

The COVID-19 Pandemic, Geopolitics, and International Law

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Abstract

Balance-of-power politics have shaped how countries, especially the United States and China, have responded to the COVID-19 pandemic. The manner in which geopolitics have influenced responses to this outbreak is unprecedented, and the impact has also been felt in the field of international law. This article surveys how geopolitical calculations appeared in global health from the mid-nineteenth century through the end of the Cold War and why such calculations did not, during this period, fundamentally change international health cooperation or the international law used to address health issues. The astonishing changes in global health and international law on health that unfolded during the post-Cold War era happened in a context not characterized by geopolitical machinations. However, the COVID-19 pandemic emerged after the balance of power had returned to international relations, and rival great powers have turned this pandemic into a battleground in their competition for power and influence.

Keywords

balance of power – China – coronavirus – COVID-19 – geopolitics – global health – International Health Regulations – international law – pandemic – United States – World Health Organization

1 Introduction

A striking feature of the COVID-19 pandemic is how balance-of-power politics have influenced responses to this outbreak.¹ The rivalry between the United States and China has intensified because of the pandemic. As history records, great-power competition shapes international relations and international law, including in the context of health cooperation. In the post-Cold War period, global health activities were transformed, in part, because balance-of-power politics did not dictate world affairs. However, the COVID-19 pandemic reveals that the balance of power has returned and is adversely affecting global health. The pandemic has generated international political and legal controversies that will not end when the its curve is flattened and bent down. COVID-19 has stirred up a host of global health issues that states and international organizations will struggle to address under the darkening shadow of the balance of power.

2 Geopolitics, Global Health, and International Law before COVID-19

‘Geopolitics’ is not synonymous with ‘politics.’ International health cooperation always deals with politics because countries have different interests on health issues for many reasons. Geopolitics refers to a specific type of politics – how the distribution of power among states in the international system, including changes in the balance of power, affects state behavior.

Geopolitical considerations have appeared in global health from the mid-nineteenth century, when cooperation on infectious diseases began, through the last decade of the Cold War. During this period, state calculations about the balance of power did not often dwell on health problems. Even those moments when rival states viewed health issues through the balance-of-power lens did not produce fundamental change in international cooperation on health. Some of the most astonishing developments in the history of global health happened after the Cold War when, for over twenty years, balance-of-power politics did not characterize international relations.

2.1 *Before World War II*

The negotiation of treaties on infectious diseases in the latter half of the nineteenth century experienced problems between ‘contagionists’ and ‘miasmists.’

1 ‘Is China Winning? The Geopolitical Consequences of COVID-19’ *The Economist* (18–24 April 2020) 7.

Contagionists believed that diseases, such as cholera, spread among humans, which, they argued, made quarantine effective in preventing international commerce from spreading diseases. This pro-quarantine perspective was attractive to countries worried about Britain's commercial interests and imperial power. Miasmists countered that diseases arose from local sources, such as bad air, which meant quarantine harmed trade without benefiting health. The British, irritated with the costs that quarantine imposed on their trade, were miasmists. Scientific progress proved the contagionists right on disease communicability and the miasmists correct that quarantine was not an effective response to communicable diseases. This triumph of 'germ theory' facilitated adoption of international sanitary conventions starting in the 1890s and establishment of international health organizations in the first decade of the twentieth century.²

The influenza pandemic of 1918–19 began during a war triggered by balance-of-power machinations and ended as nations constructed a new world order. Despite the devastation it caused, the pandemic did not influence geopolitics after the Great War. Indeed, in 1926, when revising the main international sanitary convention, states did not expand it to cover influenza.³ Instead, in 1925, countries addressed the military use of pathogens by banning the first use of biological weapons in warfare.⁴

2.2 *The Cold War*

During the Cold War, geopolitical competition between the United States and the Soviet Union shaped creation of the World Health Organization (WHO) because WHO's mission exposed the superpowers' divergent 'philosophical and ideological perspectives about the determinants of health and disease.'⁵ The U.S.-Soviet rivalry also occasionally elevated health issues in the competition for influence in the developing world. The campaign to eradicate smallpox began in the 1960s and stimulated such competition. Soviet willingness to produce vaccine supplies for WHO prompted the United States to increase

2 See, e.g., Norman Howard-Jones, *The Scientific Background of the International Sanitary Conferences 1851–1938* (WHO 1975); Neville M Goodman, *International Health Organizations and Their Work* (2nd edn, Churchill Livingstone 1971).

3 International Sanitary Convention (adopted 21 June 1926, entered into force 28 March 1928) 2 Bevens 545.

4 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (adopted 17 June 1925, entered into force 8 February 1928) 44 LNTS 65.

