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"Never Let a Good Crisis Go to Waste": Can International Law Seize the Advantage?

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TWENTY-THIRD ANNUAL GROTIUS LECTURE

Yves Daudet of the Sorbonne Law School and discussant Hannah Buxbaum of Indiana University provided the Twenty-Third Annual Grotius Lecture on Thursday, March 25, 2021, at 10:00 a.m.

“NEVER LET A GOOD CRISIS GO TO WASTE”: CAN INTERNATIONAL LAW SEIZE THE ADVANTAGE?

YVES DAUDET*

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Some international crises are circumscribed, others are more diffuse, sometimes of varying intensity depending on the region. But, at the end of the day, all regions might be impacted according to an

* Professor Emeritus at the Sorbonne Law School. President, Curatorium of The Hague Academy of International Law. As this lecture was submitted for publication before the armed aggression of Russia in Ukraine, this major crisis affecting the foundations of international law is not mentioned. However, even if it had been taken into account, the conclusions of this article would not be radically different in that this crisis reveals the weaknesses of the fundamental rules of international law based on the principles of 1945, which were made for a different world than today. The crisis calls for a profound reform of the rules and institutions that claim to govern it. Though this crisis is a serious violation of international law, it brings awareness and the opportunity to consider these indispensable transformations.

uncertain timetable. This is the case, for example, with terrorism, cybersecurity, the migration crisis, and the climate crisis, which is one aspect of environmental damage that intersects with the health crisis. Some are latent and marked by sudden outbreaks, such as terrorism or the Islamic State's criminal operations. Others are set to worsen, such as the migration crisis, which today is probably small compared to what it will become. We must also think about financial or economic crises, cybersecurity breaches,¹ misuse of new technologies and social networks, and, importantly, the painful experience of the January 2021 democratic crisis in the United States. But the current COVID-19 health crisis is the crisis that occupies everyone's mind today.

The time we live in is marked by a phenomenon of accumulation and variety of these global crises. For example, the health crisis requires the vaccination of nearly eight billion people at the same time around the world.² The challenge is therefore collective and can only be overcome using universal approaches and modalities that are commensurate with a situation in which everyone is involved,³ as individuals and as human beings threatened by a global health scourge. Involvement must be done in such a way that, mechanically, it is in the interest of states to collaborate and participate in joint action to hope to overcome the crisis together. This cannot be done through isolated action, with each state remaining behind walls. The simple reason is that the virus knows no borders making each state affected by what is happening to others. Everyone, therefore, has a direct interest both in being informed about the situation of the others and in

1. See, e.g., *Les États-Unis estiment la Russie « probablement » à l'origine de la cyberattaque dont ils ont été victimes* [*The United States considers Russia "probably" at the origin of the cyberattack of which they were victims*], LE MONDE (Jan. 6, 2021, 07:21 AM), [lemonde.fr/pixels/article/2021/01/06/les-etats-unis-estiment-la-russie-probablement-a-l-origine-de-la-cyberattaque-dont-ils-ont-ete-victimes_6065309_4408996.html](https://www.lemonde.fr/pixels/article/2021/01/06/les-etats-unis-estiment-la-russie-probablement-a-l-origine-de-la-cyberattaque-dont-ils-ont-ete-victimes_6065309_4408996.html).

2. See Elizabeth Piper & Kate Holton "We Need More": UN Joins Criticism of G7 Vaccine Pledge, REUTERS (Jun. 12, 2021, 12:48 AM), <https://www.reuters.com/business/healthcare-pharmaceuticals/g7-donate-1-billion-covid-19-vaccine-doses-poorer-countries-2021-06-10> (noting the number of vaccine doses needed to fully vaccinate the world's population exceeds).

3. See Aisling Irwin, *What Will it Take to Vaccinate the World Against COVID-19*, NATURE (Mar. 25, 2021), <https://www.nature.com/articles/d41586-021-00727-3> (noting the slow process for manufacturing the vaccines and the necessary collaboration between different entities).

participating in joint action. This collective action obviously does not exclude national actions in extreme circumstances: for example, the decision of the United States to reserve doses of the COVID vaccine for the benefit of Americans and residents of the United States.⁴ This decision is understandable and frequently shared, even if it expresses the blocking effect of sovereignty and embodies the slogan “America first.”

Here we are at the heart of international law, COVID makes us have to ask ourselves what kind of international society we want and how should it be governed by principles and rules appropriate and adapted to a world that is no longer that of 1648, or even 1945.

In 1648, the Treaties of Westphalia established the foundations of modern international law: the principle of equality of states, and its corollary sovereignty, was put forward. Hence the expression “sovereign equality,” which would be enshrined three centuries later in Article 2, paragraph 1 of the UN Charter.⁵ We know that the principle of equality is fictitious in some ways. But certainly when it emerged in 1648, at the end of the Thirty Years’ War, it was a step forward from the situation in the world that had preceded it.

Today, some minds question sovereignty itself and advocate for its disappearance.⁶ I do not think this is appropriate. Since society has

4. *COVID-19 : des millions de vaccins AstraZeneca inutilisés aux États-Unis* [*COVID-19: Covid-19: Millions of Unused AstraZeneca Vaccines in the United States*], FRANCEINFO (Mar. 15, 2021 11:51 AM), https://www.francetvinfo.fr/sante/maladie/coronavirus/vaccin/covid-19-des-millions-de-vaccins-astrazeneca-inutilises-aux-etats-unis_4333883.html.

5. Marcelo G. Kohen, *Article 2, paragraphe 1*, in *LA CHARTE DES NATIONS UNIES, COMMENTAIRE ARTICLE PAR ARTICLE* [CHARTER OF THE UNITED NATIONS, COMMENTARY ARTICLE BY ARTICLE] 399 (Jean-Pierre Cot et al., eds., Economica, 3d ed., 2005).

6. This thesis sees sovereignty as it is exercised today as an outdated concept in today’s globalized society and as an obstacle to the real development of an international law-based society. Monique Chemillier Gendreau has developed this idea in her various works critical of voluntarism. See MONIQUE CHEMILLIER GENDREAU, *DROIT INTERNATIONAL ET DEMOCRATIE MONDIALE: LES RAISONS D’UN ECHEC* [INTERNATIONAL LAW AND GLOBAL DEMOCRACY: THE REASONS FOR FAILURE] 48–61 (Textuel, Paris, 2002); see generally MONIQUE CHEMILLIER GENDREAU, *HUMANITE ET SOUVERAINETES, ESSAI SUR LA FONCTION DU DROIT INTERNATIONAL* (La découverte, Paris 1995); see also MONIQUE CHEMILLIER GENDREAU, *DE LA GUERRE A LA COMMUNAUTE UNIVERSELLE. ENTRE DROIT ET*

evolved considerably, the principle of sovereignty of the state, which is its main pillar, the one toward which the other principles converge, must evolve itself. It is a question of ensuring that sovereignty evolves in a way that its content and characteristics correspond to the needs of our society as it is in the twenty-first century.

