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Public health agencies' obligations and the case of Zika

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Abstract

This article focuses on the initial reactions to the Zika epidemic by national and international public health agencies. It presents and analyzes some responses public officials made about sexual and reproductive health at the inception of the epidemic. It also describes the different challenges and obligations faced by local and international public health agencies, as these have not been clearly outlined. The article argues that these agencies have different obligations and should fulfill them despite existing obstacles. While international agencies should honor their leadership role and make recommendations at a meta-level, local agencies should provide, in the case of Zika, a framework for empowerment and grant women the freedom to achieve sexual and reproductive health so that they can avoid the consequences of this epidemic.

KEYWORDS
abortion, international public health agencies, public health, local public health agencies, sexual and reproductive health, sexual and reproductive rights, Zika

1 | INTRODUCTION

Public health has always been a challenge to "standard" bioethical thinking. Public health moves away from an individualistic perspective of health to take a societal/population approach to it. Public health also defends policies that may be restrictive or impose a cost for some individuals in favor of the wellbeing of the collective. In the era of Zika, however, it still needs to commit to the collective but this time by offering reproductive possibilities to individuals and not by limiting them. It should foster policies respecting all persons, especially the more disadvantaged ones.

This article focuses on the initial reactions to the Zika epidemic by national and international public health agencies. It presents and analyzes some responses public officials have made concerning sexual and reproductive health at the inception of the epidemic. In addition, it distinguishes the different challenges and obligations local[1] and international public health agencies have and sustains that these differential obligations have not been clearly outlined.

2 | SOME FACTS

Consider some data about the Zika epidemic itself. The Zika virus infection is caused by the Aedes mosquito bite. And it has also been discovered that it can be sexually transmitted by infected people (symptomatic or not). Zika is usually asymptomatic or causes mild illnesses such as fever, rash, muscle/joint pain and conjunctivitis. Severe disease and fatalities are uncommon.[2] Yet Zika has also been associated with autoimmune neurologic conditions including the Guillain-Barré syndrome (GBS) in those infected. Although the Zika virus infection during pregnancy is a mild disease, an unusual increase in cases of congenital microcephaly has significantly raised concern about pregnant women and their families. There is approximately a 13% possibility of having a baby with severe neurological problems when Zika infection has been present during pregnancy.[3] In addition to microcephaly, Congenital Zika Syndrome (CZS) is described as follows: "Abnormalities at neurological examination include hypertonia or spasticity, hyperreflexia, irritability, tremors and convulsions. Neuroimages often reveal calcifications, ventriculomegaly, and cortical disorders [. . .] Hearing and visual abnormalities appear to be present. [. . .] Umbilical hernia, clubfoot and arthrogriposis have been described. . .".[4] The causal link between the Zika virus and these abnormalities was confirmed in

[1] The use of "local", "national", and "domestic" refers to the same level or kind of agency as opposed to international or regional ones.

[2] WHO. (2016a). Pregnancy management in the context of Zika virus. Interim Guidance, March 2, Geneva. p. 1.

[3] Sun, L. (2016). For Zika-infected pregnancies, microcephaly risks may be as high as 13%, *The Washington Post 25* May. Retrieved from https://www.washingtonpost.com/news/to-your-health/wp/2016/05/25/for-zika-infected-pregnancies-microcephaly-risk-may-be-as-high-as-13-percent/

[4] Miranda-Filho, D., de B., Martelli, C., Ximenes, R. A., Araújo, T. V., Rocha, M. A., Ramos. R. C., . . . Rodrigues, L. C. (2016). Initial description of the presumed congenital Zika syndrome. *American Journal of Public Health*, *106*(4), 598–600.

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mid-April.2016.[5] And regrettably, there is no cure or treatment for Congenital Zika Syndrome beyond physical and occupational therapy.

The diagnosis is not straightforward. The detection of the virus using RT-PCR (reverse transcription polymerase chain reaction) should be done in maternal serum within five days of the onset of symptoms or in urine up to three weeks afterwards. This detection is not easy when nearby specialized clinics do not exist and when approximately 80% of the cases are asymptomatic. Other serological tests show an increased likelihood of cross reactions with other flaviviruses, such as dengue or yellow fever. In addition, the confirmation of Congenital Zika Syndrome can be established in late pregnancy. Thus, there are problems with the diagnosis and there is no treatment. Because of these uncertainties there is need for further research.

