COVID-19 Pandemic, International Law, and Action Taken by Vietnam

Nguyen Hong Thao
Le Thi Anh Dao

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I. COVID-19: A GLOBAL PRESSING CONCERN

One year after officially declaring the COVID-19 pandemic, the World Health Organization (WHO) has reported 146,841,882 confirmed cases and 3,104,743 deaths due to COVID-19. At the

* Dr. Nguyen Hong Thao is a Senior Lecturer at the Diplomacy Academy of Vietnam (DAV) and National University of Hanoi (NUH). Dr. Le Thi Anh Dao is a chief lecturer at the Hanoi Law University (HLU), Vietnam.

beginning of the COVID-19 pandemic, nations failed to properly respond to the outbreak through international cooperation, and international health organizations were insufficient in managing the crisis. Pandemics are not an unusual phenomenon in human history. However, the impact of COVID-19 on the international community in regards to public health care, domestic and international economics, the environment, human rights, domestic and international security, international cooperation and others is highest in comparison to past infectious viruses and diseases. The COVID-19 pandemic’s global impact on every aspect of human life is a pressing concern for the international community. The General Assembly resolution of April 2, 2020—Global Solidarity to Fight the Coronavirus Disease 2019 (COVID-19)—recognized that the challenges presented by COVID-


3. The first two decades of the 21st century have already witnessed several epidemics and pandemics such as SARS, Dengue, Cholera, Ebola, H1N1, MERS-CoV, Zika, Swine flu, and HIV/AIDS. Health Topics, WORLD HEALTH ORG., https://www.who.int/health-topics (last visited Feb. 23, 2021); Lames W. LeDuc & M. Anita Barry, SARS, the First Pandemic of the 21st Century, 10 EMERGING INFECTIOUS DISEASE 26 (2004), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3329048.


5. See WHO COVID-19 Pandemic Declaration, supra note 1 (acknowledging the heavy toll of COVID-19 and public health measures on societies and economies throughout the world).

6. General Assembly Res. 74/270, Global Solidarity to Fight the Coronavirus
“requires a global response based on unity, solidarity and multilateral cooperation.”

The obligation to protect human life is codified in several legal instruments of international law. Principles of international law such as sovereign equality, non-interference in internal affairs, and peaceful settlement of disputes have guided the behavior of states and international organizations through the exceptional circumstances of the COVID-19 crisis. For example, sovereign equality implies the equal access and distribution of vaccines among all nations. Equal access and distribution of vaccines can be realized through the initiative of global or regional vaccines funds or the removal of intellectual property procedures in exceptional cases. The challenges of the pandemic fostered a new debate for how existing principles of international law should be interpreted and applied with flexibility, or


7. Id.


9. See U.N. Charter art. 2, par 1–4 (basing the United Nations on the principle of sovereign equality and providing that all members shall settle their international disputes peacefully and refrain from interfering with the territorial integrity or political independence of any state); see generally Hans Kelsen, The Principle of Sovereign Equality of States as a Basis for International Organization, 53 YALE L.J. 207 (1944) (examining whether the principle of sovereign equality can be the basis of international organization).


developed in response to the current situation. Infectious diseases do not respect international borders, and, in the era of globalization, a global impact of a crisis requires global cooperation and coordination of effective measures.

Global infectious diseases have also unintended consequences for international peace and security. In response to new challenges imposed by outbreaks, international public health law should be developed, interpreted, and implemented in a harmonious manner, to the extent possible, with other relevant rules of international law related to human rights; the environment, international economy and intellectual property, diplomacy, security and peace, responsibility and so on.


II. INTERNATIONAL PUBLIC HEALTH LAW: PREPAREDNESS AND RESPONSE OF PANDEMICS

The obligation of protecting human life must be a foundational principle of international public health law for all states—affected and non-affected. Global epidemics cannot fully be controlled without the cooperation of the entire international community. Affected states have a primordial, positive duty to guarantee the rights to health, integrity, and life for the people living, traveling and working on their sovereign lands and seas. Individuals—nationals and foreigners—must voluntarily comply with local government efforts to prevent, mitigate and control the nationwide outbreak in the name of public health protection. For that purpose, in some states, like China, Vietnam, or Italy, individual rights may be temporarily suspended to prevent the spread of a virus through rules on social distancing and appropriate sanitation. The abuse of human rights to violate home protection of persons from epidemics in international law, Proposal Draft for the Long-Term Programme of Work of the ILC, U.N. Doc. ILC(LXXII)/WG/LT/INFORMAL/2 (Sept. 18, 2020).