Today's crises demonstrate the limits of the sovereign equality of 1648 and force us to revisit the multilateralism of the United Nations system of 1945. At this stage, we can also ask ourselves whether or not we want a more united and open society within the framework of controlled globalization, as many scholars and politicians have long been demanding. The major crises we are going through today shed light on this need for humanization;⁷ it finds its necessity in the fact that globalization has accentuated income disparities. The rich have become richer and richer, the poor have become poorer and poorer.⁸ Indeed, this situation offends morality; but beyond this aspect, it bears the seeds of serious conflicts that can thrive when inequalities reach an unbearable threshold, which is often a prerequisite for initiating populist movements.⁹

POLITIQUE [FROM WAR TO UNIVERSAL COMMUNITY: BETWEEN LAW AND POLITICS] 107–19 (Fayard, Paris, 2013). Distrust of sovereignty was one of the main themes in the work of Georges Scelle (1878-1961). *See generally* Olivier de Frouville, *Une conception démocratique du droit international* [Democratic Conception of International Law] 39 REVUE EUROPÉENNE DES SCIENCES SOCIALES 101–44 (2001); *id.* at 110–22, 142–44 (exploring the theses of Georges Scelle and other authors on this question). Charles-Albert Morand, *La souveraineté, un concept dépassé à l'heure de la mondialisation*, in L'ORDRE JURIDIQUE INTERNATIONAL, UN SYSTEME EN QUETE D'EQUITE ET D'UNIVERSALITE: LIBER AMICORUM GEORGES ABI-SAAB [THE INTERNATIONAL LEGAL SYSTEM IN QUEST OF EQUITY AND UNIVERSALITY: LIBER AMICORUM GEORGES ABI-SAAB] 53–175 (Laurence Boisson de Chazournes & Vera Gowlland-Debbas eds., Nijhoff 2001). For a political science view, see BERTRAND BADIE, UN MONDE SANS SOUVERAINETE, LES ÉTATS ENTRE RUSE ET RESPONSABILITE [A WORLD WITHOUT SOVEREIGNTY, STATES BETWEEN RUSE AND RESPONSIBILITY] (Fayard 1999).

7. *See generally* THEODOR MERON, THE HUMANIZATION OF INTERNATIONAL LAW (Nijhoff 2006).

8. *See* Diana Schoder, *Is A Globalized World A Less Equal World*, AM. ECON. ASS'N (June 15, 2018), <https://www.aeaweb.org/research/globalization-income-inequality-trade-policy> (discussing the growing economic inequality that comes with globalization).

9. *See* François Bourguignon, *Inequality and Globalization: How the Rich Get Richer as the Poor Catch Up*, 95 FOREIGN AFF. 11, 11, 14 (2016) (furthering discussion on globalization and inequality).

Inequalities between individuals as well as inequalities between states distinguish today's crises. Here again, the health crisis speaks for itself. Inequality between individuals emerged with overall access to vaccines at the beginning of the process—largely because appointments for vaccinations were made online so that those who did not have access to or knowledge of computers (the elderly, or poorly educated people) were penalized.¹⁰ Fortunately, this kind of problem was resolved afterward.¹¹ Inequality between states emerged when vaccines were pre-ordered and pre-paid for by industrialized countries, but this was not the case for poorer countries where vaccinations have lagged far behind, despite the collective interest in having the whole world vaccinated to confine the virus.¹² Some efforts have been made, slowly and insufficiently, to improve this disparity through aid and donations.¹³

Even if the International Court of Justice (ICJ) in the *Barcelona Traction* judgment referred to “the international community as a whole,”¹⁴ it does not mean that a community of destinies based on uniform rules of law is easily achieved. However, a certain number of these rules are necessary, especially in times of crisis.¹⁵ These rules

10. See Douglas Broom, *Coronavirus Has Exposed the Digital Divide Like Never Before*, WORLD ECON. F. (Apr. 22, 2020), <https://www.weforum.org/agenda/2020/04/coronavirus-covid-19-pandemic-digital-divide-internet-data-broadband-mobbile> (exploring the inequalities relating to internet access and COVID-19).

11. Cf. Hyea Won Lee, *Addressing the Digital Divide and Inequality: A Road to Equitable COVID-19 Vaccine Delivery*, WORLD BANK BLOGS: DIGITAL DEV. (June 2, 2021), <https://blogs.worldbank.org/digital-development/addressing-digital-divide-and-inequality-road-equitable-covid-19-vaccine> (focusing on how to address the COVID-19 inequalities).

12. See Umair Irfan, *Why are Rich Countries Still Monopolizing Covid-19 Vaccines?*, VOX (Nov. 9, 2021), <https://www.vox.com/22759707/covid-19-vaccine-gap-covax-rich-poor-countries-boosters> (reporting on vaccine distribution inequality).

13. See *id.* (recognizing the steps being taken to cure the vaccine inequity by donations).

14. *Barcelona Traction, Light & Power Co. (Belg. v. Spain)*, Judgment, 1970 I.C.J. 3, ¶ 33 (Feb. 5). Jurists like to question the legal existence of the term “international community.” See e.g. Hamza Karcic, *Why an ‘International Community’ Does Not Exist*, NEWSWEEK (May 18, 2021, 06:30 AM), <https://www.newsweek.com/why-international-community-does-not-exist-opinion-1592237>.

15. Cf., Federico Andreu Guzman, *International Law and the Fight Against Impunity: A Practitioners Guide*, INT’L COMM’N JURISTS 42, 45, <https://www.un>

are, in the words of Edith Brown Weiss, “the glue that binds together diverse States, communities and individuals” in the “kaleidoscopic world,” described in her brilliant general course recently delivered at The Hague Academy.¹⁶ As much as possible, let us look for this glue. It requires political will.

