

**CHINA'S RESPONSIBILITY FOR  
THE COVID-19 PANDEMIC**

**AN INTERNATIONAL LAW PERSPECTIVE**

**Katja Creutz**

# CHINA'S RESPONSIBILITY FOR THE COVID-19 PANDEMIC

## AN INTERNATIONAL LAW PERSPECTIVE

The coronavirus pandemic has roiled international relations. The huge global toll of the pandemic, both in terms of deaths and economic implications, has raised the question of Chinese responsibility. This Working Paper analyzes China's responsibility for Covid-19 under international law. In order for state responsibility to arise, China must have committed an internationally wrongful act. The conduct must be attributable to China and must constitute a breach of its international obligations. An analysis of the timeframe concerning the main measures undertaken by Chinese authorities at different government levels shows a lag in reporting the outbreak to WHO according to the International Health Regulations. Hence, there appears to be a case for injured states to invoke China's responsibility. The prospects for implementation are nevertheless bleak. A tacit understanding seems to prevail among states not to pursue the spread of pathogens in terms of legal responsibility or litigation. Whether major power rivalry or the enormous costs of the pandemic will change this non-confrontational tradition of dealing with pathogens remains to be seen.



**KATJA CREUTZ**

*Leading Researcher  
Global Security Research Programme  
Finnish Institute of International Affairs*

ISBN 978-951-769-646-3

ISSN 2242-0444

Language editing: Lynn Nikkanen

## CONTENTS

The need for a legal review of Chinese actions	4
China's conduct in the pandemic outbreak	5
Assessing China's responsibility under international law	6
Reparation follows responsibility: Chinese compensation or apology?	9
Bleak prospects of responsibility being implemented	10
Alternative means of accountability	12
Conclusions	13
Bibliography	14

# CHINA'S RESPONSIBILITY FOR THE COVID-19 PANDEMIC

## AN INTERNATIONAL LAW PERSPECTIVE

### THE NEED FOR A LEGAL REVIEW OF CHINESE ACTIONS

International reactions to the outbreak of the coronavirus disease Covid-19 have demonstrated dissatisfaction with how the People's Republic of China (PRC) handled the onset of the infectious disease. This frustration along with the dreadful effects upon human life and the global economy have raised questions about China's legal responsibility for the pandemic. International legal experts – Chinese scholars included – have pondered this question, as have government officials and even state leaders, perhaps most vocally in the United States. President Donald Trump and Secretary of State Mike Pompeo have both called for Chinese responsibility without specifying whether they imply political, economic or legal responsibility, however. The state of Missouri and US law firms representing affected citizens have filed lawsuits before US federal courts with the aim of obtaining compensation for 'deaths, injuries and economic losses'.<sup>1</sup> With the principle of sovereign immunity generally protecting states from being sued before foreign courts, there is reason to explore responsibility under international law.

The question of the responsibility of states under international law for epidemics or pandemics is not unprecedented. During the Severe Acute Respiratory Syndrome (SARS) epidemic, state responsibility was also discussed, especially due to the 'secretive and non-cooperative manner' with which the PRC government responded to that specific epidemic.<sup>2</sup> The same allegations have been presented with respect to the coronavirus and its ensuing disease, Covid-19. China allegedly hid reports of the outbreak for days or even weeks,<sup>3</sup> a period which would have been crucial in limiting the spread of the virus as well as improving both national and international preparedness. But not only was China passive when it came to informing others about the virus spreading, it also undertook measures to cover up the disease. Chinese local authorities silenced doctors and other whistleblowers who were

trying to alert the (international) community about Covid-19. Although the exact facts about the early days of the spread of the virus are, constantly being updated, increased scepticism about China's early anti-pandemic actions is noticeable,<sup>4</sup> despite later harsh measures to curb the spread of the disease.

The consequences of the pandemic around the world have been exceptional. At the time of writing, over eight million people have been infected globally, and more than four hundred thousand in numerous countries have died because of the pandemic. Every continent except Antarctica has suffered from the pandemic. The disease also has wide implications for both the global economy and security. For example, estimations about the financial costs of the pandemic keep growing with every day that passes, but in mid-May the total losses for G7 countries was estimated at 4 trillion USD.<sup>5</sup> Covid-19 has challenged globalization and interdependence, while worsening the relations between the world's two most powerful states, the US and China.

At this stage with the pandemic still raging, it may seem untimely to look for whom to blame. The fight against the pandemic requires cooperation and joint efforts, not confrontational politics. Moreover, viruses as such are uncontrollable by humans, which may also make such an effort seemingly inapt. However, in the long term, discussions on legal responsibility are needed: along with the issue of reparation, they spur countries to improve their behaviour in the event of a subsequent pandemic outbreak, and they may provide an incentive to re-evaluate international regulation on state conduct with respect to infectious diseases. It is also a fact that China's behaviour in relation to the outbreak of previous infectious diseases has been criticized,<sup>6</sup> which may attest to the need for harsher measures. There is a forward-looking component to the responsibility of states as well, which should be kept in mind when pondering international responsibility. An analysis of state responsibility may also demonstrate the limitations of the law when it comes

1 Bellinger 2020. See also Savage and Su 2020.

2 Fidler 2003. See also Huang 2003.

3 Associated Press 2020b; Kraska 2020; Henderson et al. 2020; Leung 2020; Bring and Wolf 2020.

4 Aaltola 2020.

5 Henderson et al. 2020, p. 3.

6 Garrett 2020.

to pandemics,<sup>7</sup> which may motivate a search for other accountability mechanisms.

This Working Paper will contribute to discussions about China's responsibility by applying the rules of state responsibility to China's actions regarding the beginning of the pandemic. It will explore the conditions for and content of responsibility under international law in the case of Covid-19. Building on various available but somewhat conflicting sources, it will set forth the claim that while China probably has committed an internationally wrongful act, it is unlikely that responsibility will materialize. States have not generally considered legal responsibility a suitable avenue for dealing with pandemics.

## CHINA'S CONDUCT IN THE PANDEMIC OUTBREAK

Based on existing knowledge, the pandemic started in Wuhan, a multimillion-people city located in the Hubei province of the PRC. However, the exact origin and appearance of the virus, as well as the timeline of key events, are disputed. According to information provided by several sources, the date of the first confirmed coronavirus case was 8 December 2019.<sup>8</sup> On New Year's Eve, 31 December 2019, China reported the outbreak to WHO.<sup>9</sup> The next day, 1 January 2020, the authorities closed the Huanan Seafood Market in Wuhan, which is presumably the place where the virus originated. On 9 January, human-to-human transmission was allegedly proved with the death of a patient that had been infected by his wife. The next day, a laboratory in Shanghai submitted a report to WHO on the coronavirus genome. Shortly thereafter, the Wuhan Municipal Health Commission referred to 'pneumonia caused by the novel coronavirus' for the first time.<sup>10</sup> The first statement by President Xi Jinping on the Covid-19 outbreak was issued on 20 January when he instructed authorities at all levels about the outbreak of the virus,<sup>11</sup> and on the same day, Chinese TV acknowledged human-to-human transmission for the first time.<sup>12</sup> After a few days, Wuhan city along with the Hubei province was put under lockdown. WHO finally declared Covid-19 a 'global pandemic' on 11 March 2020.

