

2021

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Recommended Citation

Grossman, Claudio (2021) "Pandemics and International Law: The Need for International Action," *Human Rights Brief*. Vol. 24 : Iss. 3 , Article 2.

Available at: <https://digitalcommons.wcl.american.edu/hrbrief/vol24/iss3/2>

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PANDEMICS AND INTERNATIONAL LAW: THE NEED FOR INTERNATIONAL ACTION

*by Claudio Grossman**

INTRODUCTION

On November 18, 2020, the Washington College of Law (WCL) and the Academy on Human Rights and Humanitarian Law co-sponsored an event, “Pandemics and International Law: The Need for International Action,” with the Centre for International Law, National University of Singapore; the School of Law, National University of Hanoi; the Autonomous University of Lisbon; Florida International University; the Inter-American Institute for Human Rights; and the WCL chapter of the International Law Student Association. The event was composed of two panels. In the first, five members of the International Law Commission (ILC) presented on their positions related to the creation of a convention on pandemics — specifically, Charles Jalloh, Nilüfer Oral, Nguyen Hong Thao, Patrícia Galvão Teles, and myself. In the second, five members of the WCL faculty — Kate Holcombe, Professor Diego Rodriguez-Pinzon, Professor Macarena Saez, Professor Diane Orentlicher, and Professor Padideh Ala’i — presented

on how pandemics impact their specific areas of expertise. Additionally, Lena Raxter acted as the Special Rapporteur for the conference.¹

This Article argues that, due to the experience of COVID-19, it is important that the ILC of the United Nations considers the adoption of a normative instrument whose purpose would be the regulation of pandemics — before, during, and after they occur. There is a compelling need to act, stressing prevention and common reaction by the international community when these scourges occur, and the existing normative framework has shown its incapacity to organize the type of global mobilization that pandemics require. This Article will first provide a brief background into relevant topics, and then it will summarize key issues noted during the November 18 conference. Lastly, it will conclude by providing a recommendation for further action.

I. BACKGROUND

The spread of disease knows no borders. As we witnessed during the COVID-19 pandemic,² the interconnected nature of our world means that disease outbreaks spread rapidly to every corner of the globe.³ Moreover, no matter how powerful and resourceful States are, no State can fully protect itself from the dramatic effects of pandemics.

Since the beginning of recorded time, diseases have made both humans and animals sick, causing

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¹ Lena Raxter is a second year JD student at American University, Washington College of Law.

² A pandemic is a non-seasonal epidemic occurring worldwide, or over a very wide area, crossing international boundaries and usually affecting a large number of people. Heath Kelly, *The Classical Definition of a Pandemic is Not Elusive*, 89 BULLETIN WORLD HEALTH ORG. 540, 540 (2011).

³ See generally Hussein H. Khachfe et al., *An Epidemiological Study on COVID-19: A Rapidly Spreading Disease* 12 CUREUS (2020) (examining the rapid spread of COVID-19).

tremendous loss of life, inflicting enormous suffering, and generating social and economic disruptions. As early as 600 B.C.E., already infectious pathogens had been recognized for their impact on humanity.⁴ In the 1300s, the Black Death, also known as the bubonic plague — a disease caused by the bacteria *yersinia pestis* — killed an estimated one third of the world's population, making it the deadliest pandemic in the history of the world.⁵

Countless pandemics have “plagued” humankind.⁶ In the last twenty years alone, the world has experienced multiple epidemics⁷ and several pandemics — including SARS coronavirus,⁸ Dengue fever,⁹ Cholera,¹⁰ Ebola virus,¹¹ H1N1 Influenza,¹²

⁴ Stefan Riedel, *Biological Warfare and Bioterrorism: A Historical Review*, 17 PROC. BAYLOR U. MED. CTR. 400 (2004).