17. See WHO Constitution, supra note 8, art. 1 (providing that the objective of the World Health Organization shall be the attainment by all peoples of the highest possible level of health); U.N. Charter art. 2, p 1–4 (providing that member states shall settle disputes peaceably and safeguard international.


isolations or for “publishing and spreading untrue information online” that negatively affected on the government objective of the controlling an outbreak for the interest of the whole community shall be sanctioned. On the other hand, the public has a right to require that rights-restricting measures are compatible with international human rights and principles of transparency, due process, and fairness. In other words, rights-restricting measures must ensure that the balance of individual and collective interests are compatible with provisions of the International Covenant on Civil and Political Rights (ICCPR) and other related international instruments.

National right-restricting measures have only full effectiveness with the wide comprehension, cooperation and support from states not affected by a pandemic, especially from neighbor states and their citizens. The cooperation and respect of right-restricting measures posed by affected States are the best way to prevent the spreading virus and to ensure an effective safeguard of life for nonaffected states’ citizens and economies. The spirit of cooperation allows overcoming possible political doubts for achieving a common target to provide “all peoples of the highest possible level of health”. 22

International law must balance the principle of the sovereignty of states, 23 and the efficacy of the United Nations and WHO to achieve two objectives. The first objective is to protect persons from infectious diseases domestically and preventing the spread of infectious diseases internationally.24 Secondly, international law must protect persons

spread of the virus, including staying at home, limiting travel, and avoiding congregating in large groups); see also Interpeace, Peace and Conflict in a COVID-19 World Implications for International Responses, 18 (Briefing Paper, June 2020), https://reliefweb.int/sites/reliefweb.int/files/resources/2020-CoVid-19-v4.pdf.

22. See Murase, supra note 16, at 60 (noting how states do not consider such measures to be unfriendly acts, with their nationals living in, or traveling to and from the territory of the affected state); see also Kemal Davis, Multilateralism: What Policy Options to Strengthen International Cooperation?, BROOKINGS (Nov. 17, 2020) https://www.brookings.edu/research/multilateralism-what-policy-options-to-strengthen-international-cooperation/ (making the case for multilateralism in the context of COVID-19 as a way to minimize the spillover effects the actions of some countries have on others).

23. U.N. Charter art. 2, par 1 (providing that the United Nations is based on the principle of sovereign equality); See generally Kelsen, supra note 9 (articulating the principle of sovereign equality).

24. See WHO Constitution, supra note 8, art. 2 (describing one of the functions
from the negative economic impact due to virus containment measures, such as travel bans or temporarily closing businesses and offices.\textsuperscript{25} The obligation to protect human life must be at the core of all international public health law efforts to develop principles for addressing challenges presented by a pandemic so that no person is left behind.\textsuperscript{26}

A common objective for states is to prevent and control pandemics; and international cooperation must be present in all three phases—before, during, and after—in order to achieve this goal.\textsuperscript{27} International cooperation can be cooperation between neighboring states, strategic alliances, or regional and international organizations.\textsuperscript{28} The United Nations and WHO can foster international cooperation to combat pandemics by issuing global standards on using surveillance, notification, information-sharing, and public health response systems.\textsuperscript{29} The United Nations should adhere to its Sustainable
Development Goals by supporting developing states’ efforts to combat pandemics with financial assistance, technological assistance, and commercial facilitation.\textsuperscript{30} The WHO’s function and responsibility should be respected,\textsuperscript{31} and states should implement the WHO’s standards for addressing pandemics.\textsuperscript{32}

International law must define the duties a state or international organization owes to the international community to prevent epidemics.\textsuperscript{33} The state affected by an epidemic must implement, without delay or hesitation, the necessary measures to reduce the risk of outbreak and prevent the spread of disease, and to seek external assistance if necessary.\textsuperscript{34} A state or international organization offering assistance to the affected state should be a legal duty, and not the pretext to interfere in the internal affairs of the affected state.\textsuperscript{35} An internationally wrongful act can be attributable to an international health organization if its conduct constitutes a breach of an international obligation of that organization.\textsuperscript{36} A delay of the

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\end{itemize}
declaration of public health emergency of international concern (PHEIC) can be considered deficient in responding a global crisis.\textsuperscript{37} Issuing a PHEIC on time is critical. It allows the WHO to require immediate international actions and recommend suitable policies for countries to respond.\textsuperscript{38} States have a legal duty to respond promptly to a PHEIC.\textsuperscript{39} However, an early declaration of a PHEIC can waste the world’s resources and money in an unnecessary way. A right decision on a PHEIC must be based on the responsibility of the WHO and the cooperation of states.

The delay issuing a PHEIC on the deadly SARS outbreak in 2003 that left 800 dead\textsuperscript{40} provided three lessons on the relation between the international health organization and states. \textsuperscript{41} First, the WHO must work closely with affected and non-affected states to have additional information on a regular basis for making PHEIC in time. Second, transparency must be complied as a key factor in preventing the spread of viruses. No state or international organization has a right to cover up a possible global outbreak. Third, the medical response at the national, regional and global level must be improved. An online disease surveillance systems must be installed worldwide to recognize, characterize, release and report information in real-time.

