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**GLOBAL HEALTH LAW IN A BATTLEFIELD: A NEUTRAL
FORCE IN MITIGATING CONFLICTUAL SITUATIONS
THROUGH INTERNATIONAL RELATIONS**

Bachelor's thesis

BA Law, EU and International Law

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Tallinn 2022

I hereby declare that I have compiled the **thesis** independently and all works, important standpoints and data by other authors have been properly referenced and the same paper has not been previously presented for grading.

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ABSTRACT

Global Health – be it considered a theme, a framework, or a policy – is often described as one of the most ‘remote areas’, priority wise, in states’ foreign policy making. This real or perceived remoteness does not make the phenomenon less challenging in analysing, operationalising, or implementing. The development of global health law and its advancement into a fully institutionalized aspect of international law is another compelling dimension, which possibly fills the gap in pursuing sustainable global health parallel to global security through its initiatives and governance.

This research work underlines that the realisation of an equitable ‘global health with justice’ can pave the way in overcoming the ‘grand challenges of global health law’ by a cohesive and collective-active participation of the international community lobbied through a strengthened international relations among nations. Thus, global health law progresses as an active neutral force in the maintenance of peace and unity, transcending into deterrence of major conflictual situations. Methodologically, this research utilizes the international law system and international relations mechanisms, concluding that global health law’s institutionalization is long overdue.

Keywords: global health, global health law, distributive justice, global health diplomacy

List of Abbreviations

GHD	Global Health Diplomacy
GHL	Global Health Law
GPW13	Global Programme of Work 13
HALE	Healthy Life Expectancy
HIC	High Income Countries
IHR	International Health Regulations
LIC	Low Income Countries
SDG	Sustainable Development Goal
WHO	World Health Organization

INTRODUCTION

The advancement of globalization slowly modifies the definition of core international law principles (public international law) in the context of statehood and responsibility in terms of human rights (individual and groups), diplomacy (including public diplomacy), and political economy. The exercise of individual freedom of movement (nationality) *inter alia* immigration and global trade of goods and services, with trans-border character triggers the application and operation of international law. In a significant addition, globalization extremely increases the probability of health risks when diseases and other potential health hazards are transmitted along with the movement of people and global economic activities. Therefore, the operation of international law, proposed ‘global health law’, compels the exigency of regulatory framework with the aim of “achieving global health with justice”.¹

The Geneva Centre for Security Policy (GCSP) proposed to define globalization “as a process that encompasses the causes, course, and consequences of transnational and transcultural integration of human and non-human activities”.² Human activities may include actual situations involving human intercession or the consequences thereof. Whilst non-human activities entails the phenomena in accordance with the ‘laws of nature’ (i.e., migratory animals, climate change, etc.). Both of which posits global health hazards.

This research provides for an analysis-driven observation of global health-associated *status quo* and the phenomenon-linterlined conflictual situations, having the COVID-19 as a moderator of the discussion. Highlighting the consequences of the pandemic and presenting the positive impact of global health initiatives to pursue the aim of institutionalizing global health law as a field of international law and global health diplomacy through the positive usage of International Relations (IR), and reinforcement of Global Health Law (GHL) as one of the operational core elements of

¹ Gostin, L.O. (2014), *Global Health Law*, Harvard University Press, 2014, Preface xiii

² Al-Rodhan, N.R.F., Stoudmann, G. (2006), *Definitions of Globalization: A Comprehensive Overview and a Proposed Definition*, Geneva Centre for Security Policy, 19 June 2006, 5

foreign policies. Objectively, it could be treated as a major driving force to leverage positive cooperation among nations, ‘global health governance’.

The recurrence of a global pandemic such as the on-going COVID-19 as a new strain of Influenza virus reknowned throughout history in the recent century (e.g., Influenza A/H1N1 2009-2010 and the Spanish Flu 1918-1920)³ has again challenged one of the main socio-political foundations of humanity as well as effective governance, public health, and impacted various aspects of global society as a whole *inter alia* geo-strategy, economic and foreign relations when taken into global perspectives.

As argued, “[t]he sudden outbreak of the novel coronavirus disease (COVID-19) has threatened foreign affairs, for example, some countries lashed the Chinese government”, critical of not implementing measures effective enough to contain the spread of the virus outside where it originated, in Wuhan, China⁴. A relevant point to examine when the existing legal regimes under international law, such as the IHR Article 6 and Annex II pertaining to the timely reporting of public health emergencies of international concern (PHEICs)⁵, “[f]ollowing pandemic, global affairs as well as state-to-state relationships are witnessing major, even qualitative, changes. As institutional construction and mechanism building in areas such as public health, economy, science and technology, politics and security in regions across the world usher in a new period”.⁶

Thenceforth, this research studies the impact of the pandemic in ‘global health’, and in international law (as a framework provider) and relations (as a process). The interconnectedness of other facets of globalization, namely diplomacy and foreign policy, global politics, global security, economic activities, migration, and digitalization of health services, and some others, with GHIL is the focal point in these dimensions and interactions of the international community (or peoples and nations) and acting as the ‘neutral force’. Focusing on the claim that the comprehensively negative consequences of the pandemic (especially, their severely) are factors, which can be preempted and curbed, to a lesser extent managed effectively or controlled. Should ‘global health law’ be institutionalized and enforced through the WHO considering the existence

³ Liu, Y.C., Kuo, R.L., Shih, S.R. (2020), COVID-19: [The first documented coronavirus in history](#), Biomedical Journal, Volume 43, Issue 4, 2020, pp 328-333, ISSN 2319-4170, last accessed 07 May 2021

⁴ *Ibid*

⁵ Hoffman, S. J., Habibi, R., Villareal, P., & Campbell, S. (2022), [Mending Dispute Resolution under the International Health Regulations](#), International Organizations Law Review, 19(1), 29 June 2022, pp. 241-268

⁶ Jiemian, Yang (2020), The COVID-19 Pandemic and Its Impact on Contemporary International Relations, p 43

of the IHR. Differing political positions in the global context challenges thematic agenda setting practices, legal framework and policy-bound positive interactions in a global health governance.

Although the claim tends to epitomize the positive influences of the pandemic in conflicts specifically inter-governmental relations, the surge of the negative effects of the pandemic overall is irrefutable. The reason why global health initiatives postulate positive impact through the reinforcement of global health law and the use of International Relations mechanisms as one of the operational core elements of foreign policies. Collective information on the subject, while addressing the following set of research questions, illustrates a comparative analysis of global health, legal systems and processes, prior and post-pandemic drawing to its conclusions:

- Why there is a need for GHL?
- Are existing regulatory frameworks such as the International Health Regulations (IHR) and other international health protocols in global health governance inadequate?
- What is GHL and the role of international relations in global health?
- Does the proposed GHL addresses the gap in global health governance?
- How does the pandemic become a factor in the process of effectively resolving conflictual situations?
- How does GHL mitigates in maintaining peace and harmony amongst nations and how does it help in resolving conflicts?

The broad topic about the pandemic is narrowed down to provide a descriptive and comparative approach in gathering the needed data for answering the aforementioned research questions: the first chapter discourses the historical context and background about the global health, pandemic and its evolving issues, with the purpose of underlining its international related features encompassing the legal systems and policies which links them together; the second chapter studies conflicts and tensions, currently in forced IHR and other health protocols, obtaining information about their situations before and after the pandemic, and presenting GHL. The third chapter discusses the literature and data gathered in preceding sections leading to the conclusion.

Global health law is pursued to evolve as a fully institutionalized aspect of international law. Existing international legal instruments such as the IHR governed by the WHO is examined. By identifying the gaps of the IHR provisions and its application, the advocacy of developing the IHR into a hard-core GHL is reinforced in this paper.

Global health, the substance of GHL is inherently neutral, which is derived from the general notion of health. The advancement of globalization presented areas of concerns, which directly affect the global population and oftentimes create conflictual situations. The realisation of the interconnectedness of health concerns to other features of globalisation and its fundamental link to geopolitics strengthens cooperation amongst the international community. This effectively operates through the alignment of states' foreign policy and engaged through international relations. Therefore, GHL can be analytically considered an active neutral framework-force in mitigating conflictual situations.

In short, the ultimate objective of this paper is attained by discoursing the normative foundation, legal analysis, process tracing and institutional modelling with the COVID-19 pandemic as the moderator. Supported by theoretical and empirical data based from academic sources, legal norms, and comparative analysis of human rights and international law.

1. Global Health: the Pandemic as a Moderator

Global health is defined as a “collaborative trans-national research and action promoting health for all” proposed definition.⁷ This definition was inspired and based on Koplan *et al*'s⁸ perspective on the subject. Which included the elements of public health⁹ defined and is extensively discussed by specialists and scholars alike. The paper settled in focusing at ‘Global Health’ to distinguish between ‘international health’ and ‘public health’ terminologies where there is a widespread confusion and overlapping meaning and scope raised by scholars, specialists and relevant institutions. The former is an application of the principles of public health while the latter concentrates on a specific country or community (*supra*, footnote 9).

Generally speaking, health is unquantifiable in terms of monetary value, the same juxtaposition of the phrase “health is wealth”. Health is both an individual human right (right to health) or collective (social), which render the person duties, responsibilities and obligations to care for oneself or the context of statehood (government) obligations to establish an efficient and effective healthcare system.¹⁰ In order to attain the highest possible standard of care for its citizens with the purpose of sustaining a healthy population (public health). This then consequentially transcends into productive citizens, who positively impact the nation’s economic progress. Thereby addressing the disparities and inequalities worldwide, the present problems in the sphere of globalization. The very essence of public health governance with justice, while distributive justice¹¹ is construed as translating it into the concept of social healthcare system.