⁵ Richard G. Stearns, *An Appropriate Legal Framework for Dealing with Modern Terrorism and WMD*, in INTELLIGENCE AND HUMAN RIGHTS IN THE ERA OF GLOBAL TERRORISM 78, 83 (Steve Yui-Sang Tsang ed., 2006).

⁶ See GEORGE C. KOHN, ENCYCLOPEDIA OF PLAGUE AND PESTILENCE: FROM ANCIENT TIMES TO PRESENT (2002); JOSEPH P. BYRNE, ENCYCLOPEDIA OF PESTILENCE, PANDEMICS, AND PLAGUES (2008).

⁷ An epidemic is an infectious disease that spreads rapidly to a large number of people in different countries within a short period of time. See Centers for Disease Control and Prevention, *Lesson 1: Introduction to Epidemiology Section 11: Epidemic Disease Occurrence*, U.S. DEPT. OF HEALTH & HUMAN SERVS. (May 18, 2012), <https://www.cdc.gov/csels/dsepd/ss1978/lesson1/section11.html>.

⁸ World Health Organization, *Severe Acute Respiratory Syndrome (SARS)*, https://www.who.int/health-topics/severe-acute-respiratory-syndrome#tab=tab_1; James W. LeDuc & M. Anita Barry, *SARS, The First Pandemic of the 21st Century*, EMERGING INFECTIOUS DISEASES 10 (2004), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3329048/>.

⁹ World Health Organization, *Dengue and Severe Dengue*, https://www.who.int/health-topics/dengue-and-severe-dengue#tab=tab_1 (last visited Feb. 1, 2021).

¹⁰ World Health Organization, *Cholera*, https://www.who.int/health-topics/cholera#tab=tab_1 (last visited Feb. 1, 2021).

¹¹ World Health Organization, *Ebola Virus Disease*, https://www.who.int/health-topics/ebola/#tab=tab_1 (last visited Feb. 1, 2021).

¹² World Health Organization, *Pandemic (H1N1) 2009*, <https://www.who.int/csr/disease/swineflu/en/> (last visited Feb. 1, 2021).

MERS coronavirus,¹³ Zika virus,¹⁴ and HIV/AIDS.¹⁵ Currently, COVID-19 has thrust the world into a grave crisis,¹⁶ resulting in over two million deaths so far,¹⁷ millions infected,¹⁸ and the closure of national borders worldwide. The pandemic is inflicting tremendous economic damage and impacting everyone, but in particular the most vulnerable.¹⁹

II. INTERNATIONAL LAW AND ITS DEVELOPMENT

Beginning in the 1800s, states have recognized that national measures alone are not sufficient to limit the dire impacts of the spread of infectious disease, and consequently have taken measures to increase international cooperation and coordination for infectious disease outbreak response. Such efforts first began in 1851 when France helped organize the first International Sanitary Conference in response to a Cholera outbreak that spread from Asia to the Russian Empire.²⁰ The conference had the mandate to create a standardized quarantine regime which

¹³ World Health Organization, *Middle East Respiratory Syndrome Coronavirus (MERS-CoV)*, https://www.who.int/health-topics/middle-east-respiratory-syndrome-coronavirus-mers#tab=tab_1 (last visited Feb. 1, 2021).

¹⁴ World Health Organization, *Zika Virus Disease*, https://www.who.int/health-topics/zika-virus-disease#tab=tab_1 (last visited Feb. 1, 2021).

¹⁵ World Health Organization, *HIV/AIDS*, https://www.who.int/health-topics/hiv-aids/#tab=tab_1 (last visited Feb. 1, 2021).

¹⁶ World Health Organization, *COVID-19*, https://www.who.int/health-topics/coronavirus#tab=tab_1 (last visited Feb. 1, 2021).

¹⁷ According to Johns Hopkins University Coronavirus Resource Center, as of Feb. 1, 2021, there have been 2,229,601 deaths from COVID-19. Johns Hopkins Univ. Coronavirus Resource Center, *COVID-19 Map*, <https://coronavirus.jhu.edu/map.html> (last visited Feb. 1, 2021).