The major impact of this epidemic has been detected in the most deprived part of Brazil and in very poor countries like El Salvador. Even though Zika affects women, men and families, it disproportionally harms poor women from the endemic areas. In Brazil 72% of microcephalic babies come from the northeastern states: Bahia, Paraiba, Pernambuco and Rio Grande do Norte.[6] This epidemic has already spread to at least 30 countries in the region.[7] Obviously, affluent islands in the Caribbean, as well as many cities, are dealing with Zika (mosquitoes do not discriminate when it comes to biting) but people from wealthy areas may have better means with which to tackle the virus and its consequences (better, more and nearer health services, etc.). However, women from the poorest areas will have to endure a pregnancy that can turn nightmarish and they later have to care for the child by themselves. It is quite common for men to abandon women, leaving them with the sick child. The continual need to care for the child involves a major loss in income or jobs, thus perpetuating poverty. It promotes a vicious circle of poverty. It is, undoubtedly, a bleak picture.

Of course, vector control and prevention are important and should be reinforced but until these mosquitoes are eradicated, what should these women do? These poor women cannot help being outdoors. They lack potable water; water is kept in containers. The water is stagnant, and the climate is hot and humid. Without money for repellent, how can they escape mosquito bites? Even if vector control is important, it does not fully address the problem. Eradication is not immediate and, in practice, the mosquito appears to be quite resilient. There is also a need to expand research, given the many uncertainties the epidemic presents, a demand for early diagnosis, treatments for pregnant women and vaccines…but this will take time. These are necessary steps but they are not sufficient. In the meantime, sexual and reproductive health is a key issue.

[5]Rasmussen. S. A., Denise, J., Jamieson, M. D., Honein, M. A., & Peterspm, L. R. (2016). Zika virus and birth defects – Reviewing the evidence for causality. *New England Journal of Medicine*, [Epub ahead of print].

[6]Diniz, D. (2016). Zika virus and women, *Cadernos da Saúde Pública*, *32*(5), e00046316.

[7]On May 12, 2016 the first autochthonous case of Zika was reported in Tucumán. Argentina.

3 | RECOMMENDATIONS AND RESPONSIBILITIES

Given this situation, in the wake of this epidemic, with the uncertainties the Zika crisis has presented, what have some of the local responses been?

Public health officials in Colombia, Ecuador, El Salvador, Brazil and Jamaica have issued recommendations advising women not to become pregnant for two years.[8] For the sake of the argument it will be granted this is adequate advice, evidence based, with a contingency plan to prevent the infection in two years so that the recommendation is worthwhile and effective. Even granting the latter, this is not trivial advice. Given women's short reproductive lifespan, two years at a certain age may hinder the possibility of building a family. But if the woman is young enough, it may be a rational option. In the middle of the outbreak, not getting pregnant may be a wise option to consider — a good recommendation that a well-intentioned friend could suggest. However, local public officials' recommendations imply additional obligations that a friend does not have.

The following considerations explore different kinds of recommendations and their implications. In addition, the obligations of public health agencies and how these responsibilities apply to different types of agencies – such as international-regional and local ones – are examined.

The World Health Organization (WHO) and the Pan American Health Organization (PAHO) are international public health agencies. They have six core functions. The first one says "*Providing leadership on matters critical to health* and engaging in partnerships where joint actions are needed", the third one proposes "*setting norms and standards* and promoting and monitoring their implementation" and the fourth core function establishes "*Articulating ethical and evidence-based policy options*".[9] These core functions were set out in the Twelfth General Program of Work that should cover the period from 2014 to 2019. International public health agencies, therefore, have a strong and important leadership role and they should set standards and policies that are ethical and evidence-based. This role is fundamental in the middle of an epidemic under the situation just described.

Therefore, three distinctions should be made regarding international or regional public agencies' recommendations:

1. International or regional public health agencies guide the actions of countries by providing counseling based on the best information and evidence they have. These agencies should provide sound technical cooperation to countries. As mentioned this is one of their main objectives.[10]
2. These international or regional recommendations function at a meta-level. Recommendations apply to the world or a region and are followed by local governments and local ministries of health.