There are discrepancies between the official and unofficial reports, however. Informal accounts by the *South China Morning Post* claim that the first Covid-19 case was already recorded on 17 November 2019.<sup>13</sup> The number of cases was also allegedly much higher than the official numbers even early on in the epidemic, with 381 cases of Covid-19 by the time the Wuhan health authorities closed the Wuhan market.<sup>14</sup> Human-to-human transmission was officially not acknowledged when the disease broke out – a crucial feature that was only admitted after mid-January. But the Chinese authorities not only withheld information about the nature and prevalence of the disease, they also sought to silence several doctors and healthcare personnel that had issued warnings about the novel virus causing pneumonia. For example, the local authorities investigated a doctor named Li Wenliang, who had already tried to issue a warning about the outbreak of a new virus in December, forcing him to sign a statement that he had spread 'disruptive rumours'.<sup>15</sup>

President Xi Jinping has defended China's actions, stating that 'China has taken strict measures in prevention, control and treatment, and has been releasing relevant information to the public and keeping the World Health Organization as well as relevant countries and regions informed in a timely manner'.<sup>16</sup> There have been some cracks in the official narrative presented by the PRC government, however. Senior medical advisor to the PRC, Dr Zhong Nanshan, has stated that 'the local authorities in Wuhan...had suppressed key details about the magnitude of the initial outbreak'.<sup>17</sup> This view found support in a statement by Wuhan Mayor Zhou Xianwang, in which he confessed that municipal authorities had failed to report 'in a timely fashion'.<sup>18</sup> However, according to the Wuhan Mayor, the local government lacked the authority to 'disclose information' on the disease that was spreading.<sup>19</sup> Another gesture demonstrating that the authorities had made mistakes was the posthumous apology issued for the treatment of whistleblower Li Wenliang, who passed away due to Covid-19 himself. He and 13 other frontline workers were identified as 'martyrs' by the Chinese Communist Party, which is a title of

7 Sirleaf 2018.

8 Henderson et al. 2020, p. 9; Davidson 2020; Kyngge, Yu and Hancock 2020.

9 WHO Situation Report 2020.

10 'China Publishes Timeline on COVID-19 Information Sharing, Int'l Cooperation', *Xinhua*, 6 April 2020, [http://www.xinhuanet.com/english/2020-04/06/c\\_138951662.htm](http://www.xinhuanet.com/english/2020-04/06/c_138951662.htm).

11 Ibid.

12 Culver and Gan 2020.

13 Henderson et al. 2020, p. 9.

14 Ibid., p. 10.

15 Ibid., p. 9.

16 'China Publishes Timeline on COVID-19 Information Sharing, Int'l Cooperation', *Xinhua*, 6 April 2020.

17 Culver and Gan 2020.

18 Ibid.

19 Ibid.

the highest rank.<sup>20</sup> Indeed, it seems that bureaucratic problems and the question of who has the competence to announce the outbreak of an epidemic in China affected the disclosure of the coronavirus outbreak. Local government officials seem unwilling to pass on bad news in the command chain,<sup>21</sup> perhaps partly because it is commonplace for the central government to blame local authorities for failure in major crises.<sup>22</sup>

The unclear details surrounding the outbreak of the disease have spurred alternative theories of the origin of the virus. President Trump and Secretary of State Pompeo have both alleged that the virus originated from the Wuhan Institute of Virology,<sup>23</sup> a laboratory belonging to the Chinese Academy of Sciences. This laboratory has been at the centre of rumours concerning the spread of the virus, ranging from workers being bitten by bats to the virus having escaped the laboratory after being developed to serve as a Chinese biological weapon.<sup>24</sup> US intelligence reports nevertheless maintain that the ‘COVID-19 virus was not manmade or genetically modified’.<sup>25</sup> An accidental escape cannot be ruled out, however.<sup>26</sup> China has for its part rejected such claims and asked the US to prove its charges. Thus far, there is no available evidence suggesting that the virus originated from the laboratory instead of the market in Wuhan; research shows that a majority of the first 41 Covid-19 patients had ‘direct exposure to the Huanan seafood market’.<sup>27</sup> Consequently, this Working Paper and its legal analysis will proceed on the basis of the information that the Wuhan Seafood Market was the source of the virus having unintentionally been transmitted from animals to humans.

## ASSESSING CHINA’S RESPONSIBILITY UNDER INTERNATIONAL LAW

### State responsibility and its general conditions

The principle that ‘a breach of international law by a State entails its international responsibility’<sup>28</sup> is considered one of the cornerstones of the international

legal order. It entails that whenever a state breaches its obligations under international law, it becomes responsible for full reparation of the breach. While this principle of state responsibility seeks to protect other states from material or legal injury, it simultaneously strives to prevent the undermining of the international legal system as a whole. The rules establishing the conditions, content and implementation of state responsibility are so entrenched in the international legal order that states consider this applicable law even though no treaty on the topic exists. Customary law thus governs the matter, the rules of which were codified by the UN’s International Law Commission (ILC) in 2001 in the Articles on the Responsibility of States for Internationally Wrongful Acts (ASR).<sup>29</sup> These general and secondary rules on state responsibility are widely referred to by international courts, tribunals and quasi-judicial bodies. States are nevertheless free to regulate the issue of responsibility through special rules,<sup>30</sup> meaning that a certain issue area may feature responsibility rules that differ and take prevalence over the general rules.

The responsibility of states is grounded in the commission of an internationally wrongful act, which is based on two elements: 1) the attribution of the conduct to the state in question, and 2) the existence of a breach of the state’s international legal obligation.<sup>31</sup> The first element requires settlement of the issue of what constitutes ‘an act of the State’, as the state relies on the involvement of ‘a human being or group’.<sup>32</sup> Moreover, it is noteworthy that conduct attributable to the state may consist of either an act or an omission. The second element lays down that the international legal obligation must be binding upon the state when the breach takes place. In addition, it is irrelevant whether the obligation arises under treaty law or customary law. No further requirements exist upon the existence of an internationally wrongful act. There is neither a general rule that would require ‘damage’ to have occurred, nor ‘fault’, that is the intention to harm.<sup>33</sup> An analysis of China’s responsibility for the Covid-19 pandemic must therefore establish whether the act or omission constituting the breach is attributable to the PRC government, and if a breach of a legal obligation in force has taken place.