International law is consubstantial with political projects.¹⁷ To determine whether international law can benefit from crises, one must first ask what political projects have been decided in the face of crises and what lessons can be drawn from them.¹⁸ Then, one must ask which projects enriched international law, so that, in a preventive approach, they can be applied in the future.¹⁹ By their scale and universality, crises are an opportunity not to be missed to accomplish this process of a real “Restatement of International Law.”

One could go on and on enumerating crises. I will not do so. Nor will I go into the details of each crisis and the measures contemplated, nor opine about what would have been desirable. Rather, I will confine myself to the general elements that appear at the heart of the question of whether international law can derive any benefit from crises. For this purpose, I will emphasize that the crises show us first that the central principle, sovereignty, must be adapted to the needs of today’s world. Second, they show us that multilateralism must be strengthened as the preferred instrument for organizing international society.

.org/sexualviolenceinconflict/wp-content/uploads/2019/06/report/auto-draft/Universal-Fight-against-impunity-PG-no7-comp-Publications-Practitioners-guide-series-2015-ENG.pdf (underscoring that the rule of law is necessary in combatting impunity).

16. Edith Brown Weiss, *Establishing Norms in a Kaleidoscopic World*, in 396 RECUEIL DES COURS DE L’ACADÉMIE DE DROIT INTERNATIONAL DE LA HAYE [COLLECTED COURSES HAGUE ACAD. INT’L L.] 83 (Nijhoff 2019).

17. See Martti Koskenniemi, *The Fate of Public International Law: Between Technique and Politics*, 70 MOD. L. REV. 1, 1 (2007) (arguing that removing the political context from international law minimizes how the same rules and institutions can differ at the international and domestic levels).

18. For insights on the utility of international law and cooperation in overcoming crises, see Anne van Aaken, *Is International Law Conducive to Preventing Looming Disasters?*, 7 GLOB. POL’Y 81, 81 (2016) (pointing to a series of “looming disasters” that set the stage for traditional cooperation among states).

19. See, e.g., *id.* at 84, where the Security Council used its authority during the 2014 Ebola outbreak in Africa to overcome state consent and call on states to contain the disease.

I. ADAPTING THE PRINCIPLE OF SOVEREIGNTY

The multiplication of actors, some of whom compete with states that are themselves in competition with each other, leads to a world of complex networks and interactions that international law must reflect and, above all, regulate in order to prevent crises and resolve them.²⁰ Crises highlight shortcomings and invite reflection on new modalities that could be implemented.²¹ One may then ask whether the founding principle of sovereignty can evolve or be adjusted to respond to the interests, needs, and rights of other states, thus making possible the peace, coexistence, and harmony that we seek.

A. ADJUSTMENTS OF THE PRINCIPLE

As for the adjustments of the principle of sovereignty, the climate crisis is a telling example. The harmful activities on the environment in the Amazon rainforest, mainly by Brazil, illustrate the conflict between the sovereignty of the state, the interests of other states, and the safeguarding of the planet, of which the Amazon rainforest is the lung.²²

While Brazil's territorial sovereignty is not in doubt, the compelling needs of the climate crisis mean that the ways in which Brazilian sovereignty is exercised must be adjusted to meet a balance. This kind of adjustment already exists, for example, in the law of the sea.²³ It exists even more so in the internal order of the states, e.g., an urban planning rule that does not infringe on the right of ownership of a building but frames or limits its exercise by virtue of the general interest.²⁴ The climate and environmental crisis is giving rise to a

20. *But cf.* U.N. GAOR, 74th Sess., 11th plen. mtg., U.N. Doc. GA/12198 (Sept. 28, 2019) (tempering the need for multilateral cooperation with the bedrock principle of respect for state sovereignty).

21. *See* van Aaken, *supra* note 18, at 81 (recognizing that a myriad of crises requires international cooperation due to their inherent transnationality).

22. *See* Pierre-Marie Dupuy, *Amazonie: Le droit international en vigueur apporte des réponses substantielles* [*Amazon: Current International Law Provides Substantial Answers*], 16 BRAZ. J. INT'L L. 3 (2019).

23. United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 397 §3 (allowing innocent passage in the territorial sea).

24. *See, e.g.*, Sandra B. Zellmer, *Mitigating Malheur's Misfortunes: The Public Interest in the Public's Public Lands*, 31 GEO. ENV'T. L. REV. 509, 512 (2019) (interpreting the public trust doctrine as placing an affirmative obligation on the U.S.

formula that I would describe as “amended sovereignty” for the implementation of a new principle—the *no harm principle*—which, in accordance with the general principles of international environmental law, requires that territory be used in a way that does not cause harm.²⁵ The *no harm principle* from the 1972 Stockholm Declaration and the 1992 Rio Declaration was recognized as a *customary principle* by the ICJ in its advisory opinion on the legality of nuclear weapons.²⁶

Be that as it may, the climate crisis cannot lead to formulas that call into question such a fundamental principle as the sovereignty of the state over its territory. Brazil, like other states at times, can invoke the Charter of Economic Rights and Duties of States to reinforce its sovereignty position.²⁷ This can lead to a serious crisis if one observes the increasing occurrence of deforestation and forest degradation.²⁸ This situation requires dialogue and negotiation through the addition of various standards, legally binding or only incentivizing, as well as doctrines such as the *common concern of humankind*. The same reasoning could be transposed to situations created by the same climate crisis, such as the conservation of biodiversity,²⁹ as it is recognized as a common concern of humankind and the protection of species.

This whole process, which also includes a dose of pressure on

government to protect the public's interest in public lands).

25. See Dupuy, *supra* note 22; see also PIERRE MARIE DUPUY & JORGE E. VIÑALES, INTRODUCTION AU DROIT INTERNATIONAL DE L'ENVIRONNEMENT [INTRODUCTION TO INTERNATIONAL ENVIRONMENTAL LAW] 85–8 (Bruylant 2015).

26. Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. 226, ¶ 29 (July 8).

27. See Charter of Economic Rights and Duties of States, U.N.G.A. Res. A/Res/3281(XXIX) 12 Dec. 1974, ch. 1, art. 2.

28. See Paige Mason, *Inadequacies of the Amazon Fund: Evaluating Brazil's Sovereignty in the Context of Promising Market Mechanisms and the Need for International Oversight to Protect the Amazon Rainforest*, 13 TOURO INT'L L. REV. 116, 130 (2010) (describing Brazil's assertion to its environmental sovereignty in the face of the unrestricted burning and logging of the Amazon rainforest). But see Charter of Economic Rights and Duties of States, ch. 1, art. 30 (describing the affirmative duty of states to protect the environment notwithstanding the respect for sovereignty).