[8]Ahmed, A. (2016). El Salvador advises against pregnancy until 2018 in answer to Zika fears. *New York Times*, January 23; Diniz, *op. cit*. note 6.

[9]See core functions of WHO. Retrieved from http://www.who.int/about/role/en/

[10]Ibid.

3. In some cases these recommendations may actually be met or they may set the parameter for subsequent policies. Some countries will be able to follow them but others will not.

The obligations of an international or a regional public health agency and those of a local one are not the same as the former does not have to provide the local infrastructure and health care. However, local public health agencies do have this latter obligation. The need for this provision can be grounded on justice and on the special obligations public health agencies have towards their citizens.[11] In addition, the obligations local public health agencies have can also be justified from the recipients' point of view (for example, from the human rights perspective). In fact, Latin American countries strongly endorse human rights[12] (in some cases extremely expensive and even experimental treatments are provided based on human rights arguments).

In addition, public health recommendations may have different implications and require different responsible agents when they cannot be met. Consider the following cases:

A. "It is recommended that ARVs are given to HIV patients with CD4 counts lower than 500". This is the ideal treatment to follow, but many countries may lack the economic resources to be able to comply and, thus, disregard the recommendation. If the recommended care is not provided, the responsibility lies with the state.[13]
B. "It is recommended that people with type 2 diabetes do diet and exercise". Even if it may be difficult for some persons to diet or exercise, achieving the recommendation is not via an "external control" but mostly up to the person herself. Note that the responsibility shifts from the state to the patient. State responsibility is limited to the issue and proper communication of the recommendation and a minimal infrastructure.[14] In this case, the responsibility of following up the recommendation lies mainly with the person.
C. "It is recommended not to get pregnant during two years or during the Zika outbreak". Here this recommendation implies as in B. a shift in the responsibility away from the local public agency to the person. However, achieving this behavior does not depend only on the person. There are external factors that cannot easily be controlled. Thus, in order to comply with the recommendation, external conditions such as access to sexual and reproductive health, contraception, etc. should be offered by the state and local government. The responsibility will lie first with the state and, second, with the woman.

The diverse implications of recommendations should be acknowledged and the different obligations of public health agencies should be considered. In early June the WHO advised: "In order to prevent adverse pregnancy and fetal outcomes, men and women of reproductive age, living in areas where local transmission of Zika virus is known to occur, must be correctly informed and oriented to consider delaying pregnancy; and follow recommendations (including the consistent use of condoms) to prevent human immunodeficiency virus (HIV), other sexually transmitted infections, and unwanted pregnancies."[15] As was argued above, at an international level the recommendation may be acceptable as many countries will be able to reinforce the existing infrastructure to provide the needed care and make the recommendation feasible.[16] However, at a local level, countries that adopt international recommendations should fulfill their obligation to their citizens, in this case, to women. The distinction made by Amartya Sen between "freedom to achieve" (given by the set of opportunities) and "actual achievements" is quite relevant in this context.[17] Local public health agencies should guarantee availability and accessibility to sexual and reproductive health care. They should guarantee the freedom to achieve.

In El Salvador, announcements advised waiting until 2018 to consider pregnancy.[18] As was pointed out above, this recommendation per se may not be problematic; what does pose problems, however, is the actual possibility of fully complying with this advice or putting it into practice in this country. Consider some data regarding El Salvador: the United Nations Population Fund (UNFPA) specifies that half of El Salvador's population is below 25 years and that approximately one-third of births take place among women under 19.[19] A study published in 2015 "Adolescent Sexual and Reproductive Health in El Salvador"

[11]Daniels, N. (2008). *Just health: Meeting health needs fairly*. Cambridge: Cambridge University Press; Marmot, M. (2015). *The health gap: The challenge of an unequal world* (1st Ed). London: Bloomsbury Press; Powers, M., & Faden, R. (2006). *Social justice: The moral foundations of public health and health policy*. Oxford: Oxford University Press.

[12]In fact, human rights have also been incorporated into PAHO's work as an ethical and legal framework. Pan American Health Organization, Health and Human Rights. 50th Directing Council of PAHO. 62nd Session of the regional committee of WHO for the Americas. 2010. Washington DC US. Retrieved from https://www.un.org/disabilities/documents/paho_mh_resolution.pdf

[13]It could be argued that this responsibility in extremely poor countries is also shared by the international community, but the discussion goes beyond this paper.

