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International Law and COVID – 19: Health and Environmental Laws

Diksha Suri

ABSTRACT

Globalizations is a phenomenon that is inevitable in today's economy. However, this economic inter-connectivity and inter-dependency brings with it the concept of reduced importance of borders. In such a scenario, it is more than evident that diluted borders carry its own curses.

COVID – 19, or the novel coronavirus, that originated in the Wuban province of China in late November 2019, has taken the world into a frenzy in the past 5 months. With an enemy that can't be heard, can't be seen, can't be touched or felt, the countries find themselves at disadvantage of defending their economy and their people. They are struggling to balance and weigh the pros and cons and to find a solution to a problem that they were never prepared for.

United Nations and The League of Nations, both were established with the ideology of global cooperation to work towards the betterment of the world that we live in. Through the years, the International Organizations have drafted, signed, passed various treaties, charters, instruments, that have had an heavy impact on the governance of the States with respect to other States and their own citizens. But amidst all of these signed instruments, lay the most overlooked spheres of international law: health and environment.

Over the years, there has been a rise in concern over the deteriorating condition of the environment and its adverse impact on human health. This paper examines the viability of the International Health Regulations, 2007 and the obligations of States towards each other and to their people in a state of public health crisis. Moreover, it explores the connection of environmental hazards undermined by China and the current state and spread of the virus. While, looking through these facts, we ask ourselves over and over: What would have happened if China hadn't committed the same mistakes as they did during SARS? But now that they have, this paper explores the violations China has made with respect to their international responsibility.

Introduction

International law consists of rules and principles governing the relations and dealings of nations with each other, as well as the relations between states and individuals, and relations between international organizations.¹ On the face of it, international law is the law governing anything that involves the statehood² of one or more states dealing with each other. The same definition can further be used to classify international law into two major categories:

1. **Public International Law:** Public International Law is concerned with the rights of several states. It is largely governed by charters, treaties and legal instruments that are mutually agreed upon by majority of States in recognized International Bodies. For example, Universal Declaration of Human Rights is a historic instrument to lay down common standards of living for the people of the states.)
2. **Private International Law (more commonly referred to as Law of Conflicts.):** Private Law or Law of Conflicts concerns itself with the legal agreements, responsibilities, obligations and rights that binds two private parties which belong to different States. (For example, a person in Brazil enters into a contract with a person from India.)

International Law aims at global cooperation to harmoniously resolve inter-State conflicts, which otherwise may lead to blood and gore. As witnessed in the World Wars, a lack of international legal framework, that can provide a platform for the States to communicate, deliberate, discuss and work towards strengthening inter-state bonds to avoid conflicts, can actually imbalance the kinship that is extremely important to sustain the ecosystem and the economy and lead the society to falling prey to global discord.

This discord might not have had ramifications as bad as we have witnessed in the past if we lived in the pre-medieval times where the concept of boundaries, government and citizens did not exist. However, this world has progressed to find itself in a situation where if one domino tips off in one corner of the world, it takes the entire global network along with it.

This inter-connectivity and inter-dependence was formed as a choice, but this choice has turned out to be more of a necessity for survival in recent times. The magnitude of an economies health depends on the foreign trust it has gained with respect to FDIs, liberal legalities for exports and imports, etc. The tourism sector has found itself in a position of brand building of sorts for the

¹https://www.law.cornell.edu/wex/international_law

²Statehood of a State over here refers to the classification of a State as laid down in the Montevideo Convention (1933)

country in the market to bring in high revenue. UN World Tourism Organization recorded a 3.8% growth in the International Tourist Arrivals in 2019.³

As glorious as it sounds for the economy, trade, business, and other domains of international law, globalization brings with it one of the greatest boons of all times: the global transmission of diseases.

In December 2019 Wuhan Municipal Health Commission, China, reported a cluster of cases of pneumonia in Wuhan, Hubei Province. A novel coronavirus was eventually identified.⁴This novel coronavirus went on affect 5 million people, globally, with over 300,000 deaths worldwide.