¹⁸ According to Johns Hopkins University Coronavirus Resource Center, as of Feb. 1, 2021, there have been 103,036,685 cases of COVID-19. Johns Hopkins Univ. Coronavirus Resource Center, *COVID-19 Map*, <https://coronavirus.jhu.edu/map.html> (last visited Feb. 1, 2021).

¹⁹ See *infra* Section IV.B.

²⁰ Anastasia Telesetsky, *International Governance of Global Health Pandemics*, 24 ASIL INSIGHTS 2 (Mar. 23, 2020), <https://www.asil.org/insights/volume/24/issue/3/international-governance-global-health-pandemics>.

could prevent the international spread of cholera, plague, and yellow fever.²¹ From 1851 to 1938, fourteen conferences were held, which resulted in the creation and later amendments of the International Sanitary Convention.²² In 1902, the Pan-American Sanitary Bureau — later renamed the Pan-American Health Organization (PAHO) — became the first international organization to specialize in international health.²³ Five years later, in 1907, the Office International d'Hygiène Publique (OIHP) became the first permanent health office tasked with ensuring that each State within the international community adequately responded to disease outbreaks.²⁴ Most importantly, after the United Nations was created in 1945, the World Health Organization subsumed the other organizations tasked with monitoring global health,²⁵ becoming the key international organization for global health issues.²⁶

III. THE WHO AND THE INTERNATIONAL HEALTH REGULATIONS

In 1969, the WHO replaced the International Sanitary Convention and Regulations with the International Health Regulations (IHR). The IHR was notable in that it obligated states to notify the WHO whenever an outbreak of cholera, plague, yellow fever, smallpox, relapsing fever, or typhus occurred within the state's territory.²⁷ However, the 2003 SARS outbreak caused the international community to question the effectiveness of health regulations that only required reporting and response

for specific disease outbreaks.²⁸ Consequently, the WHO updated the IHR in 2005.²⁹ Similar to other agreements and mechanisms, under the 2005 IHR, States are required to improve national surveillance, reporting, and response mechanisms for disease outbreaks. Moreover, the reporting and response obligations were expanded to include all infectious diseases outbreaks.³⁰

The 2005 IHR also included innovative approaches to promote human rights, recognized the role of civil society, and required compliance with the regulations unless a State opts out within the necessary time period.³¹ Of particular note, article 3 of the 2005 IHR specifically requires that States must respect the dignity, human rights, and the fundamental freedoms of persons when implementing the measures within the 2005 IHR. Articles 5 through 14 of the 2005 IHR require States to prepare for public health emergencies and coordinate when they occur, which includes information-sharing obligations. Articles 15 and 16 give the WHO Director General the power to recommend preventative measures to States. Article 32 requires states to “treat travelers with respect for their dignity, human rights and fundamental freedoms and minimize any discomfort or distress associated with such measures.” Article 43 of the 2005 IHR expressly noted the importance of utilizing scientific evidence when crafting regulatory measures to respond to health emergencies. Lastly, the 2005 IHR stresses the importance of information sharing, as well as the imperative value of civil society, national and international medical associations, practitioners, scientists, and journalists in facilitating such information sharing.

²¹ NORMAN HOWARD JONES, SCIENTIFIC BACKGROUND OF THE INTERNATIONAL SANITARY CONFERENCES 1851-1938 11 (1975).

²² *Id.*

²³ *Id.* at 83.

²⁴ Alexa M. Stern & Howard Markel, *International Efforts to Control Infectious Diseases, 1851 to the Present*, 22 J. AM. MED. ASS'N 1474, 1474-79 (2004), <https://pubmed.ncbi.nlm.nih.gov/15383519/>.

²⁵ Telesetsky, *supra* note 20.

