



Global Judicial Institute
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Environmental Law
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***Addressing the Coronavirus
(COVID-19): A Legal Perspective***

Employing Environmental Laws To Avert the “Next” Pandemic: A Post-COVID-19 AGENDA

Nicholas A. Robinson

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Executive Governor,

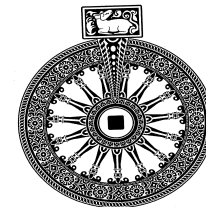
International Council of Environmental Law

Secretariat: Pascual Madoz Institute, Carlos III Universidad, Madrid



International Council of Environmental Law

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“How Do We Prevent the Next Outbreak?”

Nicholas A. Robinson,
Christian Walzer
Scientific American

(25 March 2020)

<https://blogs.scientificamerican.com/observations/how-do-we-prevent-the-next-outbreak/>

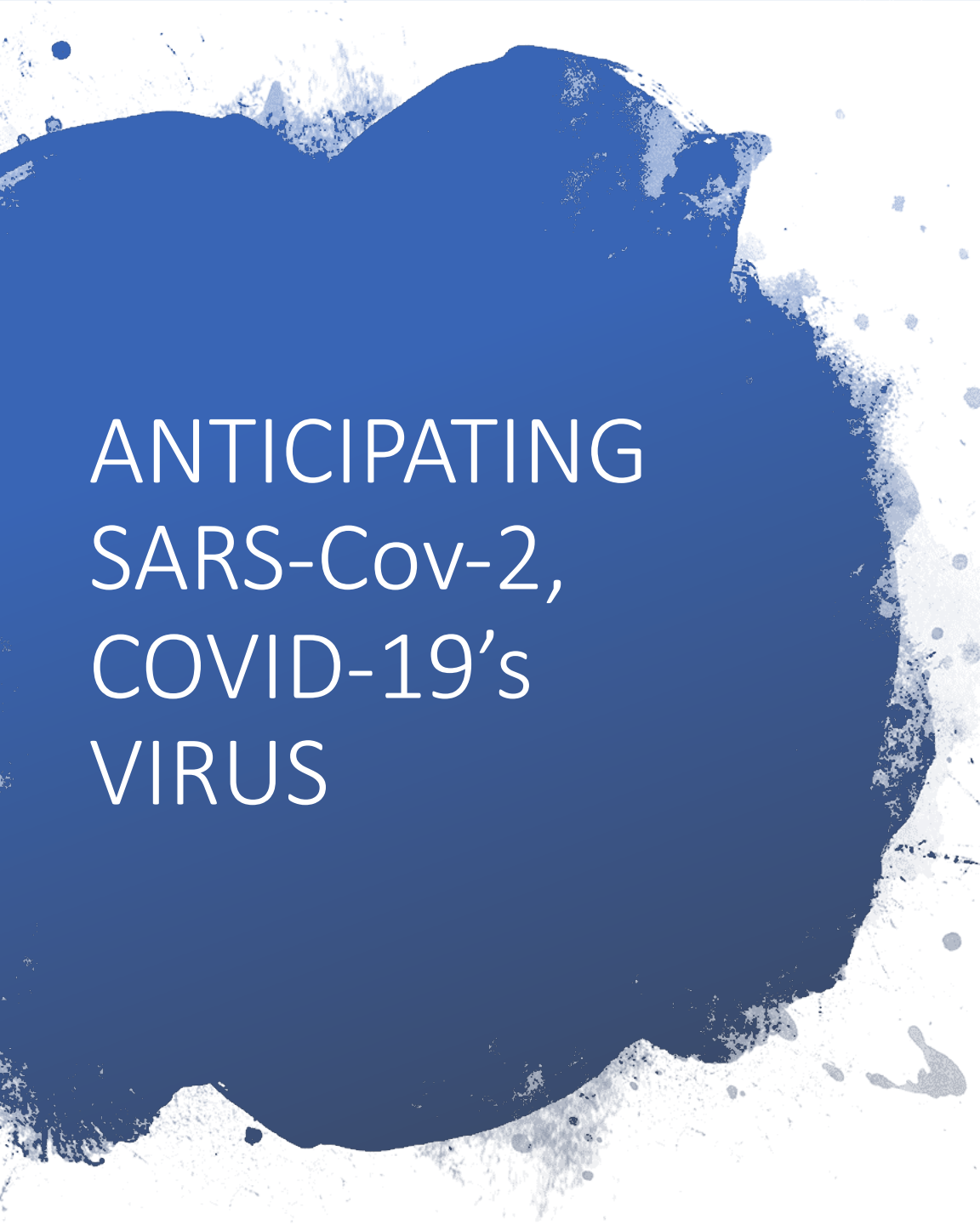
“The health of all life on the planet is connected. The COVID-19 outbreak starkly reminds us of a basic fact that cannot be ignored: Human, animal, plant and environmental health and well-being are all intrinsically connected and profoundly influenced by human activities. Health entails more than the absence of infectious disease; it must incorporate socioeconomic, political, evolutionary and environmental factors while considering individual attributes and behaviors.”