5

COVID – 19 or the SARS-CoV-2 is the recent virus that has brought the world to its knees in the first ever pandemic in over 10 years, last being in 2009 (H1N1, Swine Flu). Having originated in China, this virus has spread all over the world. And how did it spread all over the world? Through globalization. The implicit interconnectivity and interdependency the states have with each other.

In a scenario like this, it becomes imperative for us to understand that something that started globally cannot possibly end with unequal nationalist isolations, which is something states have been recently tending towards. Countries have begun closing their borders, suspending any form of travel, and focussing on keeping their economy closed to themselves.

But how can a problem that is global be solved by resorting to uncoordinated and isolated measures?

COVID – 19 Timeline⁶

December 2019

In December 2019, China reported to WHO that there was a cluster of pneumonia cases in Wuhan.

January 2020

³https://webunwto.s3.eu-west-1.amazonaws.com/s3fs-public/2020-01/UNWTO_Barom20_01_January_excerpt_0.pdf

⁴<https://www.who.int/news-room/detail/27-04-2020-who-timeline---covid-19>

⁵As of 23rd May 2020.

⁶Mostly based on: <https://www.who.int/news-room/detail/27-04-2020-who-timeline---covid-19>;
<https://www.nbcnews.com/health/health-news/coronavirus-timeline-tracking-critical-moments-covid-19-n1154341>

January 2020 saw the maximum developments with respect to global presence of the virus. In this month WHO identified it as a new coronavirus in the health world. The first death caused by coronavirus was recorded in China. First few cases were recorded internationally in Japan, South Korea and Thailand. China finally placed Wuhan under quarantine and WHO declared COVID – 19 as a public health emergency. WHO issued a comprehensive package of technical guidance online with advice to all countries on how to detect, test and manage potential cases, based on what was known about the virus at the time.

February 2020

The first coronavirus death reported outside China — a 44-year-old Wuhan resident who died in the Philippines. The death toll in China from COVID – 19 surpassed those from the SARS epidemic in 2002-03. Egypt became the first country in Africa to report a case of COVID – 19. Cases started erupting the most in Italy as Italy became the worst hit country in Europe. WHO releases the international community's Strategic Preparedness and Response Plan to help protect states with weaker health systems.

March 2020

Deeply concerned both by the alarming levels of spread and severity, and by the alarming levels of inaction, WHO made the assessment that COVID-19 can be characterized as a pandemic. Italy extended the lockdown to the entire country as the country's cases kept spiking. With this development in Italy, the reported cases and deaths were greater in Europe compared to the rest of the world, thus resulting in the WHO declaring Europe as the epicentre of the pandemic. Countries began closing their borders and suspending air travel⁷. As the economy and stocks continued to plunge, Wall Street saw its worst recorded quarter, clearly indicating the adverse effects a health disaster can have on the economy.

While the world was reeling with the predicament, it was more than fair on the part of United states and China to begin vaccine trials to find a solution to this virus.

April 2020

The States continued to impose lockdown on their territories as the virus continued its rampage through the globe. China reported its first day with no coronavirus deaths since the outbreak began. The number of coronavirus cases around the world topped 2 million, according to a tally

⁷Canada closed its borders for non-citizens as cases rose to 339 with one death; USA suspended air travel from all countries with no exception; Australia and New Zealand announced plans to close their borders to all foreigners; South Africa announced plans for a nationwide lockdown for 21 days; India's prime minister Narendra Modi ordered a three-week lockdown for the 1.3 billion people in the country.

compiled by Johns Hopkins University. Through March and April, states have started to shift their focus on economic safety as well. Almost everything has gone online including case hearings by the judiciary of the countries.

The above timeline is not exhaustive in any case, it just highlights the major trends and events that happened during the past few months with respect to the countries and their measures towards flattening the curve of coronavirus.

PRINCIPLES GOVERNING INTERNATIONAL LAW DURING PANDEMICS, EPIDEMICS, HEALTH EMERGENCIES

One of the most integral part in the governance of international law is through principles. Principles in international law provide a certain framework to the international courts or the international bodies while pronouncing judgements or drafting resolutions or instruments. These are not essentially hard and fast rules, just guidelines on what a person must keep in mind while dealing with international law.