²⁶ The historical material and other concepts in this Article owe much to Professor Shinya Murase, who was appointed chair of the special committee created by the Institut de Droit International to make a proposal on Epidemics and International Law. The Author of this article was also a member of this committee.

²⁷ International Health Regulations art. 1, July 25, 1969, 1286 U.N.T.S. 390.

²⁸ Telesetsky, *supra* note 20.

²⁹ WORLD HEALTH ORGANIZATION, INTERNATIONAL HEALTH REGULATIONS (2005) (3d ed. 2005).

³⁰ *Id.*

³¹ Traditionally in international law, States must explicitly opt into an obligation before the State will be considered bound to abide by it. However, in the 2005 IHR, States are automatically bound by the obligations contained in the document, and may only be free from the obligations if the State explicitly opts out during the time period provided by the WHO.

IV. THE NEED FOR ACTION

As Patrícia Galvão Teles noted in her closing remarks for the conference, the evolution of international law is often reactive and accelerated by crises.³² While the developments noted above are significant, the experience of the COVID-19 pandemic demonstrates that they are insufficient to properly respond to global health crises. The current WHO regime lacks sufficient mechanisms to solve disputes, and it functions more as a system of recommendations than of binding obligations. Special funds provided by states might also impact the independence of the WHO, as such funds allow states to influence the priorities of the WHO. Additionally, pandemics impact a vast array of norms and legal regimes, and there is an urgent need of coordination for these to be effective.³³ Consequently, it is imperative that the international community comes together to address the deficiencies. This will require a thorough and realistic analysis of the experience of the international community during the COVID-19 pandemic and include the need of harmonization and coordination of different legal regimes. The international community must explore what can be done before, during, and after an epidemic to strengthen our collective ability to effectively respond to a health crisis. Lastly, it is important to remember the goals of such work: strengthening international cooperation, capacity building, protection of vulnerable groups, strengthening international norms, and addressing all the consequences of pandemics — not only the health issues.

A. An Inter-Connected Regime

International law has developed several separate frameworks, concepts, and principles, in all areas of the law, which address different facets implicated by a pandemic. In fact, substantive obligations relevant for epidemics are a part of almost every area of the law, including (but not limited to): peace and security; economic law; international trade and investment law; labor law; climate

³² For example, the creation of the United Nations was motivated by the end of the Second World War and the new post-Westphalian international world order.

³³ For example, intellectual property, trade, human rights, etc.

change; global health law; international financing law; international environmental law; intellectual property law — including access to medicine;³⁴ international sports law;³⁵ international maritime and air law;³⁶ international humanitarian law;³⁷ and human rights law. However, we do not have a single body of law that allows for needed international cooperation dealing with all the aspects involved. Moving forward, it is imperative for the international community to address this deficiency by seriously considering the need to develop a unified approach to prevent and react to pandemics, preserving the application of *lex specialis*³⁸ in areas that do not

³⁴ For instance, the distribution of pharmaceutical products, medicine, and vaccines may be restricted due to intellectual property rights. See Jorge L. Contreras et al., *Pledging Intellectual Property For COVID-19*, 38 NATURE BIOTECHNOLOGY 1146 (2020) (explaining that voluntary pledges to make intellectual property rights widely available may address the significant legal challenges related to intellectual property rights and access to medical treatment, equipment, and vaccines).

³⁵ For instance, many small and large sporting events — including the 2020 Olympic Games — have been cancelled or postponed due to the current COVID-19 crisis. Ahiza García-Hodges, Yuliya Talmazan & Arata Yamamoto, *Tokyo 2020 Olympics Postponed Over Coronavirus Concerns*, NBC NEWS (Mar. 24, 2020), <https://www.nbcnews.com/news/world/tokyo-2020-olympics-postponed-over-coronavirus-concerns-n1165046>.