*One Health: AN
ECOSYSTEMS
APPROACH
Holistic
Integration
across Sectors*

{German Foreign Office and
Wildlife Conservation Society}

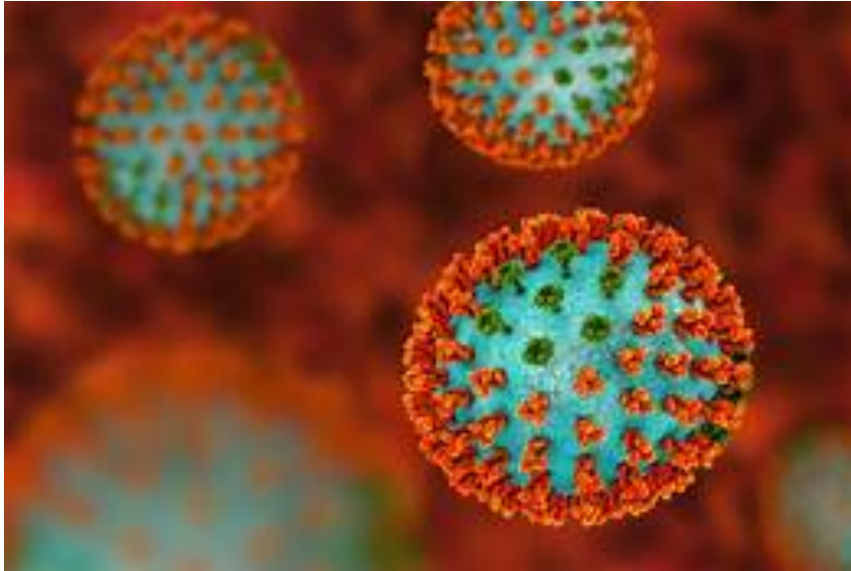
BERLIN PRINCIPLES (OCTOBER 2019):

- “RETAIN THE ESSENTIAL HEALTH LINKS BETWEEN HUMANS, WILDLIFE, DOMESTICATED ANIMALS AND PLANTS, AND ALL NATURE.”
- “Ensure the conservation and protection of biodiversity, which interwoven with intact and functional ecosystems provides the critical foundational infrastructure of life, health and well-being on our planet.”



ANTICIPATING
SARS-CoV-2,
COVID-19's
VIRUS

- Zoonosis well understood (SARS 2003; MERS; EBOLA; AVIAN FLU, HIV/AIDS, H1N1 INFLUENZA)
- WHO'S *WATCH* FOR "VIRUS X" (February 2018)
- DAVID QUAMMEN, SPILOVER – Animal Infections and the Next Human Pandemic (2012)
- "CONTAGION" – Popular film (2011) – Dr. Ian Lipkin (Columbia Univ.)
- MANHATTAN PRINCIPLES (2004 – WCS) – LEARNING FROM SARS



WHY DID LEGAL SYSTEMS FAIL TO HEED THE WARNINGS?

