

China Responsibility in Case of Covid 19 Pandemic Under International Law

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ABSTRACT

Pandemic COVID-19 was start from Wuhan, China then spread to the rest of the world. Under international law of public health, states have obligations to cooperate in tackling international health emergency. WHO Constitution and IHR confirms those obligations in which state denied its will arise state responsibility. The purpose of this research is to elaborate state obligations under international law to handle COVID-19 and particularly to China. This research use normative legal research method which means to analysis international law norm in practice. The results of this research are, first there are several obligations to state in handle COVID-19 such as to cooperate, to notify WHO and to made domestic regulation. Second, China is not responsible for COVID-19 case because China did not breach any international obligations under international law.

Keywords: *State Responsibility, COVID-19, International Law*

ABSTRAK

Pandemi COVID-19 dimulai dari Wuhan, China kemudian menyebar ke seluruh dunia. Di bawah hukum kesehatan masyarakat internasional, negara memiliki kewajiban untuk bekerja sama dalam menangani darurat kesehatan internasional. Konstitusi WHO dan IHR menegaskan kewajiban-kewajiban di mana negara menyangkalnya akan menimbulkan tanggung jawab negara. Tujuan dari penelitian ini adalah untuk mengelaborasi kewajiban negara menurut hukum internasional untuk menangani COVID-19 dan khususnya terhadap Tiongkok. Penelitian ini menggunakan metode penelitian hukum normatif yang artinya menganalisis norma hukum internasional dalam praktiknya. Hasil penelitian ini adalah, pertama ada beberapa kewajiban negara dalam menangani COVID-19 seperti bekerjasama, memberitahukan WHO dan membuat regulasi dalam negeri. Kedua, China tidak bertanggung jawab atas kasus COVID-19 karena China tidak melanggar kewajiban internasional berdasarkan hukum internasional.

Kata Kunci: *Tanggung Jawab Negara. COVID-19, Hukum Internasional*

Introduction

A new form of coronavirus that assaults human respiratory organs was discovered in Wuhan, China, in December 2019.¹ World Health Organization (WHO) then rename it Corona Virus Disease 19 (COVID-19). After that, the new sort of virus spread all across the world. COVID-19 has affected more than 2 million people in more than 200 countries, according to the most recent statistics on April 19, 2020. Globally, the death rate has risen to more than 160 thousand persons.²

The World Health Organization (WHO) responded to the massive spread of COVID-19 by claiming that it was the result of a natural disaster. Public Health Emergency of International Concern (PHEIC) 30th of January, 2020 As a result, worldwide cooperation is required to overcome COVID-19. The world situation has not improved since the proclamation at the end of January 2020. In dealing with COVID-19, the state's readiness is similarly unequal. As a result, the World Health Organization deemed the situation to be a pandemic.³

The WHO proclamation is a plea to the world community to help overcome the COVID-19 emergency situation by providing political, financial, and technical aid. The WHO director-general is also authorized to offer interim recommendations under the PHEIC. with relation to the overcoming guide pandemic⁴

The WHO's response to the COVID-19 epidemic is guided by the organization's constitution. International Health Regulation (IHR) The two legal

instruments maintain WHO's position as the only international agency with the authority to deal with worldwide health issues, which was established in 2005. The WHO's mission, according to Article 1 of the WHO Constitution, is to attain high standards of health for all people, whereas Article 2 of the IHR indicates that the goal of this regulation is to prevent, protect, monitor, and provide guidance in the event of disease outbreaks around the world.⁵

The state is also obligated under the two instruments to combat the COVID-19 epidemic. According to the IHR, there are at least three different sorts of state duties that must be met in order to combat the epidemic. To begin, states must establish quick and binding commitments. (hard-and-fast). Second, the state's long-term responsibility. (protracted). The type of the last state duty is "contingent".⁶