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The WHO can support the development and equitable distribution of the tests, treatments, and vaccines in high risk areas to reach the most vulnerable populations at the right moments.\textsuperscript{42}

Vaccines cannot be used as a political tool in international relations.\textsuperscript{43} The COVID-19 crisis raises a new gap in international health law from the lack of a legal and scientific definition of what constitutes a pandemic, the revision of the procedure to declare a PHEIC,\textsuperscript{44} and the lack of enforceable sanctions. The WHO should, in consultation with member states and legal experts, develop clear guidelines to interpret and implement consistently PHEIC criteria, based on science, not politics.\textsuperscript{45} A state’s right to withdraw from specialized international organizations during pandemics must be balanced with its legal implications.\textsuperscript{46}

\begin{figure}[h]
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\caption{Figure 1: The Impact of Pandemic on International Health Law}
\end{figure}

\textsuperscript{42} What is the ACT-Accelerator, WHO INITIATIVES, https://www.who.int/initiatives/act-accelerator/about (last visited July 30, 2021).


\textsuperscript{44} Emergencies: International Health Regulations and Emergency Committees – Q&A, WHO NEWSROOM (Dec. 19, 2019), https://www.who.int/news-room/q-a-detail/emergencies-international-health-regulations-and-emergency-committees (defining PHEIC as “an extraordinary event which is determined to constitute a public health risk to other States through the international spread of disease and to potentially require a coordinated international response. This definition implies a situation that is serious, sudden, unusual, or unexpected; carries implications for public health beyond the affected State’s national border; and may require immediate international action.”).

\textsuperscript{45} Lucia Mullen et al., An Analysis of International Health Regulations Emergency Committees and Public Health Emergency of International Concern Designs, BRIT. MED. J. GLOB. HEALTH, May 2020, at 8.

The United Nations Security Council (UNSC) should utilize its core functions when a pandemic threatens global peace and security.\textsuperscript{47} In 2014 the UNSC promptly adopted Resolution 2177\textsuperscript{48} recognizing that “the unprecedented extent of the Ebola outbreak in Africa constitutes a threat to international peace and security.”\textsuperscript{49} Additionally, in 2018, the UNSC adopted Resolution 2439, which determined that the Ebola epidemic in the Democratic Republic of the Congo constituted “a threat to international peace and security.”\textsuperscript{50}

In 2021, the UNSC Resolution 2565 considered that “the unprecedented extent of the COVID-19 pandemic is likely to endanger the maintenance of international peace and security.”\textsuperscript{51} The UNSC demanded “that all parties to armed conflicts fully comply with their obligations under international law, including international humanitarian law, in particular their obligations under the Geneva Conventions of 1949 and the obligations, as applicable, under the Additional Protocols of 1977 and 2005.” All parties to armed conflicts must “engage immediately in a durable, extensive, and sustained humanitarian pause to facilitate, inter alia, the equitable, safe and unhindered delivery and distribution of COVID-19 vaccinations in areas of armed conflict.” The UNSC Resolution emphasized “the unity, common origin and solidarity of mankind, and the need for intensified international collaboration in the face of the common threat of pandemics.” The UNSC Resolution has supported strongly the effort of the UNGA, WHO, other international organizations and states.

Economic restrictions and travel bans should not hamper the delivery of medical supplies and the deployment of specialized personnel to manage the pandemic.\textsuperscript{52} Unilateral sanctions and armed

\textsuperscript{47} See U.N. Charter arts. 24–26 (outlining the functions and powers of UNSC).
\textsuperscript{48} S.C. Res. 2177 (Sept. 18, 2014).
\textsuperscript{49} Id.
\textsuperscript{50} S.C. Res. 2439 (Oct. 30, 2018).
\textsuperscript{51} S.C. Res. 2625 (Feb. 26, 2021).
\textsuperscript{52} See COVID-19 Reports: Restrictions on the Export of Medical Products Hamper Efforts to Contain Coronavirus Disease (COVID-19) in Latin America and the Caribbean, ECON. COMM’N LATIN AM. & CARIBBEAN 1 (May 2020), https://repositorio.cepal.org/bitstream/handle/11362/45511/2/S2000308_en.pdf (describing how medical export restrictions have hampered the response to COVID-19 in Latin America and the Caribbean); Andrea Shalal, WTO Report Says 80
conflicts during pandemics are “contrary to international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among states.” For example, “collective expulsion” of foreign workers or international students should be prohibited to avoid the spread of diseases.

International organizations must improve the principles of peaceful dispute settlement between states. Stronger dispute settlement principles should emphasize international organizations’ proportionality of responsibility and immunity and clarify state jurisdictional responsibilities to the international community as a whole. The COVID-19 pandemic produced disputes involving public health, trade, labor, the environment, domestic & international security, and intellectual property. Standing to bring a case before a

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55. See U.N. Charter arts. 24–26 (describing the role of the UNSC in maintaining international peace and security).