However, an individual is theoretically, structurally and operationally incapable of fully managing and attaining a wholesome health and care. The reason why in every national legal system,

⁷ Beaglehole, R., Bonita, R. (2010), [What is global health?](#), Global Health Action, 2010, published online 06 April 2010, last accessed 07 May 2021

⁸ *Ibid*, Koplan et al define global health as ‘an area for study, research, and practice that places a priority on improving health and achieving health equity for all people worldwide’.

⁹ *Ibid*, ‘Public health is usually viewed as having focus on the health of the population of a specific country or community, a perspective shared by Koplan et al’.

¹⁰ Knight, C. Stemplowska, Z. (2011), Responsibility and Distributive Justice, Oxford University Press, 2011, Norman Daniels, Individual and Social Responsibility for Health, pp. 266-286

¹¹ *Ibid*, Matt Matravers, Mad Bad or Faulty? Desert in Distributive and Retributive Justice, pp. 142-150

healthcare laws are always enshrined in their respective constitution. The Treaty on the Functioning of the European Union (TFEU) Article 168 (1) provides “a high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities”.¹² Consequently, by way of derogation to other laws, in order to safeguard and promote a better *per se* ‘public health’ for a community, the European Community (EC), the European Union (EU) consistently enforces or reinforces absolute protection of public health. As in the context of derogation to the EU laws on Single Market Article 34 and 35 TFEU *inter alia* Article 36 TFEU “the provisions of Article 34 and 35 shall not preclude prohibitions or restrictions on imports, exports or goods in transit on grounds of public morality, public policy or public security; the protection of health and life of humans...”.¹³ On the legal ‘ground’, all of which were transposed and embedded into the national constitutional laws of the the respective EU Member States.

In international law, further discussed in succeeding chapter 3, the International Covenant on Economic, Social and Cultural Rights provides in Article 12 “the State Parties to the present Covenant recognize the right of everyone to the enjoyment of highest attainable standard of physical and mental health”.¹⁴ It simply means that everyone, not only contained in the nation’s sovereign, however, more so in the global context. All people, countries and governments across the world share the same responsibility of taking care of the health of fellow humans, the concept of global health. Hunter and Fineberg elaborated this concept of global health as “defined by two key elements: its level of analysis which involves the entire population of the world, and the relationships of interdependence that bind together the units of social organisation that make up the global population (e.g., nation-states, private organisations, ethnic groups, and civil society movements)”.¹⁵

Global health issues are frequently associated in the developing countries compared to the highly developed countries in terms of economic and healthcare systems. Particularly, health disparity and inequity, this is not always the case since it is also present in highly developed countries but to a lesser extent. In 2018, “the European Parliament (EP) has estimated that lossess linked to

¹² Treaty on the Functioning of the European Union (TFEU), Article 168 (1)

¹³ TFEU, *supra* Article 36

¹⁴ United Nations General Assembly (GA) Resolution 2200A (XXI), International Covenant on Economic, Social and Cultural Rights, effective 03 January 1976, Article 12

¹⁵ Hunter, D.J., Fineberg, H.V. (2015), *Readings in Global Health*, Oxford University Press, 27 November 2015, pp. 251-252

health inequities cost around 1.4% of gross domestic product (GDP) within the European Union – a figure almost as high as the EU’s defense spending (1.6% of GDP). This arises from losses in productivity and tax payments, and from higher welfare payments and health care costs”.¹⁶ Although it is also amenable that health disparity and inequality is highly prevalent in the developing countries. Evidently as indicated in the WHO April 2022 report summary: “health inequalities continue to claim a disproportionate toll on life and health in lower-resource settings. Both life expectancy and healthy life expectancy (HALE) were at least 10 years lower in low income countries (LICs) than in high income countries (HICs) in 2019, despite the dramatic improvements observed since 2000...”.¹⁷

Global health is geared towards the “improvement of health worldwide, the reduction of disparities, and protection of societies against global threats that disregard national border”.¹⁸ Thus, the WHO World Health Statistics 2022 reported that “the world is off-track to reach the Triple Billion targets from the WHO’s Thirteenth Global Programme of Work (GPW13), global health indicators (i.e., progression and impact of COVID-19 pandemic, healthy life expectancy and burden of disease, risk factors for health, and pathway to universal health coverage)”.¹⁹

Advancing global health is one of the objectives of the UN Sustainable Development Goals (SDGs) 2030 which states: “SDG 3 aspires to ensure health and well-being for all at all ages”, reiterating its target goals as a full concept and action of global health. The UN SDGs provision number 3 on global health apparently defined, determined and provide basis for the UN Member States’ in law and policy-making, action planning and implementation with monitoring, and capacity-building as an objective of attaining the SDG goals. It is also observed that the UN Members States are cognisant of global health’s value though their commitments in the actual implementation of the necessary measures and actions.

Research and development on global health, where identified regions such as Africa, Asia and South America, which require development assistance in (1) improving their healthcare systems, and (2) education, is construed as a major driving force of achieving national security and in turn

¹⁶ World Health Organization (WHO) (2018), [Health inequities and their causes](#), 22 February 2018, last accessed 04 December 2022

¹⁷ World Health Organization (WHO) (2022), World Health Statistics 2022, [Monitoring health for the Sustainable Development Goals \(SDGs\)](#), pp. vii

¹⁸ Macfarlane, S.B., Jacobs, M., Kaaya, E.E. (2008), In the Name of Global Health: Trends in Academic Institutions, *Journal of Public Health Policy*, 10 December 2008

¹⁹ *Supra*, WHO World Health Statistics 2022, pp. ix

results to rapid economic growth. Leveraging public health of a developing country must be viewed as an engine towards development, an investment not as an expenditure. Whether it is an allocation from a nation's government budget or foreign aid from the international community, a reflection from the Norwegian and British government perspective on foreign health donation.²⁰ In other words, global health data provides evidence-based information to relevant stakeholders and institutions, global health actors so to speak, to get a three-dimensional picture and understanding of the determinants of public health of a country and provide assistance in law, policy-making and decision-making process of the concerned governments on areas where intervention from the international community is needed. This collaborative effort from the international community pertaining to public health development assistance is the core commitment of 'global health diplomacy' which is discussed further in the succeeding chapter.

1.1. The Pandemic: Historical background

The outbreak of H1N1 influenza virus in 2009 revitalized discussions about a pandemic. Various scholars tried to conceptualize and draw broad definitions. Highly accepted "modern definitions include "extensively epidemic", "epidemic ... over a very wide area and usually affecting a large proportion of the population", and "distributed or occurring widely throughout a region, country, continent or globally", among others. Morens et al described pandemic with components of: "wide geographic extension, disease movement, high attack rates and explosiveness, minimal population immunity, novelty, infectiousness, contagiousness, and severity", concluded that the term will continue to evolve over time.²¹

The H1N1 influenza virus left the current generation with fear. Historically, the emergence of pandemic is recorded throughout human history. Those were all influenced by several factors such as by human activities and the environment. Contemporarily, rapid globalization is the major contributing factor to the global health issues. Pandemic flu is always a possibility and invariably stretches even good public health systems to their limits. Flu pandemics (i.e., Spanish flu of 1918-1919, Asian flu of 1957-1958, Hong Kong flu of 1968-1969) have resulted to millions of deaths. Even ordinary influenza results in over 100,000 hospitalizations in the United States each year.

²⁰ Labonté, R., Gagnon, M.L. (2010), Framing health and foreign policy: lessons for global health diplomacy, *Global health* 6, 14 (2010), 22 August 2010

²¹ Morens, D.M., Folker, G.K., Fauci, A.S. (2009), [What is a Pandemic?](#), *The Journal of Infectious Diseases*, Volume 200, Issue 7, 1 October 2009, pp. 1018–1021

The current H1N1 virus evolved to have an extraordinary transmissibility and adaptability.”²² The influenza virus mutated into various subtypes as society evolves. Some scholars link the phenomenon to consequences of human development (i.e. zoonotic diseases as a result of changes in wildlife habitat, land use in agriculture, climate change and other environmental factors).

The novel human coronavirus disease COVID-19 has become the fifth documented pandemic since the 1918 flu pandemic. COVID-19 was first reported in Wuhan, China, and subsequently spread worldwide. The coronavirus was officially named severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) by the International Committee on Taxonomy of Viruses based on phylogenetic analysis. SARS-CoV-2 is believed to be a spillover of an animal coronavirus and later adapted the ability of human-to-human transmission. Because the virus is highly contagious, it rapidly spreads and continuously evolves in the human population.²³

For more than three (3) years now, the COVID-19 coronavirus continued to damage globally in terms of socioeconomic and is still poses as a major threat to global health. And will continue to do so for an extended period. Data shows as of 15 December 2022, there have been 646,740,524 confirmed cases including 6,637,512 deaths globally”. And as of 12 December 2022, a total of 13,008,560,983 vaccine doses have been administered²⁴.

On the other hand, one of the positive effect COVID-19 pandemic elucidated, is seeing from our naked eyes, the unprecedented flow of cash and finances through disbursement of funds from government and private entities, even individually, and more importantly (one of the focus of this research) attributable to global health diplomacy and security, the international development assistance for health from the international community aimed at alleviating the negative impact of the COVID-19 pandemic.