³⁶ For example, in the beginning of the COVID-19 crisis, a cruise ship called the *Diamond Princess* had a large number of COVID-19 cases. The *Diamond Princess* was a flag ship of the United Kingdom, but the owner was a United States Corporation. While off the coast of Japan, a passenger began exhibiting symptoms of COVID-19; however, as a result of gaps in the existing maritime law regime, the Japanese government was uncertain whether it could exercise jurisdiction over the treatment of the passengers. See E.J. Mundell, *Diamond Princess Saga Began with One COVID Carrier*, HEALTHDAY NEWS (July 29, 2020), <https://www.webmd.com/lung/news/20200729/genestudy-shows-how-coronavirus-swept-through-the-idiadmond-princessi#1>.

³⁷ In particular, Common Article 3 of the Geneva Conventions, and the Additional Protocols I and II, establish obligations whose value cannot be excluded in case of epidemic.

³⁸ The concept of *lex specialis* derives from a Latin maxim that means “in the whole of law, special takes precedence over genus, and anything that relates species is regarded as most important.” This means that law directly on point takes precedent over general law. Dorota Marianna Banaszewska, *Lex Specialis*, MAX PLANCK ENCYCLOPEDIA OF INTERNATIONAL LAW (Nov. 2015).

admit derogations beyond the limits prescribed by international law. This is necessary because of the existential challenge created by pandemics affecting all areas of human activities, and practically all areas of the law. However, the possibility of moving towards an interconnected system cannot ignore the need for *lex specialis* when it is appropriate. This includes the human rights obligations acquired by the international community, *for example*, the conditions necessary for declaring emergency situations; the rights that cannot be derogated; and the strict criteria necessary for the derogation of rights — necessity, proportionality, timeliness, and nondiscrimination.³⁹

B. Vulnerable Groups

The international community must sharpen obligations triggered by pandemics, including special measures to ensure non-discrimination and protection of vulnerable groups. As COVID-19 has demonstrated, global health emergencies have a disproportionate impact on vulnerable groups — including women, children, minorities, people with disabilities, the elderly, Indigenous peoples, LGBTQ+ communities, and more. The pandemic has also exposed the need to expand the category of vulnerable persons to include medical personnel;⁴⁰ individuals responsible for the essential functions of society;⁴¹ and the individuals working on the front line, dealing with the immediate aspects of the pandemic. People must be protected regardless of their race, ethnicity, nationality, class, religion, beliefs, gender, sexual orientation, language, age, health, or any other status. As such, States must guarantee human rights — including the rights to health, integrity, and life. In fact, the purpose of any instrument or steps designed to prevent and react against pandemics should be the protection of persons. This goal also has important legal consequences; for instance, in cases where issues

³⁹ U.N. Human Rts. Comm., *CCPR General Comment No. 29: Article 4: Derogations During A State Of Emergency*, U.N. Doc. CCPR/C/21/Rev.1/Add.11 (Aug. 31, 2001).

⁴⁰ For example, doctors, nurses, medical technicians, hospital cleaners, and others working in the medical industry.

⁴¹ For example, the production, transportation and sale of food and medicines.

in interpretation emerge while defining the content of State obligations, the paramount goal of the protection of persons must be given great legal significance.⁴²

States must take positive measures to protect vulnerable populations to develop an effective regulatory and institutional framework to address the prevention and reaction to global health emergencies. Such measures would exercise the principle of non-discrimination and recognize the rights and obligations included in the Charter of the United Nations; the Universal Declaration of Human Rights; universal and regional human rights systems; and specialized conventions on human rights. As demonstrated time and again during the COVID-19 pandemic, the existence of the principle of non-discrimination alone is not enough to prevent violations from occurring. Effective compliance with the principles requires states to adopt specific measures — including training; allocation of resources; and identification of obligations as a consequence of any violations. The importance of training cannot be understated; moreover, the international community needs to create a culture that recognizes the humanity of all, and the collective commitments of all States — including implementing protective measures for those who are most exposed and vulnerable. Lastly, the international community must address the effects of containment efforts. Any efforts adopted by the community must address violations such as domestic violence resulting from quarantine, economic cooperation for underdeveloped countries that do not have capacity to recover, access to education, vaccines, medicine, and so forth.