The first type of obligation is one that binds the state to conduct a series of quick acts in response to the pandemic. This responsibility is outlined in Article 6 of the IHR, which specifies that each country must notify WHO within 24 hours after successfully detecting a virus that poses a worldwide threat. The second form of responsibility is a state requirement that must be carried out over a long period of time. For example, the provisions controlling each country's health-care capacity-building are examples of this type of responsibility. The last form of governmental responsibility is subjective, depending on the state's circumstances. The argument is that each country is required to take

¹ Pedro A. Villarreal Armin von Bogdandy, *INTERNATIONAL LAW ON PANDEMIC RESPONSE: A FIRST STOCKTAKING IN LIGHT OF THE CORONAVIRUS CRISIS* (Hamburg: Max Planck Institute, 2020). P. 1.

² <https://www.worldometers.info/coronavirus/#countries>, n.d.

³ WHO, "WHO Director-General's Opening Remarks at the Media Briefing on

COVID-19 - 11 March 2020," <https://www.who.int/>, 2020.

⁴ B. Sanneder and Jason Rudall (eds), *COVID-19 and International Law* (Opinio Juris Symposium, 2020). P. 1.

⁵ WHO, "International Health Regulation" (2005).

⁶ B. Sanneder and Jason Rudall (eds), *COVID-19 and International Law*.

specific activities in response to pandemics that are outside of WHO recommendations, but only if it complies with the criteria that these actions be notified to WHO and are based on WHO recommendations. scientific justification.⁷

Some international jurists have claimed that in the instance of the COVID-19 epidemic, China may be regarded to have failed to meet its duties under the IHR. China can be held liable based on the argument above and the notion of state accountability in international law.

the first article Draft Articles on Responsibility of States for Internationally Wrongful Acts, 2001, argued that the state's accountability was created as a result of the state's foreign wrongdoings. The element of incorrect action might occur as a result of an tindakan (action) or pembiaran (omission) perpetrated by the government and infringe on the government's obligations.⁸ Furthermore, the draft article governs the release of governmental obligation in the event of force majeure.⁹

Given the foregoing context, it's worth looking into the issue of state accountability in the instance of the COVID-19 pandemic, particularly because China was the first country to report the virus's existence. The issues highlighted in this paper are as follows: First, how is international law used to regulate state liability in the COVID-19 pandemic?? Second, does China, in accordance with international law, bear responsibility for the COVID-19 pandemic?

The goal of this research is to learn more about the state's role in dealing with

pandemic cases in general, and COVID-19 in particular. The second purpose is to acquire answers to China's responsibilities under international law in dealing with the COVID-19 pandemic.

Researchers followed studies on related themes before proposing this as a research topic. Armin von Bogdandy and Pedro A. Villarreal¹⁰, The provisions of international law in dealing with pandemic scenarios in general were detailed in 2020. This article appropriately analyzes international law provisions, particularly International Health Regulation (IHR) in depth and in detail.

However, the relationship between pandemic response and governmental accountability is not addressed in this article. The IHR, on the other hand, asserts unequivocally that the state has a responsibility to combat the pandemic. What happens if the government fails to meet its obligations? Is it possible to hold him accountable? This problem is not addressed in this article. As a result, there is a gap in this article that the researcher can fill up with his or her own research. Pedro A. Villarreal¹¹ Another article, which is less in-depth, outlines the state's responsibility in dealing with COVID-19. The author of this article aims to select some examples of state obligations under the IHR and then describe them through state actions, such as those connected to travel warning. The focus of this study is on state responsibility in general. It doesn't go into detail about China's stance on the COVID-19 epidemic. As a result, the researcher believes that there is a need to talk more about China's role in dealing with the pandemic.

⁷ B. Sannder and Jason Rudall (eds).

⁸ Article 2 "Draft Article on State Responsibility for Internationally Wrong Actions" (2001).

Article 2

⁹ Article 25, Draft Article on State Responsibility for Internationally Wrong Actions.