A research and estimate study published in *The Lancet* found that “in 2019, health spending globally reached \$8.8 trillion (95% uncertainty interval [UI] 8.7-8.8 or \$1,132 (1,119-1,143) per person. Spending on health varied within and across income groups and geographical regions. Of this total, \$40.4 billion (0.5%, 95% UI 0.5-0.5) was development assistance for health provided to

²² Mukherjea, A. (2010), , [The social politics of pandemic influenzas: the question of \(permeable\) international, inter-species, and interpersonal boundaries](#). *Understanding Emerging Epidemics: Social and Political Approaches*, 11, 125–141

²³ *Supra*, footnote 3

²⁴ WHO (2021), [WHO Coronavirus \(COVID-19\) Dashboard](#), last accessed 15 December 2022

low-income and middle-income countries, which made up 24.6% (UI 24.0-25.1) of total spending in low-income countries. We estimate that \$54.8 billion in development assistance for health was disbursed in 2020. Of this, \$13. Was targeted toward the COVID-19 health response. \$12.3 billion newly committed and \$1.4 billion was repurposed from existing health projects. \$3.1 billion (22.4%) of the funds focused on country-level coordination and \$2.4 billion (17.9%) was supply chain and logistics. Only \$17.4 million (7.7%) of COVID-19 development assistance for health went to Latin America, despite this region reporting 34.3% of total recorded COVID-19 deaths in low-income or middle-income countries in 2020. Spending on health is expected to rise \$1,519 (1,448-1,591) per person in 2050, although spending across countries is expected to remain varied”.²⁵

The aforementioned development assistance for health is substantially higher than compared to prior COVID-19 allocation amounts. Inversely, an analysis and opinion over this, so to speak, resonating the Norwegian and British governments’ stance on foreign health donation (*supra*, footnote 20), should these development assistance amounts were disbursed prior COVID-19 as a foreign aid investment on health for global health security, the recipients could have been in a better economic situations. As a consequence, it proactively propels them to combat and survive in better ways the impact of COVID-19. ‘Capacity-building’, one of the main highlights of the UN’s Sustainable Development Goals. Thus, investing in health ushers into sustainability.

Furthermore, it has been observed that international relations is better improved and with efficient outcome supported by the common understanding on the neutrality of the underlying intention of the mutual global development actions between states in the context of education and health. A remarkable “point proven by several influential initiatives led by development economists. Almost 20 years ago, the World Development Report 1993 was devoted to the topic ‘Investing in Health’. This was probably the first major effort at making the case that health is an investment more than a mere item of expenditure. This landmark document was followed in 2001 by the Report of the Commission on Macroeconomics and Health, which concluded that a 10 percent improvement in life expectancy at birth is associated with an annual increase in economic growth of 0.3 to 0.4 percent.”²⁶

²⁵ Excerpt, Micah, et. al (2021), [Tracking development assistance for health and for COVID-19: a review of development assistance, government, out-of-pocket, and other private spending on health for 204 countries and territories, 1990-2050](#), The Lancet, Volume 398, Issue 1038, 19-15 October 2021, ISSN 0140-6736, pp. 1317-1343,

²⁶ Frenk, J. (2014), [Health and the economy](#), Harvard International Review, Volume 35, no. 4, Spring 2014, pp. 62

A historical glimpse of a pandemic discussed in this section suggests that similar global health issue will resurface in the future. A collective and proactive effort through global health diplomacy and a substantial investment in health, a resonating take-away lesson for all state governments. Will better prepare the global population in mitigating similar global problem in the future. Thus, minimising the gravity of the negative effect on human health, globally.

1.2. The theme-bound institutions and their actorness in the field

The World Health Organization (WHO) is the sole specialized agency of the United Nations (UN) in pursuing global health. It was established through the adoption of its Constitution by the International Health Conference held in New York signed on 22 July 1946 and entered into force on 7 April 1948. The latest amendment to the WHO Constitution came into force in 15 September 2005.²⁷

Membership to the Organization is open to (1) all UN member countries by acceptance of its Constitution; (2) other countries may be admitted by approval of their application by simple majorite vote of the World Health Assembly; (3) territories as Associate Members upon application made on their behalf by the Member or other authority responsible for their international relations. The 194 Members States of WHO are grouped according to regional distribution²⁸ and is well observed in its statistical and data reporting.

Article 1 of WHO constitution set its objective which ‘shall be the attainment by all peoples of the highest possible level of health’. Whilst understanding the functions of WHO, it clearly established the interconnectedness of health *per se* global health as the centrepont of the complex array of human activities and development specially in the sphere of globalisation. Hence, the claim that global health is an active driving force.

The functions of WHO are stipulated under Article 2 of its constitution from which its main role encompass *inter alia* “(a) to act as the directing and co-ordinating authority on international health work” and “(b) to establish and maintain effective collaboration with the UN , specializeed

²⁷ WHO, Constitution of the World Health Organization, pp. 1

²⁸ WHO, Countries, [Archive](#), last accessed 14 December 2022

agencies, governmental health administrations, professional groups and such other organizations as may be deemed appropriate.”

GHL is charted to follow the concept of public international law. Hence, it acknowledges the involvement of non-State actors. The ‘WHO’s framework of engagement with Non-State actors also defines its application to limit to: (1) nongovernmental organizations, (2) private sector entities, (3) philanthropic foundations, and (4) academic institutions, specifically in the global health landscape’. Accordingly, “WHO engages with non-State actors in view of their significant role in global health for the advancement and promotion of public health and to encourage non-State actors to use their own activities to protect and promote public health.”²⁹ Non-State Actors extends the arm of WHO in the implementation of its global health policies and they provide independent additional resources and are also an important advocates to transparency in the implementation and monitoring of those policies.

The WHO Constitution alone lacks the provision on judicial adjudication in matters of dispute resolution. This has been pointed out by Hoffman *et al.* (*supra*, footnote 5). Both the WHO constitution and IHR structured and operates based on scientific framework. Incognizant of the geopolitical power force and its interconnectedness with global health from the beginning, a point taken from Dr. Clare Wenham. Therefore, these gaps strongly argue on why there is a need to advance GHL into a full aspect of international law.

²⁹ WHO (2020), Framework of Engagement with Non-State Actors, [Basic Documents](#), 49th Edition, 2020, pp 97-135

2. Global Health Law and International Law

Global health law has transcended from the notion of the ‘right to health’. ‘The right to health is deeply wedded to the need to adopt a pragmatic vision of how best to alleviate human suffering and address inequality’.³⁰ This vision of right to health as linked to human right is internationally recognized in the post world war II era under the UN through the 1946 WHO constitution. With states declaring that “the enjoyment of highest attainable standard of health is one of the fundamental rights of every human being”. Then enshrined in the 1948 Universal Declaration of Human Rights (UDHR) Article 25 “everyone has the right to a standard of living adequate for himself and of his family...”. And also founded as one of the sets of human rights in the 1966 International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), defined the right to health as “the right to everyone to the enjoyment of the highest attainable standard of physical and mental health”.³¹

These human rights developed as part of the international law became the normative principles and legal framework as the basis of state governments’ as guidelines when transposed into domestic laws. Thenceforth, it is apparently observed, alongside the WHO constitution, that international law dictates or influences domestic legal regimes on health, which is why a proposed GHIL will transform the subjective scope of the human rights provision on the right to health into a legal objective as a fundamental protection. However, this is reversibly true in the area of globalization when public health governance becomes global. A catastrophic problem realized by the COVID-19 pandemic. Therefore, international cooperation could be suggested as a method as well as a compelling force in addressing global health concerns and mitigation.

Objectively, GHIL is emerging as a field in legal studies and in principle. Normally, individually or collectively in society, the subject pertaining to health is usually not in the main agenda. It is rather neglected or simply ignored. Only when the occurrence of health issues or public health of

³⁰ Tobin, J. (2012), *The Right to Health in International Law*, Oxford University Press, 2012, pp 21

³¹ Gostin, L.O., Meier, B.M. (2020), *Foundations of Global Health & Human Rights*, Oxford University Press 2020, pp 7-8

international concern (PHEIC) Article 6 of the IHR³² in global health context, as the consequence in the case of the COVID-19 pandemic, then it is given priority owing to its emergency nature necessitating exigent and resolutory attention and intervention by all stakeholders. However, the incidence of PHEIC *per se* will always result to irreversible damages, insurmountable to a larger and extrapolated extent, as witnessed with the COVID-19 pandemic. The development and enforcement of law or legal regimes is not mainly for the reparation of damages (liability) but more importantly the deterrence of its subjects into breaching their obligations. Compelling the subjects of the law into abiding the provisions of rules (compliance) and the deterrence of violations (commission) or inaction (ommission) from the performance of the duties, responsibilities, and obligations set therein is the advancement of law. Thus, the need for creating a law, GHL on the area of global health with the States and other international stakeholders as its subject (public international law), emanated from the IHR.

According to Gostin and Taylor, GHL “is a field that encompasses the legal norms, processes, and institutions needed to create the conditions for people throughout the world to attain the highest possible level of physical and mental health”.³³ This definition provides a direct connection and relevance of the legal framework specific to health and is inclusive of the global population. This is well observed to appear in various UN paper and documents.

Being considered as one facet of global society, “the field seeks to facilitate health-promoting behaviour among the key actors that significantly influence the public’s health, including international organizations, governments, businesses, foundations, the media, and civil society. The mechanisms of GHL should stimulate investment in research and development, mobilize resources, set priorities, coordinate activities, monitor progress, create incentives, and enforce standards. Study and practice of the field should be guided by the overarching value of social justice, which requires equitable distribution of health services, particularly to benefit the world’s poorest populations”.³⁴ The function of the regulatory authority along with other stakeholders in society are well incorporated. This is similarly structured in other field of public international law such as human rights and international criminal law.