Principles become even more essential during health emergencies and concerns as no two health disasters can have the same response to their containment, reduction and eradication due to their difference in genetics. However, having guidelines in the form of principles can ease a lot of things for the States to implement measures and for the World Health Organization to measure compliance.

The following are principles that govern international law during Public Health Emergencies of International Concern, epidemics or pandemics:

According to Article 3 of the International Health Regulations, 2005,

- “1. The implementation of these Regulations shall be with full respect for the dignity, human rights fundamental freedoms of persons.*
- 2. The implementation of these Regulations shall be guided by the Charter of the United Nations and the Constitution of the World Health Organization.*
- 3. The implementation of these Regulations shall be guided by the goal of their universal application for the protection of all people of the world from the international spread of disease.*

4. States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to legislate and to implement legislation in pursuance of their health policies. In doing so they should uphold the purpose of these Regulations.’⁸

These principles are for the States to act with respect to healthcare to ensure that there is uniformity in the measures taken and that the measures adopted are in no way contradictory with other laws in the international sphere.

The above four mentioned principles become extremely important for us to note as they make it easier for us to match the compliance of the States’ policies with the IHR. For example, the first principle in this Article is *jus cogens* and makes it imperative for the States to ensure that the measures taken are with full respect for dignity, human rights and fundamental freedoms of persons.

Obligations of States⁹

International Law has always been about the States and their relations with each other and towards their own people. During a pandemic, epidemic or public health emergency of international concern it is important for us to realize that the States are required to:

1. Fulfil their **duties towards other States** with respect to trade, economy, commerce, health information, etc.;
2. Fulfil their **duties towards their citizens** with respect to human rights;
3. Fulfil these duties keeping in mind the **constraints** that need to be exercised to ensure compliance to international law regulations.

Most of these are outlined in the International Health Regulations, 2005.

However, in a brief if we were to go over them, these would be outlined as:

1. Duties towards Other States

One of the most basic duties a State has towards other States during a health emergency is to ensure that there is proper communication. One of the biggest criticism towards China is their delay in reporting the incident to WHO. There are allegations that the first few cases were reported in China in mid-November and that these cases were deliberately suppressed.

However, these are only allegations, and no proof of these has been brought forward has of

⁸International Health Regulations, 2005, art. 3

⁹Based on the YouTube video by Washburnlaw: “COVID – 19 Colloquium – Public International Law”

now. But it is noteworthy, that back in 2002, China had done the same mistake of not reporting the disease to WHO on time and thus, depriving the affected States the time to prepare themselves for what was coming their way.

And that's exactly why it is imperative that States act with responsibility and due diligence. *Due diligence is an obligation of conduct on the part of a subject of law (in this case the State that has cases of COVID – 19). Failure on a subject's part to comply with the standards of due diligence – often termed as negligence – describes the blameworthiness of the subject as one element of ascribing legal responsibility to it.*¹⁰

Another obligation that goes hand in hand with this principle is the obligation of no harm. *The no-harm rule is a widely – recognized customary international law whereby a State is duty – bound to prevent, reduce and control the risk of environmental harm to other States.*¹¹ Even though this is a principle of environmental law, this makes equal sense in Health Laws as well. The nature of these diseases are such that it is a responsibility of the State to ensure that the actions they are taking are done in order to prevent, reduce and control the risk of other States being vulnerable to an outbreak too. If this principle and obligation weren't to be imposed on States, they would very easily continue doing their economic processes and put not just their own population at risk, but even the ones from other States. This obligation allows the States to put themselves under quarantine and to suspend air travel and close their borders (only based on evidence) during such emergencies. This rule allowed China to seal Wuhan, a commerce hub of the country and also bound the country to report its daily developments with respect to COVID – 19.

These obligations are in no way specific to just the country of origin, but also a responsibility on the part of the affected countries to ensure that they are not contributing to the transmission of the disease through the world. This is also very much laid down in **Article 43 (7) of the IHR, 2005**, which states, “*...any State Party impacted by a measure taken pursuant to paragraph 1 (allowing states to implement health measures in accordance with their relevant national) or 2 (basis for States on how to implement health measures) of this Article may request the State Party implementing such a measure to consult with it. The purpose of such consultations is to clarify the scientific information and public health rationale underlying the measure and to find a mutually acceptable solution.*”

2. Duties Towards its People

¹⁰ opil.ouplaw.com

¹¹ Globalpact.informea.org

According to the Preamble of the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights:

“...in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural right.”