¹⁰ Armin von Bogdandy, *INTERNATIONAL LAW ON PANDEMIC RESPONSE: A FIRST STOCKTAKING IN LIGHT OF THE CORONAVIRUS CRISIS*.

¹¹ B. Sannder and Jason Rudall (eds), *COVID-19 and International Law*.

Peter Tzeng¹², write a brief comment on the forum European Journal of International Law-Talk. Tzeng mentions the prospect of taking China to the International Court of Justice if it is found to have broken its international responsibilities in his works. If you read this source, you'll notice that the researcher has reservations about the hypothesis he presents. As a result, Tzeng encourages worldwide legal experts to respond to the views he presents in his works. In this essay, we'll look at The author has spoken on the relationship between the management of COVID-19 and China's policy on a few occasions. However, the researcher believes that Tzeng's arguments need to be further developed and critiqued.

Based on the findings of prior investigations, it is clear that there is still room for these studies to be completed. As a result, the goal of this study is to add to the existing research.

This research takes a normative legal approach. The normative juridical approach is carried out by studying secondary data from libraries. The approach to legal principles will be incorrect. one approach to normative legal research.¹³ Because the focus of attention in this study is the norm in international law connected to the handling of the COVID-19 pandemic, a normative juridical method was used. As a result, knowing about a legal rule necessitates a discussion of the principles and notions. This study's specification makes use of descriptive and analytical methods. A normative juridical method was utilized because the focus of attention

in this study is the norm in international law related to the handling of the COVID-19 pandemic. As a result, understanding a legal rule needs an examination of the underlying principles and concepts. The approaches used in this study's specification are descriptive and analytical.¹⁴ In this case, the researcher will examine how international law laws on pandemic handling and state accountability, as well as China's measures in response to the COVID-19 epidemic, are applied.

Discussion

1. State Responsibilities in COVID-19 Pandemic Management

The government's obligation (state responsibility) In international law, is a fundamental premise. As a result of the existence of, this concept exists. principle equality and sovereignty of state international law contains.¹⁵ This principle then empowers a country whose rights have been infringed upon to assert a right in the form of reparation.¹⁶It is known in international law as 2 (two) that is the type of rule:¹⁷

- a. Primary rules is a collection of rules that define a state's rights and obligations, as laid forth in a treaty, customary law, or other legal document; and
- b. Secondary rules is a system of rules that explain how and what the legal repercussions are if something is done in a certain way. primary rules A state's rights have been breached. Secondary rules This is referred to as the state responsibility statute (the law of state responsibility).

When it comes to state

¹² Katja Creutz, *CHINA'S RESPONSIBILITY FOR THE COVID-19 PANDEMIC, FIIA WORKING PAPER* (HELSINKI: FINNISH INSTITUTE OF INTERNATIONAL AFFAIRS, 2020). P. 10-11.

¹³ Roni Hanitjo Soemitro, *Metodologi Penelitian Hukum Dan Jurimetri* (Jakarta: Ghalia Indonesia, 1994). P. 9-10.

¹⁴ Mukti Fajar and Yulianto Achmad,

Dualisme Penelitian Hukum Normatif Dan Empiris (Yogyakarta: Pustaka Pelajar, 2010). P. 183.

¹⁵ Hingorani, *Modern International Law* (Oceana Publications, 1984). P. 241.

¹⁶ Hingorani.

¹⁷ Sefriani, *Hukum Internasional: Suatu Pengantar* (Jakarta: Raja Grafindo Persada, 2016). P. 266.

accountability, the definition is as follows Dictionary of Law is:

*"Obligation of a state to make reparation arising from a failure to comply with a legal obligation under international law".*¹⁸

State responsibility might be regarded in this way as a commitment to carry out reparation. When a country fails to comply with its legal obligations under international law, a conflict arises. In international law, state accountability is based on the concept that no country can enjoy its rights without respecting the rights of others. According to international law, every infringement of another country's rights makes that country liable for all of its actions.