2019 SARS-CoV-2 arrived

Max Bazerman and Michael Watkins,
Predictable Surprises: The Disasters You
Should Have Seen Coming – Leadership
for the Common Good (2004 Harvard
Business School)

THE 1918 H1N1 Flu PANDEMIC WAS “HISTORY” Forgetting More Deaths than in World War I

- 1. **ECOLOGY** IS A “NEW” SCIENCE – SMALL FUNDING FOR STUDIES ABOUT HOST RESERVOIRS FOR VIRUSES IN WILDLIFE (POST WW II)
- 2. **VIROLOGY** IS A “NEW” SCIENCE – 7,000 VIRUSES; 61% OF HUMAN DISEASES ARE ZONOTIC IN ORIGIN AS ARE 75% OF DISEASES DISCOVERED IN THE PAST DECADE (POST 1970s)



GOVERNMENTS: ECOLOGY A LOW PRIORITY - NATURE CONSERVATION ONLY AN AMENITY

- 3. GROWING HUMAN POPULATIONS INCREASINGLY DISRUPT ANIMAL HABITATS, DISLODGING VIRUSES AND BACTERIA TO FIND NEW “HOMES”
- 4. 17TH CENTURY SAILING SHIPS CARRIED BUBONIC PLAGUE SLOWLY TO SELECTED PORTS; AIRPLANES BRING SARS-COV-2 TO EVERYONE INSTANTLY
- 5. GOVERNMENTS LET ZOOZONOSIS “FALL BETWEEN THE CRACKS” – PUBLIC HEALTH MINISTRIES FUNDED; ENVIRONMENTAL AGENCIES IGNORED



PANDEMIC PREPARATIONS WERE IGNORED AND OVERLOOKED SUSTAINABLE DEVELOPMENT

- LEARN FROM OUR COLLECTIVE, WILLFUL “BLINDNESS”

Ed Yong, “THE NEXT PLAGUE IS COMING: IS AMERICA READY?” *ATLANTIC* (October 12, 2019) <https://www.theatlantic.com/magazine/archive/2018/07/when-the-next-plague-hits/561734/>

Preparedness Guides were available: WHO (2009) at

<https://www.who.int/influenza/preparedness/pandemic/en/> and USA (2006), at <https://www.dhs.gov/sites/default/files/publications/cikrpandemicinfluenzaguide.pdf>

- **2019 Pandemic Simulations**, e.g. “EVENT 201,” JOHNS HOPKINS CENTER FOR HEALTH SECURITY, see <https://hub.jhu.edu/2019/11/06/event-201-health-security/>
- EXAMINE THE LINKS TO ZOONOSIS AND TO UN SDG 15 (2015)

SUSTAINABLE DEVELOPMENT GOALS SDG 15 & TARGETS

By 2020, ensure the conservation, restoration and sustainable use of terrestrial and inland freshwater ecosystems and their services, in particular forests, wetlands, mountains and drylands, in line with obligations under international agreements

By 2020, promote implementation of sustainable management of all types of forests, halt deforestation, restore degraded forests and substantially increase afforestation and reforestation globally

Goal 15 - Life on Land =

Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss

ENVIRONMENTAL RULE OF LAW



LEGAL INSTRUMENTS AND TOOLS EXIST TODAY TO ADDRESS FUTURE NOVEL CORONAVIRUS PANDEMICS – *IUCN & UNEP Environmental Law*

POLICIES ALSO EXIST – SDGs and “ONE HEALTH”

➡ FAO, WHO, IoE “Tripartite Guide to Addressing Diseases in Countries” (March 2019)

➡ WCS, GERMANY: *Berlin Principles* (October 2019)

PRINCIPLES OF ENVIRONMENTAL LAW

- UN WORLD CHARTER FOR NATURE: Nature shall be respected and its essential processes shall not be impaired. [UNGA RES. 37/7, 1982]
- CONVENTION ON BIOLOGICAL DIVERSITY: “Conscious ...of the importance of biological diversity for evolution and for maintaining life sustaining systems of the biosphere [and] Affirming that the *conservation of biological diversity is a common concern of humankind*”. [Preamble, 1992, Rio de Janeiro]
- PRECAUTIONARY PRINCIPLE: If a threat of serious damage exists, a lack of full scientific knowledge should not delay containment or remedial steps. [1992, Principle 15, Rio Declaration]