The key phrase in the entire clause is the “can only be achieved if conditions are created”, this places a sense of responsibility and obligation on the member States to ensure that the right environment is created for the citizens for them to exercise their rights and freedoms.

The responsibility of the State in ensuring the right facilities for citizens to exercise their right to life and to right to health is determined by the infrastructure built, the action steps taken, and the national laws passed by the State. Any deprivation of the infrastructure, or action steps or national laws, can result in inadequate capacity of the State to deal with health emergencies.

During COVID – 19, the states must provide healthcare to each and every person as a part of their right to health so that they can exercise their right to life.

3. Constraints

There are certain constraints that States must keep in mind while taking action to prevent the spread of illnesses to other states or within their own jurisdiction and territory.

1. It must be kept in mind that the action steps must not hamper or disrupt trade, travel and economy. Now, the problem with this constraint is that this is something that will inevitably happen due to the nature of the event, an emergency will take a direct hit on the economy, no matter how hard the State tries. So what exactly is the way out?
2. It must be ensured that these States take actions based on scientific evidence, something that can be justified, keeping in mind the scientific principles. And that’s what gets the countries free from the first constraint. But it also places another constraint in case the countries wish to secure themselves by taking extra precaution, they cannot, under any circumstance, take actions that are more than the magnitude of the problem at hand.
3. This brings us to the third constraint, States can take defensive actions. States are allowed to take actions to defend and protect themselves from the attack of the virus, however,

the constraint in this clause is not with respect to defence, but with respect to the degree of defence. The degree of the action can in no way exceed the calculated threat.

Luckily for States, most of the international treaties have the exemption clause which allow them to focus more on securing themselves from the threat of a health emergency rather than worrying about the nits and crannies of the specific conventions. This ultimately gives more power to the IHR to take precedence over other conventions and instruments in times of health crisis.

INTERNATIONAL HEALTH LAWS

International Health Laws are governed by the advisories and regulations issues by the World Health Organization. One of the most integral instruments with the World health Organization is the International Health Regulations, 2005.

In 2002, the SARS epidemic spread from the Guangdong province of China and affected 29 nation-states by the year 2003. There were 774 human casualties from the disease. The world realized this loss of human life could have been avoided had China not suppressed vital public health information for several weeks. This ill-fated event led the World Health Organization (WHO) and its member states to adopt the International Health Regulations (IHR) in 2005.¹²

As the total of the infected people as reached 1 million and over 70,000 deaths have been recorded from COVID – 19, it is not surprise that eyes are turning back to China with the question that they again failed to adhere to the IHR and repeated history by not allowing the world to prepare itself to face this virus, like they did during SARS.

In such a scenario, it is more than important to understand the basics of IHR and whether what China did is permissible under international law. Especially, since cases have already been put into motion against China.¹³

International Health Regulations

International Health Regulations aims to prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with

¹²<https://www.jurist.org/commentary/2020/04/swargodeep-sarkar-china-covid19/>

¹³<https://www.bloombergquint.com/businessweek/lawsuits-against-china-escalate-covid-19-blame-game-with-u-s>

international traffic and trade. Thus, it can be understood that the IHR understands the importance of economic growth, and it in no way supports ‘unnecessary’ interference with the international traffic and trade. We can interpret it with respect to the previously laid down instrument of degree of necessity. How necessary is this measure in correspondence to the threat at hand? The measure should be complimentary to the threat, no way more, no way less.

The International Health Regulations is not exactly a treaty, it is a legally binding instrument approved on the basis of Article 21 of the WHO Constitution. This article allows the World Health Assembly to make binding regulations with respect to the procedures concerning International Health and spread of disease.