In international law, there are two terms that refer to liability and responsibility. Liability relates to the issue of compensation for another party's loss or the restoration of damage. While the term Responsibility refers to the legal liability for a legal requirement. According to Malcolm N. Shaw, a state obligation has three basic characteristics:¹⁹

- a. The existence of an international legal obligation in force as between two particular states,
- b. There has occurred an act or omission which violates that obligation and which is imputable to the state responsible; and
- c. That loss or damage has resulted from the unlawful act or omission.

According to Shaw, there are three (three) components that a state must meet in order to be held accountable out of the three characters of state responsibility listed above. First, the country must be held accountable under a binding international commitment. Second, there

is an act or omission that results in a country's international duties being violated, resulting in that country's responsibility. Finally, the country's actions and omissions have resulted in damage or loss. As a result, Shaw implies that in order for a state to be held accountable, it must meet the three criteria listed above, and if one of the criteria is not met, the state cannot be held accountable.²⁰

The theory of risk and the theory of error are the two theories that explain when the state's obligation was established. Both views have their own logic and arguments to back them up. Risk theory establishes that a state is solely liable for any harm it does harmful effects of hazardous activities. Despite the fact that the behavior is legal and authorized. As a result of this idea, absolute liability atau strict liability or objective responsibility.²¹ The requirements of Article 2 provide an example of how this approach has been used Liability Convention 1972 according to which launching state is absolutely responsible for paying compensation for losses on the earth's surface or on aircraft in flight where such losses and accidents are caused by their celestial bodies.

In opposition to risk theory, fault theory argues that when the state's acts can be proved to contain elements of error, the state bears accountability.²² If an act is done knowingly in poor faith or with inexcusable negligence, it is said to contain an error. The principle was born from this erroneous theory subjective responsibility or liability based on fault.²³ In general, accountability is important. The state's responsibilities can be classified into two categories:²⁴

¹⁸ Elizabeth A. Martined, *A Dictionary of Law* (New York: Oxford University Press, 2002). P. 477.

¹⁹ Malcolm N. Shaw, *International Law, 6th Edition* (New York: Cambridge University Press, 2008). P. 781.

²⁰ Shaw.

²¹ Shaw.

²² Shaw.

²³ Shaw.

²⁴ Shaw. P. 466.

a. Legal responsibility for wrongdoing (*delictual liability*).

This type of liability might develop as a result of a country's mistake or neglect toward foreigners on its or another country's territory. There are several issues related to this responsibility, such as the launching State's responsibility for losses caused by the satellite landing on the territory of another country, the State's responsibility for any damage caused by nuclear exploration activities, and activities across national borders to which each State is obligated. Every activity, whether public and private, that occurs within its boundaries is regulated and overseen, where these activities have the potential to cross national borders and affect other countries.

b. Liability in the event of a contract violation (*contractual liability*)

Under international law, a state can also be held accountable for treaty violations. This type of liability can be imposed on a country if it breaches an agreement or contract.

Under international law, countries that are responsible for wrongdoing must take action reparation. He is fully responsible for the material and moral losses he has inflicted as a result of his conduct. Article 34 of the Constitution Draft Articles ILC, kind or shape reparation It entails restitution, compensation, and satisfaction.

Remedial restitution is an activity taken to return the situation to how it was before the breach occurred, as long as it is not materially impossible to do so or imposes an undue burden.²⁵ Furthermore, as long as it does not involve items that have been done well

through restitution, it is the responsibility of the state to compensate for losses produced by its activities, which are blamed according to international law.²⁶ Meanwhile, on the subject of the satisfaction, It is carried out, according to the article, as long as restitution or compensation is paid Things aren't going well or aren't meeting expectations. Fulfillment can take the shape of an admission of wrongdoing, an expression of regret, a formal apology, or any other means judged acceptable.²⁷