³² International Health Regulations (IHR) (2005), Article 6 Notification in force 15 June 2007

³³ Excerpt Gostin, L.O., Taylor, A.L. (2008), Global Health Law: A Definition and Grand Challenges, *Public Health Ethics*, Volume 1, Issue 1, April 2008, pp. 53-63

³⁴ *Ibid*

As introduced earlier, global health can be a driver and act as a focal point in the established interconnectedness of the other dimensions of global society. As the core of its normative essence, GHL promotes human rights and social justice as a proactive force in shaping public policy. Particularly, in terms of national interest and economic policy.. It has been proven that the current status of governance revolves around these set principles. Contemplating on the neutral role of GHL,, it can be suggested that GHL drives the resolution to each global health problem and the intertwined aspects of globalization by tracking the application of law”.³⁵

The identity of GHL in other international law norms is established from formal sources of international law (treaties and other binding agreements) that concerns public entities as its subjects (i.e., states, individuals and other recognized international organizations).. However, GHL must evolve beyond the traditional confines of formal sources and subjects of international law. It must foster solidarity and inclusive global health action among governments, businesses, civil society and other actors.³⁶ The neutrality of GHL amongst other forces and factors in the international legal system must be utterly acknowledged. Its existence is not formally and tangibly employed. Thus, the purpose of institutionalizing GHL.

The evolution of GHL into international law is comparable to that of the legal regimes concerning international trade. Particularly the General Agreement on Tariffs and Trade (GATT) under the World Trade Organization (WTO), the UN Convention on the Law of the Sea (UNCLOS) and are all directly link to human rights law. The bottomline and as Gostin puts it: “health is an absolute individual entitlement”. Notwithstanding, the position of the international law legal instruments where it cannot be strictly enforced specially on disputes between states involving powerful countries. For example, as discussed in the preceding chapter, the complaint of Turkey notified to the WHO against Bulgaria and Romania was de-escalated since the two countries immediately implemented appropriate health protocols. The case between *Philippines v China* concerning maritime border dispute in the South China Sea, continued bilateral and multilateral talks are operating. Both cases rest not on the effects of law but by employing diplomacy through international relations channel. Apparently, the division of powers (i.e., executive, legislative and judicial) played by power politics in the geopolitical arena is evidently manifesting. And because international law is operating under the principles of ‘proportionality’ and ‘complementarity’.

³⁵ Excerpt, Gostin, L.O., Sridhar, D. (2014), [Global Health and the Law](#), *The New England Journal of Medicine*, 01 May 2014,

³⁶ *Supra*, Gostin & Taylor, footnote 34

Therefore, ‘global health diplomacy’ through international relations is an effective tool in achieving the objectives of GHL and other spheres of globalization overall.

Based on the analysis presented from both empirical and theoretical data, GHL can act as a neutral force in fostering collective cooperation between the international community actors specially state-governments through the UN and WHO and even through the mutual bilateral and multilateral agreements. As it is indirectly pursued in traditional interactions under normal circumstances but directly implemented arising in times of public health issues ‘PHEIC’ and conflicts. Being a shared common interest of states in achieving the highest level of physical and mental health for the global population without compromising *inter alia* national interest and security. Arguably, given the lessons learned from the pandemic, after the identification of the gaps of the current IHR on adjudication, enforcement and dispute resolution mechanisms³⁷, it is the high time to advance global health law as a full aspect of international law.

2.1. Conflict mitigation and the context

This section presents the core of health in global health law with its nexus to peace³⁸. The notion that GHL mitigates conflictual situations through international relations is further elaborated with contemporary events and empirical data. First, foreign relations conflictual situations abated with global health diplomacy is explored. Second, the evidence of the active role of health in armed conflict is presented. And finally, discoursing the positive impact of institutionalising global health law in international law.

The UN Security Council adopted on 1 July 2020 Resolution No. 2532 (2020) demanding a “general and immediate cessation of hostilities in all situations” and “calls upon all parties to armed conflicts to engage immediately in a durable humanitarian pause...” to facilitate transport and delivery of humanitarian aid and related services in “in accordance with international law, including international humanitarian law and refugee law as applicable”.³⁹ Since then, world-wide news specifically pertaining to armed conflicts were abated. The topic-linked news and events primarily evolved around the coronavirus situations and updates globally. However, international relations and diplomatic tensions surged at the onset of the COVID-19 pandemic outbreak

³⁷ *Supra*, footnote 5

³⁸ *Supra*, Tobin (2012), footnote 31, pp 23-26

³⁹ United Nations Security Council (2020), [Resolution 2532 \(2020\)](#), 1 July 2020

simultaneously. The succeeding years, 2021 and 2022, saw the most dramatic resurgence of armed conflicts in different regions.

Diplomatic Tensions

The COVID-19 pandemic caused conflicts in international relations and diplomatic tensions. Exchanges of negative communications between government officials were seen online, news and in the social media platforms. Reason why the UN Security Council finally released the resolution 2532 upholding peace amid the pandemic. Few examples of these international relations and diplomatic tensions are obtained below.

Qatar Diplomatic Crisis

The oil rich Gulf Cooperating Council (GCC) countries have always defined the political dimensions of the Middle East. The world is constantly observing the course of direction these countries take specially its major trading partners and allies such as the US since the price of oil affects basic commodities. On 5 June 2017, Saudi Arabia joined by the United Arab Emirates (UAE), Bahrain, and Yemen from the Gulf as well as Egypt and the Maldives, severed diplomatic relations with Qatar and placed the country under a blockade closing it off by land, sea, and air. This triggered a serious diplomatic crisis in the Gulf. Saudi Arabia pointed to Qatar's alleged terrorism and support of fanatical Islamist groups as grounds for their action. Qatari officials dismissed these accusations as baseless and responded with similar claims against their opponents. However, at the same time Qatar announced that it would not apply countermeasures but was prepared for dialogue and negotiations.⁴⁰

After 3 and a half years, through the brokerage led by Kuwait and the US, a resolution signed on 5 January 2021 in Al-Ula, Saudi Arabia ("Al-Ula Declaration") during the GCC Summit ending the blockade.⁴¹ It is important to note that "although the coronavirus outbreak has started during the blockade, GCC health officials met regularly prior to Al-Ula Summit to coordinate efforts since the region's health status and safety was more important than political differences. "The atmosphere of reconciliation is a welcome change which is necessary for the volatile region plagued by geopolitical, geo-economic and geo-religious contestations. Saudi Arabia and the UAE

⁴⁰ Rende, M. (2017), [The Qatar Diplomatic Crisis and The Politics of Energy](#), last accessed 12 May 2021

⁴¹ Ma, J. Min, J. (2022), [Saudi-Qatar Diplomatic Rapprochement: A Perspective of Neoclassical Realism](#), Asian Journal of Middle Eastern and Islamic Studies, Volume 16, 2022 Issue-3, 14 October 2022, pp 355-372, last accessed 14 December 2022

have taken measures to reduce hostility with Qatar and Iran. The Gulf leaders signed a solidarity and stability agreement leading to comprehensive resolution of the points of disagreement with Qatar and restoration of relations with Qatar. It reflects change in strategy towards addressing regional challenges that requires resolving internal issues within the GCC. There has been growing realisation within Saudi and Emirati foreign policy to change course due to limited success in confrontational approach to improve security. Both states also sought to reduce conflict promotion to re-orient its priorities towards pandemic related health and economic ramifications and embolden domestic institutions.”⁴² This act of health diplomacy catalyzed by the pandemic, is evidence to the proposition that global health and health diplomacy can achieve better outcomes in terms of peace and harmony amongst states. In fact, it can set aside geo-political divisions and differences.

US-China RELATIONS

The former US President Donald Trump and the incumbent Joe Biden had the same bottomline of envisioning a new US foreign policy. During their campaign, both recognized China’s threat to the US’ power position in the international stage, be it in politics or economy where they proposed how to deal with it through the so-called China-policy. Trump pushed for economic and military pressure which resulted to: “abandoning ‘One-China’ policy; withdrawal of US signature from Trans-Pacific-Partnership (TPP) in January 2017; US imposition of duties on Chinese imports, that resulted in trade war; US-China Tech Competition”. Apparently, Trump’s actions towards China deteriorated the US-Sino relations. “It has led to higher prices, lower corporate profits, unstable markets, and slower economic growth.”⁴³

Though the COVID-19 pandemic exacerbated the tension between the two economic giants. Consequently, it has also propelled easing of these tensions for international cooperation in curbing the negative effects of the pandemic. President Joe Biden’s assumption in the US presidency office witnessed reparation or easing of this tension through formal dialogues and mutual cooperation and alignment of foreign policies.

⁴² Das, H.J. (2022), [West Asia: Looking Back at 2021](#), Vivekananda International Foundation, 14 February 2022, last accessed 14 December 2022

⁴³ Boylan, B. M., McBeath, J., Wang, B. (2021), [US-China Relations: Nationalism, the Trade War, and COVID-19](#), *Fudan Journal of Humanities and Social Sciences* 14, 23-40 (2021), 04 October 2020, last accessed 05 December 2022

Armed Conflict

The COVID-19 pandemic had overall positively impacted armed conflicts in 2020. Supposed partly, as a result of the abovementioned UN Security Council resolution 2532 order to ceasefire. Specifically on UN member state governments' position. A study conducted by Tobias Ide: "COVID-19 and armed conflict" is excerpted primarily below. However, the attained peace in armed conflict amid COVID-19 is temporary, recurrence has been reported in 2021. And the tension between Russia and Ukraine escalated to war.

Armed conflicts are complex, dynamic and multi-faceted phenomena. Their onset, intensity and duration is driven by a wide range of factors. This results in a limited explanatory power of single variables like COVID-19. However, based on established theoretical frameworks and previous research, there are good reasons to assume that COVID-19, the associated restrictions and their economic fallout affect armed conflict dynamics.⁴⁴

COVID-19 might also shape opportunity costs in a way to reduce armed conflict risks, at least temporarily. If a state's capability is strained and there is an urgent need to deal with a health emergency, military offensives are certainly unlikely. Furthermore, existing as well as potential rebel groups and militias face similar challenges in the face of the pandemic. They need to raise money and food to supply to their fighters during an economic recession, convince their members to take part in operations rather than staying at home (to reduce infection risks and support their family or community), and deal with the logistical constraints of lockdowns and border closures. Starting or intensifying attacks during the COVID-19 crisis is likely to decrease the local (and international) legitimacy of armed groups, especially if health infrastructure is affected. The ceasefire declarations by armed conflict parties in several countries can also be interpreted as a sign that COVID-related capability and legitimacy concerns are warranted.