But what’s been taken the limelight is the fact that this provision has not be used as well as the international community would have expected the WHO to. It has only be exercised twice; once for the IHR and the other for Regulations regarding nomenclature with respect to disease and causes of death. However, that’s a debate for another day. There are articles in the IHR that provide the basis for procedures during such a period.

Article 5: It refers to the surveillance, information and capacity building of States. The notable clause in this is:

“Each State Party shall develop, strengthen and maintain, as soon as possible but no later than five years from the entry into force of these Regulations for that State Party, the capacity to detect, assess, notify and report events in accordance with these Regulations..”

And also what is noteworthy is clause (4), which states that WHO will take this information and assess the possible impact that they can have on the international traffic and trade.

Article 6: Article 6 is fundamentally the most important article with respect to information dissemination to the WHO from the states. It lays down:

- States shall notify WHO within 24 hours of assessment of an event that can constitute public health emergency of international concern.
- After the notification, the State must communicate in a timely and accurate manner providing detailed public health information regarding the event. Anything that can help the international community including the number of cases, deaths, etc., must be communicated to the WHO.

Article 7: While Article 6 dealt with the diseases mentioned in the decision instrument in Annex 2, Article 7 concerns itself with unusual health events which can have an international repercussion.

Article 15: Article 15 gives the WHO the power to issue Temporary Recommendations.

- If a public health emergency has been declared, recommendations can be issued for health measures regarding persons, baggage, cargo, containers, etc. to reduce interference with international traffic.
- These recommendations can be modified or extended as appropriate. However, these recommendations will expire after 3 months of their issuance. They can only be modified or extended for up to 3 additional months.

Article 19 – 22: These articles are related to the points of entry and the procedure to deal with them to ensure that there is reduced risk of transmission of diseases through these points.

Article 42: Article 42 mandates that the regulations being implemented by the States in compliance with the IHR must be done in a non – discriminatory manner.

Article 43: As discussed earlier, the States have the liberty to implement their own measures in compliance with the IHR, however, the States are under the obligation to notify the same to WHO and must ensure that these obligations have scientific backing and aim to achieve the same to a greater level of health protection.

The IHR from the above few articles, can be called a liberal instrument for ensuring health safety and security across the international community. However, at the same time, it lays down the understanding that health security may not always be on the basis of intrusion with economic and personal intrusions. This sense of conformity with the other organs of law, make the IHR exhaustive and easy to comply with. Yet, we find ourselves in a position, where post the adoption of IHR, we have had 4 major outbreaks. Why is that so? Is it because the IHR lacks anything or is it because the States lacks something?

COVID – 19 outbreak could be looked at as an inevitable health disaster, since despite the previous outbreaks, we did not learn from our mistakes, and continued to do the same mistakes again. Had the health standards as laid down in the IHR be followed, there is a possibility that the states would not have found themselves in this situation as they did.

But what is noteworthy through all of this, is the failure of China to adhere to these regulations in the first place and put the international community in danger.

Chinese Violations¹⁴

It is a no brainer that countries would file suits against China for being careless with respect to their response to the outbreak. The Chinese have made violations not just in noncompliance to IHR but also other international law regulations.

1. **Article 6** of IHR has been violated as the Chinese did not notify the WHO of the public health emergency as the speculation of these cases goes before December 2019.
2. **Article 7** of the IHR has been violated as these cases were unusual and unexpected and when read with **Article 64** of the IHR which talks about the timely epidemiological reports, we realize that the Chinese have been reporting the updates to WHO about the domestic spread in a timely manner.
3. Under **Article 5** States are obliged to develop, strengthen, and maintain its public health infrastructure. It can be argued that China did not develop its infrastructure, because if they had since the 2002 outbreak, they would have ensured that the first root cause (which is the wet markets) were either shut down completely or operated in a more hygienic manner, or to regulate them to ensure that only the animals fit for domestication are sold.
4. Good Faith is principle of International Law which motivates the States to act in good faith towards the international community. This is highlighted in **Article 31 of the Vienna Convention on Law of Treaties**. The international community can argue that China misused its veto power in the UNSC to block a meeting to discuss COVID – 19.
5. **Article 1 of Draft Articles of Responsibility of States for Internationally Wrongful Acts** says that every wrongful act by the State that has an international repercussion, calls for international responsibility. At the same time, **Article 2** defines what a wrongful act is, it is any act or omission which constitutes a breach of international responsibility under international law. Over here, responsibility emanates from the local Wuhan authorities and the Chinese government to the WHO. China's failure to share the information in a timely manner with WHO in accordance with the IHR guidelines clearly showcases the breach of international responsibility. Had China intervened at the right time, the number of cases could've been reduced and the countries could've prepared themselves better,
6. The ICJ in the Corfu Channel case held that no state may knowingly allow its territory to be used for acts contrary to the rights of the other states. Simply speaking, China allowed