20 ‘China Identifies 14 Hubei Frontline Workers, including Li Wenliang, as Martyrs’, *Global Times*, 2 April 2020.

21 Associated Press 2020b. See also Kaufman 2009, p. 13.

22 Henderson et al. 2020, p. 20.

23 Borger 2020.

24 Barclay 2020.

25 Quinn 2020.

26 Ibid.

27 Huang et al. 2020, p. 498.

28 Commentary, Art. 1 of the ASR, para. 1.

29 For the ASR and commentaries, see Report of the ILC on the Work of Its Fifty-third Session, UN Doc. A/56/10 (2001).

30 Art. 55 of the ASR.

31 Art. 2 of the ASR.

32 Commentary, Art. 2 of the ASR, para. 5.

33 Ibid., paras. 9–10.

## Attribution to the Chinese state authorities

The state is an abstraction and needs people to act on its behalf. Therefore, the law of state responsibility lays down a number of rules for deciding when the acts of natural or legal persons are considered to be an act of the state. There must be a link to the state, as ‘factual causality’ will not suffice.<sup>34</sup> While attribution remains a thorny issue in today’s world with numerous non-state actors exercising even governmental power at times, imputation in the Covid-19 case seems less problematic at first glance than the question of whether a breach has occurred or not.

The basic rule of attribution holds that the conduct of any state organ is attributable to the state.<sup>35</sup> Thus, it is irrelevant for attribution purposes whether the organ exercises legislative, executive or judicial power – or any other function for that matter. The rank or level of the organ in the state machinery is also beside the point, as well as whether the person represents the central government or any other territorial unit in the state. One condition for attribution is, however, that the organ has acted in its official capacity, not as a private person, for example. This basic rule of attribution has been recognized since the late 19<sup>th</sup> century, and is widely considered to be undisputed.

In the first weeks of the Covid-19 outbreak, the municipal and provincial authorities of Wuhan and Hubei respectively were involved. The PRC has reported that Wuhan Center for Disease Control and Prevention was the first to detect ‘pneumonia of unknown cause’, after which the Wuhan Municipal Health Commission instructed medical institutions on the treatment of such patients.<sup>36</sup> The local authorities have later been criticized for suppressing information and jailing whistleblowers,<sup>37</sup> which even led the central government to fire local health officials two months after the start of the epidemic.<sup>38</sup> The Wuhan Mayor has also admitted to mistakes having been made. However, higher-level authorities also became involved early on. The National Health Commission of China sent experts to Wuhan to assist with the epidemic. During the first month of the epidemic, the Chinese Center for Disease Control and Prevention together with the Chinese Academy of Medical Sciences worked on identifying the pathogen.

The Wuhan Institute of Virology again developed testing kits for the coronavirus. The PRC government informed WHO and other states, and also discussed international cooperation. Chinese President Xi Jinping also gave important instructions on the epidemic. All in all, any acts or omissions that may implicate China seem to have started locally, ‘quickly spread[ing] throughout China’s government’.<sup>39</sup>

International law may use Chinese internal law as evidence of those units that are considered state organs for the purposes of responsibility. The PRC’s Constitution establishes a complex state structure, which has been described as a ‘socialist unitary system with Chinese characteristics’.<sup>40</sup> According to Article 30 of the Constitution, ‘[t]he country is divided into provinces, autonomous regions, and municipalities directly under the Central Government’.<sup>41</sup> These units are then subsequently divided into further sub-units featuring, among other things, entities such as cities. A system of ‘dual leadership’ is in place, whereby local self-government is mixed with centralized decision-making.<sup>42</sup>

The way in which China has chosen to organize its state does not alter the fact that international law proceeds from the principle of the unity of the state for responsibility purposes.<sup>43</sup> All actors listed by China as handling the outbreak of Covid-19 can be considered state organs; their acts or omissions are therefore *prima facie* attributable to China. The acts of provinces, municipalities or cities are acts of the Chinese state. Not even the fact that the state could not control lower-level units in its state organization would absolve China from responsibility. In fact, states broadly accept this rule, and generally do not try to evade international responsibility by blaming the municipalities.<sup>44</sup>

## Breach of the obligation to share information on infectious diseases

The rules of state responsibility establish that in order for responsibility to arise, the state’s conduct must amount to a breach of a binding international obligation. Hence, there must be regulation instructing state behaviour in times of infectious diseases. Several different legal obligations have been explored as grounds

34 Commentary, Chapter II of the ASR, para. 4.

35 Art. 4 of the ASR.

36 ‘China Publishes Timeline on COVID-19 Information Sharing, Int’l Cooperation’, *Xinhua*, 6 April 2020.

37 Palmer 2020; Kyngé, Yu and Hancock 2020.

38 Kuo 2020a.

39 Kraska 2020.

40 Wang 2018, p. 52.

41 Constitution of the People’s Republic of China (full text after amendment on March 14, 2004), [http://www.npc.gov.cn/zgrdw/englishnpc/Constitution/node\\_2825.htm](http://www.npc.gov.cn/zgrdw/englishnpc/Constitution/node_2825.htm).

42 Wang 2018, p. 51.

43 Commentary, Art. 4 of the ASR, para. 5.

44 Creutz 2021 (forthcoming).

for China's breach in the Covid-19 case.<sup>45</sup> These include 'the right to health' under international human rights law, the 'no-harm rule' deriving from customary environmental law, and the 'duty to share information' under global health law. This Working Paper will only focus on the last-mentioned.

The only existing treaty obligations that directly relate to the prevention and control of infectious diseases are the 2005 revised International Health Regulations (IHRs), adopted by the World Health Assembly.<sup>46</sup> Their coverage is universal with 196 states and self-governing territories included within their sphere. The obligation also binds China. The stated purpose of these regulations is 'to prevent, protect against, control and provide a public health response to the international spread of disease'.<sup>47</sup> The IHRs were a response to the lessons learnt from the SARS epidemic, and consequently they do not seek to limit the applicability of the regulations to specific, listed diseases.<sup>48</sup> Instead, they aim to respond to 'the continued evolution of diseases',<sup>49</sup> which means that the coronavirus pandemic falls under the scope of the regulations.