However, the COVID-19 crisis can affect opportunity factors to increase armed conflict risks. As GDPs decline, unemployment is on the rise and international remittance flows are reduced by around 20%, livelihood insecurity will grow. This results in lower opportunity costs for individuals joining an armed group *vis-à-vis* seeking legal employment, hence, facilitating recruitment by violence entrepreneurs. In the same vein, argues that high levels of disease prevalence and the associated loss in life expectancy reduces the relative risks of individuals for joining dangerous

⁴⁴ Excerpt: Ide, T. (2021), "[COVID-19 and armed conflict](#)", *World Development*, 140, 105355. last accessed 12 May 2021

activities like rebellion. Capable states can deal with these impacts of COVID-19 by extending social security nets, mediating emerging conflicts, and disarming violent groups. But COVID-19 also undermines state capability: While financial demands to the state growth, its fiscal base is strained due to a loss of tax revenues. The collapse of tourism and primary commodity prices (such as oil) affect the income of many states as well. Furthermore, members of the police and military might get infected, or are re-deployed to assist measures to contain the disease.

The downward trend in **Afghanistan** is in part due to the February 2020 peace deal between the USA and the Taliban. But COVID-19 has also strained the capability of state security forces to carry out attacks, for example because soldiers had to support the pandemic response. Infections also rose among Taliban fighters. The Taliban have nevertheless rejected government calls for a ceasefire. Since late March, the group has also deployed personnel to deal with COVID-19 (rather than to its spring offensive), including public information campaigns, distribution of goods, and enforcing quarantine measures. This move is strategically motivated and envisioned to serve as a “ladder” that helps the group to gain public support and eventually oust the Afghan government.⁴⁵ A study reported that the Taliban government coup amid COVID-19 pandemic resulted into a public health crisis.⁴⁶

Finally, when the Taliban assumed government on 15 August 2021, “funding to Afghanistan’s health system from the World Bank and other donors temporarily halted and jeopardized the improved outcome based on the efforts made in the past two decades. In the long term, increased allocation of domestic resources to health services is key for ensuring sustainability of the country’s health system. At the same time, continuous support from the international community is crucial for maintaining the provision of health services and minimising the impacts of the severe humanitarian crises in Afghanistan.”⁴⁷

The armed conflict in **Colombia** between the government and the Ejército de Liberación Nacional (ELN) de-escalated considerably after the pandemic struck the country. On March 30, the ELN declared a ceasefire to ease coping with COVID-19. While humanitarian rather than strategic

⁴⁵ *Ibid*

⁴⁶ Essar, M.Y., Hasan, M.M. Islam, Z., et. al. (2021), [COVID-19 and multiple crises in Afghanistan: an urgent battle](#), *Conflict and Health* 15, 70 (2021), 17 September 2021, last accessed 14 December 2022

⁴⁷ Safi, N., Anwari, P., & Safi, H. (2022), [Afghanistan’s health system under the Taliban: key challenges](#), *The Lancet*, Volume 400, Issue 10359, pp 1179-1180, 08 October 2022, last accessed 14 December 2022

considerations drove this decision, the ELN seems less committed to permanent peace negotiations, and did not extend the ceasefire beyond May 1. The Colombian government and military did not commit to a ceasefire at all but instigated fewer attacks. However, this is likely because resources were shifted to support the pandemic response. This is considering that the military was heavily involved in response efforts and that Colombia has the highest number of infections per capita in my sample. There are reports, however, that increased poverty and school closures due to the pandemic facilitate recruitment by the ELN, which would increase conflict risks over the long term.

In **Thailand**, the intensity of the conflict between the separatist Barisan Revolusi Nasional (BRN) and the government declined from April onwards. On April 3, the BRN declared a cessation of armed activities to help inhabitants in its areas of operation dealing with COVID-19. This ceasefire was predominately strategically motivated. The BRN's operative capabilities were weakened by internal travel restrictions, a lack of retreatment areas due to the closing of the border to Malaysia, and Thai military offensives in early 2020. The groups' leadership was also concerned that attacks in the wake of the pandemic (and the month of Ramadan) would reduce its support among the local population. The Thai government did not reciprocate the ceasefire. When infections declined in late April, it resumed the war against the BRN, while the latter still lacked the capabilities for a full-scale response.

Yemen was hit relatively late, yet hard by the pandemic. On April 9, the coalition supporting the internationally recognized Yemenite government led by Saudi Arabi declared a unilateral ceasefire to support the pandemic response, but the ceasefire only lasted one day. Health diplomacy has failed in this case. However, the ceasefire seems to reflect a reduced willingness of the Saudi Arabian government to commit resources to the Yemeni civil war in the face of its own COVID-19-related problems. Likewise, the other main party to the conflict, the Houthi rebels, had to devote more resources to manage the pandemic and deal with the associated grievances in the areas it controlled, while support from Iran (heavily affected by COVID-19 and US sanctions) declined. These diminished capabilities of both conflict parties caused a strong reduction of fighting activities from late April onwards.

At the same time, a group of five countries experienced an increase in armed conflict activity during the first months of the pandemic. The growing number of armed conflict events in **India** was not related to the Maoist insurgency. The presence of state security forces on the ground has been reduced due to fears of infection and the Maoists' supply lines were negatively

affected by a comprehensive lockdown. There are concerns, however, that the rebels use the lack of state presence and economic deprivation caused by a heavy lockdown to recruit for future offensives. Armed confrontations in the Kashmir region contested between India and Pakistan, by contrast, increased significantly. Clashes between both countries' militaries were a result of longer-standing tensions and thus unrelated to the pandemic. There is however evidence that Pakistan's support for pro-Pakistani insurgents increased to put additional pressure on India during the COVID-19 crisis. At the same time, the Indian army capitalized on the comprehensive restrictions and the occupation of public attention with the pandemic to launch a heavy crackdown campaign against (presumed) insurgents in Kashmir. Communal tensions in India also rose because of disputes related to permits for and infections linked to Hindu and Muslim religious gatherings during the pandemic. So far, these tensions rarely translated into larger violent confrontations.

In **Iraq**, the capabilities of the government have been severely strained by the crisis, among others because oil prices collapsed and military forces were preoccupied with COVID-19 responses (e.g., enforcing curfews). Due to the pandemic, the international coalition supporting the government has also stopped training activities and some joint missions and pulled the troops out. The Islamic State (IS) was affected financially by the crisis as well due to its involvement in oil trade and the general economic decline. Nonetheless, the group sought to exploit the current weakness of the Iraqi state to expand its territorial control, thus launching additional attacks. The rise of violence in Iraq during the first months of the pandemic has been modest and non-linear (perhaps due to Ramadan in late April and May), but there was a clear upward trend of IS-initiated attacks.

The civil war in **Libya** between the Government of National Accord (GNA) and the Libyan National Army (LNA) has intensified since March 2020. Both parties aimed to launch decisive strikes and received significant logistical and material support from their international patrons. Therefore, an escalation of the war would have taken place irrespective of COVID-19. But the pandemic accelerated this escalation in two minor ways: It distracted the world's attention from the fact that both sides ignored the peace agreement concluded in January 2020. Furthermore, the GNA and the LNA believed that the other side might collapse very soon under the combined pressure of military offensives and the virus. Conflict intensity saw a rapid decline in June 2020, but this was due to the mutual acceptance of a military stand-off and renewed peace negotiations, rather than related to the pandemic.

The military of **Pakistan** engaged in more battles with the Indian army and local Taliban groups from April 2020 onwards. The intensification of the India-Pakistani conflict is linked to other factors than COVID-19. It is plausible that groups like the Taliban have attempted to exploit a situation where the state is weakened, border controls with Afghanistan get more difficult, dissatisfaction with the government's response is widespread (especially among religious groups), and a rise in poverty makes recruitment easier. Concrete evidence of this is currently lacking, however. A reason for the slight bump in violent events in May and early June could be that many senior Taliban leaders and commanders became infected with SARS-CoV-2.

In the **Philippines**, the upwards trend in armed conflict events was mostly driven by a steep rise of clashes between the military and the Communist New People's Army (NPA). Both sides declared unilateral ceasefires when the number of infections increased rapidly in late March to facilitate responses to COVID-19. Accusing each other of continuing attacks, the government and the NPA decided not to extend their respective ceasefires in late April. There have been reports that the government utilized the distraction caused by the pandemic as well as the increased control gained during a strict lockdown for harsher measures against its opponents, including the rebels. Others claim that the NPA sought to utilize the pre-occupation of security forces with health-related tasks to launch further attacks and raid food supplies.⁴⁸

Towards the end of COVID-19 pandemic, the historical **Israel-Palestinian** conflict re-escalated to violence with exchanges of armaments and several casualties mostly are civilians. Cultural differences, tradition and religious practice sustains the volatility of relations between the two countries."⁴⁹ However, the development and implementation of strategies for health and medical care, in line with the Geneva Convention⁵⁰, proved to be beneficial for both parties. Thus, the neutrality of GHIL bears the common understanding and active role in promoting peace.