¹⁴<https://www.barandbench.com/columns/policy-columns/did-not-even-bat-an-eye-china-a-case-at-the-icj-to-prevent-china-from-re-opening-wet-bat-markets-in-wake-of-the-covid-19-furore>

activities to take place within its territory that harmed other states. A novel influenza-like illness was found in the body of workers and customers at Wuhan's Huanan Seafood Wholesale Market in mid-December 2019. On December 30, Li Wenliang, an ophthalmologist, at the Wuhan Central Hospital, revealed the information online. Although Wuhan public health authorities solicited information about the spreading of a "pneumonia of unclear cause", it suppressed Li Wenliang's alarm about the novel disease. Many medical professionals and journalists who tried to disclose information about COVID-19 were silenced and detained by the Chinese authorities. On December 31, the Wuhan Municipal Health Commission wrongly claimed that there is no human to human transmission of COVID-19. Furthermore, the Commission described it as seasonal flu which is preventable and controllable. China waited to February 14, 2020, to disclose that around 1700 healthcare workers had been found to be positive for COVID-19. It is more than apparent that the Chinese government suppressed and withheld important public health information for almost two months. As such, one may conclude that China intentionally as well as deliberately failed to communicate information to WHO as is required in the event of a PHEIC.¹⁵

Thus, one can conclude that China did not fulfil its responsibility towards the international community as required by the International Health Laws. This becomes a lesson for the rest of the States to ensure that they are adhering to the IHR guidelines and not cause similar outbreaks in the future.

INTERNATIONAL ENVIRONMENTAL LAWS

The first thing that everybody has been becoming grateful about during this lockdown is how the nature is getting to breathe as it is becoming cleaner. This has led many to draw positive correlations between the pandemic and the environment. Definitely, if we look at it from the rosy glasses, we realize that the pandemic is in fact having an impact on the environment. But that is because the economy has found itself in a slump. What happens when the economy pushes itself into overdrive to compensate for the time lost? What happens when the governments decide to overlook the environmental laws to ensure that their economy begins flourishing after the recession? In such cases, the degree of post pandemic stress on the environment seems to be overpowering the degree of betterment done to the environment during the pandemic.

¹⁵<https://www.jurist.org/commentary/2020/04/swargodeep-sarkar-china-covid19/>

Currently, the environment is undergoing a development with respect to its condition. Measurements from the European Space Agency's Sentinel-5P satellite show that during late January and early February 2020, levels of nitrogen dioxide (NO₂) over cities and industrial areas in Asia and Europe were lower than in the same period in 2019, by as much as 40%.¹⁶ All over the world, videos of animals coming out from their hiding spots has been going viral. It makes us think: how suppressed was the nature because of human activities? There have been videos showing the Ganges Dolphin finally come back to the river and make an appearance. This animal was classified as critically endangered. But due to the lower levels of water pollution, they have started to appear more.

True, the environment is bettering thanks to the pandemic, but it must not be ignored that one of the reasons for this pandemic is an unhealthy environment friendly practice: *The Wet Markets*.

Wet Markets

A wet market is a live market for selling fresh meat and produce. The problem with these markets is the way in which they operate. These markets keep animals confined in small cages, stacked together. This proximity of different animals creates an unhygienic space. This space, in turn, becomes a breeding space for bacteria, viruses, germs, anything and everything. The SARS outbreak was caused by these very wet markets in China. Following which, the wet markets were shut in China, and yet a few years later they were reopened. But one of the bigger problems with these markets is that these find themselves getting transformed into wildlife markets.

