

International law in the time of the coronavirus

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Researching the international law in dealing with the coronavirus: Armin von Bogdandy (right), Director, and Pedro Villarreal, Senior Research Fellow, at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg. Credit: MPI für ausländisches öffentliches Recht und Völkerrecht

It is a key international actor in the Corona crisis: the World Health Organization (WHO) based in Geneva. In a recent article on the role of international law in dealing with the SARS-CoV-2 pandemic, researchers at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg take a closer look at the increasingly criticized United Nations health authority: How effective are the International Health Regulations (IHR), the WHO's main instrument for curbing the global spread of disease? The scientists from Heidelberg also take a stand on current political controversies.

In the struggle against the spread of the SARS-CoV-2 virus, causing the disease known as COVID-19, as well as its economic, political and social consequences, nation states currently appear to be the main actors. They have been adopting far-reaching measures ranging from bans on events and regulations in labor and commercial law to curfews and contact restrictions. Given the complex and global nature of the pandemic, however, it is also worthwhile taking a look at institutions and regulations at the international level which are directly relevant in the current crisis.

Armin von Bogdandy, Director, and Pedro Villarreal, Senior Research Fellow at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg, Germany, have published a first overview, focusing on the role of international law in dealing with the SARS-CoV-2 pandemic. The relevant areas of law are as multifaceted as the pandemic and its consequences: by including international health law, human rights law, international trade law, international peace and security and development finance, the authors address multiple [international law](#) regimes in their study.

Their contribution, which has been pre-published as an open access publication in the *MPIL Research Paper Series*, focuses on the central institutional actor in global health policy: the World Health Organization

(WHO), a specialised agency of the United Nations. The main instrument for confronting the cross-border spread of disease, the International Health Regulations (IHR), is legally binding for the 194 WHO Member States as well as for Liechtenstein and the Holy See. Its first version was adopted as the International Sanitary Regulations in 1951, and has been in force in its current form since 2007.

With a view to their relevance in the coronavirus crisis, the authors examine, among other things, several areas covered by the IHR. In this way, they provide an overview of the legal situation and show to what extent the regulations apply under the current circumstances. In doing so, they also contextualize recent political controversies, such as the one between the U.S. and China ignited by President Donald Trump, who accused the latter country of not complying with the obligation enshrined in the IHR to promptly report the new disease to the WHO. With regard to this specific case, von Bogdandy and Villarreal point out that the IHR provides the WHO with the means to legally assess the accuracy of such allegations. In such a case, it may not only refer to official governmental communications, but may also take into account other information, such as journalistic reports. In this specific situation, the authors argue that the WHO could, for instance, compare the data provided by the government with such other reports and, in the event of any inconsistencies, ask the Chinese Government for clarification. This and other examples demonstrate that the WHO norms on disease reporting also play a role in health-related geopolitical conflicts.

The WHO and its IHR have been broadly criticized for their apparent ineffectiveness amidst the ongoing coronavirus pandemic. The two legal scholars from Heidelberg address some of the institutions' problems: for instance, without information provided by the member states, the WHO is practically "blind" and it lacks enforcement mechanisms when the IHR is breached. Despite all criticism, the researchers emphasize that the WHO offers important technical support to the member states by acting

as a global coordinator in the crisis and by providing guidance through recommendations. They also point out the merit of the International Health Regulations: according to them, the IHR is a comprehensive set of rules that has grown through examples of best practice and many decades of experience with disease outbreaks. Despite the sometimes divergent behavior of member states, the IHR continue to set the standard for how states may deal with the cross-border spread of disease and reflect the international consensus on pandemic control. According to the authors, this is by no means an insignificant contribution in the current situation.

The full article by Armin von Bogdandy and Pedro Villarreal, "International Law on Pandemic Response: A First Stocktaking in Light of the Coronavirus Crisis," has been pre-published as part of the open access MPIL Research Paper Series.

More information: Armin von Bogdandy et al. International Law on Pandemic Response: A First Stocktaking in Light of the Coronavirus Crisis, *SSRN Electronic Journal* (2020). [DOI: 10.2139/ssrn.3561650](https://doi.org/10.2139/ssrn.3561650)

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