56. Id.

dispute settlement body should be broadened to include interstate organizations, international organizations, and states.

The cross-sectoral framework to combat pandemics has been insufficient in addressing the COVID-19 pandemic. The cross-sectoral framework has no consistent definition of what constitutes a pandemic, finds no consensus on whether a common authority should be allocated full competence for managing global efforts to combat pandemics, and insufficiently addresses the need to harmonize international laws and rules in the common fight against infectious disasters.

To overcome those weaknesses and divisions, the world needs prompt action. A new early-warning protocol for infectious diseases should be formulated to the WHO. However, political aspects and


58. See Jeanine Becker & David B. Smith, The Need for Cross-Sector Collaboration, STAN. SOC. INNOVATION REV. 1 (Winter 2018), https://ssir.org/articles/entry/the_need_for_cross_sector_collaboration (describing “cross-sector collaboration” as a means by which the nonprofit, government, philanthropic, and business sectors can use their diverse perspectives and resources to jointly solve societal problems and achieve shared goals).

59. The WHO has not provided any affirmative criteria that could be used to distinguish a pandemic from an epidemic.


sensitive areas in the global governance of pandemic response are beyond the WHO’s main function of issuing technical guidelines on how to respond to a health emergency to national governments. A global pandemic preparedness and response based on international cooperation and coordination should be engaged by the highest political level through the form of a treaty. In that sense, the UN Sixth Committee—the primary forum for the consideration of legal questions in the General Assembly and the International Law Commission—the legal subsidiary body of the General Assembly play a primordial role. A similar model can be learned from the adoption of the Rome Statute of the International Criminal Court drafted by the International Law Commission with the wide participation of legal and scientific experts under the requirement of the UNGA and supported by the UN Sixth Committee.

III. THE UNITED NATIONS SIXTH COMMITTEE AND THE INTERNATIONAL LAW COMMISSION: ROLES IN PREPARATION OF A TREATY FOR PANDEMIC PREPAREDNESS AND RESPONSE

The United Nations Sixth Committee and the International Law Commission (ILC) should develop an improved cross-sectoral framework to combat pandemics based on the lessons learned from the COVID-19 disease and state practice. The Sixth Committee and

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64. See U.N. Charter art. 13, par. 1 (providing that the General Assembly shall initiate studies and make recommendations for the purpose of promoting international cooperation in the economic, social, cultural, educational, and health fields); International Law Commission, https://legal.un.org/ilc/ (last visited May 20, 2021) [hereinafter ILC] (noting how the International Law Commission was established by the General Assembly, in 1947, to undertake the mandate of the Assembly, under article 13(1)(a) of the U.N. Charter to “initiate studies and make
the ILC could create a forum to discuss a new international legal instrument focused on epidemics and pandemics.\textsuperscript{65} The Committee could focus its debate on the role of international law in the three phases of a pandemic—before, during, and after—and emphasize the need to promote interaction and exchange of views between domestic policymakers, lawmakers, and international organizations.\textsuperscript{66} This forum is suitable for the exchange of views of national legal advisers on a consistent legal-scientific definition of pandemics,\textsuperscript{67} new international frameworks for global cooperation,\textsuperscript{68} supervisory bodies for scaling and implementing those frameworks, and appropriate recommendations for the purpose of . . . encouraging the progressive development of international law and its codification.”); U.N., \textit{Sixth Committee (Legal)}, U.N. \textit{GENERAL ASSEMBLY} (last visited May 20, 2021) [hereinafter \textit{Sixth Committee}], https://www.un.org/en/ga/sixth/ (describing the Sixth Committee has the primary forum for the consideration of legal questions in the General Assembly); Becker & Smith, \textit{supra} note 58, at 1 (discussing the importance of cross-sector collaboration to solving complex challenges on an international scale).

\textsuperscript{65} See generally U.N. Secretary-General, \textit{Protection of Persons in the Event of Disasters}, U.N. Doc. A/75/214 (July 12, 2020) [hereinafter \textit{Protection of Persons in the Event of Disasters}] (noting how many delegations saw the COVID-19 pandemic as demonstrating the importance of multilateralism and international cooperation in the area of disaster prevention and relief and considering “disasters” to include pandemics). During the 75th session of the Committee, from October to November 2020, a series of relevant issues were addressed. These included: 1) item 85, the report of the special committee on the Charter of the United Nations and on the strengthening of the role of the organization; 2) item 88, the rule of law at the national and international levels [item 86]; the responsibility of international organizations; and 3) item 89, the protection of persons in the event of disasters.