In the fifth chapter Draft Article ILC 2001 Exemptions for countries that have broken international responsibilities are regulated. These rules do not render the state's international duties null and void, but they do relieve it of its obligations.²⁸ The following are some of the exceptions to state responsibility:

- a. Consensus (Article 20)
- b. Self-protection (Article 21)
- c. Contingency plans (Article 22)
- d. Event of Force Majeure (Article 23)
- e. Anxiety (Article 24)
- f. Requirement (Article 25)
- g. Fulfill Erga Omnes responsibilities (Article 26)

The international community has required that global health challenges be addressed World Health Organization (WHO) as a responsibility-bearing international organization.²⁹ This is because, in the face of pandemics, governments can no longer isolate themselves and must instead collaborate to promote the best possible health for all people.³⁰ On July 22, 1946, the World Health Organization (WHO) was established to achieve this goal. This agreement is based on the terms of Article 80 of the WHO Constitution entry into

²⁵ Artivel 35, "Draft Article ILC 2001" (n.d.).

²⁶ Artivel 36, Draft Article ILC 2001.

²⁷ Artivel 36, Draft Article ILC 2001.

²⁸ Artivel 37, Draft Article ILC 2001.

²⁹ David P. Findler, "The Future of the World Health Organization: What Role for

International Law?," *Vanderbilt Journal of Transnational Law* 31, no. 5 (1998): 1086.

³⁰ Obijiofor Aginam, "From Isolationism to Mutual Vulnerability and Back: International Law and Unfair Distribution of Global Disease Burdens" (ASIL Proceedings: Global Public Health Issues, 2001), 64.

force the 7th of April, 1948 As a result, WHO member nations are bound by the provisions of the WHO Constitution.

The WHO Constitution, on the other hand, makes no mention of the state's duty in the event of a breach of the state's commitments established by the constitution. Article 75 of the WHO Constitution only states that if a dispute arises over the interpretation and application of the WHO Constitution, it would be resolved through direct dialogue or negotiations. WHO Health Assembly (WHA). If the matter is not settled successfully, it may be taken to court referral If the contesting parties agree not to seek alternative dispute resolution mechanisms, they can go to the International Court of Justice. WHO also has the authority to make requests *Opinio juris* the International Court of Justice.³¹

The WHO's function is regulated by Article 2 of the WHO Constitution, which supports worldwide collaboration to combat sickness in general. endemic, epidemic as well as others WHO has been given the ability to propose the creation of international health conventions, agreements, laws, and recommendations in order to accomplish this.³²

The WHO constitution empowers the WHA to establish quarantine requirements and procedures in order to avoid pandemic disease spread. As a result, create International Health Regulation (IHR) in the year 2005 The International Human Rights Act (IHRA) went into effect. (entry into force) on June 15, 2007 IHR strives to establish a balance between public health management and the influence on international travel and trade, as well as human rights, in addition to public health issues.³³

The scope and objective of this regulation, according to Article 2 of the IHR, is to prevent, monitor, and provide management connected to pandemic illness outbreaks in order to protect public health risks and avoid needless restrictions on international transportation and trade. Respect for honor and human rights, the United Nations Charter, the WHO Constitution, and international law are the guiding principles in achieving the goals of this regulation. The state has the sole authority to implement health policies that comply with the IHR.³⁴

In the event of a global health epidemic or Public Health Emergency of International Concerns (PHEIC), Direktur Jenderal (Dirjen) WHO is in charge of determining the status. The Director General of the World Health Organization declares a situation to be in the PHEIC category based on the following criteria³⁵:

- a. Data from the nations that took part
- b. Complies with Annex 2 instruments
- c. The Emergency Committee's advice
- d. Scientific evidence and pertinent data
- e. The outcome of the risk assessment for human health and disease spread

When a situation is classified as PHEIC, WHO will issue temporary recommendations to member nations on how to deal with it.³⁶ The difficulty in making recommendations stems from the fact that WHO should consider topics other than health, such as human rights and trade. where there is an overall drop in GDP of up to 13%.³⁷ Furthermore, WHO's ability to monitor the PHEIC situation is hampered by transitory PHEIC recommendations that lack legal authority.³⁸ Countries can make rules that

³¹ Article 76, Draft Article ILC 2001.

