

The background of the cover features a close-up, slightly blurred view of several books and stacks of papers. The books have various colored spines, including blue and black. The pages are mostly off-white or light beige, showing some signs of age. The lighting is dramatic, with strong highlights and deep shadows, creating a sense of depth and texture. The overall composition is centered around the text, which is overlaid on a dark, semi-transparent rectangular area.

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## THE BEGINNING OF THE END: COVID-19 AND A NEW WORLD ORDER WITH CHINA IN THE MIDDLE

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*This paper argues that international law and the current world order is under threat. The international response to COVID-19 has undermined international cooperation and global governance efforts, tainted by existing threats of state sovereignty, national interests, impunity, distrust, and disrespect for international norms seen in tackling the climate crisis, mass flow of refugees, and non-proliferation of nuclear weapons. The paper explores the aftermath of COVID-19 and the failure of Western powers to appear as leaders in combating the virus, making way for a new international order beyond today's existing power structures in favor of a strong lead from China and India. Ultimately, this 'Chindian' world order is challenged by tensions between China and India hindering meaningful cooperation and weak regional economic influence by India, leaving China as the main leader of the new world order. Also, weakening democracy and 'emergency' responses by Western states points to a trend in securitizing threats and the transformation of responses to authoritarian and draconian laws, likened to the response to 9/11.*

### **INTRODUCTION**

The international response to COVID-19 has undermined international cooperation and global governance efforts. Illustrative of the inherent challenge of balancing state sovereignty and meaningful mutual commitments, international law is already vulnerable. The first part of this paper explains the growing weakness of global governance and mutual responsibility, illustrating the climate of impunity<sup>1</sup> and preference for national interest as opposed to collective interests, disrespect, and distrust in areas requiring coordinated global responses, such as that of climate change, refugee response, and non-proliferation of nuclear weapons. This is explained by the militarization of threats which seem to inform the response to security, including COVID-19.<sup>2</sup>

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<sup>1</sup> Mary Ellen O'Connell, 'The Killing Of Soleimani And International Law' <<https://www.ejiltalk.org/the-killing-of-soleimani-and-international-law/>> accessed 4 January 2021.

<sup>2</sup> Colin P. Clarke, 'COVID-19 Is A Threat To National Security. Let'S Start Treating It As Such.' <<https://www.justsecurity.org/71870/covid-19-is-a-threat-to-national-security-lets-start-treating-it-as-such/>> accessed 4 January 2021.

Indeed, the response to COVID-19 is likewise being individualized rather than fought with cooperation by states despite its widely disruptive effects.<sup>3</sup> The pandemic furthermore demonstrates the interconnectedness of the world today that cannot survive on this ‘every man for himself’ attitude. Part two examines the loss of legitimacy of traditional superpowers and Western states like the US and UK in fighting the pandemic, contrasting its response to that of South Korea and New Zealand. Part three goes further in envisaging a new world order centered around China and India, illustrating the inherent political and economic tensions between the states which reject a ‘Chindian’<sup>4</sup> world order in light of competing interests and tensions. Additionally, an ‘Indo-Pacific’ order is deemed unrealistic in regards to its inherent structural flaws and its economic weakness in garnering support from other Asian states.<sup>5</sup> Instead, China’s emerging power as the world’s second largest economy,<sup>6</sup> A.I influence<sup>7</sup>, as well as its alliances and handling of the pandemic provides it with a real opportunity of emerging as a superpower. Finally, part four considers a world where human rights are undermined by drawing from the response of countries to the pandemic, namely China and the UK. This ties together the weakness of international law and perceptions of the WHO in its response to COVID-19 which further undermines international law, eliciting a trend similar to the security response of the events of 9/11. Ultimately, while it remains to be seen whether China will emerge out of the post-COVID-19 world order as a superpower, it is certain that its growing influence cannot be ignored.

### **INTERNATIONAL LAW UNDER THREAT**

*“This is not yet the end of an interconnected world. The pandemic itself is proof of our interdependence.”<sup>8</sup>*

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<sup>3</sup> Samuel Bazzi, Martin Fiszbein and Mesay Gebresilashe, ‘Rugged Individualism And Collective (In)Action During The COVID-19 Pandemic’ (2020) 24 NBER Macroeconomics Annual <<https://www.nber.org/papers/w27776>> accessed 4 January 2021.

<sup>4</sup> Sitakanta Mishra, ‘The Post-Pandemic World Order: Nine Pointers’ (IndraStra Papers 2020) 13.

<sup>5</sup> Cuiping Zhu, *India’s Ocean: Can China And India Coexist?* (Springer Singapore 2017) 11.

<sup>6</sup> Graham Allison, ‘China Is Now The World’s Largest Economy. We Shouldn’t Be Shocked.’ (*The National Interest*, 2020) <<https://nationalinterest.org/feature/china-now-world%E2%80%99s-largest-economy-we-shouldn%E2%80%99t-be-shocked-170719>> accessed 4 January 2021.

<sup>7</sup> Vincent Boulanin and others, ‘Artificial Intelligence, Strategic Stability And Nuclear Risk’ [2020] SIPRI <<https://www.sipri.org/publications/2020/other-publications/artificial-intelligence-strategic-stability-and-nuclear-risk>> accessed 4 January 2021, 68.

<sup>8</sup> Shivshankar Menon, ‘How The World Will Look After The Coronavirus Pandemic: This Pandemic Can Serve A Useful Purpose’ [2020] *Foreign Policy* <<https://foreignpolicy.com/2020/03/20/world-order-after-coronavirus-pandemic/>> accessed 15 June 2020.

The nature of international law requires a delicate balance between the need to tackle global security threats proactively, and respect for state sovereignty.<sup>9</sup> This often arises in the form of legally binding treaties to tackle global security threats and voluntary commitments or ‘soft law’ instruments that, while nevertheless contributing to the formation of treaties, are considered less threatening to state sovereignty. Indeed, state sovereignty and lack of political will are the greatest hinderance to effective global governance since states can simply threaten to withdraw from negotiations and avoid being nudged into commitments or criticized publicly. This is exacerbated by the 21st century climate of impunity and ‘Age of the Strongman’<sup>10</sup> expressed by powerful states like the US, who has threatened to commit war crimes against Iran in early 2020.<sup>11</sup> The disregard for international law in light of the COVID-19 pandemic will be the greatest pitfall of the international community.

The international order, in particular the conduct of the Permanent Five, has focused in recent years on its own national interests, far removed from its 1945 commitment to act on behalf of the international community in good faith.<sup>12</sup> Issues which require global coordinated responses are being neglected more readily. Russia’s withdrawal from Additional Protocol I of the Geneva Convention<sup>13</sup>, for instance, which allows the investigation of alleged war crimes, undermines the universality of protecting victims of war and illustrates the climate of impunity towards international law.<sup>14</sup> However, the weakening of international cooperation is not specific to Russia. For example, the US’ withdrawal from the Paris Climate Agreement which was inspired by economic reasons and ‘America First’ sentiment,<sup>15</sup> undermines efforts of climate cooperation and disrupts state confidence in combating climate change, while shaking the foundations of international cooperation by failing

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<sup>9</sup> Article 2(7) United Nations Charter.

<sup>10</sup> Mark Triffitt, ‘A Growing Mistrust In Democracy Is Causing Extremism And Strongman Politics To Flourish’ *The Conversation* (2018) <<https://theconversation.com/a-growing-mistrust-in-democracy-is-causing-extremism-and-strongman-politics-to-flourish-98621>> accessed 15 June 2020.

<sup>11</sup> Sergio Beltrán-García, ‘Trump’s Threat To Destroy Iranian Heritage Would Be A War Crime’ *The Guardian* (2020) <<https://www.theguardian.com/artanddesign/2020/jan/06/trump-threat-destruction-iran-heritage-war-crime>> accessed 15 June 2020.

<sup>12</sup> Article 24 United Nations Charter.

<sup>13</sup> International Committee of the Red Cross (ICRC), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, 1125 UNTS 3.

<sup>14</sup> ICRC database, Treaties, State Parties and Commentaries: Russian Federation, < [https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp\\_countrySelected=RU](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=RU)>, accessed 15 June 2020.