29. See generally Sandrine Maljean-Dubois, *Le droit international de la biodiversité* [International Biodiversity Law] in 407 RECUEIL DES COURS DE L'ACADEMIE DE DROIT INTERNATIONAL DE LA HAYE [COLLECTED COURSES HAGUE ACAD. INT'L L.] 147–542 (Nijhoff 2020).

states, is slow, but it also clarifies that there is a necessity for reorganizing such founding principles, like that of state sovereignty, by gradually bringing it in line with the current situation on our planet.³⁰ The question then is whether the progress of international law, which undoubtedly constitutes a modulation of the principle of sovereignty according to the needs of the international community, is being overtaken by the scale and acceleration of the crises we are experiencing.

However, let us neither go too fast nor too far in these perilous ways. Thus, in a cautious approach by the International Law Commission (ILC) regarding the protection of the atmosphere, which was included in its 2013 agenda after some hesitation,³¹ this question was not considered to fall within the common concern of humankind. The ILC did not find this notion to be sufficiently precise or sufficiently established in state practice.³² This example is interesting in that it shows the caution with which international law is developing³³ despite the urgency of certain situations. The degree of legal force that results from the various norms, principles, or concepts that are adopted determines their effects, which includes international responsibility, injunctions or political pressure, and often inaction.

Conversely, the crises that took place in the former Yugoslavia and Rwanda in the 1990s, due to their extreme seriousness and the resurgence of genocides, gave a tremendous boost to international criminal justice, the construction of which had previously dragged on year after year at the ILC. Within a few weeks, the UN General

30. U.N. GAOR, 74th Sess., 11th plen. mtg., U.N. Doc. GA/12198 (Sept. 28, 2019).

31. See e.g. Géraud de Lassus St-Geniès, *Why the ILC Should Not Seek to Codify Climate Law*, in DEBATING CLIMATE LAW 50, 50–53 (Benoit Mayer & Alexander Zahar eds., 2021) (contending that ILC codification of climate law is ill-advised because of the impracticalities of identifying consistent evidence of “general practices accepted as law.”).

32. See Peter H. Sand, *Climate Law and Its Skeptics: Whither Protection of the Atmosphere*, 51 ENV'T POL'Y & L. 5, 6–7 (2021) (describing how influential U.N. member states thwarted codification of atmospheric draft guidelines).

33. See Anne-Thida Norodom & Philippe Lagrange, *Travaux de la Commission du droit international et de la sixième commission [Work of the International Law Commission and of the Sixth Commission]*, 57 ANNUAIRE FRANÇAIS DE DROIT INTERNATIONAL 357 (2011).

Secretariat, at the request of the Security Council, prepared a draft of special jurisdictions for the former Yugoslavia and Rwanda, adopted by resolutions of the Security Council.³⁴ While generally less remembered, former UN Secretary-General Boutros Boutros-Ghali had, for several months, organized a collection of elements likely to provide evidence of the acts committed.³⁵ The next step, which was quickly achieved, was the Rome Statute creating the International Criminal Court on July 17, 1998.

With many imperfections and limitations to jurisdiction (always the survival of the principle of sovereignty), international criminal justice punishes those responsible for international crimes.³⁶ Beyond the specific cases and observations, I believe that these serious humanitarian crises have allowed for the emergence of a system that has helped forge awareness that the principle of sovereignty does not allow everything and that it does not exclude forms of control and even sanctions. It is therefore a fundamental step in an international society based on the rule of law.

B. IMPLEMENTATION ARRANGEMENTS

Today, sovereignty is often affected by a game of transfer of competence. Of course, a transfer of competence is not a transfer of sovereignty, but it does mean that, in a given area, the state cannot act or cannot act alone. A typical example is that of the European Union and the common policies exercised by the Union on an exclusive (e.g., competition) or shared (e.g., agriculture, transport, etc.) basis.³⁷ The

34. See generally Security Council Resolution 827, UN Doc. S/RES 827 (25 May 1993) (establishing the International Criminal Tribunal for the former Yugoslavia); Security Council Resolution 955, U.N. Doc. S/RES/955 (8 Nov. 1994) (establishing the International Criminal Tribunal for Rwanda).

35. See U.N. Doc. S/RES/780 (6 Oct. 1992); U.N. Doc. S/RES/771 (13 Aug. 1992).

36. See BRUCE BROOMHALL, *INTERNATIONAL JUSTICE AND THE INTERNATIONAL CRIMINAL COURT: BETWEEN SOVEREIGNTY AND THE RULE OF LAW* 52–53, 56 (2004) (discussing duties to prosecute and principles of international criminal law).

37. See Marta Cartabia, *The Legacy of Sovereignty in Italian Constitutional Debate*, in *SOVEREIGNTY IN TRANSITION* 314–15 (2006) (discussing EU states' loss of autonomous power); Consolidated Version of the Treaty on the Functioning of the European Union art. 3, 4, Oct. 26, 2012, 2012 O.J. (C 326) 51 [hereinafter TFEU].

health crisis has precisely highlighted the disadvantage of not having a common health policy in place, which might have allowed for better, quicker action at the beginning of the crisis instead of clumsy, hesitant actions.

The health crisis has also shown how much the relationship between states and the World Health Organization (WHO), and the extent or nature of its power, needs to be rethought. In a series of *American Journal of International Law* articles on the health crisis, José Alvarez and Eyal Benvenisti very clearly highlighted these weaknesses.³⁸ They showed how the crisis revealed weaknesses and how the system should be corrected and improved to enable international organizations to play their roles and act toward sovereign states.³⁹ The positive thing about crises is that they are revealing of what normal time prevents us from seeing: they are an experiment, exactly the same way that during periods of confinement, the inhabitants of Beijing and major Chinese cities were able to experience what clean air and the absence of pollution was like, or the Venetians finding the blue of the lagoon while ducks were walking in the streets of Paris. These images have a strong impact on public opinion and can help in the adoption of better and more effective international standards because they raise public awareness.