The IHRs oblige each state party to maintain 'the capacity to detect, assess, notify and report events'.<sup>50</sup> Concerning the notification of infectious diseases, Article 6 states: 'Each State Party shall notify WHO, by the most efficient means of communications available...and within 24 hours of assessment of public health information, of all events which may constitute a public health emergency of international concern within its territory'. After notification, the state is further mandated to 'continue to communicate to WHO timely, accurate and sufficiently detailed public health information available to it on the notified event'.<sup>51</sup> This reporting obligation includes laboratory results, case numbers and death toll, as well as adopted health measures.<sup>52</sup> Article 7 further requires a state party having 'evidence of an unexpected or unusual public health event within its territory...which may constitute a public health emergency of international concern...to provide WHO all relevant public health information'. Thus, the IHRs reflect the general need

for expeditious and transparent information sharing between state authorities in cases of infectious disease.<sup>53</sup>

The IHRs do not contain any special rules on the responsibility of states in case of breaches. No sanctions are prescribed, or compensation for damages in cases of losses ensuing from breaches of the regulations. However, it does not follow from this that state responsibility for breaches is inapplicable. The general rules of state responsibility, the ASR, govern all international obligations irrespective of subject matter.<sup>54</sup> States are nevertheless aware of the complex scientific, public health-related and political considerations that are involved in informing others about infectious diseases,<sup>55</sup> which may be one reason for the lack of *lex specialis* on the matter.

The outbreak of the coronavirus was clearly 'a public health event', which is covered by the IHRs' obligation to notify and inform. The question is whether China lived up to its obligations under the IHRs, that is, informed WHO within 24 hours using the most efficient communication means. Apart from some dissident voices,<sup>56</sup> WHO has publicly interpreted Chinese actions to be praiseworthy. The WHO Director-General Tedros Adhanom Ghebreyesus has stated that China has 'bought the world time'.<sup>57</sup> Several state leaders also expressed similar views early on in the epidemic. Yet more critical and answer-seeking voices have been raised of late. Different timelines pertaining to what kind of measures the Chinese authorities took at what time clearly display a lag in reporting. This is also substantiated by WHO internal documents that reveal 'considerable frustration among WHO officials over not getting the information they needed to fight the spread of the deadly virus'.<sup>58</sup>

The local Wuhan health authorities identified the first official case of 'pneumonia of unknown cause', which would eventually turn out to be Covid-19, on 8 December 2019.<sup>59</sup> Other reports indicate that this may have taken place even one or several weeks earlier.<sup>60</sup> The PRC government maintains that the first

45 See e.g. de Souza Dias and Coco 2020.

46 Geneva, 23 May 2005, in force 15 June 2007, 2509 *United Nations Treaty Series* 79.

47 WHO, 'International Health Regulations (2005) - Overview, <https://www.who.int/ihr/publications/9789241596664/en/>, Art. 2.

48 IHRs, Foreword.

49 Ibid.

50 IHRs, Art. 5.

51 IHRs, Art. 5 (2).

52 Ibid.

53 de Oliveira Mazzuoli 2020, p. 11.

54 Commentary, Art. 12 of the ASR, para. 9.

55 Fidler 2020.

56 Senior member of the WHO Emergency Committee, John Mackenzie, has described China's actions as 'a period of very poor reporting, or poor communication', see Riordan and Wong 2020.

57 WHO Director-General, Speech at Munich Security Conference, 15 February 2020, <https://www.who.int/dg/speeches/detail/munich-security-conference>.

58 Associated Press 2020a, 'China Delayed Releasing Coronavirus Information, Frustrating WHO', 3 June 2020.

59 Henderson et al. 2020, p. 9; Davidson 2020.

60 Huang 2020; Henderson et al. 2020, p. 9.

case was detected in ‘late December’.<sup>61</sup> Yet China did not inform the WHO China Country Office until December 31, 2019.<sup>62</sup> According to the PRC government records, China has kept WHO regularly updated since 3 January 2020.<sup>63</sup> Based on available information then, which admittedly is controversial, a time lag in reporting may extend from a few days to up to three weeks. Not only do the Chinese actions seem to conflict with the requirement to report such events to WHO within 24 hours, they also affected the spread of the virus. While the margins in reporting seem insignificant, researchers have calculated that intervention by Chinese authorities one week earlier could ostensibly have decreased the number of cases by 66 per cent.<sup>64</sup>

As the facts relating to the pandemic are controversial, it remains difficult to take a definitive stance on whether China acted in contravention of its IHR obligations or not. The international community definitely needs more fact-finding in order to clarify the exact sequence of key events so that responsibility could be assessed credibly. Yet it seems probable that China has acted in breach of its obligation to share information with WHO – despite a firm rejection of such charges by the PRC government and Chinese international law experts.<sup>65</sup> Some international legal scholars take a definitive view of China’s culpability,<sup>66</sup> arguing among other things that ‘the Wuhan government and the central authorities deliberately misreported the nature, scale and risk of the emerging epidemic at the crucial early stages’.<sup>67</sup> Some have held China responsible, but claimed that there are circumstances precluding wrongfulness, meaning mitigating factors that ‘excuse’ Chinese behaviour.<sup>68</sup> A discussion on the possibility of *force majeure* or other circumstances precluding wrongfulness constituting a potential excuse are outside the scope of this Working Paper, however.

## REPARATION FOLLOWS RESPONSIBILITY: CHINESE COMPENSATION OR APOLOGY?

The purpose of state responsibility is to re-establish the legal relations between two or more states, not to punish the state committing the wrongful act. State responsibility law is thus victim-oriented, and focuses on repairing a situation gone wrong. The main means through which this is done is full reparation.<sup>69</sup> Different forms of reparation come into question depending on the international obligation that was breached and the situation following the violation. The law recognizes restitution as a primary form of reparation, that is, restoring things to the way they were before the breach took place. As stated in the famous *Chorzów Factory Case* decided by the Permanent Court of International Justice (PCIJ) in 1928: ‘reparation must, as far as possible, wipe out all the consequences of the illegal act’.<sup>70</sup> For example, an unlawful legal act should be repealed and an occupied territory returned. Restitution is not always possible, however. If people have died (as is the case with Covid-19) their lives cannot be restored, and other forms of reparation are needed. This entails compensation or satisfaction, or a combination thereof. It is always up to the claimant state to specify the redress it seeks.

The responsible state is under an obligation to compensate ‘any financially assessable damage’ caused by the internationally wrongful act.<sup>71</sup> Punitive damages are not recognized in the law of state responsibility. Yet the International Court of Justice has seldom awarded compensation.<sup>72</sup> This is due to the fact that in interstate claims, compensation is not seen as the appropriate remedy when sovereign rights are at stake – for example in territorial disputes.<sup>73</sup> Admittedly, with respect to environmental damage and personal injury, compensation is more relevant. While there may be difficulties in calculating the compensation sum, compensating for physical injuries can include the costs of medical treatment and lost incomes.<sup>74</sup>

Satisfaction is the third form of reparation that becomes applicable if restitution or compensation do not fully redress the wrongful act. This may include

61 ‘China Publishes Timeline on COVID-19 Information Sharing, Int’l Cooperation’, *Xinhua*, 6 April 2020.

62 Henderson et al. 2020, p. 9; WHO 2020.

63 ‘China Publishes Timeline on COVID-19 Information Sharing, Int’l Cooperation’, *Xinhua*, 6 April 2020.