³² See Article 2 letters (g) and (k), "WHO Constitution" (n.d.).

³³ Lauren Tonti, "The International Health Regulations: The Past and the Present, But What Future?," *Harvard International Law Journal, Perspectives*, 2020. P. 1.

³⁴ WHO, International Health Regulation. Article 3.

³⁵ WHO. Article 2 (4).

³⁶ WHO. Article 15.

³⁷ OECD, *COVID-19 and International Trade: Issues and Actions* (OECD, 2020). P. 2.

³⁸ Armin von Bogdandy,

differ from WHO recommendations in principle, as long as they are founded on scientific evidence and do not contradict the WHO Constitution and IHR.

Article 6 of the IHR requires member nations to notify WHO within 24 hours of a PHEIC crisis occurring in their territory through the national organization designated for the IHR's implementation. In general, however, if a country fails to or is late in notifying WHO of a situation, there are no fines under the IHR. As a result, the state's good intentions in carrying out the principles of IHR is a requirement for overcoming health issues in collaboration public.³⁹ IHR Only regulates that if a dispute arises over the execution and interpretation of the IHR's contents, it can be addressed by dialogue, goodwill, mediation, conciliation, arbitration, and other international legal dispute resolution venues.⁴⁰

After receiving information from China and input from the emergency committee, the COVID-19 Pandemic scenario was placed in the PHEIC category on January 30, 2020, according to the Director General of WHO. With PHEIC classification, WHO issued a number of guidelines for dealing with the COVID-19 pandemic to share data, early detection, surveillance, tracking, and prevention of virus dissemination, isolation, and case management among all member countries.⁴¹

There are various state obligations in dealing with the COVID-19 pandemic

based on the WHO Constitution and IHR, including:

- a. Work together internationally to combat the pandemic.
- b. Send a notification to WHO via the designated national institution within 24 hours.
- c. Developing national regulations for dealing with pandemic scenarios that are consistent with WHO recommendations and do not contravene the WHO Constitution or IHR.

2. China's Role in Combatting the COVID-19 Pandemic

On December 27, 2019, Integrated Hospital will open its doors Chinese and Western Medicine, A rare case of Pneumonia was recorded in Hubei Province, China. Wuhan Jiangnan Center for Disease Prevention and Control (Wuhan CDC). After a series of extensive exams by experts on the patient, the Wuhan City Government found that the patient was suffering from Pneumonia with an unknown origin.⁴²

Wuhan City Health Commission (WCHC) As of December 31, 2019, there were 27 cases with the same diagnosis. National Health Commission (NHC) Then, in response to the circumstances in Wuhan, a working group and experts were formed. The WCHC has issued temporary advice advising people to avoid closed public venues with little ventilation and to use masks. The number of new patients at WCHC is updated on a

INTERNATIONAL LAW ON PANDEMIC RESPONSE: A FIRST STOCKTAKING IN LIGHT OF THE CORONAVIRUS CRISIS.

³⁹ Pedro Villarreal, "https://voelkerrechtsblog.org/the-2019-2020-Novel-Coronavirus-Outbreak-and-the-Importance-of-Good-Faith-for-International-Law/," <https://voelkerrechtsblog.org/>, 2020, <https://voelkerrechtsblog.org/the-2019-2020-novel-coronavirus-outbreak-and-the-importance-of-good-faith-for-international-law/>.

⁴⁰ WHO, International Health Regulation. Article 56.

⁴¹ Pedro A. Villarreal, "The 2019-2020 Novel Coronavirus Outbreak and the Importance of Good Faith for International Law," [https://voelkerrechtsblog.org/2020, https://voelkerrechtsblog.org/the-2019-2020-novel-coronavirus-outbreak-and-the-importance-of-good-faith-for-international-law/](https://voelkerrechtsblog.org/2020/https://voelkerrechtsblog.org/the-2019-2020-novel-coronavirus-outbreak-and-the-importance-of-good-faith-for-international-law/).