[14]There are social determinants of health that are implicit (having time to exercise, outdoor public places to exercise, healthful food); however, indoor exercise is possible. In many cases we should try to avoid highly caloric food or eat smaller portions. Consequently, this recommendation is in most cases feasible even if the conditions are far from ideal. The will and information available to the person play a crucial role (only in very extreme conditions is this recommendation impossible to follow).

[15]WHO. (2016b). Prevention of sexual transmission of Zika. 7 Jun.

[16]WHO, *op. cit*. note 9. See especially the fourth one.

[17]"In considering the respective advantages of responsible adults, it may be appropriate to think that the claims of individuals on the society may be best seen in terms of *freedom to achieve* (given by the set of real opportunities) rather than *actual achievements*. For example, the importance of having some kind of a guarantee of basic healthcare is primarily concerned with giving people the capability to enhance their state of health. If a person has the opportunity for socially supported healthcare but still decides, with full knowledge, not to make use of that opportunity, then it could be argued that the deprivation is not as much of a burning social concern as would be the failure to provide the person with the opportunity for healthcare." Sen, A. (2011) *The idea of justice*. Cambridge: Harvard University Press, 238 (my emphasis).

[18]Diniz, *op. cit*. note 6.

[19]Retrieved from http://www.unfpa.org/transparency-portal/unfpa-el-salvador

explains that "adolescents were not educated enough about their sexual and reproductive health rights and have limited use of and access to contraception. Alcohol and violence were found to be associated with risky behaviors [. . .]".[20] El Salvador is one of the most conservative countries where no abortion is allowed regardless of the reason (even in cases of danger to the life of the woman, rape, etc.). How can these teenagers and young women without resources take care of themselves in a context of violence, frequent rapes, and unavailable contraception? Asking them to be responsible for a situation that normally goes beyond their control is unacceptable. The only efficacious way to avoid getting pregnant is by not having sexual relations. Advising women to refrain from pregnancy for two years is burdensome and unrealistic (especially if they are in a relationship). Yet even this may not suffice given the conditions presented above, such as the high incidence of rapes, no emergency contraception, etc.

Simply issuing the recommendation and not providing the adequate infrastructure and care avoids the responsibility the government and their public health agencies have. Moreover, a subtle and unfair way to blame the victim and re-victimize her will probably be the consequence: shifting the full burden of responsibility to the victims, while the state does not uphold its own responsibility. These women may publicly be perceived as guilty of having a baby with microcephaly. They will be blamed for not having been careful enough. Therefore, in this case, the recommendation to avoid pregnancy is quite problematic.

El Salvador is a specific case. However, although the provision of contraception and sexual education may differ in the region, it remains a debt in rural and poor areas of Latin America. The region has high unplanned pregnancy rates. Thus, public officials of local governments can reasonably make these recommendations if they are, at the same time, providing the adequate care, methods and necessary education to avoid getting pregnant. They need at least a minimal infrastructure or the political will and resources to build it. If they are not doing this, such a recommendation may be highly questionable and unfair.

4 | CONFOUNDING FACTORS ON RECOMMENDATIONS

Issuing recommendations is no simple task and some recommendations may pose difficult challenges. Public health agencies should provide tools to ameliorate the health of peoples and they should do it in an ethical and evidence-based way. As was specified, international public health agencies have a leadership role they should honor. Ethics analysis allows for a reflection so international organizations can provide sound and useful technical cooperation even if, at first sight, that may seem challenging.