<sup>15</sup> White House, ‘Statement By President Trump On The Paris Climate Accord’ (2017) <<https://www.whitehouse.gov/briefings-statements/statement-president-trump-paris-climate-accord/>> accessed 15 June 2020.

to appreciate the principle of common but differentiated responsibility by pointing to China and India's mitigation commitments which are less onerous than that of the US. Climate change, which requires a coordinated global response is not taken seriously because it is out of direct proximity, virtually invisible, and requires a lot of money in the short term to fix a long-term problem. States are therefore more willing to turn a blind eye to exhaustive and comprehensive global responses.<sup>16</sup> Ironically, the directly damaging consequences of COVID-19 have not rung coordinated global responses either despite being lethal and imminent, and directly penetrating the world economy. In fact, the individualized approach to the pandemic has seen national as opposed to a unified global response, indicative of the weakening trust of international cooperation and governance.<sup>17</sup>

Moreover, notions of peace and stability are traditionally determined by military power. However, the Security Council's understanding of threats to peace and security since the Cold War has shifted towards an interest in human security and human rights. Today, the flow of refugees and mass displacement, a human security problem, constitutes a threat to peace and security<sup>18</sup> emanating from the long-term consequences of armed conflict (state security). Human security therefore cannot be separated from traditional military notions of state security as the former is incumbent on the latter, yet human security is *not* informing the global response to threats.

For example, the burden sharing required for dealing with the unprecedented level of human movement is becoming increasingly politicized and fitted with voluntary commitments as opposed to enforceable treaties. The UN High Commissioner for Refugees (UNHCR) was created as a short-term and temporary non-political and merely humanitarian solution. In light of today's security threats, it is expected to face more challenges like repatriation, peacebuilding, development, and migration and therefore requires assistance by multiple actors.<sup>19</sup> The UNHCR is so overwhelmed that its office in Pakistan was unable to accept Afghan refugees in Pakistan. "The UNHCR simply

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<sup>16</sup> Michael Doan, *Climate Change And Complacency* 29(3) (Hypatia 2014) 640.

<sup>17</sup> 'The Shift Americans Must Make To Fight The Coronavirus' [2021] *The Atlantic* <<https://www.theatlantic.com/ideas/archive/2020/03/we-need-isolate-ourselves-during-coronavirus-outbreak/607840/>> accessed 4 January 2021.

<sup>18</sup> United Nations High Commissioner for Refugees, 'Security And Refugee Protection Are Complementary, Says UNHCR' (UNHCR, 2020) <<https://www.unhcr.org/news/latest/2017/4/58e4c56a4/security-refugee-protection-complementary-says-unhcr.html>> accessed 15 June 2020.

<sup>19</sup> Gil Loescher, Alexander Betts and James Milner, *The United Nations High Commissioner For Refugees (UNHCR)* (Routledge 2009) 125.

does not have the capacity to handle the increased volume of people”,<sup>20</sup> a problem that can be mitigated by comprehensive efforts by the international community.

Although States are expected to cooperate with the UNHCR, in recognition of the social and humanitarian issues needed to prevent the flow of refugees, emphasizing the need for international cooperation because of the unfair burdens placed on developing countries who cannot handle refugees alone,<sup>21</sup> states have been reluctant to tackle the crisis together. Indeed, the real crisis is not the unprecedented number of refugees, but rather the collapse of burden sharing,<sup>22</sup> as less-developed countries bear the majority of refugees. For instance, between 2011 and 2013, the population of Lebanon increased by 30% due to the arrival of Syrian refugees.<sup>23</sup> Overwhelmed in its capacity to host refugees, Lebanon’s health system suffered shock. It was only able to build its resilience through the coordinated efforts of multiple agencies including UN bodies like the UNHCR, international organizations, non-governmental organizations, civil society organizations and private organizations.<sup>24</sup> Moreover, the lack of political will of wealthy states to address a global problem is illustrative of the declining cooperation in international law. The Global Compact on Refugees, for instance, only arose after European states realized the breadth of the problem. While supportive of the notion of multiple-actors needed to comprehensively deal with refugees and encouraging assistance to host states to lift some of the burdens, the Global Compact is non-binding and rests on voluntary pledges by States. It fails to administer meaningful responsibility on States, demonstrating the tension between state sovereignty and mutual responsibility. Therefore, the lack of responsibility-sharing between the international community predicts the ‘every man for himself’ attitude felt towards the pandemic. A world that cannot come together in peace time will not be able to come together during a global pandemic.

Likewise, Member states’ distrust of each other hinders meaningful cooperation efforts in areas such as the acquisition of weapons of mass destruction, namely, the proliferation of nuclear weapons. In

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<sup>20</sup> UNHCR, ‘High Commissioner’s Opening Statement To The 63rd Session Of Excom’ (2012) <<https://www.unhcr.org/admin/hcspeeches/506987c99/high-commissioners-opening-statement-63rd-session-excom.html>> accessed 15 June 2020.

<sup>21</sup> Convention Relating to the Status of Refugees 1951.

<sup>22</sup> Kathleen Newland, ‘Cooperative Arrangements To Share Burdens And Responsibilities In Refugee Situations Short Of Mass Influx’ [2011] Migration Policy Institute <<https://www.unhcr.org/4ef332d29.pdf>> accessed 15 June 2020, 2.

<sup>23</sup> Walid Ammar et al, ‘Health system resilience: Lebanon and the Syrian refugee crisis’ 6, *Journal of Global Health*, December 2016, <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5234495/>> accessed 15 June 2020, 2.

<sup>24</sup> Ibid.

fact, the underlying basis behind acquiring nuclear weapons rests on the assumption of distrust between states and using such weapons for deterrence purposes! The Cold War powers in particular have joined the nuclear arms race since the evolution of nuclear weapons. The Atomic Energy Commission<sup>25</sup> and Baruch Plan<sup>26</sup> were set up against the backdrop of the destructive bombing of Hiroshima and Nagasaki, with the latter aiming for complete disarmament. Due to the unwillingness of the Cold War states to cooperate, efforts of disarmament were made impossible. The US' bargain was to eliminate its nuclear weapons on the condition that the USSR give up its veto power.<sup>27</sup> Upon refusal, the USSR proposed the Gromyko Plan seeking disarmament and an international inspections regime which was quickly rejected, only for the US to conduct nuclear testing in the Bikini Atoll two weeks later.<sup>28</sup> Likewise, the USSR conducted the 'First Lightning' test covertly came as a result of mounting pressure to acquire a deterrent.<sup>29</sup> Ever since, the nuclear arms race has been active.

Moreover, the distrust between states found its way to the Non-Proliferation Treaty which provides a common obligation to "pursue negotiations in good faith on effective measures relating [to nuclear disarmament]".<sup>30</sup> The nuclear apartheid legitimized by the Treaty distinguishing 'nuclear-weapon states' from 'non-nuclear weapons states' is, to be blunt, a convenient excuse for powerful states to selectively control 'rogue' states<sup>31</sup> which they have determined cannot be trusted with nuclear weapons. India or Iran for example, are not allowed to acquire nor develop nuclear weapons, while France and Russia can lawfully maintain their existing weapons merely because they have tested nuclear weapons before 1967. This is further evidenced by the International Court of Justice's Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons.<sup>32</sup> The Court found that "any realistic search for general and complete disarmament, especially nuclear disarmament,

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<sup>25</sup> Edward Shils, 'The Failure Of The United Nations Atomic Energy Commission: An Interpretation' (1948) 15 The University of Chicago Law Review, <<https://core.ac.uk/download/pdf/234124829.pdf>> accessed 3 January 2021, 855-856.

<sup>26</sup> 'The Baruch Plan | Arms Control, Deterrence And Nuclear Proliferation | Historical Documents | Atomicarchive.Com' (Atomicarchive.com, 2020) <<https://www.atomicarchive.com/resources/documents/deterrence/baruch-plan.html>> accessed 3 January 2021.

<sup>27</sup> Supra note 25, 857.

<sup>28</sup> *ibid*, 868.

<sup>29</sup> *ibid*, 867.

<sup>30</sup> Treaty on the Non-Proliferation of Nuclear Weapons, March 5, 1970, Article VI.