The escalation of **Russia-Ukraine** war during the pandemic brought double jeopardy to the healthcare system of Ukraine. Resulting to the country's ongoing challenges and is perceived to persist in decades. The war has led to extrapolating the negative effects of COVID-19. As well as its own reverberating negative outcome towards the global economy, food security and human

⁴⁸ *Ibid*, footnote 37

⁴⁹ Wikipedia, 2021 Israeli- Palestinian crisis, last accessed 12 May 2021

⁵⁰ Rubenstein, L. (2021). 6. OBSTRUCTION: The Israel-Palestine Conflict". In *Perilous Medicine: The Struggle to Protect Health Care from the Violence of War*, New York Chichester, West Sussex, Columbia University Press, pp 185-217

rights.⁵¹ The efficiency and effectivity of international humanitarian law operation is tested. This leaves a question as to whether or not justiciability can be pursued in such a grand scale. Then who will enforce such judicial ruling when achieved. In addition, will Russia be held responsible and accountable on the alleged war crimes and breaches of human rights law (if reflecting on *Philippines v China* dispute)

Conclusively, these conflictual situations provided an opportunity for the effective use of GHIL through its inherent neutral force. The practical and realistic application of health laws has long existed but are confined to its specific purpose when employed by the actors and stakeholders.

2.2. International Relations as the field where it all happens

The definition of International Relations (IR) encompasses the interaction of state governments “as the scientific study of the international connections between the world’s sovereign states.”⁵² Contemporary international relations has seen the convergence of global health into foreign policy and diplomacy, thereby conceptualising “Global Health Diplomacy”. Global Health Diplomacy is defined as “policy-shaping process through which state, non-state and other institutional actors negotiate responses to health challenges, or utilize health concepts or mechanisms in policy-shaping and negotiation strategies, to achieve other political, economic or social objectives.” Derived after “IR scholars distinguish between foreign policy and diplomacy. *Diplomacy* is the art or practice of conducting international relations through negotiating alliances, treaties and agreements. It is concerned with dialogue “designed to identify common interests and areas of conflict between the parties.” This conduct, in turn, is guided by a country’s foreign policy, the activity whereby state actors act, react and interact, at the boundary between the internal (domestic) and external (foreign) environment. Thus, while foreign policy is “the substance, aims and attitudes of a state’s relations with others,” diplomacy is “one of the instruments employed to put these into effect.” The notion “new diplomacy” describes shifts in foreign policy that challenge how diplomatic practice is carried out.⁵³

⁵¹ Uwishema, O. et al. (2022). Russia-Ukraine conflict and COVID-19: a double burden for Ukraine’s healthcare system and a concern for global citizens. *Postgraduate Medical Journal*, Volume 98, Issue 1162, August 2022, pages 569-571

⁵² Wikipedia, International Relations, references 4 "[international Relations](#)". *Oxford Reference*. Retrieved 2021-04-10, references 5 Science, London School of Economics and Political. "[Department of International Relations](#)". *London School of Economics and Political Science*. Retrieved 2021-04-10.

⁵³ Excerpt, Lee, K., Smith, R. (2011), [What is 'Global Health Diplomacy'? A Conceptual Review](#), *Global Health Governance*, January 2011, last accessed 10 May 2021

The introduction of ‘Global Health Policy’ in the field of IR, as a tool in improving policy and decision-making for a stronger cooperation between WHO and states, is heralded and presently pushed for advancement. COVID-19 pandemic became a catalyst in opening government doors to a more genuine, collaborative and fruitful foreign relations. Identifying areas of concern and extending immediate support, working closely together to combat the pandemic and its negative effects, in real time. The positive impact of using international relations as an instrument in addressing worldwide problems (i.e. the pandemic) is discussed in this section focusing entirely global health and health diplomacy.

Dr Clare Wenham, a Global Health Policy associate professor at London School of Economics (LSE), pointed out that “government response to the COVID-19 pandemic is dictated by politics”. The global political landscape utilizing the IR mechanisms acts as the driving force in mitigating the negative effects and risks of global health issues such as the COVID-19 pandemic.⁵⁴ The same study stressed a reformation of WHO strategy in its ‘problem-solving skills’: from one relying mainly on scientific based approach into adding ‘political knowledge’, ‘political methods’ and ‘policy implementation expertise in understanding contemporary sovereign behaviour.’⁵⁵

International state organisations such as the UN including its independent and specialized agencies and arms (i.e. WHO, WTO, International Monetary Fund (IMF), World Bank Group (WBG), to name a few with high relevance to Global Health) has, and is always been an international stage of politics. State and government leaders pursue self-national interest above all others in practice of their vested sovereign powers. A global arena to demonstrate political and power dominance among other member states. In contrast, from an optimistic viewpoint, high income countries specially the ‘Great Power’ nations (e.g., China, France, Russia, the United Kingdom and the United States)⁵⁶, more countries from the EU and Japan can also be added on the list but aforementioned countries “have a special status in the UN Security Council with their permanent seats and veto power”⁵⁷. These countries have the capacity, resources and influence in addressing global issues.

⁵⁴ Excerpt, Davies, S.E., Wenham, C. (2020), [Why the COVID-19 response needs International Relations](#), *International Affairs*, Volume 96, Issue 5, September 2020, Pages 1227-1251, last accessed 09 May 2021

⁵⁵ *Ibid*

⁵⁶ Sterio, M. (2013), *The Right to Self-Determination Under International Law: “selfistans”, secession and the Rule of the Great Powers*, Routledge, 2013, pp 57-70

⁵⁷ *Supra*

The alleviation of the negative impact brought by COVID-19 pandemic is a mandate cannot be solely managed by international state organisations such as the UN. The pandemic triggers non-state and other insitutional actors' support mechanisms. Direct state-to-state cooperation proved to be timely, efficient and effective as it breaks the bureacratic barriers. This act alone redefines and amplifies global health diplomacy in motion. Regardless of the driving forces behind the cooperation: be it economic, political or to put simply humanitarian in nature.

For example, the UAE, “stepped up to provide aid to those in need.” The country is considered among the top and active donor of development assistance and humanitarian aid worldwide. It is reported that ninety-three percent (93%) of the UAE’s foreign aid were in the form of Official Development Assistance (ODA), making it 1.33 percent of the country’s Gross National Income⁵⁸ This can also be viewed to stem from the Islamic value of charity.

The EU is also consistent and claims to be “the largest donor of development aid in the world, 0.7 of its gross national income a year.”⁵⁹ In addition, the USAID from the United States and AUSAID from Australia are also country-specific development assistance programmes which include public health and is running for decades up to this day. As noted, “Russia’s Center for Advanced Governance (CAG) advisory body stated that the country delivered humanitarian aid to at least 46 countries.” “Russia has used humanitarian assistance for projecting power on the global stage and supporting diverse political objectives, however, its approaches to humanitarianism can be detrimental to the future of the international humanitarian system.”⁶⁰ While China received donations on the early outbreak of COVID-19 from different countries⁶¹, it also claimed deploying medical teams and donated equipment to over 150 countries as humanitarian provisions.⁶²

The aid in the international community during the COVID-19 pandemic is not limited to financial but also includes medical mission of healthcare professionals, “masks, medical professionals personal protective equipment, money and test kits.”⁶³ Therefore, strengthened international

⁵⁸ Dali-Balta, S. (2015), [‘The United Arab Emirates leads countries of the world in foreign humanitarian aid’](#), IFRC, 11 March 2015, last accessed 10 May 2021

⁵⁹ European Commission, [International development aid](#), last access 10 May 2021

⁶⁰ Omelicheva, M. (2023), [A “Good” Samaritan? The Geopolitics of Russia’s COVID-19 Assistance](#), Canadian Journal of European and Russian Studies (CJERS), 21 Februry 2023, Vol. 16 No. 1 (2023), last accessed 10 March 2023

⁶¹ Wikipedia, [International aid related to the COVID-19 pandemic, Aid to China](#), last accessed 10 May 2021

⁶² Kurtzer, J. (2020), [China’s Humanitarian Aid: Cooperation amidst Competition](#), CSIS, 17 November 2020

⁶³ *Ibid*

relations is vital in achieving global health alongside foreign policy, as “recognized duality of relationship by global health diplomacy’s definition.”⁶⁴

2.3. Case Law

The U.S. cases: *Flores v. Southern Peru Copper Corporation* and *Sarei v. Rio Tint PLC*, respectively, are prime examples of situation *in arguendo* necessitating the development of global health law in safeguarding health when the case presents international character. These cases were consequently dismissed due to an absence of international law in health or the ‘nonexistence of a rule of customary international law applicable to the alleged damages resulting from intranational environmental pollution’. The advancement of global health law instituted into the international law will establish legal binding rules on matters related to health issues. Thus, regulates and facilitates serving social justice and the deterrence of commission of acts which are detrimental to human health globally.

Flores v. Southern Peru Copper Corporation

The United States Court of Appeals, Second Circuit, case no. 414 F.3d 233 *Flores v. Southern Peru Copper Corporation* judgment delivered on 29 August 2003.

The question presented is whether *Flores, et. al.*, Plaintiffs-Appellants, claims are actionable under the Alien Tort Claims Act (“ATCA”), 28 U.S.C § 1350.

Plaintiffs in this case are residents of Ilo, Peru, and the representatives of deceased Ilo residents. They brought personal injury claims under ATCA against Southern Peru Copper Corporation (“SPCC”) Defendant-Appellee, a United States Company headquartered in Arizona with its principal place of operations in Peru, alleging that pollution from SPCC’s copper mining, refining, and smelting operations in and around Ilo caused plaintiffs’ or their decedents’ severe lung disease. The ATCA states that “[t]he district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or treaty of the United States.” 28 U.S.C §1350. Plaintiffs claimed defendant’s conduct violates the “law of nations” – commonly referred to as “international law” or, when limited to non-treaty law, as “customary international

⁶⁴ *Supra*, footnote 18

law.” In particular, they asserted that defendant infringed upon their customary international law “right to life,” “right to health,” and right to “sustainable development.”