In any case, the principle of sovereignty remains present, as shown by the obstacles put in place by China in response to the WHO sending international objectives to Wuhan to try to clarify the origin of the pandemic.⁴⁰ In a diversionary move, the Chinese government suggested that the virus was imported in frozen products from the West, thus attempting to dodge responsibility.⁴¹ The problem with

38. Jose E. Alvarez, *The W.H.O. in the Age of the Coronavirus*, 114 AM. J. INT'L L. 578, 579–84 (2020); Eyal Benvenisti, *The W.H.O.—Destined to Fail?: Political Cooperation and the COVID-19 Pandemic*, 114 AM. J. INT'L L. 588, 595–97 (2020).

39. Alvarez, *supra* note 38, at 579–84; Benvenisti, *supra* note 38, at 595–97.

40. Stéphane Foucart, *Origines du SARS-CoV-2 : la Chine refuse toute nouvelle enquête internationale* [*Origins of SARS-CoV-2: China Refuses Any New International Investigation*], LE MONDE (Aug. 14, 2021), https://www.lemonde.fr/planete/article/2021/08/14/origines-du-sars-cov-2-la-chine-refuse-toute-nouvelle-enquete-internationale_6091399_3244.html.

41. Simon Leplâtre, *La Chine pointe les importations alimentaires comme une source de contamination possible* [*China Points to Food Imports as a Possible Source of Contamination*], LE MONDE (Jan. 30, 2021), <https://www.lemonde.fr/>

these actions was not the eventual conclusion that rules out laboratory error in Wuhan, but because the Chinese government caused a prejudicial delay in information, the immediacy of which was crucial in limiting the spread of viruses that are playing with sovereignty and cross borders.⁴²

C. FLEXIBILITY OF THE BORDER

In addition to the total loss of the notion of a “border” in the crises of cyberspace and immaterial data, the border is inoperative in the case of climatic disorders or ecological damages because it is an illusory barrier to mass migrations.⁴³ In Europe, only populists see closing the border and erecting walls or laying barbed wire as the solution to the migration crisis. It is a misleading solution in the short term and an untenable solution when the crisis develops, which, based on the growing number of political and economic refugees alongside cohorts of climate refugees, is inevitable.⁴⁴

Conversely, the total and unrestricted opening of borders is not realistic either. States must remain free to regulate access to their territory so long as their regulations follow the refugee regime and embody the principle of non-discrimination.⁴⁵

international/article/2021/01/30/la-chine-pointe-les-importations-alimentaires-comme-une-source-de-contamination-possible_6068201_3210.html.

42. See Peter G. Danchin et al., *The Pandemic Paradox in International Law*, 114 AM. J. INT'L L. 598, 604 (finding that responses to COVID-19 “purported[ly] in defense of sovereignty ultimately risks undermining it”).

43. See MICHAEL R. MASON, *THE NEW ACCOUNTABILITY: ENVIRONMENTAL RESPONSIBILITY ACROSS BORDERS* 26–27 (2005) (suggesting that state discretion is not unlimited with respect to control of borders); see Bill McKibben, *There are No Borders in a Climate Crisis*, NEW YORKER: ANNALS OF A WARMING PLANET (Mar. 31, 2021), <https://www.newyorker.com/news/annals-of-a-warming-planet/there-are-no-borders-in-a-climate-crisis> (discussing the practical limits of borders’ functionality in a climate crisis).

44. See Jean Chemnick & Mark K. Matthews, *Trump’s Border Wall Highlights Climate-Migration Connection*, SCI. AM. (Jan. 22, 2019), <https://www.scientificamerican.com/article/trumps-border-wall-highlights-the-climate-migration-connection> (suggesting that barriers are ineffective tools in solving migration issues).

45. See Vincent Chetail, *Crisis Without Borders: What Does International Law Say About Border Closure in the Context of COVID-19*, 2 FRONTIERS POL. SCI. 1, 2 (2020) (suggesting that state discretion is not unlimited with respect to control of borders); see *The Right to Equality and Non-Discrimination*, ICELANDIC HUM. RTS.

How can it be possible that people remain safe in their own countries while also ensuring international security? The solution to the migration crisis lies in multilateral action to develop regional or general cooperation and implement appropriate human rights programs.⁴⁶ This approach seems to be the one followed by President Joe Biden regarding potential migrants and the situation of undocumented migrants already in the United States.⁴⁷ This new policy is fortunately in total rupture with the brutality and inhumanity of the previous administration.⁴⁸

II. STRENGTHENING THE INSTRUMENTS OF MULTILATERALISM

A. DIVERSITY OF SITUATIONS

There are several reasons why a critical situation can only be addressed through multilateral action and collective effort. It may

CTR., <https://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/substantive-human-rights/the-right-to-equality-and-non-discrimination> (last visited Nov. 1, 2021) (explaining that the principle of non-discrimination encompasses equality, requiring that people be “treated equally before the law, without discrimination”).

46. See Press Release, General Assembly, Stronger Multilateralism Key to Tackling Tough Global Challenges but not at Expense of State Sovereignty, Several Speakers Warn as General Assembly Debate Continues, U.N. Press Release GA/12198 (Sept. 28, 2019) [hereinafter Stronger Multilateralism] (emphasizing strong multilateralism as critical to addressing global challenges like climate change and poverty); *Multilateral Cooperation, A Key for Migration Governance*, INT’L ORG. FOR MIGRATION, <https://rosanjose.iom.int/site/en/blog/multilateral-cooperation-key-migration-governance> (last visited Nov. 1, 2021) (discussing the use of regional conferences to facilitate cooperation and communication between countries and agencies to facilitate migration activity).

47. See *President Biden’s Executive Actions on Immigration*, CTR. FOR MIGRATION STUD., <https://cmsny.org/biden-immigration-executive-actions> (last visited Nov. 1, 2021) (listing the various actions President Joe Biden took to reverse Former President Donald Trump’s immigration laws, such as ending the discriminatory bans on entry and establishing an interagency task force to reunite separated families).

48. See Press Release, H. Comm. on the Judiciary, Judiciary Comm. Releases Rep. on Trump Admin.’s Fam. Separation Pol’y (Oct. 29, 2020), <https://judiciary.house.gov/news/documentsingle.aspx?DocumentID=3442> (describing Former President Trump’s family separation policy as cruel and “determined to go to unthinkable extremes”).

simply be because the crisis affects the entire planet. This is the case with the climate crisis or the health crisis. It may be because the fight against the crisis requires cooperation, for example in the area of migration, or for intelligence or law enforcement purposes in the case of the fight against terrorism. It may be because, as a result of unfortunate decisions, the multilateral movement has been damaged, and returning to a broader dialogue will attempt to restore it.⁴⁹

This restoration work is topical after Donald Trump's presidency. In a way, Donald Trump, in and of himself, has been a global crisis of international life and, consequently, of international law. However, during his term of office, when multilateralism was undermined as never before, there was never so much talk about multilateralism to praise its necessity for establishing peace.⁵⁰ In this respect, the denunciation of the Paris Climate Agreement was emblematic of the international tension generated by such a decision.