<sup>31</sup> Richard Price, 'Nuclear Weapons Don't Kill People, Rogues Do' (2007) 44 International Politics, 243.

<sup>32</sup> Marshall Islands ICJ Judgment Reports 2016, para 11.

necessitates the cooperation of all States”<sup>33</sup> and by enhancing its nuclear arsenal in order to excel in the arms race, the UK was blatantly disregarding international cooperation. The hegemon’s control of the narrative and entitlement to keep its nuclear weapons effectively undermines collective efforts of disarmament and faith in international law. Indeed, the UK itself in its Ministry of Defence publication ‘Mobilising, Modernising & Transforming Defence’ identifies ‘the erosion of rules-based international order’ as a security priority.<sup>34</sup>

In addition, apathy by the community means that people are no longer moved by mass atrocities: ‘100,000 displaced or killed’ does not ring alarm bells anymore.<sup>35</sup> Visual aids of three-year olds drowning on the beach,<sup>36</sup> or photos of ‘David and Goliath’ Second Intifada stone throwers<sup>37</sup> are emotive, and if they capture media attention, only momentarily move the powerful towards seemingly hopeful directions. Growing apathy and acceptance of the imperfect state of the world allows the normalization of atrocities and hinders meaningful attempts to prevent and provide solutions. Diminishing international cooperation served by states’ national interests, distrust of the international community, growing apathy, as well as tensions with state sovereignty point to the weaknesses of international law. Global governance and human security are therefore under threat.

Despite the diminishing respect for international law, COVID-19 presents a unique opportunity to transform the international order. It has brought to the forefront the weaknesses and inherent flaws of the current international order and power distribution which demands serious reconfiguration. The COVID-19 pandemic is different from other security threats: what distinguishes COVID-19 from other epidemics is its widespread impact that is not constrained to a limited number of states. When Ebola resurfaced in 2014 within West Africa, although it travelled to neighboring countries, Western states were not victim to it, and therefore had little incentive to tackle it directly. In contrast, COVID-19 has affected Western states, threatening their national order and normal

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<sup>33</sup> ICJ Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons [1996] ICJ 2 para 100.

<sup>34</sup> Ministry of Defence, ‘Mobilising, Modernising & Transforming Defence’: A report on the Modernising Defence Programme’, December 2018, <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/931705/ModernisingDefenceProgramme\\_report\\_2018\\_FINAL.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/931705/ModernisingDefenceProgramme_report_2018_FINAL.pdf)> accessed 15 June 2020, 12.

<sup>35</sup> Susie Poppick, ‘Why You’re Numb To The Horrors In Syria, According To An Empathy Researcher’ Mic (2018) <<https://www.mic.com/articles/188076/syria-attack-eastern-ghouta-damascus-bombardment-2018-syrian-empathy-psychic-numbing-paul-slovic-research-violence#.tVOJFpakI>> accessed 15 June 2020.

<sup>36</sup> Emina Osmandzovic, ‘The Drowning Of Aylan Kurdi’ Arab News (2020) <<https://www.arabnews.com/node/1660926>> accessed 15 June 2020.

<sup>37</sup> Ramzy Baroud, *The Second Palestinian Intifada* (Pluto Press 2006), 45.

functioning just as much as it has affected the East. Largely so, the West's resilience and capacity to handle the pandemic has been challenged greatly. Therefore, the Coronavirus confronts a wide range of issues largely ignored by the West. The world order can no longer turn a blind eye and mind its own national affairs like it did before, precisely *because* of the universality of the virus. This is, of course, also an opportune moment to shift the hierarchal balance from West to East due to the leadership shown by Asian states in tackling the pandemic, as opposed to the deteriorating legitimacy of Western states.

### **WESTERN 'BRAND' UNDER THREAT**

*"In light of the glaring gap between international expectations and the actual performance of the West, there is renewed discussion in some corners of the world about the decline of the West".<sup>38</sup>*

There has been a loss of faith in powerful states to effectively lead the world, let alone itself, out of the COVID-19 crisis. The US' grossly negligent (mis)handling of the virus and disregard for public health measures, compounded by its domestic mishandling of human rights have undermined its international reputation and made a mockery out of America. The US has revealed that traditional modes of democracy are in shambles in its gross response to police brutality in light of the murder of African American George Floyd on May 25<sup>th</sup>, 2020. The failure of guaranteeing due process, justice, and the climate of impunity echoed by President Donald Trump<sup>39</sup> stoked the fire further. Indeed, this event has gained wide public attention and scrutiny over the world, eliciting condemnations by Amnesty International,<sup>40</sup> the Special Rapporteur on Torture<sup>41</sup>, as well as the Human Rights Council calling for an urgent debate on racism and police brutality.<sup>42</sup> While racism is not new to America, the growing frustration and lack of public confidence in the US' management of the virus, compounded by the injustice of the brutal killing of Mr. Floyd leaves any remaining image of the US as a 'savior' and herald of civil liberties and democratic principles shattered, which is a key factor in its growing weakness in global leadership. Indeed, the US' denial of the virus,

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<sup>38</sup> Xie Tao, 'How The West Failed The Rest In The COVID-19 Pandemic' The Diplomat (2020) <<https://thediplomat.com/2020/04/how-the-west-failed-the-rest-in-the-covid-19-pandemic/>> accessed 15 June 2020.

<sup>39</sup> Donald Trump, <https://twitter.com/realDonaldTrump/status/1266231100780744704> May 29, 2020, 5:53 UTC.

<sup>40</sup> 'Demand Justice For George Floyd' (Act.amnestyusa.org, 2020) <<https://act.amnestyusa.org/page/61623/action/1?locale=en-US>> accessed 15 June 2020.

<sup>41</sup> Melzer, Nils. <https://twitter.com/NilsMelzer/status/1267552672774868994> June 1, 2020, 21:24 UTC.

<sup>42</sup> UN News, 'Human Rights Council Picks Up Again After COVID Suspension, To Hold Racism Debate' (2020) <<https://news.un.org/en/story/2020/06/1066312>> accessed 15 June 2020.

trillion-dollar law suit against China, stigmatization of Chinese people by calling COVID-19 ‘The Chinese Virus’, ill-humored public advice,<sup>43</sup> as well as its detestation towards the WHO has made America (not so great again).

The same can be said for the UK, whose international reputation has been dwindling since 2016.<sup>44</sup> The UK’s ‘reckless complacency’<sup>45</sup> in its poor and delayed response to the virus has effectively left it unprepared in terms of manpower, availability of protective equipment and hospital capacity. Despite being struck by the pandemic at a more delayed pace than most of Europe and therefore having the time and example of state responses to mitigate the spread of COVID-19, the UK has one of the highest death rates from the virus.<sup>46</sup> At a time of moral panic demanding a reassuring tone, Prime Minister Boris Johnson’s less than comforting words to the public were: “many more families are going to lose loved ones before their time.”<sup>47</sup> The lack of effective guidance to the nation and inability to maintain morale throughout COVID-19 by the UK signals its declining heroism in leading the world out of this crisis.

Other states, notably South Korea, have been successful in managing the global crisis: “South Korea was able to lower the number of new infections from 851 in March to 22 infections as of April and the mortality rate from COVID-19 hovers around 2%”,<sup>48</sup> a major achievement. Their active and extensive testing, as well as prompt and effective tracking of infected individuals was ancillary to their success, while other states like the UK failed to grapple with the effects of the virus. The first active case in the UK was on January 31<sup>st</sup>, yet it only initiated the lockdown on March 23<sup>rd</sup>, nearly two months into the epidemic. Daily death rates three months after the lock down still average at

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<sup>43</sup> BBC, ‘Coronavirus: Outcry After Trump Suggests Injecting Disinfectant As Treatment’ BBC (2020) <<https://www.bbc.com/news/world-us-canada-52407177>> accessed 15 June 2020.

<sup>44</sup> Mike Cormack, CGTN, ‘The British government’s declining reputation for competence’ (2020) <<https://news.cgtn.com/news/2020-05-12/The-British-government-s-declining-reputation-for-competence-QqvWWMCHOE/index.html>> accessed 15 June 2020.