Huanan Seafood Wholesale Market had a section selling wild animals, including badgers, wolf pups, snakes, bamboo rats and porcupines. According to a menu posted on a Chinese equivalent to Yelp, one stall offered around 100 varieties of live animals ranging from foxes to peacocks to masked palm civets. (Civet cats are thought to have been instrumental in transferring SARS from bats to humans in the 2002-3 outbreak.) It therefore wasn't a wet market in the strictest sense, but a wildlife market.¹⁷ Such wildlife markets put humans in close proximity with the wildlife, which otherwise bred and fostered itself in the deep forests where they found themselves interacting with the nature on a level we humans shouldn't. This allows them to mutate, develop and preserve various germs. And once they are put in close quarters with other animals in small confined spots, the area becomes a hotspot for breeding diseases.

¹⁶<https://www.weforum.org/agenda/2020/04/coronavirus-lockdowns-air-pollution>

¹⁷<https://www.weforum.org/agenda/2020/04/china-wet-markets-covid19-coronavirus-explained/>

The possibility that the pangolin might have been an intermediary host turns the spotlight on the challenges facing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). While the Convention transferred all eight pangolin species to its Appendix I, prohibiting their international commercial trade, in 2016, pangolins remained nevertheless the world's most trafficked mammal (Wildlife Justice Commission). The COVID – 19 pandemic finds itself in existence because of the inability of the international community to protect its forests which has led to the disappearance of the line between humans from the animals and their pathogens.

The Problem

The problem is that humans do not learn from mistakes that have economic consequences, because we have always been told that we must prioritize economy over protection of the environment. This is evident with the actions taken by China, where as of April 1st 2020, the same wet markets that have been suspected to be the source of COVID – 19, are now up and running. Why? Because they are a daily visit for the Chinese. Thus, putting economy before environmental protection.

Another problem that comes in the way is that this pandemic could delay the global efforts that were earlier supposed to be taken for climate action and protection of the environment. This year was supposed to be a transformational year for international environmental law. The schedule of intergovernmental meetings was packed, including the climate COP 26 in Glasgow expected to raise climate ambition, the biodiversity COP 15 in Kunming (China) to agree a post-2020 global biodiversity framework, as well as talks to adopt a new treaty on marine biodiversity in areas beyond national jurisdiction. Such talks and initiative to make the world a better place *collectively* seems to have found itself in crosshairs where the governments are more likely to choose nationalist isolation tending towards economic growth at any cost. With no government taking lead to head towards a sustainable world, we must

The Way Forward

The only way forward that seems to be in our hands is to understand the basic principles of environmental law and to ensure that the world moves forward together. This crisis may have originated in one country, however, it has had an impact over the entire globe.

It must be noted that as the world reels from this disaster, there is another disaster which awaits us. The one where we will possibly fail to accomplish the Sustainable Development Goals by 2030. As the countries scurry to find a solution to this unprecedented circumstance, it is more

than likely (as established earlier) that government will turn a blind eye to the environment protection and will move full force into the booming of the economy from this recession. However, what must be noticed is that if the economy can take a hit after the SARS outbreak, and the MERS outbreak and the Avian Flu, Swine Flu, and other zoonotic diseases that have brought the economy down over and over again, it will happen again after this recession is over. Why? Because we do not take precautions for the long run.

*Precautionary Principle requires that, if there is a strong suspicion that a certain activity may have environmentally harmful consequences, it is better to control that activity now rather than to wait for incontrovertible scientific evidence.*¹⁸ It may not have been proven by the scientists that the wet markets are responsible for the COVID – 19 outbreak, yet from our past experience we have seen that this is something that is highly plausible. In such a scenario, not taking adequate precautions can lead to not just endangering the country responsible, but the countries vulnerable as well.