\textsuperscript{67} See Heath Kelly, \textit{The Classical Definition of a Pandemic is Not Elusive}, 89 BULL. OF THE WORLD HEALTH ORG., 540, 540–41 (2011), https://www.who.int/bulletin/volumes/89/7/11-088815/en/chis=A%20pandemic%20is%20defined%20as%20not%20considered%20pandemics (noting that the classical epidemiological definition of a pandemic as “an epidemic occurring worldwide, or over a very wide area, crossing international boundaries and usually affecting a large number of people” omits necessary information such as population immunity, virology, or disease severity, thus limiting the effectiveness of the classical definition).

\textsuperscript{68} ) IP 860/20, \textit{supra} note 63.
measures to combat the COVID-19 pandemic presently and in the future. 69 Those debates will promote the understanding of states’ stance on a new revision of the existing global mechanism, including the WHO, for pandemic preparedness and response.

To facilitate the debate, the Sixth Committee can set up a working group on pandemic preparedness and response. This formula was well implemented when the Sixth Committee established a working group on the Responsibility of States for Internationally Wrongful Acts 70 at the 74th session of the United Nations. The working group could call for an international conference to negotiate a treaty on pandemic preparedness and response or ask the UN General Assembly to adopt a resolution on the related issue. 71 The Sixth Committee can request the ILC’s service. The Commission demonstrated its concern to improve international law in response to pandemics at the early stages. 72 In September 2020, Members of the ILC, Claudio Grossman, Professor of Law at American University Washington College of Law, and Charles Jalloh, Professor of Law at Florida International University, proposed a long-term program on “Protection of Persons from Epidemics in International Law” to the ILC. 73 The Sixth Committee can request the ILC to include the “Protection of Persons

69. See Burci & Negri, supra note 66, at 521–22 (articulating the failure of existing international governance models in mitigating COVID-19 and suggesting alternative governance models that would rely on early, regular, and mandatory consultation on risk assessment and management, both within the WHO and between the WHO and other international organizations and U.N. agencies).

70. G.A. Res. 71/133, ¶¶ 2, 8 (Dec. 13, 2016) (tasking the working group with considering and providing a recommendation on the United Nation’s pursuit of two options regarding the Article on Responsibility of states for Internationally Wrongful Acts: (1) the negotiation of a convention based on the articles; or (2) the adoption of the articles by the General Assembly, in the form of a declaration or resolution).

71. See generally Stephanie C. Hofmann & Christian Kreuder-Sonnen, How International Organizations are Stepping Up to Respond to the Pandemic, WASH. POST (May 4, 2020, 5:00 AM), https://www.washingtonpost.com/politics/2020/05/04/how-international-organizations-are-stepping-up-respond-pandemic/ (commenting on international organizations’ ability to respond to the COVID-19 pandemic).

72. See generally Protection of Persons in the Event of Disasters, supra note 65 (noting the proposals made by ILC members to improve the development of international law in the realm of disaster preparedness, including in the context of COVID-19).

from Epidemics in International Law” as a topic in its long-term work and request a draft convention under Article 16 of the ILC Statute.\textsuperscript{74}

The long-term program study should provide a framework for developing cooperation among states and between states and international organizations based on an analysis of existing international law and procedures for the protection of persons in epidemics.\textsuperscript{75} Draft articles on the “Protection of Persons from Epidemics in International Law” developed by the ILC could be combined with the draft articles for the “Protection of Persons in Events of Disasters” and new conclusions from the work of Professors Grossman and Jalloh on the topic.\textsuperscript{76} Draft articles should clarify the key terms “epidemics,” “pandemics,” and “public health emergency of global concern” under current international law. A new, precise definition of pandemic should characterize a pandemic as a non-seasonal, quickly transmittable, widespread, and transnational epidemic that affects the human well-being, economy, peace, and security of the world in the short-term or long-term period, requiring global cooperation to manage and eradicate.\textsuperscript{77}

In compliance with the Commission’s mandate, draft articles should focus on existing international law to identify a clear, comprehensive, and coherent body of rules that address the prevention and control of the spread of epidemic diseases including aspects of international human rights law, international health law, international environmental law and general international law. The Commission

\textsuperscript{74} See G.A. Res. 174 (II), Statute of the International Law Commission, art. 16 (Nov. 21, 1947) (codifying the procedure by which the ILC may develop international law).

\textsuperscript{75} Id.

\textsuperscript{76} Id.; Protection of Persons in the Event of Disasters, supra note 65.

should analyze initiatives and recommendations of states, relevant international organizations, and agencies.\textsuperscript{78}

Draft articles would provide rules and guidelines for inter-state cooperation, and cooperation with competent international organizations in the three phases: prior to a potential pandemic, during a pandemic, and after a pandemic occurs.\textsuperscript{79} The question of state and international responsibility and the legal consequences for failing to comply with international regulations on the international spread of disease should be treated. A new draft convention would not replace the IHR but focus on improving the obligation of information sharing, transparency, and the independence and competence of the WHO. The obligation of early notification of infectious disease threats based on the experience of the 1986 Convention on Early Notification of a Nuclear Accident could be developed. To enhance the international pandemic response, the competence of the declaration of PHEIC could be widely discussed. The combination of political power of the UN Secretary General and independence of the WHO could be a considered solution.