<sup>45</sup> Estelle Shirbon and Michael Holden, ‘Something’s Going Wrong’: UK Virus Response Under Fire’ Reuters (2020) <<https://www.reuters.com/article/us-health-coronavirus-britain/somethings-going-wrong-uk-virus-response-under-fire-idUSKCN2240JK>> accessed 15 June 2020.

<sup>46</sup> Philip Stephens, ‘How Politics Thwarted The UK’s Covid-19 Response’ Financial Times (2020) <<https://www.ft.com/content/af17147c-84a1-11ea-b555-37a289098206>> accessed 15 June 2020.

<sup>47</sup> Sebastian Payne and Laura Hughes, ‘Johnson Warns Public To Prepare To Lose Loved Ones To Coronavirus’ Financial Times (2020) <<https://www.ft.com/content/65094a9a-6484-11ea-a6cd-df28cc3c6a68>> accessed 15 June 2020.

<sup>48</sup> Michael Ahn, ‘How South Korea Flattened The Coronavirus Curve With Technology’ The Conversation (2020) <<https://theconversation.com/how-south-korea-flattened-the-coronavirus-curve-with-technology-136202>> accessed 15 June 2020.

approximately 200 individuals in the UK.<sup>49</sup> Thus, when compared to the superpower's delayed action, failure to test, trace, and isolate adequately, less dominant states like South Korea are emerging as influential.

Moreover, other states are emerging as examples for the world, notably female-led states such as New Zealand and Germany are doing better than Strongman orders. Indeed, Angela Merkel has been praised for her calm yet serious leadership<sup>50</sup> in effectively communicating COVID-19 to the public. Similarly, New Zealand Prime Minister Jacinda Ardern<sup>51</sup> announced on June 8<sup>th</sup> that there were no more active cases of the virus in New Zealand and was initiating Stage 1 of recovery, while demonstrating the utmost leadership: "here in New Zealand, we went hard and early with a single plan that had a dual purpose: to protect lives and to protect livelihoods."<sup>52</sup> New Zealand's actions came ahead of many states including Australia, the US and UK. For example, self-isolation measures were put 17 days after the first case of COVID-19 was reported in New Zealand, borders were closed promptly, and the state issued a wage subsidy scheme to protect the livelihood of many within 19 days of the first case, "while most states took more than 40" days to do so.<sup>53</sup> She also managed to translate New Zealand's success to economic terms by noting the promising plans for immediate economic recovery: "The Reserve Bank's analysis shows the economy under level 1 is expected to be operating just 3.8 percent below normal levels; that's an improvement from the estimated 8.8 percent below normal levels under level 2."<sup>54</sup> At the same time, her pragmatic approach did not deny the potential of New Zealand contracting the virus again "if we get one or two cases in the future, which will remain possible for some time to come due to the global situation and nature of the virus, we need to shut down those cases fast."<sup>55</sup> Therefore, with traditional hierarchies failing to rise to the occasion, there is more space for influence by other states,

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<sup>49</sup> 'United Kingdom Coronavirus: 296,857 Cases And 41,736 Deaths – Worldometer' (Worldometers.info, 2020) <<https://www.worldometers.info/coronavirus/country/uk/>> accessed 15 June 2020.

<sup>50</sup> Imogen Braddick, 'Angela Merkel Praised For 'Superb' Explanation On How Coronavirus Infection Rates Impact Healthcare Systems' Evening Standard (2020) <<https://www.standard.co.uk/news/health/angela-merkel-infection-rates-explanation-a4416231.html>> accessed 15 June 2020.

<sup>51</sup> Beehive.govt.nz, 'POST-CABINET PRESS CONFERENCE' (2020) <<https://www.beehive.govt.nz/feature/postcab>> accessed 15 June 2020.

<sup>52</sup> *ibid.*, 1.

<sup>53</sup> *ibid.*

<sup>54</sup> *ibid.*

<sup>55</sup> *ibid.*

challenging traditional notions of security in favor of an approach focusing on transparency, long-term human security prioritization, and empathy.<sup>56</sup>

### **NEW WORLD ORDER**

*“Beijing is working to turn these early signs of success into a larger narrative to broadcast to the rest of the world-one that makes China the essential player in a coming global recovery while airbrushing away its earlier mismanagement of the crisis”.*<sup>57</sup>

While it is still premature to envisage a completely new international order, the trend seems to at least indicate a partiality towards a shift in power politics. Current superpowers like the US and the UK seem to be dwindling for their notoriously poor mismanagement of the virus, in favor of China, which is extending its help to other suffering states, and India, which has taken the initiative to tackle the virus. While European states like Italy are facing hard-hitting difficulties coping with the virus, the European Union’s lack of aid and cooperation only makes China and India shine brighter, with Serbian president calling “European solidarity a fairy tale”<sup>58</sup> whilst appreciating “the only country that can help is China.”<sup>59</sup> Lack of faith in such power structures is coupled with a contrasting divide between the US and China which are waging verbal wars against each other, with China accusing the US of engineering the Coronavirus as a form of biological warfare, and the US filing a 20 trillion-dollar lawsuit against China. Tensions between each side, as well as the poor management of major powers that are expected to save the world, coupled with leadership from Asian countries indicate a shift towards what Mishra calls a ‘Chindian world order’<sup>60</sup>-a world order where China and India are at the centre.

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<sup>56</sup> Ambassador Donald Steinberg, Ruth Halperin-Kaddari, ‘What A “Feminist” Approach To Fighting COVID-19 Might Have Achieved’ <<https://www.justsecurity.org/70356/what-a-feminist-approach-to-fighting-covid-19-might-have-achieved/>> accessed 15 June 2020.

<sup>57</sup> Kurt Campbell and Rush Doshi, ‘The Coronavirus Could Reshape Global Order’ *Foreign Affairs* (2020) <<https://www.foreignaffairs.com/articles/china/2020-03-18/coronavirus-could-reshape-global-order>> accessed 15 June 2020.

<sup>58</sup> Zachary Evans, ‘Coronavirus Outbreak: Serbian President Aleksandar Vučić Labels European Solidarity ‘Fairy Tale’, Says Only China Can Assist In Coronavirus Response’ *National Review* (2020) <<https://www.nationalreview.com/news/coronavirus-outbreak-serbian-president-aleksandar-vucic-labels-european-solidarity-fairy-tale-says-only-china-can-assist-in-coronavirus-response/>> accessed 15 June 2020.

<sup>59</sup> ‘The President of the Republic of Serbia, ‘President Vučić declares the state of emergency on the entire territory of Serbia’ (2020) <<https://www.predsednik.rs/en/press-center/news/president-vucic-declares-the-state-of-emergency-on-the-entire-territory-of-serbia>> accessed 15 June 2020.

<sup>60</sup> Supra note 4, 13.

However, this ‘Chindian’ dream is ambitious. Distrust and territorial disputes between the two, political rivalry, and the lack of political will of Asian-Pacific countries to integrate India fully into their economic structure through Indo-Pacific regionalism makes a ‘Chindian’ world order unlikely. For instance, Indian and Chinese relations are unpredictable and have their own tensions and contested sovereignty issues. The territorial dispute between the states over Ladakh dating back to 1947 has met with renewed hostility. In May 2020, Chinese troops incurred the contested area in the Galwan Valley and the Indian Ministry of External Affairs stated “a violent face-off happened as a result of an attempt by the Chinese side to unilaterally change the status quo there.”<sup>61</sup> This is likely to hinder cooperation with the competing regions. Indeed, the Chinese Foreign Ministry blamed India for its “provocative attacks triggering fierce physical clashes” on Chinese soldiers.<sup>62</sup> The situation warranted the UN Secretary General to publicly express concern over the clashes<sup>63</sup> which potentially threatens meaningful cooperation between the two governments. Furthermore, China has made clear its frustrations over India praising Taiwan, implicitly supporting its independence from the People’s Republic of China,<sup>64</sup> further fueling tensions in disruption of a Chindian order.

However, the idea of Asian countries emerging as new global actors is not unrealistic: “Asia is now a critical player in the global system and has a central contribution to make in strengthening global governance and international policy outcomes.”<sup>65</sup> The resilience of both China and India following the 1998 Asian financial crisis has given them more relevance and prominence in the world

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<sup>61</sup> Ministry of External Affairs Government of India, ‘Official Spokesperson’s Response To Media Queries On The Situation In The Western Sector Of The India-China Border’ (2020) <<https://mea.gov.in/response-to-queries.htm?dtl/32761/official+spokespersons+response+to+media+queries+on+the+situation+in+the+western+sector+of+the+indiachina+border>> accessed 15 June 2020.