Before examining some of the obstacles that recommendations may face, note the situation of these impoverished women. What if an already pregnant woman suspects she is infected, has Zika symptoms, or has a confirmed diagnosis? Even if measures are taken to avoid pregnancy, their success will never be absolute. Moreover, if these public health agencies wish to be consistent with the previous recommendation to delay pregnancy, abortion should be offered as an option.[21] What is to be done when a pregnant woman knows or suspects she has Zika is unclear. No single response to this situation exists (every women can have a different emotional response to Zika-affected pregnancy, and will vary about whether she want to continue pregnancy). This means that each woman will know how to assess whether she wants to continue the pregnancy and care for a child with a potential risk of this syndrome, or whether she cannot confront the prospect of microcephaly and wishes to interrupt the pregnancy. Some women – for religious beliefs, life-goals, age or whatever be the reason – are likely to continue no matter what happens; but for others, this situation will produce fears and anxiety, and their pregnancies will be a torment. They may also feel they cannot afford a child with such malformations in their already impoverished family. Public officials must recognize that when dealing with moral agents, they have to take into account women's values, expectations and fears. This is particularly relevant in the light of these very personal decisions. This was proposed by the PAHO and endorsed by State members in September 2012.[22] Hence, can international public health agencies be indifferent to a relevant recommendation if it signifies the possibility of terminating pregnancy?

Two challenges seem to be present for international public health agencies regarding the latter recommendation: a. laws and b. the denial and lack of visibility of the relevance of the problem. However, these challenges can and should be surmounted.

To the first challenge, remember that public health is embedded in the state, it must work within the limits of the law and should respect the judgment of elected officials. However, public health often functions as the voice of social conscience and a champion for the disadvantaged, who disproportionally suffer from injury, disability and disease.[23]

In addition, note that laws can sometimes hamper adequate public health policies and need reforms. Consider, for example, how laws or policies regarding opiates for pain and palliative care are being amended or how laws criminalizing, say, sex workers or homosexuals or viewing homosexuality as an illness are changing. The PAHO's document early quoted says: "History has shown, moreover, that the law may require actions that are not ethical and that certain ethical actions may not be legal. While this is usually not the case, it behooves us to

[20] Cortez, R., Revuelta, K. A., & Guirola, Y. (2015). Adolescent Sexual and Reproductive Health in El Salvador, Health, Nutrition and Population (HNP) Discussion Paper, Family of the World Bank Human Development Network, Washington D.C., USA.

[21] A discussion of the ethics of abortion goes beyond this article. But it is clear that if the goal is to avoid pregnancies, abortion and interruption of pregnancies should be considered.

[22] Pan American Health Organization (PAHO). (2012). *Bioethics: Towards the integration of ethics in health*. 28th Pan American Sanitary Conference-64th Session of the Regional Committee, Washington, DC. (Document CSP/28/14, Rev.1). Retrieved from http://new.paho.org/hq/index.php?option=com_docman&task=doc_download&gid=18416&Itemid=&lang=en

[23] Steinbock, B. (2008). "Public health ethics" Lecture, May seminar at FLACSO, Buenos Aires.

keep in mind that just because the law requires something does not necessarily make it ethical."[24] Moreover, in some cases – such as in El Salvador – it can be argued that national laws penalizing all kinds of abortions do not comply with human rights and international law.[25]

Even if the ethics of abortion is not analyzed in this article,[26] it should be acknowledged that criminalizing abortion does not prevent abortions. Indeed, studies show how the legalization of abortion has lowered the number of abortions.[27] In this sense, prohibitive laws are inefficient. Women will terminate their pregnancies anyway and will risk their health and their lives. José Gomes Temporão, a former Brazilian health minister, said abortion was the nation's fourth-leading cause of maternal mortality. Citing restrictions he said, "[They] drive poor women to have unsafe, back-alley abortions or perform self-abortions."[28] Thus, laws against abortion mainly punish women and penalize the poor ones (as middle- or upper-class women will be able to seek safe, illegal abortions). Evidence shows that unsafe abortions are one of the leading causes of morbidity and mortality of young healthy women.[29] Thus, it is a very relevant issue for public health. Is it ethical to establish public health interventions that are not only inefficient but unfair? The Zika epidemic highlights these existing inequalities and may provide a window to correct them. Now may be the time to modify some illegal and some restrictive and inefficient laws regarding reproduction.

Another barrier is a supposed threat based on sovereignty. Countries are sovereign and they enact their own laws and policies. However, international public health agencies do not intervene in their sovereignty when they provide advice or explain the best way to proceed to avoid an epidemic or to ease its effects. They only provide the best counsel. They exercise their leadership role. As was argued in the previous section, international public agencies act at a meta-level.

Moreover, this advice is fundamental for local public health agents. It allows them to reflect on their own policies and they may choose to modify them. For some public officials this kind of recommendation is useful and can foster change. Without this critical and ethical analysis, provided by respected international and regional public health agencies, several unethical laws and policies will continue.