64 University of Southampton 2020.

65 Cao 2020.

66 Kraska 2020; de Oliveira Mazzuoli 2020, p. 14; Lahmann 2020; Bring and Wolf 2020.

67 Henderson et al. 2020, p. 18.

68 de Oliveira Mazzuoli 2020.

69 Art. 34 of the ASR.

70 *Factory at Chorzów (Claim for Indemnity) (Merits)*, PCIJ Series A, No 17, 13 September 1928, p. 47.

71 Art. 36 of the ASR.

72 Crawford 2014, p. 518.

73 Barker 2010, p. 604.

74 Ibid.

‘an acknowledgment of the breach, an expression of regret, a formal apology or another appropriate modality’.<sup>75</sup> Satisfaction is an exceptional remedy, which is used in particular with respect to non-material injury to states, such as a violation of state symbols.<sup>76</sup> On several occasions, the ICJ has considered judicial findings of wrongfulness to be ‘an appropriate form of satisfaction’.<sup>77</sup>

When it comes to China’s potential responsibility and the means of reparation, it has been argued that China has a duty to compensate for the losses caused by the coronavirus pandemic. The combined economic losses seem immeasurable with estimations rising up to 4 trillion USD or even more.<sup>78</sup> Such high compensation has never been awarded, and it seems unlikely that any international court, arbitration tribunal or international claims commission would impose such a compensation duty upon a single state due to its debilitating effect. To illustrate, Iraq has paid, and continues to pay, compensation for its aggression against Kuwait in 1990–1991 to a value of over 50 billion USD. The country has nevertheless been exonerated from paying compensation for years due to ‘security and budgetary problems’.<sup>79</sup>

But it is not only the astronomical level of damages that thwarts compensation. The case law of the ICJ may affect compensation claims in the case of Covid-19 as well.<sup>80</sup> First, the Court’s (criticized) ruling in the *Bosnian Genocide Case* found that while Serbia was legally responsible for not having prevented genocide, it did not have the duty to compensate. The Court reasoning seems to suggest that ‘omissions may create situations that enable harmful events, but they do not cause them’.<sup>81</sup> Applying the same logic to China’s responsibility for not sharing information about Covid-19 could exonerate China from providing compensation, as it would be impossible to prove that the coronavirus would not have spread irrespective of China’s actions.

Second, the actions of the injured state themselves may mitigate the level of reparation, and hence compensation claims. This means that ‘[e]ven the wholly innocent victim of wrongful conduct is expected to act reasonably when confronted by the injury’.<sup>82</sup> The

‘duty to mitigate’ was clearly expressed by the ICJ in the *Gabčíkovo–Nagymaros Case* where it held: ‘[i]t would follow from such a principle that an injured State which has failed to take the necessary measures to limit the damage sustained would not be entitled to claim compensation for that damage which could have been avoided’.<sup>83</sup> The actions of all other states in their responses to Covid-19 are thus also significant.

At the end of the day, should China’s responsibility be formally decided upon, it seems more likely that satisfaction is the appropriate form of reparation. China could, for example, admit to having committed an internationally wrongful act or give a formal apology to all injured states. Alternatively, a finding of responsibility before an international court could suffice as reparation. Injured states could also demand China to give ‘assurances and guarantees of non-repetition’<sup>84</sup> – as Chinese information sharing in epidemic situations has repeatedly been poor. The aim of such assurances is to rebuild trust among the involved states.

## **BLEAK PROSPECTS OF RESPONSIBILITY BEING IMPLEMENTED**

### **Reluctance of states to invoke responsibility in cases of pandemics**

States do not generally supervise themselves and voluntarily admit to breaches of international law. China’s attempts to manage the narrative concerning the start of the pandemic and its fierce denials of any accusations of misbehaviour clearly show that the governing regime does not intend to admit responsibility, let alone voluntarily compensate for the ensued losses. Responsibility under international law is therefore not automatic in practical terms. Instead, responsibility is relational; another state must invoke the responsibility of China through relatively formal means.<sup>85</sup> This includes, for example, launching formal proceedings before the International Court of Justice. Mere protests in the media (or Twitter) do not count as an invocation of responsibility, although it is difficult to tell when the formality of means threshold has been crossed exactly.

75 Art. 37 of the ASR.

76 Commentary, Art. 37, para. 3.

77 Crawford 2014, p. 530.

78 Henderson et al. 2020; Kraska 2020.

79 Nebehay and Chmaytelli 2018.

80 Lahmann 2020.

81 Ibid. (emphasis in the original).

82 Commentary, Art. 31, para. 11.

83 *Gabčíkovo–Nagymaros case (Hungary/Slovakia)*, Judgment, ICJ Reports 1997, p. 7, para. 80.

84 Art. 30 of the ASR.

85 Art. 42 of the ASR.

The law of state responsibility limits the right of invocation of responsibility to injured states. Accordingly, states that have suffered either material or legal damage are entitled to raise claims against the wrongdoing state. In the case of Covid-19, basically every state in the world is an injured state. It follows from this that each state separately has the right to raise a claim of responsibility against China as there is no need to coordinate the claims.<sup>86</sup> Thus, any of the other state parties to the 2005 revised IHRs could pursue such a claim of responsibility. The mutual obligations of each state party have been breached, rendering them injured states in the case of the Covid-19 pandemic both in the material and the legal sense of the word. They have suffered enormous damage as a result of the breach, alongside the fact that legality overall has not been upheld.

The law of state responsibility has not been applied in previous pandemics and hence there are no cases that would function as precedents for the present situation. Indeed, there has been little interest in dealing with transboundary pathogens through the state responsibility framework<sup>87</sup> – at least prior to the present pandemic. The non-institutionalized nature of state responsibility means that every state decides for itself as to whether its rights have been violated and whether it wants to pursue redress. This so-called ‘autoqualification by States’<sup>88</sup> of responsibility means that the unequal balance of power makes it highly unlikely that small states would independently pursue claims against China. For example, the unlawful invasion of Iraq by the ‘Coalition of the willing’ in 2003 has been depicted as a situation in which no smaller state was prepared to raise formal claims against the internationally wrongful act,<sup>89</sup> since the United States and other big Western powers were involved. The case under study here is similar. China is a great power with enormous economic leverage, not only generally but also individually over many states.

Resort to state responsibility has both benefits and disadvantages, which affects the enthusiasm of states for taking the decision to formally invoke China’s responsibility. Factors that would speak for pursuing China’s legal responsibility under international law include the commission of an internationally wrongful act as well as previous secretive conduct. In addition,

China has not fully managed to control the trade in wild animals, which may have contributed to the start of the pandemic. Other states may be of the view that China must be taught a lesson in order to accomplish improvements in sharing information. What is more, the universal damages caused by the spread of the virus are so enormous that it may be difficult to disregard China’s role in this.