<sup>62</sup> Ministry of National Defense of The People’s Republic of China, ‘Western Theater Spokesman Zhang Shuili Issued A Statement On The Conflict Between The Chinese And Indian Border Guards In The Galwan Valley’ (2020) <[http://www.mod.gov.cn/topnews/2020-06/16/content\\_4866812.htm](http://www.mod.gov.cn/topnews/2020-06/16/content_4866812.htm)> accessed 15 June 2020.

<sup>63</sup> Business Standard, ‘UN Chief Concerned Over Reports Of Violence, Deaths At India, China LAC’ (2020) <[https://www.business-standard.com/article/current-affairs/un-chief-concerned-over-reports-of-violence-deaths-at-india-china-lac-120061601920\\_1.html](https://www.business-standard.com/article/current-affairs/un-chief-concerned-over-reports-of-violence-deaths-at-india-china-lac-120061601920_1.html)> accessed 15 June 2020.

<sup>64</sup> Gulf News, ‘Outraged China Asks India To Refrain From Supporting Taiwan’ (2020) <<https://gulfnews.com/world/asia/india/outraged-china-asks-india-to-refrain-from-supporting-taiwan-1.1590258517288>> accessed 15 June 2020.

<sup>65</sup> Takatoshi Ito and others, ‘Asia Reshaping The Global Economic Order: Editors’ Overview’ (2010) 5 Asian Economic Policy Review, 136.

economy.<sup>66</sup> There is an imminent economic crisis amidst the pandemic, and proven resilience of Asian states is expected to exceed that of European states.<sup>67</sup> The way India is handling the Coronavirus presents an opportunity for it to establish influence as future global leader; notably Prime Minister Narendra Modi was the first international actor to call for a G-20 Summit conference addressing the virus, demonstrating leadership.

Yet, potential emergence is hindered by structural issues such as the scattered membership of 'Asia' evidenced by the different alliances of Indo-Pacific actors and ASEAN, for example, and the G-20. For instance, although six Asian speakers at the G-20 may address issues relevant to the EAS and ASEAN, there is no one unified voice linking all Asian countries.<sup>68</sup> The lack of institutionalized governance between Asian countries makes a comprehensive rise of Asian states inconceivable. In addition, Kahler argues that even Asian countries with potential, like China, have failed to build steadfast coalitions and alliances outside the region, or within the region, leaving it with little bargaining power to extend to more influential reach.<sup>69</sup> This, Kahler argues, "limits the exercise of influence by Asian governments [...] over global governance."<sup>70</sup>

This is countered by the fact that China is, in fact, extending its reach to other states like Serbia and Russia. It's global presence and competitive charge in Artificial Intelligence (A.I) is noticeably placing it at the centre of threat to powerful states. China's stealth drone 'Blowfish A2', for example, is being commissioned by Saudi Arabia and Pakistan.<sup>71</sup> Indeed, A.I and technology is more relevant today than it ever was, and COVID-19 just revealed how interlinked the world is today. The ability to host world conferences online, deliver messages across the world and broadcast news is astonishing. Likewise, the reliance of schools and universities on online teaching and the increase in online insurance and banking is inadvertently improving our economic resilience through technology in light of social distancing and safety measures. The increased digital data on private matters and

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<sup>66</sup> Peter Drysdale and Shiro Armstrong, 'International And Regional Cooperation: Asia's Role And Responsibilities' (2010) 5 Asian Economic Policy Review, <<https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1748-3131.2010.01157.x>> accessed 15 June 2020, 158.

<sup>67</sup> Jeffrey D. Wilson, 'Rescaling to the Indo-Pacific: From Economic to Security-Driven Regionalism in Asia' (2018) East Asia, <<https://link.springer.com/article/10.1007/s12140-018-9285-6>> accessed 15 June 2020, 185.

<sup>68</sup> *ibid*, 137.

<sup>69</sup> Miles Kahler, 'Asia And The Reform Of Global Governance' (2010) 5 Asian Economic Policy Review, <<https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1748-3131.2010.01160.x>> accessed 15 June 2020, 179-180.

<sup>70</sup> *ibid*, 140.

<sup>71</sup> Ludovic Ehret, 'China Steps Up Drone Race With Stealth Aircraft' Phys.org (2018) <<https://phys.org/news/2018-11-china-drone-stealth-aircraft.html>> accessed 15 June 2020.

globalization of technology will speed our A.I-vulnerability in an unprecedented manner, and China has already made clear its plan to advance in superior A.I technology. Due to the growing interdependence on A.I and mounting cyberattacks on civilian structures like hospitals<sup>72</sup> and the WHO<sup>73</sup> in recognition of society's digital dependence, the cyber realm is an area of relevance: "whoever becomes the leader in this sphere will become the ruler of the world."<sup>74</sup> China is certainly investing and training to compete as a dominant player in the race for A.I, declaring its intention to become the world leader of A.I development by 2030.<sup>75</sup> Its estimated annual budget for A.I Research and Development is 10 billion dollars,<sup>76</sup> whereas India is investing merely 665 million dollars into A.I.<sup>77</sup> Thus, its growing dominance in technology will mark it as a valuable actor in coming years.

According to Mishra, China will "shield itself from external intervention and strengthen power to reach every corner of the world at any point in time".<sup>78</sup> This is already exhibited by its ambitious A.I plans and its lead in organizations and multilateral structures such as the Shanghai Cooperation Organization, the Asian Infrastructure Investment Bank, and BRICS as platforms for its rising global governance. Moreover, extending its help to corona-struck countries like Italy, Iran and

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<sup>72</sup> 'Call To Governments: Work Together To Stop Cyber Attacks On Health Care' (ICRC, 2020) <<https://www.icrc.org/en/document/governments-work-together-stop-cyber-attacks-health-care>> accessed 15 June 2020.

<sup>73</sup> 'WHO Reports Fivefold Increase In Cyber Attacks, Urges Vigilance' (Who.int, 2020) <<https://www.who.int/news-room/detail/23-04-2020-who-reports-fivefold-increase-in-cyber-attacks-urges-vigilance>> accessed 15 June 2020

<sup>74</sup> James Vincent, 'Putin Says The Nation That Leads In AI 'Will Be The Ruler Of The World' The Verge (2017) <<https://www.theverge.com/2017/9/4/16251226/russia-ai-putin-rule-the-world>> accessed 15 June 2020.

<sup>75</sup> China State Council (2017) A Next Generation Artificial Intelligence Development Plan. <<https://www.newamerica.org/cybersecurity-initiative/digichina/blog/full-translation-chinas-newgeneration-artificial-intelligence-development-plan-2017/>> accessed 15 June 2020.

<sup>76</sup> Ashwin Acharya and Zachary Arnold, 'Chinese Public AI R&D Spending: Provisional Findings' (Center for Security and emerging technology 2019), <<https://cset.georgetown.edu/research/chinese-public-ai-rd-spending-provisional-findings/>> accessed 15 June 2020, 14.

<sup>77</sup> Research Markets, 'India Artificial Intelligence (AI) Market Size (2016-2025) And Spending Across 18 Sectors, 140+ Application Segments, AI Domains, And Technology' (GlobeNewswire News Room, 2020).

<sup>78</sup> Supra note 4, 21.

Serbia<sup>79</sup> by providing millions of N95 respirators, ventilators, PPE, and testing kits, China is reshaping the narrative and setting a ‘new standard for global efforts’.<sup>80</sup>

China’s global integration is seen as a threat to EU competition.<sup>81</sup> In fact, China has recently made a large sale of its armed drones to the Serbian Ministry of Defense.<sup>82</sup> It is also rapidly gaining influence in the political realm, garnering support by Germany amidst COVID-19, significantly more than it had in 2019: “today, 37% of Germans say they prioritize their country’s relationship with the US, while a nearly equivalent share (36%) prioritize relations with China.”<sup>83</sup>

Moreover, China’s relationship with Russia in spite of the US and its lead in BRICS makes it a stronger candidate than India. The US sanctions brought against Chinese technology server ‘Huawei’ in 2019 brought strategic partnership between China and Russia closer marking ‘2020 the year of Russian-Chinese scientific, technical and innovation cooperation,<sup>84</sup> with particular priority paid to A.I. Therefore, with China advancing its alliances and strengthening its A.I capacity, it has the potential of dominating the next world order.

