

## Coronavirus: The Great Disruption

# Covid-19 and the global legal disorder

When the world restarts and the masks are put away, will the global legal order look the same? Should it?

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For The Straits Times

A crisis is a terrible time to make predictions about the future. But it's a great time to rethink dubious assumptions of the past, and address tensions revealed in the present.

Just within my own field of international law, Covid-19 has encouraged all three. Pundits predict the death of globalisation – or its rebirth.

Others assert that they always knew the global public health infrastructure was fundamentally flawed, or that it was the one thing saving us from apocalypse.

And, of course, there are those eagerly seeking someone, somewhere, against whom they might bring a lawsuit.

So it might be helpful to sort some of the wheat from the chaff and map out what we know, what we don't know, and where we might go from here.

### WHAT WE KNOW

One reason for the uncertainty of the current moment is that it's revealing two contradictory things about the global order at the same time.

The first is that we are all connected. Our shared biology, the vectors along which the virus travels, the measures by which we

try to slow that movement or ameliorate its effects – these are broadly the same around the world.

Science is converging on best practices and scientists are cooperating on a scale never seen before. The wider public speak knowingly about “flattening the curve” and driving down the coronavirus' reproductive ratio, or R0, which measures transmissibility.

People who had never heard of the World Health Organisation (WHO) can now pronounce the name of its director-general.

A decades-long campaign against the handshake is finally gaining traction.

Emptied cities, masked individuals, Zoom conversations – that's now our common experience.

To an extent unprecedented in human history, we are one world, having one conversation, about one goal.

But the second thing that has been revealed is that, when push comes to shove, it's every country for itself.

Borders are closed, global supply chains thrown into disarray. Entire industries that depend on the movement of people – airlines, tourism – have collapsed. There is dangerous talk of hoarding medical supplies, or taking them from other countries.

We circle wagons at home, of course, where we do our part by staying put. When nation states practise social distancing, however,

the results are pernicious: the idea of an international community is replaced by an “us” and a “them”.

Nationalism and nativism, already used to stoke political fires, escalate to unapologetic racism and xenophobia.

### WHAT WE DON'T KNOW

Whether unity or division will win out is one of the many things we do not know. More pressing is how long the current crisis will last, and who might lead subsequent efforts to reconstruct the bridges of global order – or burn them.

As we have seen, control of local transmissions can be undermined by imported ones.

Unless there is coordination in global responses, governments will face a choice between re-joining the international community and keeping out the disease.

Unfortunately, global leadership is in short supply and trust in global institutions is at a historic low.

In the past, the United States might have taken centre stage. Its current president seems to want only to be the centre of attention.

US credibility has been eroded over the past three years; now it is probably beyond saving.

China had been on a trajectory to match or replace the US in some areas. Early missteps and habitual concealment of mistakes have left its own trustworthiness in tatters.

International organisations, most prominently the WHO, have come to serve as convenient whipping boys for their weaknesses.

What many do not understand is that they are weak by design: It's in their nature that they cannot push states too hard or defend themselves robustly against political attacks.

As for the rest of the United Nations, the Security Council – the only global governance institution with actual teeth – has been largely silent. A month of negotiations produced a draft resolution weakly urging “enhanced coordination” and a temporary ceasefire in conflict zones.

The General Assembly managed to pass a resolution calling for timely access to a non-existent vaccine – though only because the most powerful member apparently forgot to block it.

The problem facing these institutions of global order is not structural. It's not even a lack of resources. It's a deficit of trust.

That points to another pair of contradictions. Last week, a global survey done for the 75th anniversary of the UN showed overwhelming support for international cooperation to solve global challenges.

Yet poll after poll also shows that huge swathes of the population do not trust public institutions, or the media.

How might that trust be earned? Unfortunately, reasoning is not very effective. Research in cognitive science established this only recently, but advertisers and politicians always knew that emotions and fear work better.

One would like to think, for example, that people stopped shaking hands, practised social distancing, and are now staying home because they believe the science. Yet it's also due to fear of the virus, fear of penalties, and fear of being publicly shamed.

Brexit – remember when that was front page news? – is testament to the powers of populist persuasion in reshaping the institutions of global order.

Whether the current moment will see a comparable or greater reordering is another thing we don't know.

### WHERE WE MIGHT GO FROM HERE

So a crisis is a terrible time to predict the future.

But, at the level of the global legal order, it's also the only time we can bring about serious change. The League of Nations would not have been created without the First World War; the UN was a by-product of the Second.

## Coronavirus: The Great Disruption

How will the world change post-Covid-19?

Already, the pandemic is upending societies and ways of life, sending countries into lockdown, triggering recessions and massive job losses.

To make sense of its impact on economies, business, governance and international relations, leading opinion leaders share their views in *Coronavirus: The Great Disruption*, a special series in *The Straits Times Opinion* section.

It's unlikely that Covid-19 will lead to a new World Health Council with powers to address pandemics, comparable to the Security Council's powers to address war.

Instead of traditional structures, or formal groupings such as the G-7 and the G-20, leadership and inspiration have come from places such as South Korea, Taiwan, and – until recently, at least – Singapore. As the Lowy Institute's Michael Fullilove observed, the future might see more such “coalitions of the competent”.

This touches on one of the few positive aspects of the crisis: Within the space of only a couple of months, a majority of people on the planet changed their behaviour based on the recommendations of scientists. Fear and coercion played a role, yet the fact that change is possible might offer some hope for our ability to deal with other global challenges – notably climate change.

Other aspects will not be so positive.

Global inequality will worsen. For all the concerns about intensive care unit beds in places hit hard by Covid-19, there are countries such as Somalia without a single ventilator. As economies around the world crater, development and humanitarian assistance are among the first things to be cut.

The surveillance state will expand. Taiwan is a success story because it established the gold standard in tracking its population

through their phones. Even in Europe, the debate is shifting from safeguarding privacy to ensuring that such methods are effective.

Whenever security battles liberty, security usually wins. That's true of the past two decades fighting terrorism; it may be a feature of the next two decades fighting pandemics.

Though perhaps the most likely scenario is that when things go back to normal, they will... go back to normal. For a year or two, maybe three, we will be on a heightened state of alert.

Travellers will be screened, governments will create early warning systems, the WHO will get more funding and be held to a higher standard.

And then we will relax, stockpiled supplies will expire, and budgets will shift towards the latest crisis du jour. Handshakes, despite the WHO's best efforts, will return – at least until the next pandemic.

### NEVER WASTE A GOOD CRISIS

It's often said – wrongly – that the Chinese word for “crisis” is composed of two characters 危机 – one meaning “danger” and the other “opportunity”. After John F. Kennedy invoked this in a campaign speech, it became a cliché of motivational speakers.

Though the first character does mean “danger”, the second is more properly understood as referring to a crucial moment or an incipient point.

No one should be treating Covid-19 as an opportunity. As we look ahead to a future beyond it, however, there is no doubt that this is a crucial moment.

So by all means, speculate on what the future holds – make bets on it, if that's your thing.

Just don't put too much stake in confident predictions during a crisis. And if you do bet, maybe don't shake hands on it.

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