Priority Legal Measures: Give Priority to Zoonosis

- 1 – Biodiversity Law
- 2 – Alignment of SDGs
- 3- Deploy EIA *ROBUSTLY*
- 4 – Fund Nature Conservation
- 5 –Apply Sectoral Environmental
Laws

CONVERT ZONONOSIS POLICIES TO PROGRAMS: CONVENTION ON BIOLOGICAL DIVERSITY

{First Priority Environmental Law Measures}

References:

- William B. Karesh and Pierre Formenty, with Contributing authors: Christopher Allen, Colleen Burge, Marcia Chame dos Santos, Peter Daszak, **“Infectious Diseases”** in Connecting Global Priorities: Biodiversity and Human Health - A State of Knowledge Review (2015, CBD, UNEP, WHO), at
- <https://www.cbd.int/health/SOK-biodiversity-en.pdf>
- Promote holistic ONE HEALTH approaches: **CBD SBSTTA Recommendation, REC/XXI/314** (December 2017), at
- <https://www.cbd.int/doc/recommendations/sbstta-21/sbstta-21-rec-03-en.pdf>

INTEGRATE “One Health” into all International Natural Habitat Conservation Agreements and STRENGTHEN National Implementation

- Ramsar – Expand protected wetlands and secure wetland integrity
- CITES – Expand Listings, suspend trade in non-compliance, and Combat Illegal Wildlife Trade
- Build National Implementation Capacity for Regional treaties: Amazon Agreement; African regional wildlife conventions; Mekong River; etc.
- UNESCO Biosphere Reserves, “GeoParks” & World Heritage Areas
- Fund and Expand National Measures to Combat Desertification
- Expand Range State CMS agreements in Americas and globally
- Establish networks of Transboundary Protected Areas (IUCN, Peace Parks)

Build *One Health* into Regional Habitat Protections to Avert Zoonotic Spillovers

- Expand and rigorously care for urban protected areas, parks and wetlands - follow IUCN Best Practice Guidelines 1-11, for “Urban Protected Areas and People” (IUCN WCPA)
- Build Capacity to implement the African Convention on Conservation of Nature & Natural Resources; ratify ASEAN Convention on Conservation of Nature & Nat’l Resources
- Expand & Enhance EU Protected Areas, Natura 2000, and European Convention on Conservation of European Wildlife and Natural Habitats
- Create Endowment Funds for all categories of IUCN Protected Areas

Covid-19 Pandemic Catalysts

{ A SECOND PRIORITY FOR ENVIRONMENTAL LAW }

- On April 2, 2020, the United Nations General Assembly (working remotely) adopts by consensus **Resolution 74/270** *“Global solidarity to fight the coronavirus disease”*
- The UNGA calls for ***intensified international cooperation*** and Requests the UN Secretary General to lead a coordinated response globally
- United Nations Environment Assembly (UNEA-3) of the United Nations Environment Programme, **Resolution on Environment and Health** (Third session Nairobi, 4-6 December 2017) –
- **ALIGN SYNERGIES AMONG ALL SDGS**



UNEA-3 Resolution on Environment and Health

(UNEP/EA.3/Res 4, 2017)

<https://papersmart.unon.org/resolution/uploads/k1800154.english.pdf>

- *Recognizes* that **biodiversity loss is a health risk multiplier, ...**
- *Recognizes* that **human, animal, plant and ecosystem health are interdependent; Emphasizes** in this regard the value of the “**One Health**” approach, an integrated approach which fosters cooperation between environmental conservation and the human health, animal health, and plant health sectors;
- *Encourages* Member States and invites relevant organizations to **mainstream the conservation and sustainable use of biodiversity to enhance ecosystem resilience, as an important safeguard for current and future health and human well-being...**
- *Requests* the Executive Director of United Nations Environment Programme to include human health factors in its projects on ecosystem valuation and accounting and, **subject to the availability of resources ...**

ONE HEALTH SHOULD BE A PRIORITY IN EVERY ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

{THE THIRD ENVIRONMENTAL LAW PRIORITY}

- Rio Principle 17 – ICJ Finds EIA is customary international law
- CBD SBSTTA'S guidance is useful to enable EIA to identify ways to promote habitat health and avert zoonotic spillovers:
 - (i) Integrated indicators to identify broad health impacts resulting from anthropogenic changes which cause biodiversity loss;
 - (ii) Indicators of ecosystem degradation, disruption and fragmentation and human health outcomes;
 - (iii) Integrated indicators on the links between biodiversity loss, ecosystem disruption and zoonotic and vector-borne disease outbreaks;