This leaves India with less opportunity to thrive in power. While Indo-Pacific regionalism is relatively new,<sup>85</sup> it is unlikely to be as influential. Indo-Pacific economic structure stems out of the security need to navigate intensifying maritime territorial disputes relative to China<sup>86</sup> and envisages

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<sup>79</sup> The President of the Republic of Serbia, ‘President Vučić Welcomes A Team Of Doctors From The People’s Republic Of China’ (2020) <<https://www.predsednik.rs/en/press-center/news/president-vucic-welcomes-a-team-of-doctors-from-the-peoples-republic-of-china>> accessed 15 June 2020.

<sup>80</sup> Ministry of Foreign Affairs of the People’s Republic of China, ‘Foreign Ministry Spokesperson Zhao Lijian’s Regular Press Conference On June 17, 2020’ (2020) <[https://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/2511\\_665403/t1789509.shtml](https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2511_665403/t1789509.shtml)> accessed 15 June 2020.

<sup>81</sup> Reuters, ‘EU’s Vestager Says EU Nations Should Buy Stakes To Block Chinese Takeovers: FT’ Reuters (2020) <<https://www.reuters.com/article/us-health-coronavirus-antitrust-eu/eus-vestager-says-eu-nations-should-buy-stakes-to-block-chinese-takeovers-ft-idUSKCN21U0TI>> accessed 15 June 2020.

<sup>82</sup> Sophia Yan, ‘China Sells Armed Drones To Serbia Amid Concerns Arms Deal Could Destabilise Region’ The Telegraph (2019) <<https://www.telegraph.co.uk/news/2019/09/11/china-sells-armed-drones-serbia-amid-concerns-arms-deal-could/>> accessed 15 June 2020.

<sup>83</sup> Jacob Poushter and Shannon Schumacher, ‘Amid Coronavirus Crisis, Americans And Germans See Changing World In Different Ways’ (Pew Research Center, 2020) <[https://www.pewresearch.org/fact-tank/2020/05/18/amid-coronavirus-crisis-americans-and-germans-see-changing-world-in-different-ways/?utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=newsletter\\_axiosworld&stream=world](https://www.pewresearch.org/fact-tank/2020/05/18/amid-coronavirus-crisis-americans-and-germans-see-changing-world-in-different-ways/?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axiosworld&stream=world)> accessed 15 June 2020.

<sup>84</sup> Tass, ‘Russia, China Discussing Key Projects For Year Of Scientific Cooperation’ Tass (2019) <<https://tass.com/science/1103515>> accessed 15 June 2020.

<sup>85</sup> Supra note 67, 188.

<sup>86</sup> *ibid*, 183.

India as a security actor to the region as a “hedge against Chinese naval power.”<sup>87</sup> Its frailty in economic terms, however, makes it unattractive to Asian countries since it lacks an effective framework and institutions for genuine economic cooperation, as Asian-Pacific countries are more equipped through institutions like APEC or ASEAN, for instance. Wilson therefore argues that the Indian Ocean Rim Association (IORA) is a better platform for India’s involvement and economic cooperation and has resulted in promising agreements such as the IORA Action Plan of 2017-2021.<sup>88</sup> However, it is still considered a soft-law agreement which cannot legally force states to commit to their agreements. In addition, influential economic actors like China and Japan are excluded from the Indo-Pacific region, which prevents the reach of the inner Pacific region.<sup>89</sup> Its lack of Asian-reach makes it unattractive to Asian countries since it would provide preferential market access to its regional actors,<sup>90</sup> when Asian countries already have more market access to wider-reaching Free Trade Agreements. In other words, Asia-Pacific need not rely on India to enhance its economic relations.

Nevertheless, India has demonstrated its leadership skills and meaningful intentions to cooperate globally. Prime Minister Modi has expressed the will to strengthen international ties and cooperation in the area of public health during a South Asian Association for Regional Cooperation meeting and emphasized the need to share information and practices to better understand combating the Coronavirus.<sup>91</sup>

Modi’s initiative arises from the renewed direction of global governance which understands the need for cooperation to survive. It recognizes that without this, there cannot be international peace and security. Indeed, the Government’s statement emphasizes the need to adopt a human security approach to cooperation, promote information sharing and health care systems, adopt crisis management protocols globally and “reform intergovernmental organisations like WHO and work together to reduce economic hardships resulting from COVID-19 particularly for the economically

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<sup>87</sup> *ibid*, 192.

<sup>88</sup> Indian Ocean Rim Association. (2017) “IORA Action Plan 2017–21”

<sup>89</sup> *Supra* note 67, 189.

<sup>90</sup> John Ravenhill, ‘The Move To Preferential Trade On The Western Pacific Rim: Some Initial Conclusions’ (2008) 62 *Australian Journal of International Affairs*, < <https://www.tandfonline.com/doi/full/10.1080/10357710802060519> > accessed 15 June 2020, 135.

<sup>91</sup> The Hindu, ‘India To Set Up Electronic Platform For SAARC To Fight COVID-19’ (2020) <<https://www.thehindu.com/news/national/india-to-set-up-electronic-platform-for-saarc-to-fight-covid-19/article31178915.ece#>> accessed 15 June 2020.

weak.”<sup>92</sup> This is not to say that India itself is not struggling to handle the effects of the virus, however, it has noticeably aligned its national requirements with that of global responsibilities,<sup>93</sup> something only a few states were able to do. Its initiative and emergency fund contribution of 10 million dollars and economic package for ‘free food rations for 800 million disadvantaged people for the next 3 months to fight the Coronavirus pandemic’,<sup>94</sup> welcomed by the WHO reveals its rising global influence.

India’s support to its nationals in need of evacuation, medical supplies, and other nationals in need of help has showed the world its willingness to cooperate against the common enemy.<sup>95</sup> Its willingness to assist neighboring countries in tackling the pandemic by stationing Navy ships and medical teams to be deployed when needed<sup>96</sup> further demonstrate its leadership and cooperation. China even thanked India for its help combating the virus<sup>97</sup> and asked for its good graces in dispelling US accusations against China.<sup>98</sup> Mishra therefore argues that India must “compete and cooperate with China to usher the post-pandemic world order as Chindian world order to its advantage.”<sup>99</sup>

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<sup>92</sup> Ministry of External Affairs, Government of India, ‘Press Release On The Extraordinary Virtual G20 Leaders’ Summit’ (2020) <<http://www.g20.utoronto.ca/2020/2020-g20-modi-0326.html>> accessed 15 June 2020.

<sup>93</sup> Harsh Pant, ‘Leadership In The Time Of Corona | ORF’ (ORF, 2020) <<https://www.orfonline.org/research/leadership-in-the-time-of-corona-63648/>> accessed 15 June 2020.

<sup>94</sup> PTI, ‘WHO Lauds India’s ‘Tough And Timely’ Actions Against Coronavirus’ The Hindu (2020) <<https://www.thehindu.com/news/national/who-lauds-indias-tough-and-timely-actions-against-coronavirus/article31338150.ece>> accessed 15 June 2020.

<sup>95</sup> Supra note 4, 49.

<sup>96</sup> The Hindu, ‘Six Navy Ships, Medical Teams On Standby To Assist Neighbouring Countries’ The Hindu (2020) <<https://www.thehindu.com/news/national/six-navy-ships-medical-teams-on-standby-to-assist-neighbouring-countries/article31249255.ece>> accessed 15 June 2020.

<sup>97</sup> Geeta Mohan, ‘China Thanks India For Offering Help To Battle Coronavirus’ India Today (2020) <<https://www.indiatoday.in/world/story/china-thanks-india-offer-to-fight-coronavirus-1645100-2020-02-10>> accessed 15 June 2020.