When the work of the Commission is finished, it can serve as a text to negotiate a new treaty. The Sixth Committee could also propose that the General Assembly convene a diplomatic conference to negotiate a convention on the “Protection of Persons in Disasters and Epidemics” or facilitate a treaty on pandemic preparedness and future responses.\textsuperscript{80} The new governance for pandemics preparedness and response engages \textit{lex lata} and \textit{lex ferenda} issues. Therefore, the scope of draft articles would depend on the competence that the General Assembly accords to the ILC for a specific and urgent task.

IV. VIETNAM’S RESPONSE TO THE COVID-19

\textsuperscript{78} IP 860/20, supra note 63 (“[A] number of areas such a treaty could address: risk monitoring; better financing and coordination of research; a more efficient system of alerts and information sharing; improving access to healthcare; resilience: strengthening healthcare systems and securing supply chains.”).

\textsuperscript{79} Grossman & Jalloh, supra note 16.

PANDEMIC

Despite its shortcomings, international public health law can be applied with flexibility to achieve positive outcomes in a pandemic.\textsuperscript{81} Vietnam’s innovative approaches to combat the COVID-19 disease serve as a case study.\textsuperscript{82}

In theory, Vietnam could have been heavily affected by the COVID-19 pandemic due to its large population of 98,168,833,\textsuperscript{83} limited health care resources, and the fact that it shares a 1500km of common border with China—the epicenter of the pandemic.\textsuperscript{84} However, as of July 2021, only 207 deaths have been caused by COVID-19 in Vietnam.\textsuperscript{85} The initial results showed the effectiveness of the Vietnamese Government’s policy on early preparedness and prompt response, mass mobilization of the whole of society and political system to support the health care system, transparency, public communication and propaganda, cooperation and solidarity, adaptation and good governance.\textsuperscript{86} This policy has been supported by


\textsuperscript{84} Nguyen & Vu, supra note 82, at 1 (noting Vietnam’s proximity to China); Nortajuddin, supra note 82 (discussing Vietnam’s response to COVID-19 in relation news about the virus emerging from China).

\textsuperscript{85} WHO Coronavirus (COVID-19) Dashboard, supra note 1 (keeping an up-to-date record of COVID-19 deaths around the world).

the solidarity of Vietnamese citizens, who readily place aside personal choices in favor of combating the pandemic. 87


87. See Nortajuddin, supra note 82 (quoting the World Economic Forum, which noted that “being a single party state, with a large and well-organised military and social services . . . [Vietnam] has been able to make decisions quickly and enact them promptly”).

88. Cf. id. (noting that the World Health Organization reported that Vietnam’s health ministry already issued COVID-19 prevention guidelines when China had only just reported twenty-seven infections in Wuhan).

89. Hartley et al., supra note 86.

90. Julia Belluz, Vietnam Defied the Experts and Sealed Its Border to Keep Covid-19 Out. It Worked, VOX (Apr. 23, 2021, 4:00 AM), https://www.vox.com/22346085/covid-19-vietnam-response-travel-restrictions (“When China locked down Wuhan last January and bought other countries time to react, Vietnam was one of only a handful of countries that used that time wisely.”).
and close all international ports.\textsuperscript{91} This was not an easy decision, considering that export trade with foreigners and tourist activities are significant parts of the Vietnamese economy.\textsuperscript{92} The Vietnamese government framed the virus as a common foreign enemy and called on the unity of the population to defeat it.\textsuperscript{93} Further, the Vietnamese government was highly transparent in providing information to the public. Precautionary measures—such as the travel ban, social distancing, a massive test-and-trace program,\textsuperscript{94} and data transparency\textsuperscript{95}—were implemented more than a month before the WHO declared the COVID-19 pandemic a public health emergency.\textsuperscript{96}

Like other countries, Vietnam had two contradictory goals: disease control and economic development.\textsuperscript{97} In the beginning, Vietnam did not hesitate to lock down the country in an effort to protect people, identify sources of the virus, and prevent the spread of the virus.\textsuperscript{98} The

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\item \textsuperscript{93} See Belluz, supra note 90 (quoting the Prime Minister, who stated that “fighting this epidemic is like fighting the enemy”).


\item \textsuperscript{95} Anna Jones, \textit{Coronavirus: How ‘Overreaction’ Made Vietnam a Virus Success}, BBC (May 15, 2020), https://www.bbc.com/news/world-asia-52628283 (stating that there is overwhelming consensus from the medical and diplomatic community that the government’s data is accurate).