Yet, in the case of Latin America, this recommendation is very relevant because some countries in the region allow abortions or pregnancy termination given the conditions this epidemic presents (this is the case of Colombia). No uniform situation exists in the region. And recommendations should also consider the situation of those countries that are able to follow the appropriate advice. Thus, an international public health agency has to provide adequate recommendations even if this may entail introducing legal changes in some countries.

Other constraints relate to the second challenge: denial and the lack of visibility of the relevance of the problem. That is the case of the unspoken situation of poor women and a subtle denial of their welfare and rights for other societal considerations. This co-exists with an unrecognized taboo in relation to abortion. Drug users, homosexuality, transexuality, prostitution can be challenged, laws or regulations asking for their protection and recognition are being introduced,[30] but the sexual and reproductive health of women cannot.[31] A veiled double standard prevails, as wealthy women will be able to have safe abortions, while poor women will be exposed to harm and death. This taboo is so embedded and overlooked it even acts to silence discussion at an international level. There is a self-assumed restriction: the termination of pregnancy cannot even be pondered – much less suggested – no matter what the situation is. Even in the dramatic and dilemmatic situation depicted above, it is the woman who must tackle such a severe decision. A clear recommendation on the essential role abortion has in addressing the Zika epidemic is highly resisted even at an international level.

Yet the role of international public agencies is to provide the adequate advice at a meta-level and each local public authority will have to evaluate how to implement it. Should local public agencies choose not to, they will have provide the relevant reasons for not doing so and introduce other relevant safeguards.

5 | INTERNATIONAL RESPONSES

How did some international public health agencies react? The WHO's response at the beginning of the epidemic was to avoid the problem.[32] Some documents presented the choice of terminating pregnancy as an option but in a very feeble way. The document "Pregnancy management in the context of Zika virus" ends the last point saying: "Women who wish to discontinue their pregnancy should receive accurate information about their options *to the full extent of the law*, including harm reduction where the care desired is not readily available."[33] In this

[24]*PAHO*, *op. cit*. note 22, p. 4.

[25]Comité de las Naciones Unidas de los derechos humanos (2010). *Reporte de las violaciones de los derechos de las mujeres debido a la penalización absoluta del aborto* (sesión 99) Geneva. Retrieved from http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/SLV/INT_CCPR_NGO_SLV_100_10027_S.pdf

[26]See note 22.

[27]Sedgh, G., Singh, S., Henshaw, S. K., Bankole, A., Shah, I. H., & Ahman, E. (2012). Induced abortion: Incidence and trends worldwide from 1995 to 2008. *The Lancet*, *379*(9816), 625–632.

[28]Johnson, R., & Magalhaes, L. (2016). In Brazil, Zika fuels abortion debate. *The Wall Street Journal 8 March*. Retrieved from http://www.wsj.com/articles/in-brazil-zika-makes-getting-pregnant-a-fraught-choice-1457433041

[29]OMS (2012). "*Aborto sin riesgos: Guía técnica y de políticas para sistemas de salud*", (2nd edn). Montevideo.

[30]And this is the situation in Latin America regarding homosexuality and the trans collective. See Luna, F. (2016). Entre el tabú y el doble standard: aborto, derechos de las personas LGBT y técnicas de reproducción asistida en Argentina. *Revista de Bioética y Derecho & Perspectivas bioéticas*, *36*, 5–22.

[31]Ibid; Ariza, S., & Saldivia, L. (2015). Matrimonio igualitario e identidad de género si, aborto no. *Derecho y Critica Social*, *1*(1), 181–209.

[32]For example the following document does not mention this possibility. WHO (2016c). "Psychosocial support for pregnant women and families with microcephaly and other neurological complications in the context of Zika virus", February, Geneva.