<sup>98</sup> Anirban Bhaumik, ‘<https://www.deccanherald.com/International/World-News-Politics/China-Seeks-India-S-Support-To-Counter-Us-Bid-To-Lay-Covid-19-Blame-On-Its-Door-817288.html>’ Deccan Herald (2020) <<https://www.deccanherald.com/international/world-news-politics/china-seeks-india-s-support-to-counter-us-bid-to-lay-covid-19-blame-on-its-door-817288.html>> accessed 15 June 2020.

<sup>99</sup> Supra note 4, 52.

**AUTHORITARIANISM AND HUMAN RIGHTS**

*“COVID-19 will create a world that is less open, less prosperous, and less free.”<sup>100</sup>*

The international order suffers from a perception problem, and rightly so. In their 2014 study on the legitimacy of the Security Council, Binder and Heupel found that 81% of UN members felt negatively towards the Security Council.<sup>101</sup> The lack of trust shared between states is partially due to the dominance of Western States at the negotiating table and the smaller platform given to the Global South. Peru has expressed need for procedural reform allowing new members to join the Security Council in order to balance the just and equitable regional representation,<sup>102</sup> while other states like Libya have criticized the Council for “not being able to fully shoulder responsibility in dealing with some of the most pressing peace and security issues.”<sup>103</sup> Likewise, as alluded to in the first part of this paper, the failure of the UN to prevent climate change, proliferation of nuclear weapons,<sup>104</sup> and develop a coordinated refugee response has tarnished its legitimacy as an effective international order. Although the fatal flaws of the international order are not new, its failings are harder to ignore in light of the pandemic, compounded by the perceived weaknesses of the World Health Organization (WHO).

The WHO has been undermined by the US and other states, with President Donald Trump announcing the freezing of financial contributions and threatening withdrawal from the WHO amidst criticism of its delayed response and undue deference to China. Indeed, the US defunding the WHO undermines its efforts and potentially prevents it from the coordinated global response that it requires!

The WHO’s flaws are not indicative of the failure of international law, but rather the inherent challenges of international law regarding sovereignty taking precedence over mutual responsibility.

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<sup>100</sup> Stephen Walt, ‘How The World Will Look After The Coronavirus Pandemic: A World Less Open, Prosperous, And Free’ [2020] Foreign Policy <<https://foreignpolicy.com/2020/03/20/world-order-after-coronavirus-pandemic/>> accessed 15 June 2020.

<sup>101</sup> Martin Binder and Monika Heupel, ‘The Legitimacy Of The UN Security Council: Evidence From Recent General Assembly Debates’ (2014) International Studies Quarterly, <[https://research.reading.ac.uk/ungop/wp-content/uploads/sites/13/Binder\\_et\\_al-2015-International\\_Studies\\_Quarterly1.pdf](https://research.reading.ac.uk/ungop/wp-content/uploads/sites/13/Binder_et_al-2015-International_Studies_Quarterly1.pdf)> accessed 15 June 2020, 244.

<sup>102</sup> General Assembly 64<sup>th</sup> Session, 43<sup>rd</sup> Plenary meeting, A/64/PV.44, November 12, 2009, 15

<sup>103</sup> *ibid*, 2

<sup>104</sup> Haeyoung Kim, ‘STIFLED GROWTH AND ADDED SUFFERING: Tensions Inherent In Sanctions Policies Against North Korea’ (2014) 46 Critical Asian Studies, <<https://www.tandfonline.com/doi/abs/10.1080/14672715.2014.863579?src=recsys>> accessed 15 June 2020, 106.

The WHO struggles in its functions due to the voluntary basis underlying its work. It relies heavily on voluntary financial contributions by states and is therefore wary in naming and shaming states for fear of losing support.<sup>105</sup> This non-confrontational and deferential attitude towards Member States makes it inadequate.<sup>106</sup> Likewise, while member states are required to report on the implementation progress of the International Health Regulations to the WHO, this does not come with enforcement powers and relies on states to self-assess their level of preparedness.<sup>107</sup> This lack of scrutiny and accountability in the review process underlies a structural flaw within the WHO and a systematic flaw within states, preventing them from the will and incentive to cooperate. Although it has been commended for its previous successes, such as eliminating smallpox and constructing a Tobacco Control Treaty,<sup>108</sup> the WHO's failure in recent years in handling the Ebola epidemic and now Coronavirus have weakened its perception and even prompted calls for its overhaul.<sup>109</sup>

For instance, the growing public health needs facing four million Syrians in 2013-2014 bordering Turkey illustrate the negligence and inadequacy of the WHO: the WHO office in Turkey operating to assist Syrian refugees seldom attended meetings organized by non-governmental organizations.<sup>110</sup> Similarly, during the 2010 Haiti earthquake, the WHO country representative did not allow staff to support the Haitian office, was slow in its response and ill-managed in terms of coordination.<sup>111</sup> This lack of leadership and penetration by the WHO leaves its reputation as weak, necessitating a structural change in its system. Therefore, "major changes to the system [...] require operationalising the concept of centrality of protection, [...] remaking humanitarian leadership and coordination, and making interventions more efficient, effective, and sustainable. To succeed, certain governments, the

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<sup>105</sup> Allyn Lise Taylor, 'Making the World Health Organization Work: A Legal Framework for Universal Access to the Conditions for Health' (1992) 18 *American Journal of Law and Medicine*, <[https://www.researchgate.net/publication/21848317\\_Making\\_the\\_World\\_Health\\_Organization\\_Work\\_A\\_Legal\\_Framework\\_for\\_Universal\\_Access\\_to\\_the\\_Conditions\\_for\\_Health](https://www.researchgate.net/publication/21848317_Making_the_World_Health_Organization_Work_A_Legal_Framework_for_Universal_Access_to_the_Conditions_for_Health)> accessed 15 June 2020, 301.

<sup>106</sup> Gian Luca Burci, 'The World Health Organization At 70: Challenges And Adaptation' (2019) 16 *International Organizations Law Review* <[https://brill.com/view/journals/iolr/16/2/article-p229\\_229.xml?language=en](https://brill.com/view/journals/iolr/16/2/article-p229_229.xml?language=en)> accessed 15 June 2020, 236.

<sup>107</sup> World Health Organization, *Strengthening health security by implementing the International Health Regulations (2005): Joint external evaluation of IHR cope capacities of the United States of America Mission report*, June 2016, <<https://www.who.int/ihr/publications/who-whe-gpi-2017.13/en/>> accessed 15 June 2020, 1.

<sup>108</sup> The World Health Organization *Framework Convention on Tobacco Control 2005*.

<sup>109</sup> Manjeev Singh Puri, 'Reforming The World Health Organization' *Hindustan* (2020) <<https://www.hindustantimes.com/analysis/reforming-the-world-health-organization-opinion/story-aChEkZcpUj3jZ5eoUCzmhI.html>> accessed 15 June 2020.

<sup>110</sup> Francesco Checchi and others, 'World Health Organization And Emergency Health: If Not Now, When?' [2016] *British Medical Journal* <<https://www.bmj.com/content/352/bmj.i469>>, accessed 15 June 2020, 3.

<sup>111</sup> *ibid.*

UN, and international organisations will need the political will to relinquish authority, influence, and funding.<sup>112</sup> The concern today is that this pandemic may well be the ‘last nail in the world order’s coffin,<sup>113</sup> as more nations become state-centric and disregard international efforts of cooperation.

Not only is international cooperation being undermined, but as alluded to in the first part, the dwindling legitimacy of democracy and hyper-securitization of threats in light of COVID-19 will see a move towards authoritarianism. The increased securitization of threats of counterterrorism, for example, have shifted our understanding of security towards ‘enhanced interrogation techniques’ or ‘torture lite’,<sup>114</sup> excessive policing and stop-and-search powers, met with state impunity. The Coronavirus has been compared to 9/11 due to its global shift in the security paradigm as we know it.<sup>115</sup> The responses to the pandemic have signaled increased securitization and stigmatization of free movement, excessive policing, repressing civil liberties and human rights, setting precedent to an authoritarian world order and prompting the UN to warn that the virus ‘should not function as a cover for repressive action under the guise of protecting health’.<sup>116</sup>

As growing powers like China gain more political influence and leverage over Western states, particularly due to its competitive A.I capabilities and involvement in different international institutions, it is able to gear its own direction in both domestic and foreign policy at a much forceful pace. By proving itself capable of helping states thwart the effects of the virus and reshaping its reputation, China’s bargaining power and assertive stance will offset Western powers.