The Prevention Principle as in Basel Convention on the Control of Trans boundary Movements of Hazardous Wastes and their Disposal (1989) implies that it is better to prevent an environmental disaster than to wait for it to happen and then to respond to it. As per the law of transboundary harm, several international conventions propound that "the potential transboundary impact of the release of hazardous substances shall not be postponed on the ground that scientific research has not fully proved a causal link between these substances, on the one hand and the potential transboundary impact".¹⁹ They say prevention is better than cure, and it makes sense at this given point of time. If we wish to not have these similar outbreaks in the upcoming years, we must ensure that we are acting in a preventive manner towards the environment and keep in mind that these diseases don't just come out of thin air, they are actually in the thin air. The only thing keeping them away from us is the line drawn between the wildlife and us by nature, we encroach nature and these diseases will come to the rescue of nature as soldiers.

The environmental rule of law is an important concept that is central to sustainability. The rule of law in environmental matters is essential for equity in terms of the advancement of the Sustainable Development Goals (SDGs), the provision of fair access by assuring a rights-based approach, and the promotion and protection of environmental and other socio-economic rights.²⁰ This rule of law is a governance rule that states that all the entities are bound to follow the norms that are publicly promulgated, equally enforced and independently adjudicated, and

¹⁸<https://www.britannica.com/topic/environmental-law/Principles-of-environmental-law>

¹⁹<https://www.barandbench.com/columns/policy-columns/did-not-even-bat-an-eye-china-a-case-at-the-icj-to-prevent-china-from-re-opening-wet-bat-markets-in-wake-of-the-covid-19-furore>

²⁰<https://www.unenvironment.org/explore-topics/environmental-rights-and-governance/what-we-do/promoting-environmental-rule-law-0>

which are consistent with international human rights norms and standards. International Human Rights as in the ICESCR and ICHR include the right to health, but more importantly as established before, also include the right to have the conditions integral to exercise this right. Overlooking the creation of these conditions in the pursuit of economic interests, can be interpreted as a violation of the environmental rule of law by the government in perspective.

It can be concluded that the 4 of the worst outbreaks in the past 20 years have been attributed to the animals, but what's even more important to conclude is that they have originated from China.

This means that China is not only violating the precautionary principle, but they are actually in violation of maximum of the international environmental laws and practices that have been established in the legal community.

CONCLUSION

The very basic thing that can be concluded in this is that no matter how hard we as nations try to fight it solo, this enemy is greater than all of us. This is an enemy we can't see, touch or feel. An international crisis requires an international action, otherwise we'll only find ourselves in a pit of isolation.

Nationalist Isolation seems a very tempting option in a crisis that requires social distancing, but when we look at it from a bird's eye-view, we find ourselves looking at a picture bigger than us.

Health and environmental laws go hand in hand, and if not for anything else, they call for us to come together and work together as one community, solely because health and environmental crisis does not see borders, it does not differentiate on the basis of caste, creed, race, gender or religion. It attacks anybody and everybody and when we are faced with a villain that will stop at nothing, we must unite as heroes.

The United Nations was formed with the idea of promoting peace and of ensuring that States work together, this is not just applicable in the case of wars, human rights, etc. sometimes it's more about fighting the odds and working together. It is about taking the lead. Because if nobody takes the lead to work in cooperation right now, god forbid, we will find ourselves in another outbreak in just another few years.

The thing with Environment and Health specifically is that the problem is always the same across borders, nature does not change its laws. Matter can neither be created, nor destroyed, saying that the coronavirus will end, is impossible. What is possible, however, is that we ensure that when this virus mutates, we have prepared ourselves enough to know how to deal with it. Because it will mutate, like it did after SARS to MERS to finally COVID – 19, and who knows what the other side of nature holds? For years, humans have tried to test the nature by exploiting it, by clearing forests for their own selfish and materialistic pursuits, but what happens, when the line between the wild and the urban is so blurred, that we find ourselves victims of the natural wrath?

Sustainability isn't a concept introduced just for the sake of sustaining future generations, it's been introduced to protect future generations from the consequences of our mistakes. The mistakes of this generation have far worse ramifications than we can imagine. If the count of deaths have only increased since SARS, what makes us believe that the next outbreak after COVID – 19 won't wipe humanity off the face of Earth? In such a case, when the entire world is under siege, turning our backs on each other, is only going to make us weak. It is imperative that we stand together as one international community, and protect the environment, not because the environment has given us so much, but because the environment can give us more than we can take.

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