⁴² The State Council Information Office of the People's Republic of China, "Fighting Covid-19: China in Action," [https://www.mfa.gov.cn/ce/ce/fj/eng/tpwx_1/t1786560.htm](https://www.mfa.gov.cn/2020,https://www.mfa.gov.cn/ce/ce/fj/eng/tpwx_1/t1786560.htm).

regular basis.⁴³

Three days later, the number of patients with comparable symptoms has risen to 44. Laboratory tests were carried out by the NHC, China's CDC, and three other agencies to determine who was responsible pathogen. NHC dan Hubei Health Commission (HHC) issued nine case management recommendations documents, encompassing diagnostic and treatment methods for pneumonia patients with unclear etiology. China will begin submitting updated information to WHO, relevant countries, and regional international organizations on January 3, 2020.⁴⁴

According to WHO data, they received information from Chinese media on December 31, 2019, of a cluster of pneumonia cases in Wuhan, Hubei Province, China. WHO was created the next day Incident Management Support Team (IMST) To assist in the resolution of the crisis, a team was formed that included a head office, regional offices, and domestic offices. The case was revealed to the public on January 4 via social media by WHO, who stated that there was a cluster case of pneumonia with an unclear cause but no mortality.⁴⁵

China verified its first death from the new virus in Wuhan on January 11, 2020. The next day, China identified a new type of corona as the source of the pneumonia and named it with nCoV 2019. After returning from Wuhan, WHO confirmed the appearance of a patient with the identical diagnosis in Thailand two days later. This is the first evidence of the virus spreading outside of China. Following that, reports from Australia, Singapore, and South Korea confirmed the presence of patients with the same

symptoms. The WHO mission in China confirmed human-to-human transmission of the virus on January 22.⁴⁶

COVID-19's dissemination widened and the number of patients grew in the months that followed. As a result, the WHO director general established a WHO Emergency Committee to discuss the situation. The WHO Director General determined this status to be PHEIC on January 30, 2020. WHO promotes international cooperation to solve the situation, citing the 2005 IHR. China has taken precautions to restrict the virus's spread on its own soil in order to keep it under control.⁴⁷

The trip of the Covid -19 timeline resulted in a statement blaming China for being slow to respond and take preventative measures to stop the spread of COVID-19. On January 3, 2020, China notified to WHO on suspicion of the onset of Pneumonia for no apparent reason in Wuhan, according to the sequence of events. Despite the fact that data from the Chinese government revealed that on December 27, 2020, they received patients with unknown causes.

Participating nations are required to notify WHO through domestic focal points within 24 hours of conditions regarded to be an international health emergency under the terms of Article 6 (1) of the IHR. Case maps, test results, illness origins and dangers, the number of victims, and other details are included in the report.⁴⁸ When you look at the timeline, there is a 7-day gap between the first reported case in Wuhan and the information submitted by China to WHO. On the surface, it appears that China has disobeyed the terms of Article 6(1) of the IHR, or has broken its international

⁴³ The State Council Information Office of the People's Republic of China.

⁴⁴ The State Council Information Office of the People's Republic of China.

⁴⁵ WHO, "This Statement Is No Longer Maintained. An Updated Version Was Published on 29 June 2020," <https://www.who.int/>, 2020,

<https://www.who.int/news/item/27-04-2020-who-timeline---covid-19>.

⁴⁶ WHO.

⁴⁷ WHO, International Health Regulation. Article 6 (2).