The US District Court dismissed the case on the basis of failure to overcome the requirement stipulated in ATCA over an alleged violation of customary international law or recognized norms of international law concerning the harm caused to health and infringement of environmental laws. The Court further held that even if plaintiffs had alleged a violation of customary international law, the case would have to be dismissed on *forum non conveniens* grounds because Peru provides an adequate alternative forum for plaintiffs’ claims and because relevant public and private interest factors weigh heavily in favor of the Peruvian forum. Accordingly, the District Court granted the defendant’s motion to dismiss.⁶⁵

Sarei v. Rio Tinto

The United States Court of Appeals, Ninth Circuit, case no. 722 F.3d 1109 *Sarei v. Rio Tinto, PLC and Rio Tinto Limited* ordered on 28 June 2013 affirmed the decisions on the preceding cases before it, and on the basis of the United States District Court, C.D. California ruling on case no. 221 F.Supp.2d 1116 *Sarei v. Rio Tinto PLC and Rio Tinto Limited* delivered on 9 July 2002.

One of the deliberated questions is whether the Alien Tort Claims Act (“ATCA”) 28 U.S.C § 1350 confers jurisdiction.

Sarei, et. al (Plaintiffs), who are current and former residents of the island of Bougainville in Papua New Guinea, filed this putative class action against defendants Rio Tinto PLC and Rio Tinto Limited under the Alien Tort Claims Act, 28 U.S.C. § 1350. Plaintiffs allege that defendants’ mining operations on Bougainville destroyed the island’s environment, harmed the health of its people, and incited a ten-year civil war, during which thousands of civilians died or were injured. They assert that defendants are guilty of war crimes and crimes against humanity, as well as racial discrimination and environmental harm that violates international law. Defendants have moved to dismiss the complaint, arguing that the court lacks subject matter jurisdiction and that plaintiffs have failed to state a claim upon which relief can be granted. Defendants contend alternatively that the action should be dismissed on *forum non conveniens* grounds, because it raises questions that

⁶⁵ *Flores v. Southern Peru Copper Corporation* (2003), [Case 414 F.3d 233](#), United States Court of Appeals, Second Circuit, 29 August 2003,

are nonjusticiable under the act of state or political question doctrines, and because the court should abstain under the doctrine of international comity.

‘The court concluded *inter alia* that plaintiffs here have failed to demonstrate that Rio Tinto’s alleged environmental torts violated a “specific, universal and obligatory” norm of international law. Accordingly, it finds that it lacks jurisdiction to adjudicate, and granted the defendants’ motion to dismiss the claim as a result.⁶⁶

These two US cases were both respectively dismissed on the grounds of the absence of an international law and/or customary international law where the US ATCA law deems inapplicable. The question of justiciability is not the sole legal force applied in the judicial system. Political and economic dimensions weighs congruently with justice. This is the logic behind the division of powers in a democratic society: executive, legislative and judicial. Arguably, transcended into the global political arena, where foreign relations between state governments play a crucial role.

⁶⁶ *Sarei v. Rio Tinto PLC and Rio Tinto Limited* (2002), [Case 221 F.Supp.2d 1116](#), United States District Court, C.D. California, 9 July 2002

3. Discussion

The previous chapters outline the impact of a pandemic in the sphere of global health which helps resolve conflictual situations, although in the course creates tensions in the context of international relations. Given the nature and historical background of each conflicts, the paper aimed to present a comparative analysis of the conflictual situations before and after the pandemic. Importantly, the absence of a legally-binding and internationally established 'global health law' presented social injustice. Unraveling the marital connection of health with all the other aspects of human activities globally (i.e economic, migration and political dimensions). As evidently depicted from the US case laws.

The pandemic aids in fostering peace and negotiation in locations at war, domestically or internationally. Armed conflicts is always seen as an obstacle in accessing these areas for humanitarian, medical mission, social welfare operation, food and relief distribution. The armed conflicts posts safety threats and risk for the individuls involved in the humanitarian efforts. However, early on COVID-19 outbreak, the belligerents in armed conflicts were persuaded to halt the war, though temporarily, to give way for necessary medical and relief operations, and on humanitarian grounds.

Domestically, Ide's study showed that 4 out of 9 countries with ongoing armed conflicts, "the number of armed conflict events declined after the onset of COVID-19 crisis. These declines are mostly related to strategic decisions and less favourable opportunity structures for armed groups, such as logistical difficulties and attempts to increase popular support⁶⁷Abating domestic armed conflict situations brings back the question to the government whether they have provided effective institution, address social issues and enough welfare for their citizens, to convince them into coming to terms with the state and halt rebellion or insurgency.

The same effect is observed in the international sphere. Though the pandemic partly restored peace negotiations and eased diplomatic and international tensions, it had also created unpleasant

⁶⁷ *Supra*, footnote 44

relationship between the parties involved, mainly government officials and ministers. However, the Qatar diplomatic crisis can be viewed as an exemplary model that when political disparities are set aside, health and safety of the people is of paramount, it becomes a driving force to the course of actions of the leaders to policy and decision-making resolution, respect mutual interest achieving peace and harmony.

3.1. Global Health Initiatives of Developed Countries

The prevalent problem of achieving the objectives of public health is resource allocation. National governments face dilemma in appropriating limited public funds specially in developing countries when its traditional view as an expenditure in achieving the social right to health is exercised. Recognition for international cooperation is fostered under the provisions of the WHO Constitution “for the purpose of co-operation among themselves and with others to promote and protect the health of all peoples” (WHO Constitution preamble, 1946); UDHR Article 22 “everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance ewith the organization and resources of each State...”. Article 24(4) of the Convention on the Rights of the Child “made it explicit with respect to the right to health, anticipates that developed states will assist developing states in securing effective enjoyment of the right to health”.⁶⁸

3.2. Global Health and Foreign Policy

Global health spans beyond national frontiers. Given the understanding that the availability and access to a healthcare system for a a better health condition is a shared responsibility of everyone for the global population. Incorporating health, as one of the main agenda of foreign policy, plays an active role in the promotion of, not only achieving the objectives of global health security, but also fostering stronger international relations which then transcends into peace, economic prosperity, equitable and social justice for the global population. Acknowledging the enormous scope and factors of advanced globalisation of our time.

⁶⁸ *Supra*, Tobin (2012), footnote 31, pp 69-74

Global health is underrated from the priority list in political agenda between state governments specially as part of foreign policies. Which is the reason why an abrupt emergence of a pandemic *per se* COVID-19, state governments are all unprepared to implement efficient and effective measures in their sovereign in response to the outbreak, much more when applied to cross-border pandemic. The UN 17 Sustainable Development Goal published in 2015, number 3 pertains “Good Health” and “Well-being” with official wording “To ensure healthy lives and promote well-being for all at all ages”⁶⁹ can be considered a collective global health initiatives. Nevertheless, its five year extent in the pipeline tested its targets, indicators and progress with the onset of the pandemic. As an assessment, now is the right time to revamp and adjustments to incorporate the necessary objective measures and actions emancipated by the pandemic. The early stage of COVID-19 occurrence evidently showed that all nations doesn’t know how to respond instantaneously and effectively. There seemed to be an oversight and giving lesser importance to align their national policies and action plans that include global health or even public health as one of the top priorities. Leading to what we are experiencing right now, the deadly and catastrophic consequences of the COVID-19 pandemic. Several lives lost would have been saved; downturn of world economy would have been mitigated early; inter-state international relations and cooperation to curb the pandemic would have been strengthened from the very beginning. Should global health is one of the primary concern of foreign policies and in international relations decades earlier, the negative outcome of the current COVID-19 pandemic could have been to a lesser extent, “controlled”. This will be further elaborated in the succeeding paragraphs and viewed according to geopolitical division.

The *International Sanitary Conference 1851* on the prevention of the spread of cholera, plague and yellow fever set a prime example of global health diplomacy where each country’s delegates was represented with a medical doctor and a diplomat. Assembled and concluded at the French Ministry of Foreign Affairs. The *Oslo Ministerial Group* had also revolutionized the link of health and foreign policy by setting it as a top priority. Jonas Gahr Støre, Norway’s Minister of Foreign Affairs and the country, is highly commended in mobilising health agenda in their foreign policy.⁷⁰ Quoting his statement in a global health diplomacy forum at Harvard, “the interdependence created by health perhaps is one of the most striking features of globalisation... many decision makers... act as if paying for health is more of an expediture than an investment... We need to build a far

⁶⁹ Wikipedia, footnote 1, United Nations (2015), Resolution adopted by the General Assembly on 25 September 2015, [Transforming our world: 2030 Agenda for Sustainable Development](#), last accessed 10 May 2021

⁷⁰ Sandberg, et. Al (2011), [Health as foreign policy](#), Tidsskr Nor Legeforen 2011 131:1784, 20 September 2011

greater awareness of the interconnectedness of health concerns and other areas of politics including that of my own foreign policy...”.⁷¹ One of the elaborated points on incorporating the notion of health in foreign policy is “in many ways protecting and enhancing the health of its population is the most important goal for any government... the goal of foreign policy is to make domestic policy possible... too many foreign policy decision makers overlook that global conditions outside the boundaries of the nation state have a defining effect on national health and in the worst of cases an affect on national security...”.⁷² Norway’s commitment is evidently seen through its continued allocation of one percent (1%) of its gross national product (GNP), about NOK 40 billion (2022 report) global development aid. A third of which is disbursed to global health funds. Global health, education and environmental issues are the top priorities of Norway’s foreign policy since 2005.⁷³

The WHO, “in a resolution issued in April, 2005, WHO expressed concern about the general inadequacy of global preparedness plan, which was launched in 1999, was updated in 2005. The plan outlines components that countries should include in their national preparedness plans to ensure an effective response. In 2005, WHO published a checklist to facilitate preparedness planning. The aims of such planning were to reduce transmission; decrease the incidence of new cases, hospital admissions, and deaths; maintain essential services; and reduce the socioeconomic consequences of the pandemic.”⁷⁴ From this, WHO foreseen the possibility of an upcoming pandemic.