[33]WHO, op. cit. note 2. The section is: 2.6. Care for pregnant women with possible Zika virus related fetal microcephaly and/or other brain abnormalities. It quotes WHO (2015). "Safe abortion: Technical and policy guidance for health systems", author's emphasis.

recommendation certain points should be stressed: It is not just "information" but services to allow the termination of pregnancy. However, let us suppose that "information" implies also providing the corresponding access to services. Note that "harm reduction" seems to exhaust the ethical options to offer. Yet, although it may be important to consider harm reduction when the care is unavailable, a document like this should ask, at least, for efforts to provide the care as soon as possible. As it is written, it seems "easily" to accept all obstacles as absolutely insurmountable. A second and crucial point is that including the "full extent of the law" closes all possibilities for the revision or modification of existing rulings. Deleting this clause does not mean intervening in the country's legal system. It merely provides the suitable recommendation. It explains what should be done. This recommendation may be helpful in Colombia where abortions can be carried out, but not for Brazilian or El Salvadoran women. Brazil only accepts abortion when the life of the woman is in danger or when the fetus is anencephalic – two very extreme cases that cannot be applied in the current epidemic. As was mentioned in the case of El Salvador, there are no legal grounds for abortions. If the international public health recommendation is clear, local public officials may consider what to do and how to meet it. It functions as a regulative idea. The two challenges mentioned in the previous section seem to be present in this first recommendation. Self-restriction and fear of intervening in the legal system were in place.

Slightly more assertive is the document "Zika strategic response framework & joint operations plan".[34] When speaking of personal protection it states that "Risk communication will be targeted towards pregnant women and those of childbearing age, taking into account their *sexual and reproductive health and rights*".[35] This means recognizing that women do have sexual and reproductive rights. This is a big step that the first document ignores. However, when providing details it says, "WHO and partners will provide support to ensure women and adolescent girls' rights to make their own decisions about pregnancy and childbirth are gender rights – based [on] and *within national laws*".[36]

Again, the reference to existing national laws introduces a strong barrier. The shadow of a supposed interference with sovereignty appears. However, as argued it is well known that there are laws that should be challenged or at least reassessed, especially, in the light of new needs and an exceptional situation. When laws run up against certain human rights, they should not be endorsed. But again, the self-imposed limits continue to operate in this recommendation.

In a different vein, the PAHO issued a relevant document. This report, "Ethics Guidance on Key Issues Raised by the Outbreak",[37] tackled these difficult challenges in a clear and transparent way.[38] The Introduction specifies "[...] that ethics is the "discipline [that] allows for continual analysis and reflection on the law and on what should be required by law." Although this is a document is written from an ethical perspective, this sentence introduces a crucial point: "the possibility of a critical stance regarding current laws." This thought is compelling. Even though it may be obvious to philosophers and bioethicists, it is less clear to public officials or physicians. Thus, it is quite relevant to stress this possibility as there is a tendency to consider laws immutable or as facts that cannot be challenged.

In the following paragraph it acknowledges that "Ethical recommendations to address the issues raised by the outbreak pose *challenges* that range widely and include resource limitation and *legal barriers*."[39] Thus, it recognizes that laws can function as barriers and constitute challenges that local public officials should address. This does not mean interfering with sovereignty. Each country will decide how to protect the health of its citizens, if it will follow human rights advocates, or will not.

The following paragraph clearly specifies what to do: "A salient recommendation that resulted from the Zika Ethics Consultation is the ethical imperative to give all women the capacity to choose among all relevant reproductive options. Taking into account the significant mental anguish about reproductive issues that women experience during the Zika virus outbreak, along with the ethical duties to minimize harms and *to allow for decisions* to be made on the basis of the *beliefs, values, situation, and concrete reality of each woman*, the capacity to choose should include the full set of options *including contraception and termination of pregnancy*. This should be framed as equitable access to comprehensive sexual and reproductive health. Promotion of women's capacity to choose goes in tandem with an ethical obligation to support and protect their health."[40] As stated before, this "capacity to choose" can be understood in Sen's terms as a freedom of achievement where a set of opportunities is offered by public health.

Given the different possibilities and legislations in the region, the document argues for equitable access to reproductive options, as well as for the moral right to choose. And it recognizes that "Women can only be empowered in their decision-making if all options are appropriately supported. They must not be blamed, punished, or left unsupported as a result of their reproductive decisions."[41] This means that those women that choose not to have an abortion are welcome to do so. They should be respected, and their wellbeing and care and the care for their children should be provided. The decriminalization of abortion just allows women who do seek to terminate their pregnancy to do so safely and respectfully.