\item \textsuperscript{96} The WHO declared COVID-19 a public health emergency of international concern (PHEIC) on January 30, 2020. See Vu & Tran, supra note 86 (discussing Vietnam’s response to COVID-19).

\item \textsuperscript{97} See Thuy, supra note 92 (discussing Vietnam’s twin goals of managing the pandemic and maintaining its economy).

\item \textsuperscript{98} See Jones, supra note 95 (commenting on Vietnam’s rapid response
first phase of Vietnam’s response was to protect human life; the question of wealth and the economy would come later.\textsuperscript{99} Vietnam focused on combating only the viral cases originating outside of the country, once the spread of COVID-19 in the community was stopped and placed under control.\textsuperscript{100} The government shifted its anti-COVID-19 strategy towards targeted local lockdown and isolation, to the maximum extent possible, in order to minimize the impact of the COVID-19 pandemic on the production and exchange of goods.\textsuperscript{101} The Vietnamese government’s objective was to protect the livelihoods of the Vietnamese people, especially vulnerable populations so that no one was left behind.\textsuperscript{102} In shortage of medical equipment and vaccines, the Vietnamese government tried to ensure that Vietnamese residents and foreigners living and working in Vietnam\textsuperscript{103} were equally protected—demonstrating Vietnam’s respect for equality, non-discrimination, and human rights.\textsuperscript{104} Vietnam made a great effort to

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States and international organizations must enhance and strengthen international cooperation to respond to pandemics, such as COVID-19. Vietnam is an example of effective cooperation with relevant international organizations for the health public protection. Longstanding recommendations of the WHO about pandemics preparedness and IHR rules have been traditionally endorsed and resiliently observed in accordance with Vietnam’s healthcare system. Along with the WHO, Vietnam became the first country in the world to successfully contain its SARS outbreak in 2003. During the first phase of its anti-COVID-19 strategy, the Vietnamese government’s diplomatic mission mobilized international support to the nation’s efforts to combat the spread of the COVID-19 virus. The WHO, together with other international partners, supported Vietnam’s strengthening of its laboratory capacity for infectious diseases, as required by the 2005 International Health Regulations (2005 IHR).


106. See generally Benvenisti, supra note 2 (highlighting the need for political cooperation, not coordination, in achieving adequate global health).


In the second and third phases of its anti-COVID-19 strategy, Vietnam maintained its domestic responsibilities of protecting its citizens and assisted other states. Vietnam manufactured and donated shipments of qualified medical devices to the United States and quick diagnostic kits approved by the WHO, to twenty other states. Vietnam’s Ministry of Foreign Affairs donated $50,000 to the WHO COVID-19 Solidarity Response Fund and in the spirit of solidarity, Vietnam has sent donations of medical equipment to support European countries—specifically, England, Germany, France, Italy, and Spain—and regional neighbors—such as, Laos, Cambodia, Myanmar, and Indonesia.

Vietnam impressed as the ASEAN Chair and non-permanent member of the UNSC for 2020 by promoting the international response to COVID-19. ASEAN Leaders, under Vietnam’s
leadership,\textsuperscript{115} have conducted four cyber summits in 2020—the Special ASEAN Summit, the Special ASEAN Plus Three Summit on April 14, 2020,\textsuperscript{116} the 36th ASEAN Summit on June 26,\textsuperscript{117} and 37th Summit from November 12 to 15.\textsuperscript{118} The 26th ASEAN Economic Ministers (AEM) retreat on March 10, 2020 issued a statement calling for collective action to mitigate the impact of the virus, with a particular focus on leveraging technology and digital trade, and using trade-facilitation platforms for supply chain connectivity and sustainability.\textsuperscript{119}

At the Special ASEAN Summit on COVID-19, leaders of the ASEAN member states issued the Hanoi statement calling for a post-pandemic recovery plan and proposing the establishment of the COVID-19 ASEAN Response Fund.\textsuperscript{120} As of December 2020, the ASEAN COVID-19 Response Fund received up to 10 million USD in

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  \item Chairman’s Statement of the 36th ASEAN Summit, ASEAN (June 26, 2020), https://asean.org/storage/2020/06/Chairman-Statement-of-the-36th-ASEAN-Summit-FINAL.pdf.
  \item Chairman’s Statement of the 37th ASEAN Summit, ASEAN (Nov. 20, 2020), https://asean.org/chairmans-statement-37th-asean-summit/.
\end{itemize}
aid. 121 ASEAN member states committed to ensuring the smooth flow of essential goods—including food, medicine, medical supplies, and other essential supplies associated with combating the COVID-19 pandemic—and facilitating timely information sharing on trade-related measures for essential goods and supplies, to other ASEAN member states. 122 The ASEAN members also facilitate information exchanges on best practices of member states in managing the COVID-19 pandemic and initiatives to prevent the spread of COVID-19 and other infectious diseases. 123