C. Capacity Building

The international community should explicitly define the obligations for capacity building well before, during, and after pandemics. As the COVID-19 pandemic has shown, there is an urgent need for effective action to address the systems that are essential in responding to global health emergencies.

⁴² See *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, Advisory Opinion, 1951 I.C.J. 15 (May 28).

This pandemic has clearly demonstrated that such systems are insufficient or non-existent in many states; moreover, the lack of such systems not only affects the specific state but also the international community as a whole. Due to the globalized nature of our current world, access to vaccines, medicines and recognizing the importance of capacity building worldwide are necessary to ensure global health. Capacity building measures require much more than merely voluntary commitments. Similar to the protection of vulnerable persons, capacity building requires affirmative actions — including the creation of special funds, possibilities for rapid deployment of material and personnel assistance, personal, and so forth.

D. Travel Restrictions

Under the principle of state sovereignty, states are allowed to control entry and exit across their borders. As demonstrated in the COVID-19 pandemic, States have justified the imposition of entry and exit requirements and travel restrictions, including air travel and shipping, under this principle of sovereignty. However, the current status of international law shows a more complicated landscape. For example, there are obligations or duties of states that flow from norms involving nationality, refugee determinations, collective expulsions, and the prohibition of non-discrimination. Accordingly, any project designed to address pandemics should clarify the content the principle of sovereignty as it applies to the prevention and reaction against pandemics. In fact, all of the speakers at the conference recommended that any resulting legal instrument balance the principle of sovereignty with the aims of international cooperation. Our first goal is the protection of persons from the immediate effects of disease; our second is to protect persons from the side effects of global health crises. Only after the protection of peoples is ensured should the international community address protecting the State's sovereignty. Patrícia Galvão Teles noted this in her speech, explaining that international public health law must be focused on the protection of persons from pandemics, not just to protect affected states. Nguyen Hong Thao echoed this sentiment

by expressing that people must be at the heart of all development efforts so that no one is left behind.⁴³

E. Duty of States

As the law currently exists, there are few state obligations⁴⁴ and even fewer enforcement mechanisms for violating these obligations. Consequently, international law must clarify the questions of international responsibility and indicate what acts or omissions should be considered internationally wrongful acts. As Nguyen Hong Thao recommended during the conference, such duties could include the content and nature of a duty of international cooperation, including equitable access to vaccines, treatments, and protection and medical equipment.⁴⁵ Until there is a clear definition of the obligations and duties of States and the consequences which arise from violation, any project to implement greater State cooperation in addressing pandemics will not provide needed guidance for the action of the international community.

F. Friendly Settlement of Disputes

Whenever there are State obligations, there must be corresponding mechanisms for peaceful settlement of disputes.⁴⁶ Consequently, given the above, the international community must determine the responsibility and resulting liability of States and international organizations, the consequences of failing to comply, and the role of friendly settlement of disputes for resulting conflicts. This issue includes the consequences of failing to properly implement

⁴³ *Pandemics and International Law*, YOUTUBE (Nov. 18, 2020), <https://youtu.be/t-wcYGfv3-w> [hereinafter "Pandemics Conference"].

⁴⁴ Under the current system, affected States must implement necessary measures, and seek necessary external assistance, to prevent the spread of disease.

⁴⁵ Pandemics Conference, *supra* note 43.

⁴⁶ U.N. Charter art. 33, ¶ 1. The charter provides a list of these methods of dispute settlement, specifically, Article 33(1) states that, "[t]he parties to any dispute, the continuation of which is likely to endanger the maintenance of international peace and security shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice."

preventative and due diligence measures. Further, in clarifying this specific issue, the international community must clarify the proportionality of responsibility and immunity for States and international organizations. The issues of jurisdiction and standing must also be addressed in order to develop a comprehensive system that will allow the friendly settlement of disputes arising from global health crises.