In Asia-Pacific Region, almost a decade and a half earlier, a research study conducted by Dr. Coker, R. and Mounier-Jack, S. “summarized and assessed documents published by some countries in the region as part of preparedness planning for an outbreak of influenza in people”. Documents from 8 countries and 1 special administrative region of which Australia, Hong Kong (SAR of China) Thailand and Vietnam were on the final nature of the plan; China and New Zealand on drafting stage; whilst no documents were available from Cambodia, Indonesia and Laos. The study stated that “the World Health Organization (WHO) emphasized the importance of the Asia-Pacific region as a potential epicentre of emerging diseases such as severe acute respiratory syndrome (SARS)

⁷¹ Youtube, Harvard Kenny School (2010), Global Health Diplomacy, Institute of Politics at Harvard Kennedy School, 06 December 2010, <https://www.youtube.com/watch?v=05NpL6cG1Cw>, uploaded on 05 April 2021, last viewed 7 December 2022

⁷² *Ibid*

⁷³ Tjønneland, E. (2022), [Norwegian Development Aid: A paradigm Shift in the Making?](#), Forum for Development Studies, 49:3, 373-397, 16 July 2022,

⁷⁴ Coker, R., Mounier-Jack, S. (2006), Pandemic influenza preparedness in the Asia–Pacific region, The Lancet, Volume 368, Issue 9538, 2-8 September 2006, Pages 886-889, ISSN 0140-6736, last accessed 08 May 2021

and avian influenza. 30 new infectious agents have been detected in this region in the past three decades. And since 2003, a total of 49 countries and one special administrative region (Hong Kong) have had outbreaks of the H5N1 subtype of influenza A in birds. More than 80% of the reported deaths from H5N1 have taken place in Southeast Asia.” One of the conclusions of the study affirmed that “overall, the weakness of preparedness plans in the Asia-Pacific region were much the same as those described in Europe. Most plans did not adequately address operational responsibility at the local level; logistical aspects of vaccination and antiviral stockpiling, distribution, and delivery; or the maintenance of services.”⁷⁵

In mainland Europe, preparedness plans have the same loopholes of ineffectiveness. However, the European Commission (EC) in its 2021 working programme acknowledged “the need to strengthen the European Union’s (EU) crisis preparedness and management of cross-border health threats with the current health crisis”. Reinforcing the EU’s framework for detecting and responding to serious cross-border health threats and strengthening the roles of existing agencies and proposed to establish an agency for biomedical advanced research and development. The EU’s pandemic contingency plans challenged its competencies. Cognisant “to improve the effective application and implementation and enforcement of EU law for the proper functioning of the single market, the protection of key supply chains that provide shops with food and health services with medical supplies”. Although the EC promotes rule-based multilateralism, it also considers reformation of the WHO and WTO where it proposes a ‘Joint Communication on strengthening the EU’s contribution and taking the lead thereon.’⁷⁶ Opining on this topic, the EC has to define the scope when it says ‘cross-border health threats’, is it within the EU or does it include third countries in general? In fact, Member States ended up primarily managing the pandemic and its consequences themselves. Therefore, global health policy is by far has a gap within the borders of the EU in global in literal sense.

The United Kingdom is one of the countries leading the pursuit of a comprehensive global health policy. Advancing the importance of promoting global health by associating it with other priorities such as economic growth policy and worldwide ‘poor reduction’. The UK, France and Norway developed an approach in promoting global health with same objectives linked overall to global security, health protection and economic indicators. This commitment are noticed through

⁷⁵ *Supra*

⁷⁶ European Commission (2020), [Commission Work Programme 2021](#), 19 October 2020, last accessed 08 May 2021

revamping their foreign policy which prioritizes global health.⁷⁷ However, this context boils down into the issue of determining priorities of foreign policy agenda played by political drivers. Hence, when “UK Prime Minister Boris Johnson launched a government-wide “integrated review” in late February last year” and did not include global health policy in that review.⁷⁸

In the USA, the government transitioned from one administration to the other, from Donald Trump to Joe Biden in the 2020 US election, can be considered as a damage-repair relationship. Trump’s ‘America First’ policy had no agenda for global health policy as a priority. Focused mainly on economic, trade, military and national security attributable to the deterioration of established international relations with other countries. And amid COVID-19 outbreak announced “on 29 May 2020, that the U.S would halt its funding of the WHO and pull out of the agency, accusing it of protecting China as the coronavirus took off. The move has alarmed health experts, who say the decision will undermine efforts to improve the health of people around the world” (Stat, 2020).⁷⁹ On the other hand, Joe Biden administration’s foreign policy emphasizes repairing the U.S. alliances, which had been damaged under Trump administration.⁸⁰ And stressed “international cooperation to combat the COVID-19 pandemic”.⁸¹

Russia, perceived as another major power counterpart, the “dynamics of its foreign policy is portrayed as assertive and some would say aggressive as it seeks to reclaim the country’s status as a global power” (Donaldson, R. & Nadkarni, V, 2019).⁸² Although it lacks its own coherent global health policy, Russia extends its global health engagement mainly through financial assistance in active partnership with international health organisations and other multilateral channels. “Russia’s overall aid contributions reached to \$500 million annually in the past few years”. These aid contributions are source to fund global health initiatives and in international assistance to developing nations.⁸³

⁷⁷ McKee, Martin (2007), [A UK global health strategy: the next steps](#), BMJ, 21 July 2007, *BMJ (Clinical research ed.)*, 335(7611), 110. last accessed 08 May 2021

⁷⁸ Chalkidou, K., Bricknell, M., Sullivan, R., Gheorghe, A. and Glassman, A (2020), [Why is Global Health Missing from the UK’s Integrated Review?](#), Center for Global Development, 12 March 2020, last accessed 08 May 2021

⁷⁹ Joseph, Andrew and Branswell, Helen (2020), [Trump: U.S. will terminate relationship with the World Health Organization in wake of Covid-19 pandemic](#), Stat, 29 May 2020, last accessed 08 May 2021

⁸⁰ Wikipedia, Phil Stewart, Idrees Ali, Robin Emmott (2021), [In NATO debut, Biden’s Pentagon aims to rebuild trust damaged by Trump](#), Reuters, 15 February 2021

⁸¹ Wikipedia, [Foreign policy of the Joe Biden administration](#), last accessed 08 May 2021

⁸² Donaldson, R., Nadkarni, V. (2019), [The Foreign Policy of Russia: Changing Systems, Enduring Interests](#), Routledge, 2019, part 1

⁸³ Kurt, H. (2012), Russia’s Global Health Engagement, Kennan Institute, 5 November 2012, last accessed 02 May 2021

Major powers and with their capacity, strategic political and geographical locations are viewed to have a transcending influence in developing global health policy. It goes hand-in-hand with geopolitical positions. Given the same importance to economic, trade, security and other prioritized foreign policy objectives, international relations can be a driving tool in enhancing global health through a genuine cooperation between governments. Regardless whether individual domestic healthcare systems and infrastructures are measured as efficient and effective or not. This is another component of cooperation and support through international relations.

CONCLUSION

The idea for this paper was to support the institutionalization of global health law utilizing the international relations mechanisms. The first two years of COVID-19 pandemic opened interim solutions on conflictual situations. It provided opportunities for a stronger cooperation by all institutions and stakeholders, at arms length, on a problem-solution based approach. Given the exigent impact of the pandemic on global health and socioeconomic to the global population. The pandemic situation reaffirmed the scholars and advocates proposition to the development of global health law. That global health policy and health diplomacy using IR mechanisms can proactively initiate preparedness, capacity building and response to global pandemic. Subsequently, mitigate conflictual situations by exploiting the link of health (global health initiatives) to politics (global health governance) and its interconnectedness to other globalisation dimensions (i.e., socioeconomic and security). Thereby, sustaining the promotion of peace, improvement of lives and good health, equitable social justice for everyone.

International state organisations, among others, the WHO still plays a crucial role in developing strategies, mitigating risk measures and pursuing its mandate of achieving better health for all people. It needs realignment and reformation on approaches such as “grasping political dimension of states”. Tapping other actors such as the International Relations scholars and experts “with orchestrating states’ geopolitical and diplomatic relationships”.⁸⁴

Onjectively, GHL is a novel field in international law. Emulating from the two USA-associated case laws as prime examples of a compelling reason to pursue its advancement into the international law system. Both cases were technically dismissed failing to meet the requirements in accordance with the application of ATCA, which is the absence of international health law and customary international law in safeguarding human health and ultimately life.

However, the existence of international law does not always guarantee the achievement of the rule of law between State Governments in the international arena. This is absolutely true when disputes arise between a economically powerful country aganst a developing country. In *Philippines v China*, the arbitral award over the disputed area in the South China Sea was ruled by the Permanent Court of Arbitration (PCA) in favor to the Philippines. However, China rejected the ruling and is

⁸⁴ *Supra*, footnote 20

persistently violating the claims of the Philippines in the dispute. The two countries maintained an ancient long diplomacy and foreign relations. By this simple reason, international relation mechanisms proved to be crucial in achieving the purpose of international law.

Therefore, global health diplomacy with the assistance of legal framework of the UN, through its proper reinforcement can accomplish better “negotiations on population health issues” and by “collective action worldwide”. Getting closer to an ideal global health will positively impact all the other factors of foreign policy thereby promoting peace and security across nations.

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