Delhi-based NGO focusing on HIV and human rights. She holds qualifications from the University of Cambridge, the University of Melbourne, and the Hague Academy of International Law. You can follow her on Twitter at [@zhousuzanne](https://twitter.com/zhousuzanne) [27].

This blog "[International agreements to prevent NCDs: what exists, what's proposed, and what difference might they make](https://old.ncdalliance.org/news-events/blog/international-agreements-to-prevent-ncds-what-exists-what%E2%80%99s-proposed-and-what-difference-might-they-make) [28]?" first appeared online at the [McCabe Centre for Law & Cancer](https://www.mccabecentre.org/) [3]. The NCD Alliance thanks McCabe Centre for Law & Cancer for permitting us to publish it here.

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Links

[1] <https://ncdalliance.org/NCDAF2020>

[2] <https://ncdalliance.org/resources/bridging-the-gap-on-ncds-from-global-promises-to-local-progress-policy-brief>

[3] <https://www.mccabecentre.org/>

[4] <https://www.who.int/fctc/en/>

[5] https://tobaccocontrol.bmj.com/content/28/Suppl_2?

[6]

https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ARG/INT_CEDAW_NGO_ARG_46_7947_E.pdf

[7] https://www.youtube.com/watch?v=AVlvJmRU6_A

[8] <https://www.mccabecentre.org/news-and-updates/air-pollution-perspective-one.html>

[9] <https://www.thelancet.com/commissions/global-syndemic>

[10] <https://apps.who.int/iris/bitstream/handle/10665/255574/9789241512497-eng.pdf;jsessionid=AAC279A3B078D1D97B1EA3D3A2317754?sequence=1>

[11] https://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf

[12] <https://unfccc.int/resource/docs/convkp/conveng.pdf>

[13] http://www.unece.org/fileadmin/DAM/env/lrtap/lrtap_h1.htm

[14] https://haze.asean.org/?wpfb_dl=32

[15] [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(19\)31883-5/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(19)31883-5/fulltext)

[16] <https://www.consumersinternational.org/media/2211/recommendations-for-a-convention-on-healthy-diets-low-res-for-web.pdf>

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[18] <https://www.ohchr.org/Documents/Publications/HIVAIDSGuidelinesen.pdf>

[19] <https://www.who.int/news-room/events/detail/2020/11/14/default-calendar/2020-global-conference-on-health-and-climate-change>

[20] <https://www.unece.org/?id=52568>

[21] [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(19\)32540-1/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(19)32540-1/fulltext)

[22] <https://www.mfat.govt.nz/en/trade/free-trade-agreements/climate/agreement-on-climate-change-trade-and-sustainability-accts-negotiations/>

[23] <https://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOnTNC.aspx>

[24] <https://www.who.int/publications-detail/ncd-progress-monitor-2020>

[25] https://www.who.int/tobacco/global_report/en/

[26] <https://sustainabledevelopment.un.org/vnrs/>

[27] <https://twitter.com/zhousuzanne>

[28] <https://www.mccabecentre.org/news-and-updates/international-agreements-to-prevent-ncds.html>

[29] <https://old.ncdalliance.org/taxonomy/term/27>

[30] <https://old.ncdalliance.org/taxonomy/term/980>