But recourse to the law of state responsibility is an adversarial tool, which many states are unwilling to use.<sup>90</sup> When the world needs global health cooperation the most, it may be unwise to embark on an adversarial track with China – especially recognizing China’s significant role in health cooperation overall. Nor must the importance of China for global governance more broadly be forgotten. Other states are naturally also wary of the fact that the next time a pandemic spreads it may start from their own country. Reciprocity concerns may duly dampen the desire of states to demand reparation in this particular case. It has even been argued that there is ‘a shared interest among states not to litigate disease notification issues’,<sup>91</sup> which would explain the minor role that state responsibility has played so far.<sup>92</sup>

The virus and ensuing pandemic may not fall naturally within the logic of a legal framework on responsibility. On the one hand, the viruses are transboundary and may appear in any country; on the other hand, state responsibility was not developed for situations with such global ramifications. States may, for example, not be able to stop or manage the ‘increased incidence of epidemics’ on their own.<sup>93</sup> Furthermore, despite China’s economic power, full reparation for the damages seems impossible. In conclusion, it seems unrealistic that any state would be willing to formally invoke and pursue China’s responsibility. The US governmental rhetoric of responsibility seems to ride more on tightening geopolitical competition than any real concern for breaches of the IHRs. The PRC government has fiercely rejected any accusations of responsibility, and it would certainly see formal measures of responsibility being taken as hostile and unconstructive acts, which not many countries would dare to challenge.

86 Crawford 2014, p. 545.

87 Fidler 2020.

88 Proulx 2016, p. 27.

89 Aust 2009, p. 25.

90 Creutz 2020.

91 Fidler 2020. See also Huo 2020.

92 Ibid.

93 Sirleaf 2018.

## Potential basis and fora for determining responsibility

States are free to decide for themselves whether they submit to international adjudication or not. This consensual basis for the settlement of disputes means that China must agree to a procedure where its responsibility would be determined. China has nevertheless not accepted the jurisdiction of the ICJ beforehand. China has also refused to accept the jurisdiction of international arbitration bodies as the case of the *South China Sea* arbitration proved. Hence, there are no obvious judicial or quasi-judicial fora where an injured state could file a complaint against China for its responsibility in the Covid-19 pandemic.

The International Health Regulations contain provisions on dispute settlement in cases where state parties disagree on the interpretation or application of the rules. According to Article 56, the parties are firstly to seek settlement through negotiations or other peaceful means of settling disputes. If need be, the dispute may be referred to the WHO Director-General for settlement. As a last resort, Article 56 (3) notes that States Parties may at any time accept compulsory arbitration, which would then settle the dispute in a binding and final way. While this option remains feasible in theory, the provision has never been used in practice.<sup>94</sup> What is more, the need for China's consent is a practical obstacle to resolving the current blame game via the dispute settlement provision.

Another suggested jurisdictional basis in global health regulations as to litigation against China is allegedly found in the WHO constitution itself.<sup>95</sup> Article 75 stipulates that '[a]ny question or dispute concerning the interpretation or application of this Constitution...shall be referred to the International Court of Justice'. This jurisdictional basis has been invoked before ICJ proceedings.<sup>96</sup> However, it is not immediately obvious how the spread of the pandemic relates to the WHO constitution. Arguably, an injured state could claim that China has violated its obligation to 'provide statistical and epidemiological reports' to WHO under Article 64. Another option would be to allege the breach of Article 63, which obliges the state parties to 'communicate promptly to the Organization important laws, regulations, official reports and

statistics pertaining to health'.<sup>97</sup> However, the numerous scholarly efforts to find a jurisdictional basis for suing China – preferably before the ICJ – show the difficulty of the endeavour.

## ALTERNATIVE MEANS OF ACCOUNTABILITY

Alongside calls for state responsibility, sporadic voices have called for recourse to the International Criminal Court (ICC), alleging China is guilty of crimes against humanity.<sup>98</sup> In fact, some complaints have even been filed with the Court claiming that the coronavirus was a biological weapon created by China.<sup>99</sup> Such efforts seek to criminally punish responsible individuals rather than focus on state-level responsibility. However, at this stage there is no evidence to suggest that single individuals would have committed any crime within the ICC's jurisdiction while responding to the pandemic outbreak. Furthermore, China has not accepted the jurisdiction of the Court, and would most certainly veto any attempts for a Security Council referral of the pandemic for investigation to the ICC.

Instead of resorting to adversarial routes of responsibility, which pit states against each other, it has become commonplace for the international community to highlight 'inquisitorial' mechanisms, that is, identifying the facts behind a disruptive situation.<sup>100</sup> Many states wish to avoid litigation and international courts, and take a forward-looking approach rather than focusing on retrospective responsibility. To this effect, the European Union along with Australia introduced a resolution before the World Health Assembly calling for an investigation into the origins of the virus. The Assembly unanimously adopted the resolution on 19 May 2020, which means that at the earliest moment possible, there will be 'an impartial, independent and comprehensive evaluation' into the origins of the virus and international responses thereto.<sup>101</sup> The inquiry will examine the actions of WHO in response to the pandemic. However, it is not an independent review of China's actions.

94 Fidler 2020.

95 Tzeng 2020.

96 *Armed Activities in the Territory of the Congo (New Application: 2002), Jurisdiction and Admissibility, Judgment*, ICJ Reports 2006, p. 6, para. 99.

97 Tzeng 2020.

98 Chhedda 2020; Liao 2020.

99 *Ibid.*

100 Henderson et al. 2020, p. 23.

101 Kuo 2020b.

## CONCLUSIONS

The material loss that virtually every country has incurred with Covid-19 is exceptionally high. This has spurred lively academic discussions on China's responsibility for the pandemic under international law, despite the fact that state responsibility law has never been applied to concrete cases of epidemics or pandemics before. The law of state responsibility is not easily adaptable to the current situation, where the virus would probably have spread irrespective of China's actions and where virtually every country is an injured state. The reparation claims could be astronomical and potentially crippling for China. What is more, approaching pathogens through the framework of legal responsibility may seem inappropriate.

In light of the scientific facts known about the virus and Covid-19 so far, China cannot be held internationally responsible for the outbreak of the disease. At the time of writing, intelligence reports and scientific evidence about the genome of the virus indicate that it seems to have been transmitted naturally to humans via the Wuhan Seafood Market selling wild animals. However, it seems highly likely that China has violated international law by not sharing information soon enough with WHO about the spread of this infectious disease. This breach of reporting obligations is attributable to China for the purposes of responsibility, as the municipal and provincial authorities all belong to

the Chinese state machinery. Moreover, the top leadership was involved in drafting containment policies. The question is, will this potential violation affect the previous tacit understanding among other states not to pursue legal responsibility in pandemic situations? Currently, the question of China's responsibility seems entangled with geopolitical competition rather than genuine concern for upholding the obligations laid down in the International Health Regulations of WHO.