It is highly symbolic that President Joe Biden, after the announcement during his campaign, chose the very day of his inauguration to bring the United States back into the Paris Agreement.⁵¹ The symbolic force of the decision to return in this context has been multiplied tenfold. Many analysts said that, from then on, the United States will take the lead in the Paris Agreement.⁵² This

49. See Amrita Narlikar, *The Malaise of Multilateralism and How to Manage It*, ORF (Jan. 23, 2020), <https://www.orfonline.org/expert-speak/the-malaise-of-multilateralism-and-how-to-manage-it> (discussing the issues that have impacted multilateralism and setting forth solutions, including recreating the narrative surrounding multilateralism and having difficult conversations about values).

50. See Robert A. Manning, *Trump's Globalism Is a Caricature of Multilateralism*, FOREIGN POL'Y (Oct. 2, 2019, 6:01 PM), <https://foreignpolicy.com/2019/10/02/trumps-globalism-is-a-caricature-of-multilateralism> (discussing how common global problems require global action despite Former President Trump's calls against multilateralism).

51. See Stephanie Bocking, *Biden Marks the United States' Symbolic Return to Paris Climate Agreement*, EDGE HILL UNIV., Jan. 22, 2021, <https://www.edgehill.ac.uk/news/2021/01/biden-marks-the-united-states-symbolic-return-to-paris-climate-agreement>.

52. See Cara Korte, *What the U.S. is Committing to as It Rejoins the Paris Climate Accords — And Why It Matters*, CBS NEWS (Feb. 19, 2021), <https://www.cbsnews.com/news/paris-agreement-united-states-commitment> (reporting comments from Former U.S. Special Envoy on Climate Change Todd Stern about U.S. setting an example for other countries and taking the lead on more ambitious climate action).

was confirmed by John Kerry during a visit to Paris on March 11, insisting on the “duty of example” of the United States in anticipation of a high-profile summit of global leaders on climate held in Washington the following month on Earth Day.⁵³

The relief due to the election of Joe Biden arguably boosted the Paris Agreements and magnified their importance more than if this crisis did not happen. Clearly, it contributed to the development of international environmental law through multilateralism being perceived as the best instrument. No less significant was the reaction of Angela Merkel welcoming a “reinforced multilateralism” by Joe Biden’s election, and using the Paris Agreement as a specific example.⁵⁴

I will not stop to dwell on the other situations I have already mentioned (health, climate, migration, etc.) where the solution to the crisis, because of its very nature, necessarily involves multilateral actions and induces a development of multilateralism in general which reinforces international law. Instead, I shall discuss an extremely serious and worrying crisis regarding the constitutional order of many states.⁵⁵ Although an internal crisis, it affects the international order.⁵⁶ I am referring to the crisis of democracy, meaning a crisis of the concept of democracy itself, as we inherited it from the philosophy of the Enlightenment in Europe in the eighteenth century or, in the United States, from the Founding Fathers.

Let us consider President Donald Trump’s call to march on the Capitol.⁵⁷ In a democracy, the power of symbols is immense, and

53. Brady Dennis, *In Swing Through Europe, John Kerry Aims to Boost Climate Action*, WASH. POST (Mar. 10, 2021), <https://www.washingtonpost.com/climate-environment/2021/03/10/kerry-climate-europe>.

54. See G7: Merkel Welcomes a “Reinforced Multilateralism” by the Election of Biden, LTD. TIMES (Feb. 19, 2021), <https://newsrnd.com/news/2021-02-19-%0A--g7--merkel-welcomes-a-”reinforced-multilateralism”-by-the-election-of-biden%0A--HJgRsQD6WO.html>.

55. See Michael J. Abramowitz, *Freedom in the World*, 2018 FREEDOM HOUSE 1 (providing several examples of countries whose governments are facing the threat of authoritarianism, such as Turkey and Hungary).

56. See *id.* at 1–2 (explaining that “the spread of antidemocratic practices around the world . . . [pose] economic and security risks”).

57. See Steve Holland et al., *Trump Summoned Supporters to “Wild” Protest, and Told Them to Fight. They Did*, REUTERS (Jan. 6, 2021),

beyond the dead—for there were some on that day—the actions taken in Washington were a desecration of the notion of American democracy itself.

Nevertheless, this situation was not unique to the United States. The populisms of a Bolsonaro in Brazil, an Erdogan in Turkey, or Hungarian or Polish leaders and others are in the same vein.⁵⁸ It is the politicians themselves who, through a populist approach, question the rules of democracy.⁵⁹ Elsewhere, the same populist movements took place with the important difference that they were not launched by the heads of state themselves.⁶⁰ For example, the “yellow vests” in France since October 2018 or the UK championing populism in its Brexit campaign.⁶¹

These situations, both of which take place in internal settings, are of interest to international order for two reasons. First, we know the replica effect of imitation or contagion of situations born in one place that spread to others due to the current means of transport and communication, the internet and social networks, or various other

<https://www.reuters.com/article/us-usa-election-protests/trump-summoned-supporters-to-wild-protest-and-told-them-to-fight-they-did-idUSKBN29B24S>.

58. See Jeremy Cliffe, *Elections in Brazil, Turkey and Hungary Will Test Whether Democracy Can Beat Authoritarians*, FIN. REV. (Nov. 26, 2021), <https://www.afr.com/policy/foreign-affairs/why-strongmen-are-clinging-to-power-20211123-p59bck> (explaining that many democracies across the world are in danger, including Brazil, Turkey, Hungary, Poland, India, and Mexico).

59. See ANNA GRZYMALA-BUSSE ET AL., GLOBAL POPULISMS AND THEIR CHALLENGES 1 (2020) (explaining how populist parties and politicians threaten democracy by undermining formal institutions, marginalizing certain groups, and eroding the legitimacy of the press and political opposition).

60. See Angela Dewan, *Global Populism Will Miss Donald Trump, But the Movement is Still Alive and Kicking*, CNN (Nov. 27, 2020), <https://edition.cnn.com/2020/11/27/world/trump-election-defeat-populism-global-intl> (discussing the rise of populism among regular citizens, triggered by events like 2007-2008 financial crisis in the U.S. and the 2015 refugee crisis in Europe).