At the 37th Summit from November 12 to 15, 2020, the ASEAN member states established a regional reserve of medical supplies enabling rapid response to emergency needs and standard procedures to pandemics. 124 ASEAN reached several agreements with partners, such as the United States, 125 European Union, China, Japan, South Korea, and New Zealand, on prioritizing global health security—including transparent, timely, and effective international cooperation and information sharing. 126 Further, the agreements include provisions for continued collaboration to facilitate access to quality, safe, efficacious and affordable diagnostics, therapeutics, medicines, and vaccines needed to combat the COVID-19 pandemic; and joint efforts to prevent, detect, and respond to future viral outbreaks and pandemic threats. 127 The theme for ASEAN this year, under the chairmanship of

122. Declaration of the Special ASEAN Summit on Coronavirus Disease 2019, supra note 120.
123. Id.
126. See, e.g., id. (recognizing “the need to prioritize global health security, including transparent timely and effective international cooperation and information sharing”).
127. See, e.g., ASEAN, China Enhance Cooperation in Response to COVID-19,
Vietnam, is “Cohesive and Responsive.” 128 ASEAN highlighted the importance of solidarity and unity for maintaining the sustainability of the Association while its member states worked together to respond to the challenges posed by the COVID-19 pandemic. 129

In its capacity as a non-permanent member of the UNSC, Vietnam repeatedly expressed its concern about the COVID-19 pandemic’s impact on humanitarian protection, peace, and security in war zones, such as Syria and other parts of the Middle East. 130 Vietnam urged all concerned parties to agree to a complete and immediate nationwide ceasefire in Syria. 131 The objective of the ceasefire is to allow the peaceful transportation of humanitarian goods, and essential supplies to combat the pandemic across the region. 132

On November 13, 2020, the U.N. General Assembly approved a resolution—drafted by Vietnam; co-authored by Canada, Niger, Senegal, Saint Vincent and the Grenadines, and Spain; and co-sponsored by 107 countries—to declare December 27 the “International Day of Epidemic Preparedness.” 133 This resolution recognized that:

International cooperation and multilateralism play an important role in the response to epidemics. We need to stress the significance of partnership and solidarity among every individual, community, and state, and regional

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130. Id.

131. Id.

132. Id.

and international organizations, in all stages of epidemic management, as well as the importance of considering a gender perspective in this regard.\footnote{International Day of Epidemic Preparedness, 27 December, \textsc{United Nations}, https://www.un.org/en/observances/epidemic-preparedness-day (last visited June 6, 2021).}

\section*{V. CONCLUSION}

The protection of persons from pandemics is a global concern, and an obligation of all states—not just effected states. In clarifying the international law for combating pandemics, the international community must encourage the interaction and exchange of views between domestic policy and law-makers and international organizations, identify a consistent definition of pandemic, ensure global cooperation, develop and supervise the implementation of new legal norms and rules on epidemics and pandemics, and supervise the implementation of appropriate measures to combat the COVID-19 pandemic and potential future pandemics.

To combat any epidemic, “no country can fight alone; we can only fight together.”\footnote{\textit{WHO COVID-19 Pandemic Declaration}, supra note 1.} Such solidarity is rooted in the sharing of experiences and information, as well as mutual support.\footnote{See Pitakdumrongkit, \textit{supra} note 28 (highlighting ASEAN’s collaboration when it came to health and medicine in the context of COVID-19); \textit{see also} Belluz, \textit{supra} note 90 (discussing Vietnam’s domestic solidarity in combatting the pandemic).} Vietnam’s achievements in fighting and controlling the COVID-19 pandemic were a combination of early and drastic measures taken by the Government, unanimity and discipline of the people, effective coordination of all agencies, implementation of strict quarantine, transparency in sharing information, and extensive personal hygiene awareness campaigns.\footnote{Belluz, \textit{supra} note 90.} This initial success would not have been possible without regional and international solidarity.\footnote{Pitakdumrongkit, \textit{supra} note 28 (discussing the efficacy of regional solidarity in combatting COVID-19).} International law is a critical tool to sustain that solidarity, and therefore must be used to improved and adapt solidary to prevent and combat pandemics in the future.

\footnotetext[135]{\textit{WHO COVID-19 Pandemic Declaration}, \textit{supra} note 1.}
\footnotetext[136]{See Pitakdumrongkit, \textit{supra} note 28 (highlighting ASEAN’s collaboration when it came to health and medicine in the context of COVID-19); \textit{see also} Belluz, \textit{supra} note 90 (discussing Vietnam’s domestic solidarity in combatting the pandemic).}
\footnotetext[137]{Belluz, \textit{supra} note 90.}
\footnotetext[138]{Pitakdumrongkit, \textit{supra} note 28 (discussing the efficacy of regional solidarity in combatting COVID-19).}