FUND ECOLOGICAL HEALTH, AND PUBLIC HEALTH, AT THE LEVELS FOR “SECURITY”

- ZOONOTIC DISEASES ARE A NON-TRADITIONAL SECURITY PRIORITY
- BEFORE COVID-19 PANDEMIC, ZOONOTIC SPILLOVERS WERE COSTLY: SARS in 2003 spread to 29 countries, and cost \$40 billion. Ebola in 2014 cost \$54 billion, and its spread beyond Africa was averted largely because the USA contributed personnel and material worth \$2.34 billion to contain Ebola. COVID 19 already costs untold trillions.
- Budgets must now link biodiversity and ecosystem conservation with public health into a “One Health” national planning and budgets, going beyond levels urged in Aichi Biodiversity Targets 2, 3 and 14. Funding must match budget levels or traditional national defense (e.g. military).

{This fourth Environmental Law priority can no longer be avoided}

BUT: How to Enhance Financial Support During A Second “Great Depression?”

- **Money Does Not Grow On Trees...**
- During acute budget shortfalls, shift funds from traditional security budgets to **fund non-traditional security zoonosis budgets** – Reflect Distributive Justice
- Assign **traditional forces to protect habitats** and police wildlife crime
- Go Beyond a sovereign debt payment “moratorium” for States in Africa, Asia & South America, and, **through a “debt for equity” swap, endow protected habitats & capacity building for SDG 15**
- International Monetary Fund should **issue additional “Special Drawing Rights” (SDRs)** conditioned on States achieving benchmarks toward attaining the Sustainable Development Goals (SDGs) - \$283 billion issued in the 2009 Crisis– **Issue Now \$2 trillion in 2020-2021+**
- Further National Quantitative Easing must **fund One Health priorities**

Align national application of Sectorial Environmental Laws to Advance One Health

{The 5th Environmental Law Priority}

Agricultural, Pollution, and nature conservation laws all have tools to use

- Land Use Laws – avoid fragmentation of habitat
- Enforce rigorously wildlife conservation laws
- Eliminate all animal waste discharges from farms to waterways
- Update and Apply all phytosanitary regimes

Legal References and analysis

- See B. Lausche and Francoise Burhenne, Guidelines for Protected Areas Legislation (2011, IUCN) –
- See Ted Tryzna, et al., Urban Protected Areas (2014, IUCN) and Chapter 9 on “Emerging Infectious Diseases”
- WCPA Protected Area Guidelines

Enhance the Environmental Rule of Law for A Just Society that Values and Conserves Nature



Our Choice: Any default return to “Business as Usual” decreases resilience among human and animal communities, ensuring that both will be plagued by the “next” pandemic – no nation is safe



The “Future We Want”: The global economic collapse allows restructuring governmental and non-governmental programs at all levels, to safeguard ecological links between humans and Earth’s flora and fauna - Environmental Law is the foundation



“The economy is a wholly owned subsidiary of the environment,” not the other way around (David Brower) – Reliance on robust science-based knowledge is essential to guide *all* economic and social decision-making



ONE HEALTH offers the paths to a just society, while mitigating and adapting to Climate Change...*and none of this happens without the rule of law*

Thank You!
FOUR
CONCRETE
TASKS
BUILDING
EARTH'S ONE
HEALTH
REGIME

- 1) REALIGN BUDGETS BEHIND ONE HEALTH PRIORITIES
- 2) STRENGTHEN THE COURTS AND LAWS FOR PUBLIC PARTICIPATION IN ENVIRONMENTAL DECISION-MAKING, AS URGED IN RIO PRINCIPLE 10 (1992)
- 3) ESTABLISH MORATORIA ON ALL INTRUSIONS INTO FORESTS WHILE NEGOTIATING LAWS FOR THEIR CARE
- 4) URGENTLY PROVIDE COMPREHENSIVE EDUCATION ABOUT ONE HEALTH