61. See Patrick Chamorel, *Macron Versus the Yellow Vests*, 30 J. DEMOCRACY 47, 48 (2019) (explaining how the Yellow Vest movement developed from workers protesting a tax on diesel fuel that they found unjust and representative of a government for privileged elites); See David Smith et al., *Inside Out: The UK Press, Brexit and Strategic Populist Ventriloquism*, 26 EUR. J. COMMUN., 21, 26-27 (2021) (explaining how the organizers behind the anti-EU campaigns used populist rhetoric to gain support).

platforms.⁶² If dictatorial regimes block the use of the internet, it is not only to keep secret what is happening at home, but to also restrict internal knowledge of what is happening elsewhere.⁶³ The second reason, that more clearly affects international law itself, is the overall impact these situations have on what has sometimes been called “democratic intervention.”⁶⁴ We still live under the regime of non-intervention and the right of each state to adopt the “political, economic and social system of its choice,” so long as acting states are within the limits and follow the terms of the Declaration on Friendly Relations.⁶⁵ Since the 1970s, however, the situation has changed considerably.⁶⁶ As discussed earlier, sovereignty is more and more often framed by human rights.⁶⁷ Thus, a question arises as to whether international law should remain powerless in the face of this democratic crisis or whether there may be ways to address it on the basis of experiences from recent crises.

B. VARIETY OF MEANS

The health crisis, climate crisis, migration crisis, and democratic crisis will not be addressed by the same kinds of instruments aiming at their treatment. Remedying certain critical situations may require a technical decision, while others may require a completely different

62. See IFFAT IDRIS, *ANALYSIS OF THE ARAB SPRING 2* (2016) (explaining that electronic information networks and social media mobilized protesters across all the countries involved in the Arab Spring by spreading awareness of the issues and helped to sustain their protest movements).

63. See Eda Keremoglu & Nils B. Weidmann, *How Dictators Control the Internet: A Review Essay*, 53 COMP. POL. STUD. 1690, 1691 (2020) (explaining that the control of public and private information, which is now challenged by the internet and advancing technology, has always been an important part of authoritarian rule to prevent opposition, spy on dissenters, and quash sensitive information).

64. Same Varayudej, *A Right to Democracy in International Law: Its Implications for Asia*, 12 ANN. SURV. INT’L & COMPAR. L. 1, 11 (2006) (discussing the development of “democratic intervention” and its interplay with principles of sovereignty).

65. G.A. Res. 2625 (XXV), at 121, 123 (Oct. 24, 1970) (codifying principles of “friendly relations and co-operation among States”).

66. See LINOS-ALEXANDRE SICILIANOS, *L’ONU ET LA DEMOCRATISATION DE L’ÉTAT* 14 (Pedone 2000).

67. See *id.* at 283–87 (explaining that human rights have influenced the approach to intervention, thus reshaping the concept of sovereignty).

approach. Taking the example of the crisis of democracy, it does not require technical answers, but rather the opening of complex debates on the meaning of words on diagnoses, on solutions, and on possibilities of their implementation. The very opportunity to open a dialogue, through the message it carries, can raise questions. This is the case regarding Joe Biden's project of a summit for democracy evoked at the beginning of his mandate and convened in December 2021.⁶⁸ In this respect, some states in Europe have doubted that the United States, after the events in the Capitol, has retained any credibility in defending democracy.⁶⁹ I think this is totally wrong. On the contrary, President Biden and Americans in general are well placed to be aware of the risks involved and to talk about these threats. They are conscious of the fragility of democracy, even in a very large country traditionally attached to these values.⁷⁰ Since these issues require pedagogy and exchanges of views, multilateral summits are appropriate frameworks for doing so.⁷¹ A recent example of this type of action is the Alliance for Multilateralism, an informal network launched by Germany and France on April 2, 2019, in the context of their presidencies on the Security Council, bringing together roughly forty states to exchange views on stability and peace.⁷² The hope is

68. *Summit for Democracy Summary of Proceedings*, WHITEHOUSE.ORG (Dec. 23, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/23/summit-for-democracy-summary-of-proceedings> ("President Biden convened world leaders in the first-ever Summit for Democracy, a gathering that spurred dialogue and initiated concrete action toward global democratic renewal").

69. See Anita Prakash, *Strengthening Global Governance & Multilateralism*, ERIA (June 3, 2019), <https://www.eria.org/news-and-views/strengthening-global-governance-multilateralism> (last visited Oct. 25, 2021) (discussing the three major elements in global governance – the consensus, rules, and membership of multiple national governments – require a binding mode of interaction); Gareth Evans, *Why Summits Still Matter*, WORLD ECON. F. (Nov. 25, 2014), <https://www.weforum.org/agenda/2014/11/why-summits-still-matter> (discussing the importance of continued international summits).

70. See Thorsten Benner, *Multilateralism Needs Democracy*, PEACELAB (Feb. 10, 2021), <https://peacelab.blog/2021/02/multilateralism-needs-democracy> (discussing how German government should put collaboration among democracies at the heart of the Alliance for Multilateralism).

71. See Kenneth Weisbrode, *What Good are Multilateral Summits?*, DIPLOMATIC COURIER (May 23, 2011), <https://www.diplomaticcourier.com/posts/what-good-are-multilateral-summits> (discussing multilateral summits and intention to advance mutual agreement between states).

72. *What is the "Alliance for Multilateralism"?*, ALL. FOR MULTILATERALISM,

that the United States will now also join this group.

This method has been followed at the United Nations since the 1990s, during which the United Nations would hold large annual summits on major issues, such as human rights, women, social development, refugees, etc. These conferences, or summits, generally do not adopt any fundamental documents relating to the crisis or the issue at hand. But, from declarations of principles to action plans, they constitute a process that, by adding or repeating the elements it contains, expresses a certain consensus. It might ensure that the issue is “sufficiently ripe,” a term used at the time of the League of Nations, making it possible for the future emergence of an international custom or regulation.⁷³

The question of the means of multilateralism is a difficult one. The United Nations is not always where one would expect it to be. The silence of the Security Council during the COVID health crisis speaks for itself.⁷⁴ The General Assembly held a short special session on December 3 and 4, 2020, during which, the President of the European Council, Charles Michel, launched the interesting idea of an international treaty on pandemics.⁷⁵ This weakness of multilateral institutions raises questions.