The positions defended in this document are in stark contrast to those that did not even acknowledge the problem and cared little about the unfairness imposed on some of the most neglected people on the planet. This is the necessary reasoning international public health agencies should bring to the table. It clearly explains what to do and why.

[34]WHO (2016d). Zika strategic response framework & joint operations plan February, Geneva.

[35]Ibid: 10, author's emphasis.

[36]Ibid: 23, author's emphasis.

[37]Pan American Health Organization (PAHO). (2016). Zika ethics consultation: Ethics guidance on key issues raised by the outbreak, Washington D.C. p.5.

[38]The author had the honor of chairing this Zika Consultation.

[39]Ibíd: 5, author's emphasis.

[40]Ibíd: 5, author's emphasis.

[41]Ibid: 7, author's emphasis.

It is also in line with the United Nations High Commissioner for Human Rights, Dr. Zeid, who expressed it clearly: “Upholding women's human rights is essential if the response to the Zika health emergency is to be effective…” “laws and policies that restrict access to sexual and reproductive health services [are] in contravention of international standards, must be repealed and concrete steps must be taken so that women have the information, support and services they require to exercise their rights to determine whether and when they become pregnant.”[42] Zeid included emergency contraception, maternal healthcare and safe abortion services. In addition, Zeid said: “Laws and policies that restrict her access to these services must be urgently reviewed in line with human rights obligations in order to ensure the right to health for all in practice.”[43]

This clear position of the High Commissioner should be endorsed. Even if human rights have been criticized for being relative to the occidental culture, such an objection is not valid. Moreover, in Latin America human rights are vehemently upheld; the right to health is essential. It is recognized in most of the Constitutions and legal documents.[44] However, in Latin America, surprisingly, only some human rights are endorsed. When requiring the fulfillment of human rights it would seem that women's human rights – and especially sexual and reproductive rights – are the only ones that are always overlooked.

Thus, given the obstacles and challenges presented, it should be celebrated that an international and regional public health agency such as the PAHO has given a clear recommendation. It demonstrates its leadership role. Undoubtedly, a document that supports an ethical and respectful approach to women during this epidemic is vital. And it is a major step.

Local officials should contemplate advocating and implementing public health policies that embrace the wellbeing of poor women even if this means amending rulings or laws. These public health officials should provide the framework for private and individual decisions about building a family or “surviving” this epidemic. They should help to empower these women. A recommendation as clear as the one the PAHO issued can give local officials an effective tool.

6 | FINAL THOUGHTS

Sexual and reproductive health and rights are still a pending issue across Latin America and the Zika crisis has cruelly exposed this. It should not be forgotten that poor women affected by Zika have already been punished by chance, fate or the social lottery for having been born and raised in places that lack a basic infrastructure to develop their capacities and who are now ravaged by this epidemic. This is the reality in which the Zika epidemic exists. A framework for empowerment should be set and should allow for freedom to achieve sexual and reproductive health, thus enabling women to avoid the consequences of this epidemic. Part of the challenge is offering a public setting that would permit women to pursue their personal life plan even if they belong to the poorest segment of society.

Social and economic disadvantages plus a strong gender bias play a huge role and cannot be overlooked. Local public agencies should offer the required infrastructure and sexual and reproductive health in order to provide the recommendations discussed so that all women, and especially those with scarce resources are cared for and not re-victimized. But this bias is not just local. The bias against women can also be perceived in the lack of clear recommendations provided by international public health agencies. Some recommendations show a lack of commitment to these overlooked women due to taboos or fear of intruding on a supposed sovereignty. International and local public health agencies have different obligations and they should fulfill them despite the obstacles.

If the non-ethical conditions and in some cases the violation of human rights are ignored, not only will there be a perpetuation of poverty and exclusion, there will also be an increment in existing gender, social and health disparities.

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[42]Zeid, Y. F. (2016), Upholding women's human rights essential to Zika response. Retrieved from http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=17014&LangID=E

[43]Ibid.

[44]For an extended analysis of legal support and the right to health care in Latin American countries, see González Vélez, A. (2008). Causal salud: Interrupción legal del embarazo, ética y derechos humanos. Flasog-Andar. Retrieved from http://www.despenalizacion.org.ar/pdf/publicaciones/causal-salud.pdf