The decentralized nature of the implementation of state responsibility dampens the prospects of the state responsibility path being pursued with respect to China. Yet it is important to raise and discuss the issue of responsibility. Evaluating China's conduct through the prism of legal responsibility is a whole new ball game with serious reputational and/or financial costs for the newest contender for global leadership. State responsibility analyses are not only retrospective, however. They spur efforts to establish facts about the pandemic, as well as contribute to a discussion on prospective responsibilities in the field of global health. Although responsibility would never be formally determined in an international court, the allegations about wrongful conduct surely impact China, and will hopefully impel the country to further improve its capacity to respond to infectious diseases. One must certainly hope that it will not take another epidemic, or even pandemic after Covid-19, in order for lessons to be learnt – not only by China, but also by the rest of the world. /

## BIBLIOGRAPHY

- Aaltola, Mika, 'COVID-19 – A Trigger for Global Transformation? Political Distancing, Global Decoupling and Growing Distrust in Health Governance', FIIA Working Paper 113/ March 2020.
- Associated Press, 'China Delayed Releasing Coronavirus Information, Frustrating WHO', 3 June 2020a, <https://apnews.com/3c061794970661042b18d5aeaaed9fae> (accessed 5 June 2020).
- Associated Press, 'China Didn't Warn Public of Likely Pandemic for 6 Key Days', 15 April 2020b <https://apnews.com/68a9e1b91de4fc166acd6012d82c2f9> (accessed 5 June 2020).
- Armed Activities in the Territory of the Congo (New Application: 2002). Jurisdiction and Admissibility, Judgment*, ICJ Reports 2006, p. 6.
- Aust, Helmut Philipp, 'The Normative Environment for Peace – On the Contribution of the ILC's Articles on State Responsibility', in Georg Nolte (ed.), *Peace through International Law: The Role of the International Law Commission. A Colloquium at the Occasion of Its Sixtieth Anniversary* (Springer, 2009) 13–46.
- Barclay, Eliza 'Why These Scientists Still Doubt the Coronavirus Leaked from a Chinese Lab', VOX, 29 April 2020, <https://www.vox.com/2020/4/23/21226484/wuhan-lab-coronavirus-china> (accessed 5 June 2020).
- Barker, John, 'The Different Forms of Reparation: Compensation', in James Crawford, Alain Pellet and Simon Olleson (eds.), *The Law of International Responsibility* (OUP, 2010).
- Bellinger, John, 'COVID-19 Lawsuits against China', *Lawfare*, 24 April 2020, <https://www.lawfareblog.com/covid-19-lawsuits-against-china> (accessed 5 June 2020).
- Borger, Julian, 'Mike Pompeo: "Enormous Evidence" Coronavirus Came from Chinese Lab', *The Guardian*, 2 May 2020, <https://www.theguardian.com/world/2020/may/03/mike-pompeo-donald-trump-coronavirus-chinese-laboratory> (accessed 5 June 2020).
- Bring, Ove and Hans Wolf, 'Ställ Kina till svars för mörkläggningen', *Svenska Dagbladet*, 25 March 2020.
- Cao, Yin, 'Experts Say Its Groundless to Hold China Accountable for COVID-19', *China Daily*, 4 June 2020, <http://www.chinadaily.com.cn/a/202006/04/WS5ed832f8a310a8b24115ab5a.html> (accessed 4 June 2020).
- Chhedda, Manthan, 'International Criminal Court Processes Lawsuit against China Claiming It Used Coronavirus as Bioweapon', *International Business Times*, 9 April 2020, <https://www.ibtimes.sg/international-criminal-court-processes-lawsuit-against-china-claiming-it-used-coronavirus-bioweapon-42663> (accessed 5 June 2020).
- 'China Identifies 14 Hubei Frontline Workers, including Li Wenliang, as Martyrs', *Global Times*, 2 April 2020, <https://www.globaltimes.cn/content/1184565.shtml> (accessed 5 June 2020).
- 'China Publishes Timeline on COVID-19 Information Sharing, Int'l Cooperation', *Xinhua*, 6 April 2020, [http://www.xinhuanet.com/english/2020-04/06/c\\_138951662.htm](http://www.xinhuanet.com/english/2020-04/06/c_138951662.htm) (accessed 5 June 2020).
- Constitution of the People's Republic of China (full text after amendment on March 14, 2004), [http://www.npc.gov.cn/zgrdw/englishnpc/Constitution/node\\_2825.htm](http://www.npc.gov.cn/zgrdw/englishnpc/Constitution/node_2825.htm) (accessed 5 June 2020).
- Crawford, James, *State Responsibility. The General Part* (CUP, 2014).
- Creutz, Katja, 'Responsibility', in Janne Nijman and Helmut Aust (eds.), *Research Handbook on International Law and the Cities* (Edward Elgar, forthcoming 2021).
- Creutz, Katja, *State Responsibility in the International Legal Order: A Critical Appraisal* (CUP, 2020).
- Culver, Dan and Nectar Gan, 'Exclusive: Lack of Immunity Means China is Vulnerable to Another Wave of Coronavirus, Top Adviser Warns', *CNN*, 17 May 2020, <https://edition.cnn.com/2020/05/16/asia/zhong-nanshan-coronavirus-intl-hnk/index.html> (accessed 5 June 2020).
- Davidson, Helen, 'First Covid-19 case happened in November, China government records show – report', *The Guardian*, 13 March 2020, <https://www.theguardian.com/world/2020/mar/13/first-covid-19-case-happened-in-november-china-government-records-show-report> (accessed 5 June 2020).
- de Oliveira Mazzuoli, Valerio, 'International Responsibility of States for Transnational Epidemics and Pandemics: The Case of COVID-19 from the People's Republic of China', [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3584944&download=yes](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3584944&download=yes) (accessed 5 June 2020).
- de Souza Dias, Talita and Antonio Coco, 'Parts I–III. Due Diligence and Covid-19: States' Duties to Prevent and Halt Coronavirus Outbreak', *EJIL Talk*, 24–25 March 2020.
- Factory at Chorzów* (Claims for Indemnity) (Merits), PCIJ Series A, No 17, 13 September 1928.
- Fidler, David, 'COVID-19 and International Law: Must China Compensate Countries for the Damage?', 27 March 2020, *Just Security*, <https://www.justsecurity.org/69394/covid-19-and-international-law-must-china-compensate-countries-for-the-damage-international-health-regulations/> (accessed 5 June 2020).
- Fidler, David P., 'SARS and International Law', *ASIL Insights*, 5 April 2003, <https://www.asil.org/insights/volume/8/issue/7/sars-and-international-law> (accessed 4 June 2020).
- Gabčíkovo-Nagymaros case (Hungary/Slovakia), Judgment*, ICJ Reports 1997, p. 7.