However, broadening the spectrum over the last one hundred years shows the global progress of international law through multilateralism. From the major crises of the two World Wars came the League of Nations and the United Nations, imperfect but

<https://multilateralism.org/the-alliance> (last visited Oct. 19, 2021).

73. About the Commission: League of Nations Codification Conference, INT’L L. COMM’N, <https://legal.un.org/ilc/league.shtml> (last visited Jan. 25, 2022).

74. See Raphaël Maurel, *L’(in)activité du Conseil de sécurité face au COVID-19 : où est confinée la « communauté » internationale ?* [*The (In)activity of the Security Council in the face of Covid-19: Where is the International “Community” Confined?*], 18 RDLF, 2020, at 1, <http://www.revuedlf.com/droit-international/linactivite-du-conseil-de-securite-face-au-covid-19-ou-est-confinnee-la-communaute-internationale>.

75. Charles Michel, Statement by the President of the European Council at the UN General Assembly Special Session on COVID-19 (Mar. 12, 2020) (transcript available at https://eeas.europa.eu/delegations/un-new-york_en/89793/Statement%20by%20the%20President%20of%20the%20European%20Council%20at%20the%20UN%20General%20Assembly%20Special%20Session%20on%20COVID-19).

progressing in relation to each other, and the institutional multilateralism of the United Nations has often avoided the worst. No one today can seriously question the need for the United Nations.

III. CONCLUSION: CAN INTERNATIONAL LAW INCLUDE A PRINCIPLE OF SOLIDARITY?

The many crises we are currently facing offer us the opportunity to reflect on the future of our planet and the rights of those who are on it: human beings, but also, I take care not to forget them, animals,⁷⁶ and even inanimate living elements.

We need to be aware of crises that, by their gravity and likely repetition, represent serious threats. They require collective, coordinated, and organized efforts that are based on new rules to deal with them, but so also that way we are not caught off guard in the future.⁷⁷ This is why I have spoken of a preventive aspect in the exit from the crisis. I think that a serious crisis, such as the current health crisis that day after day disrupts lives and makes our future uncertain, justifies an in-depth reflection and a philosophical approach, like that invoked by the title of a painting by Paul Gauguin, *Where do we come from? What are we? Where are we going to?* Regarding international law, such reflections are necessary if we want to establish real changes. The lived experience can then be a guarantee for the future, and thus, an overall benefit to the field of international law.

In this vein, the current health crisis raises questions on the concept of solidarity. All countries are concerned with the crisis. All countries are equal, but they are not all equal in the face of the crisis: poor countries do not have easy access to vaccine doses for which they cannot pay. Their populations are not vaccinated even though it is imperative that vaccinations reach every corner of the planet.

Many voices are calling for vaccines to be a global public good and

76. See generally Anne Peters, *Animals in International Law*, in 410 RECUEIL DES COURS DE L'ACADEMIE DE DROIT INTERNATIONAL DE LA HAYE [COLLECTED COURSES HAGUE ACAD. INT'L L.] 94 (Nijhoff 2020).

77. See Jennifer Billington, *How has International Law Changed in the Last Decade?*, LEGAL READER (Jan. 28, 2020), <https://www.legalreader.com/has-international-law-changed-in-last-decade> (discussing the changes to international law in the last decade).

for patents to be waived.⁷⁸ President Joe Biden's recent addition to the movement has given it the momentum it has been missing.⁷⁹ This is a divisive issue for the WTO, and apart from the possible use of patent waivers, it might be an opportunity to think about adapting other patent systems for situations such as COVID and consequently improve the rules of international law in this respect. The issue should be dealt with in a new way, taking into account, the legitimate interests of laboratories, the financial needs of research and possible public support, as well as the perspectives of general interest. Otherwise, vaccines remain paid for by the richest countries and then given to the poorest, notably by the WHO and the COVAX program.⁸⁰ Whatever the system, it is in our common interest because, in the spirit of Edith Brown Weiss again, we are all in the same boat, and if one of us makes a hole in the hull, the whole boat sinks.⁸¹ This is why I think that if we are not united out of morality, we are united out of necessity. I am not sure that this is well understood at the moment about the health crisis.

Generally speaking, the implementation of a principle of solidarity into international law, just as we speak of a principle of equality, is therefore a topic that jurists should think about. Not only for moral or humanist reasons, which would be respectable as such, but simply because the nature of the crises we are going through requires that they not be allowed to amplify in a place from which they would threaten

78. Casey D. Donahoe, *Waiver of IP Protections for COVID-19 Vaccines Still Under Consideration at WTO*, NAT'L L. REV. (Aug. 24, 2021), <https://www.natlawreview.com/article/waiver-ip-protections-covid-19-vaccines-still-under-consideration-wto> (discussing conversation around waiving patent protections for COVID-19 vaccine).

79. See Emma Bowman & Ashish Valentine, *Biden Backs Waiving International Patent Protections For COVID-19 Vaccines*, NPR (May 5, 2021, 6:43 PM), <https://www.npr.org/sections/coronavirus-live-updates/2021/05/05/993998745/biden-backs-waiving-international-patent-protections-for-covid-19-vaccines> (discussing conversation around waiving patent protections for COVID-19 vaccine).

80. See *Global Solution to COVID-19 in Sight, 'We Sink or We Swim Together'* – WHO Chief, UN NEWS (Sept. 21, 2020), <https://news.un.org/en/story/2020/09/1072932> (discussing need for more cooperation between states to end COVID-19 pandemic); Sarah Ferguson, *COVAX Mission Forges Ahead: Fighting the Vaccinate the World Against COVID-19*, UNICEF (June 14, 2021), <https://www.unicefusa.org/stories/covax-mission-forges-ahead-vaccinate-world-against-covid-19/38636> (discussing need for more cooperation between states to end COVID-19 pandemic).

81. See Weiss, *supra* note 16 at 398.

the whole world. In a way, solidarity is another face of general interest, which in turn is another face of security.

To conclude, I would say that while crises are painful, they ultimately reveal our needs and aspirations for change. They help us to design a future based on rules of international law that are specifically adapted to attend to our future needs in a changing world.

So, what about the future? In the United States, where dreams have a meaning and are an incentive for taking action, whether it is the "American Dream" or that of Martin Luther King, we cannot be accused of living with our heads in the clouds when looking toward the future with hope, voluntarism, and . . . a good dose of optimism!