⁴⁸ WHO.

commitments.⁴⁹

When the requirements of Article 6 (1) of the IHR are examined more closely, there are sentence redactions that need to be clarified, namely: "...within 24 hours of assessment of public health information, of all events which may constitute a public health emergency of international concern within its territory in accordance with the decision instrument..." The duty to transmit information to WHO within 24 hours is reserved for situations that have the potential to result in an international public health emergency, according to the article. According to Article 1 of the IHR, an emergency situation has two elements: first, the risk of spreading to neighboring nations and worldwide, and second, the need for international emergency response coordination.

According to China's COVID-19 timeline, a circumstance or case of viral pneumonia was reported in Wuhan on December 27, 2019. The exact source of the disease, as well as the likelihood of human-to-human transmission, are unknown. WHO, as a global health body, learned of instances in Wuhan, China, from local media without receiving any notification from Chinese authorities. The Chinese government only made a formal notification to the WHO and other countries on January 3rd. Because from the 31st of December to the 3rd of January, China alerted WHO and other countries There is a risk of human-to-human transmission when the number of afflicted rises from 23 to 44 people with the same symptoms and unexplained causes.

China took more than 24 hours to notify WHO because it was conducting an in-depth investigation into the reasons of the illnesses in Wuhan. It wasn't until January 12, 2020 that it was determined that the cause was a new sort of corona

virus with the potential to transmit from person to person. On the one hand, China's activities can be seen as harming other countries in the region.⁵⁰

China's delay in notifying the IHR 2005 does not breach the stipulations of Article 1 jo. Article 6 (1) IHR 2005. The argument is that the cases that happened in Wuhan from December 27, 2019 to January 2, 2020 could not be classified as a worldwide health emergency that could spread the virus to other nations. neighboring countries, therefore international cooperation is required. The virus's propagation outside of China was finally discovered on January 14, 2020, when a patient arrived in Thailand after traveling from Wuhan, China.

Article 1 International misbehavior creates state liability, according to Article 2 of the 2001 Draft Article. Violations of international duties are one of the factors that contribute to such misbehavior. A state is judged to have broken its international duties if it fails to fulfill its commitments stemming from international treaties, customary international law, and general legal principles, according to Article 12 of the 2001 Draft Article.

China has not violated its responsibilities under Article 6 (1) of the IHR in relation to the 2001 Draft Article on state accountability. The elements have not been met due to China's delay in reporting the events in Wuhan to the WHO. As a result, China does not accept international accountability.

Conclusion

The following conclusions can be taken from the foregoing discussion: **First**, the WHO Constitution and the 2005 IHR regulate the state's role in dealing with the COVID-19 pandemic. In an international health emergency, such as

⁴⁹ B. Sannder and Jason Rudall (eds), *COVID-19 and International Law*.

⁵⁰ Lucas Bergkamp, "State Liability for

Failure to Control the COVID-19 Epidemic: International and Dutch Law," *European Journal of Risk Regulation* 11, no. 2 (2020): 5.

the COVID-19 pandemic, both international legal instruments impose an obligation to carry out international cooperation in the form of sharing information and notifying WHO within 24 hours of the case being detected; develop national regulations in conformity with WHO recommendations for handling pandemic circumstances that do not conflict with the WHO Constitution or IHR. Despite the fact that they regulate state duties, the two agreements do not specify how a state would be held accountable if it fails to meet its international obligations.. **Second**, according to Article 6 (1) jo. Article 1 IHR, China has not broken its international commitments. Despite China's seven-day delay in notifying WHO, it has not met the requirements set forth in the article. Because China has not violated its international obligations as regulated in Article 6(1) jo. Article 1 of the IHR, it can be concluded that China bears no responsibility in the case of the COVID-19. The following are some suggestions: **First**, the international community, particularly states, should draft an international instrument (international agreement) with binding and coercive power on how to take preventative measures and deal with the occurrence of a condition with a wide-ranging negative impact. In various aspects of the global community's life, such as the Covid-19 pandemic. **Second**, by enhancing the binding power of WHO's legal instruments, WHO's position as an international institution with the ability to handle public health issues will be strengthened.

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