Moreover, China’s success in tackling the virus through its authoritarian and oppressive means raises the question of whether democratic or authoritarian states are better equipped to tackle the Coronavirus. States are already curtailing civil liberties in the name of national emergencies as the pandemic is exploited to legitimize abuse of human rights and its weaponization. The UAE, for instance, utilized this opportunity to increase its surveillance laws and monitor civilians through

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<sup>112</sup> Paul Spiegel, ‘The Humanitarian System Is Not Just Broke, But Broken: Recommendations For Future Humanitarian Action’ [2017] *The Lancet*, <[https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(17\)31278-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(17)31278-3/fulltext)> accessed 15 June 2020, 7.

<sup>113</sup> *Supra* note 4, 19.

<sup>114</sup> *Ireland v UK* (1979-80) 2 EHRR 25, [167]

<sup>115</sup> Alex Joel, ‘9/11 All Over Again’, *Just Security* <<https://www.justsecurity.org/69621/9-11-all-over-again/>> accessed 15 June 2020.

<sup>116</sup> ‘OHCHR | COVID-19: States Should Not Abuse Emergency Measures To Suppress Human Rights – UN Experts’ (Ohchr.org, 2020) <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25722>> accessed 15 June 2020.

social media platforms. It also threatens to fine people largely for misinformation campaigns.<sup>117</sup> Presented as ‘short term’ measures, the long-term effects are draconian as they potentially quash dissent. China’s new national security legislation<sup>118</sup> which threatens to criminalize and suppress political dissent by Hong Kong is a flagrant abuse of human rights and international obligations under the 1984 Sino-British Joint Declaration, and is likely to be made more difficult to challenge due to its increasing power. Similarly, the Coronavirus has revealed existing xenophobia and exacerbated negative sentiment towards Asians. Asian medical health professionals are being assaulted, spat on, and verbally abused and accused of ‘bringing the virus’.<sup>119</sup> This is already creating an incentive for stricter border control.<sup>120</sup>

Furthermore, democratic states alike are enacting draconian emergency legislation in a bid to protect national security and control moral panic.<sup>121</sup> Mounting pressure on British politicians to rescue public confidence has resulted in the controversial UK Coronavirus Bill 2020, heralded as ‘an attack on civil liberties.’<sup>122</sup> The swiftly drafted Bill suspends jury trials, an affront to the very fabric of transparent, fair and impartial legal system that makes Britain.<sup>123</sup> Human rights solicitor Aamer Anwar has criticised the UK government for its Bill. He says ‘we were told to trust without question’ regarding the Iraq war and that once again the Coronavirus is presenting a similar danger of blind acceptance and trust in the government. Moreover, the Bill provides police officers and immigration officials the power to detain individuals without basis for evidence based on *suspicion* that a person is infected. This raises a dangerous precedent, reminiscent of the UK’s draconian stop and search

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<sup>117</sup> Daily Sabah, ‘UAE To Fine Citizens Up To \$5,500 For COVID-19 Fake News’ Daily Sabah (2020) <<https://www.dailysabah.com/world/mid-east/uae-to-fine-citizens-up-to-5500-for-covid-19-fake-news>> accessed 15 June 2020.

<sup>118</sup> Lily Kuo, Verna Yu and Helen Davidson, ‘This Is The End Of Hong Kong: China Pushes Controversial Security Laws’ The Guardian (2020) <<https://www.theguardian.com/world/2020/may/21/china-proposes-controversial-national-security-law-for-hong-kong>> accessed 15 June 2020.

<sup>119</sup> Sabrina Tavernise and Richard A. Opiel Jr., ‘Spit On, Yelled At, Attacked: Chinese-Americans Fear For Their Safety’ New York Times (2020) <<https://www.nytimes.com/2020/03/23/us/chinese-coronavirus-racist-attacks.html>> accessed 15 June 2020.

<sup>120</sup> Robert Kaplan, ‘Coronavirus Ushers in the Globalization We Were Afraid of’ (2020) <<https://www.bloomberg.com/opinion/articles/2020-03-20/coronavirus-ushers-in-the-globalization-we-were-afraid-of>> accessed 15 June 2020.

<sup>121</sup> Prevention of Terrorism (Temporary Provisions) Act 1974.

<sup>122</sup> Aamer Anwar, ‘Aamer Anwar- Criminal Defence Solicitor’S Response To Withdrawal Abolition Of Jury Trials In Coronavirus Bill | Aamer Anwar & Co | Glasgow Lawyer (Aamer Anwar & Co. Website, 2020) <<https://aameranwar.co.uk/news/aamer-anwar-criminal-defence-solicitors-response-to-withdrawal-abolition-of-jury-trials-in-coronavirus-bill/>> accessed 15 June 2020.

<sup>123</sup> Magna Carta 1215.

powers enacted under section 41 of Terrorism Act 2000 which allowed officers to arrest people on mere suspicion of being terrorists.<sup>124</sup> The reason used to allow for the low threshold of ‘suspicion’ of terrorism to authorize arrest has been justified by Lord Lloyd<sup>125</sup> as ‘Given that public safety is at issue, this is a risk which neither the police nor the public can afford to take’. The ‘war on Corona’ presents a similar risk of being used as a national security threat justifying the abuse of civil liberties. Anwar describes this eerie police-state as a slippery slope to normalizing excessive policing and even questions whether such laws will continue after the Coronavirus.<sup>126</sup> The former Supreme Court Justice Lord Sumption even criticized the policing as having no legal authority, yet being abused in a frightening way.<sup>127</sup>

## **CONCLUSION**

The COVID-19 pandemic has challenged the international order and illuminated the existing flaws of global governance and international law. Undeniably, the rise of strongman politics and disregard for security issues of significance like climate change, refugees, and nuclear weapons that require mutual effort and cooperation has weakened international law’s grip over states. The response to COVID-19 has likewise been informed by individualistic rather than collective responses from Western states, reinforcing the weakening of global governance. It remains to be seen whether the flaws of international governance and institutions, as well as the highly securitized state responses to emerging threats will mean the defeat of international law as we know it. Although the successful and swift responses of New Zealand and South Korea provide hope for a world order that is pragmatic yet effective and modest, it is unlikely to garner enough influence to transform the entire order. The indisputable failure of the West to fight the virus, does, however, provide powerful states an opportunity to rise as new leaders, namely India and China. Ultimately, China’s economic dominance, alliances, leadership in A.I and assertive grip over the pandemic will allow it to have a

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<sup>124</sup> Metropolitan Police Commissioner v Raissi [2008] EWCA Civ 1237, [20].

<sup>125</sup> Lord Lloyd, Inquiry into Legislation against Terrorism (1996) Cm 3420, <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/265689/4178.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/265689/4178.pdf)> accessed 15 June 2020, para. 8.5.

<sup>126</sup> Aamer Anwar, ‘The War On Coronavirus - Response To The New Laws By Aamer Anwar | Aamer Anwar & Co | Glasgow Lawyer’ (Aamer Anwar & Co. Website, 2020) <<https://aameranwar.co.uk/news/the-war-on-coronavirus-response-to-the-new-laws-by-aamer-anwar-2020/>> accessed 15 June 2020.

<sup>127</sup> Lisa O’ Carroll, ‘Covid-19: Ex-Supreme Court Judge Lambasts ‘Disgraceful’ Policing’ The Guardian (2020) <<https://www.theguardian.com/world/2020/mar/30/covid-19-ex-supreme-court-judge-lambasts-disgraceful-policing>> accessed 15 June 2020.

bigger voice at the negotiation table and greater bargaining power, while India will remain relevant only if it organizes its alliances on a broader Asian basis, including cooperating with China. Finally, the international world order post-COVID-19 is likely to present a shift in paradigm to more securitization and resistance to globalization, enhanced policing powers and more flagrant suppression of human rights and civil liberties, exhibited by the existing emergency responses of democratic states like the UK, and other states like the UAE and China. With China being in the centre of power, its aggressive stance over dissent and territorial disputes is of concern if it is to gain more momentum. This new authoritarian world order threatens to undermine the system of international law.