G. *The Sustainable Development Goals*

Charles Jalloh brought up an important point: the impact of the pandemic on the implementation of the Sustainable Development Goals (SDGs), most particularly SDG-16: Peace, Justice, and Strong Institutions.⁴⁷ Under this SDG, the international community committed to implementing and promoting stronger and more resilient institutions. This obligation includes taking prompt and effective action to reduce the spread of infectious diseases while also ensuring social equality. In that sense, this topic ties into the overarching goal of protecting vulnerable people — by working together and reducing structural inequalities, the international community may limit the disproportionate burden of disease. This would not just be an investment in our common humanity, but would also help prevent, prepare for, and mitigate future pandemics.

V. THE ROLE OF THE ILC IN CREATING A REGULATORY FRAMEWORK

As stated at the Conference, it is imperative to stress the need for cooperation, prevention, and clearly identify the obligations of States, before, during and after pandemics, as well as the consequences that result from non-compliance with these obligations.⁴⁸ Further, as noted also during the conference, it is essential that the international community identifies dispute settlement mechanisms for issues arising between States. Additionally, the international community should clarify the meaning of the obligations contained within existing international law mechanisms that address global health crises. At the same time, the international community should

⁴⁷ Pandemics Conference, *supra* note 43.

⁴⁸ *Id.*

emphasize the fundamental importance of scientists in monitoring, research, and responding to health emergencies. Moreover, it is imperative that the scientific community — and civil society in general — are incorporated into the process of adopting and implementing any agreed upon legal framework.

To address the above issues while considering their complexity, a serious study of all the aspects implicated in a global health crisis requires international cooperation and action. The ILC is particularly well suited to undertake this task due to the diversity of its thirty-four members, elected by the General Assembly and representing all regions of the world, as well as the ILC's constant dialogue with the United Nations Member States through its institutional position in the United Nations. This is supported by the historic role played by the ILC, as demonstrated by the contributions of the ILC to the development of the building blocks of international law.⁴⁹

The ILC could work to identify, analyze, and determine the applicability of all the relevant sources and areas of law — including seeking harmonization and recognizing *lex specialis*⁵⁰ where necessary.⁵¹ In this vein, the ILC could identify the best and most acceptable methods for responding to pandemics. Ultimately, the ILC could conduct a comprehensive analysis that provides an overview of existing rules and identifies major problems arising from their implementation. This could include the constraints states face and the different methods developed by states to respond to pandemics.

The goal of this work would be to develop a unified legal document that comprehensively addresses every aspect of international law implicated by pandemics. The international community must focus on the absolute need for international cooperation in the protection of persons, ensuring that human

⁴⁹ *E.g.* Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331; Vienna Convention on Consular Relations, Apr. 24, 1963, 596 U.N.T.S. 261; Vienna Convention on Diplomatic Relations, Apr. 18, 1961, 500 U.N.T.S. 95.

⁵⁰ *See supra* note 38 and accompanying text.

⁵¹ Such cases may arise in the areas of trade, the environment, human rights, and other areas of the law.

rights standards are protected, even in the event of emergencies. This includes the positive obligations that States maintain in respect to their general populations and vulnerable groups. The work should also be without prejudice to more favorable legal regimes for pandemics established in national, regional, or international systems.

VI. CONCLUSION

As Patrícia Galvão Teles noted at the conference, international law may be “one pandemic late” already since humanity has suffered because of a failure to develop a proper framework to prevent and respond to pandemics. This vacuum, without exaggeration, is an existential threat to humankind. It is essential that we do not wait for more pandemics before properly taking action. International law can simply not afford being “various pandemics late.”⁵² Consequently, it would be inexcusable if the international community does not create a legal and institutional regime that can properly address the issues raised by these scourges against humanity.

⁵² Pandemics Conference, *supra* note 43.