- Garrett, Laurie, 'Just in Time for Lunar New Year, Another SARS-like Epidemic Is Brewing in China', *Foreign Policy*, 8 January 2020.
- Henderson, Matthew, Dr. Alan Mendoza, Dr. Andrew Foxall, James Rogers, and Sam Armstrong, *Corona Virus Compensation? Assessing China's Potential Culpability and Avenues of Legal Response*, Henry Jackson Society, April 2020.
- Huang, Chaolin, et al., 'Clinical Features of Patients Infected with 2019 Novel Coronavirus in Wuhan, China', (2020) *The Lancet* 497–506.
- Huang, Yanzhong, 'The Politics of China's SARS Crisis', 7 (2003) *Harvard Asia Quarterly* 9–16.
- Huo, Zhengxin, 'Suing China for COVID-19 Is Not Taking International Law Seriously', 11 April 2020, <https://news.cgtn.com/news/2020-04-11/Suing-China-for-COVID-19-is-not-taking-international-law-seriously--PAXE13o8GA/index.html> (accessed 4 June 2020).
- International Health Regulations, Geneva, 23 May 2005, in force 15 June 2007, 2509 *United Nations Treaty Series* 79.
- Kaufman, Joan, 'Infectious Disease Challenges in China', in Charles W. Freeman III and Xiaoqing Lu (eds.), *China's Capacity to Manage Infectious Diseases. Global Implications* (CSIS, 2009).
- Kraska, James, 'China is Legally Responsible for COVID-19 Damage and Claims Could be in the Trillions', *War on the Rocks*, 23 March 2020, <https://warontherocks.com/2020/03/china-is-legally-responsible-for-covid-19-damage-and-claims-could-be-in-the-trillions/> (accessed 5 June 2020).
- Kuo, Lily, 'China backs "comprehensive review" of pandemic', *The Guardian*, 18 May 2020b, <https://www.theguardian.com/world/2020/may/18/china-facing-pressure-over-covid-19-and-taiwan-at-world-health-assembly> (accessed 4 June 2020).
- Kuo, Lily, 'China Fires Two Senior Hubei Officials over Coronavirus Outbreak', *The Guardian*, 11 February 2020a, <https://www.theguardian.com/world/2020/feb/11/china-fires-two-senior-hubei-officials-over-coronavirus-outbreak> (accessed 5 June 2020).
- Kynge, James, Sun Yu and Tom Hancock, 'Coronavirus: the Cost of China's Public Health Cover-Up', *Financial Times*, 6 February 2020.
- Lahmann, Henning, 'Does China Really Owe the World Trillions of Dollars?', *Lawfare*, 7 May 2020 <https://www.lawfareblog.com/does-china-really-owe-us-trillions-dollars-reparations-covid-19-light-bosnian-genocide-judgment> (accessed 5 June 2020).
- Leung, Michael, 'Coronavirus: International Law Offers A Way of Holding China Accountable', *Hong Kong Free Press*, 23 April 2020, <https://hongkongfp.com/2020/04/23/coronavirus-international-law-offers-a-way-of-holding-china-accountable/> (accessed 4 June 2020).
- Liao, Fan, 'Absurd to Sue China over Virus', *China Daily*, 25 April 2020, <http://global.chinadaily.com.cn/a/202004/25/WS5ea3a4a7a310a8b24115185a.html> (accessed 4 June 2020).
- Nebehay, Stephanie and Maher Chmaytelli, 'Iraq Resumes Payments of Gulf War Reparations to Kuwait', 20 April 2018, <https://www.reuters.com/article/us-mideast-crisis-iraq-kuwait-un/iraq-resumes-payments-of-gulf-war-reparations-to-kuwait-idUSKBN1HR26Q> (accessed 5 June 2020).
- Palmer, James, 'Chinese Officials Can't Help Lying About the Wuhan Virus', *Foreign Policy*, 3 February 2020.
- Proulx, Vincent-Joël, *Institutionalizing State Responsibility. Global Security and UN Organs* (OUP, 2016).
- Quinn, Colm, 'U.S. Intelligence Says Coronavirus Is Not Manmade. Trump Isn't So Sure', *Foreign Policy*, 1 May 2020, <https://foreignpolicy.com/2020/05/01/u-s-intelligence-community-coronavirus-not-manmade-trump-not-sure/> (accessed 5 June 2020).
- Report of the ILC on the Work of Its Fifty-third Session, UN Doc. A/56/10 (2001).
- Riordan, Primrose and Sue-Lin Wong, 'WHO Expert Says China Too Slow To Report Coronavirus Cases', *Financial Times*, 5 February 2020.
- Savage, David G., and Alice Su, 'Can China be Sued in the U.S. and Forced to Pay for Corona Losses? Legal Experts Say No', *Los Angeles Times*, 15 May 2020, [www.latimes.com/politics/story/2020-05-15/can-china-be-sued-in-the-u-s-and-forced-to-pay-for-coronavirus-losses-legal-experts-say-no](http://www.latimes.com/politics/story/2020-05-15/can-china-be-sued-in-the-u-s-and-forced-to-pay-for-coronavirus-losses-legal-experts-say-no) (accessed 4 June 2020).
- Sirleaf, Matiangai, 'Responsibility for Epidemics', 97 (2018) *Texas Law Review* 285–351.
- Tzeng, Peter, *EJIL Talk*, 'Taking China to the International Court of Justice for COVID-19', 2 April 2020, <https://www.ejiltalk.org/taking-china-to-the-international-court-of-justice-over-covid-19/> (accessed 4 June 2020).
- University of Southampton, 'Early and Combined Interventions Crucial in Tackling COVID-19 Spread in China', 11 March 2020, <https://www.southampton.ac.uk/news/2020/03/covid-19-china.page> (accessed 5 June 2020).
- Wang, Zhenmin, *Relationship between the Chinese Central Authorities and Regional Governments of Hong Kong and Macao: A Legal Perspective* (Springer, 2018).
- WHO, 'International Health Regulations (2005) – Overview', <https://www.who.int/ihr/publications/9789241596664/en/> (accessed 5 June 2020).
- WHO, 'Novel Coronavirus – Situation Report 1', 21 January 2020, [https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200121-sitrep-1-2019-ncov.pdf?sfvrsn=20a99c10\\_4](https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200121-sitrep-1-2019-ncov.pdf?sfvrsn=20a99c10_4) (accessed 5 June 2020).
- WHO Director-General, Speech at Munich Security Conference, 15 February 2020, <https://www.who.int/dg/speeches/detail/munich-security-conference> (accessed 5 June 2020).