5 Kelley Lee, *The World Health Organization* (Routledge 2008) 14.

its involvement.⁶ WHO's interest in universal access to primary health care in the 1970s agitated the rivalry over an initiative targeting the developing world. The Soviet Union backed the effort, hosting the conference in 1978 that adopted the Declaration of Alma-Ata.⁷ The United States opposed the initiative and its grounding in the right to health.⁸ HIV/AIDS emerged in the early 1980s, and the United States and the Soviet Union viewed this plague's spread in Africa through the lens of balance-of-power politics.⁹

However, the U.S.-Soviet rivalry never left a deep geopolitical imprint on international cooperation or law on health. Balance-of-power maneuvers did not sidetrack the smallpox eradication campaign. Eradication by the late 1970s allowed WHO to remove smallpox from the list of diseases covered by the International Health Regulations (IHR) – the main international agreement on infectious diseases that replaced the pre-1945 international sanitary conventions.¹⁰ However, this accomplishment had no geopolitical importance because the Cold War turned more dangerous just as the smallpox eradication campaign succeeded.¹¹ The United States and the Soviet Union supported banning the development of biological weapons in 1972, but, with the United States renouncing use of such weapons in the late 1960s, the Biological Weapons Convention did not ameliorate U.S.-Soviet competition.¹²

6 Bob H Reinhardt, *The End of a Global Pox: America and the Eradication of Smallpox* (University of North Carolina Press 2015).

7 Declaration of Alma-Ata, International Conference on Primary Health Care, Alma-Ata, USSR, 6–12 September 1978.

8 Opposition to the Declaration of Alma-Ata informed the U.S. government's withholding of funding from WHO during much of the 1980s. See Karen Kruse Thomas, 'The Other Time a U.S. President Withheld WHO Funds' (*Johns Hopkins Bloomberg School of Public Health*, 21 April 2020) <www.jhsph.edu/covid-19/articles/the-other-time-a-us-president-withhel-who-funds.html>.

9 Director of Central Intelligence, *Sub-Saharan Africa: Implications of the AIDS Pandemic*, Special National Intelligence Estimate 70/1–87 (2 June 1987); Douglas Selvage and Christopher Nehring, 'Operation "Denver": KGB and Stasi Disinformation regarding AIDS' (*Wilson Center*, 22 July 2019) <www.wilsoncenter.org/blog-post/operation-denver-kgb-and-stasi-disinformation-regarding-aids>.

10 International Sanitary Regulations (adopted 25 May 1951, entered into force 1 October 1952) 175 UNTS 215; International Health Regulations (adopted 25 July 1969, entered into force 1 January 1971) 764 UNTS 3. For historical background on the IHR, see Adam Kamradt-Scott, *Managing Global Health Security: The World Health Organization and Disease Outbreak Control* (Palgrave Macmillan 2015), 102–108.

11 The last natural case of smallpox occurred in 1977, and WHO declared smallpox eradicated in 1980. U.S.-Soviet relations entered a new phase of hostility after the Soviets invaded Afghanistan in 1979.

12 Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (adopted 10 April 1972, entered into force 26 March 1975) 1015 UNTS 163.

Superpower calculations over primary health care and HIV/AIDS faded in the 1980s because the Cold War deepened, thawed, and then disappeared when the Berlin wall fell in 1989. This change in the structure of power in the international system meant that universal access to primary health care lost geopolitical relevance. In the 1980s, the spread of HIV/AIDS caught WHO unprepared, revealed that the IHR was irrelevant to the emergence of new diseases, and provoked advocacy that international human rights law should guide strategy against the pandemic.¹³ By decade's end, the United States emerged as the only great power, transforming the context in which the IHR and the fight against HIV/AIDS would proceed.

This sketch of health and geopolitics through the end of the Cold War aligns with arguments that, during this period, health rarely entered the 'high politics' of international relations where states prioritize the military, security, economic, and ideological implications of the distribution of power in the international system.¹⁴ Changes in the distribution of power took away the geopolitical relevance some health issues had gained, as happened with universal access to primary health care and HIV/AIDS during the 1980s.

Instead, health predominantly featured in the 'low politics' of world affairs where states engage in technical and functional cooperation rather than compete for power and influence. Success with such cooperation drained health issues of geopolitical import, as seen with germ theory in the nineteenth century and smallpox eradication in the 1960s and 1970s. However, scientific, medical, and public health cooperation did not keep the IHR up-to-date or encourage WHO to develop new treaties. When HIV/AIDS appeared, the IHR only applied to cholera, plague, and yellow fever – the diseases the first international sanitary conference addressed in 1851. Instead, action on universal access to primary health care and HIV/AIDS turned to human rights law, a turn consistent with health operating in the low politics of international relations.

2.3 *After the Cold War*

With the Cold War over, political space opened in global health for new interests, ideas, strategies, initiatives, and players. The United States, other countries, and WHO began to frame infectious diseases, including HIV/AIDS, as a national and international security threat – an attempt to connect health with a new kind of high politics for international relations. After the pandemic of

13 Elizabeth Fee and Manon Parry, 'Jonathan Mann, HIV/AIDS, and Human Rights' (2008) 29 *Journal of Public Health Policy* 54.

14 On 'high' and 'low' politics in global health, see Ronald Labonté and Michelle L Gagnon, 'Framing Health and Foreign Policy: Lessons for Global Health Diplomacy' (2010) 6 *Global Health* 14; and Jeremy Youde, 'High Politics, Low Politics, and Global Health' (2016) 1 *Journal of Global Security Studies* 157.

severe acute respiratory syndrome (SARS) in 2003, WHO member states revised the IHR in 2005 (IHR (2005)) to achieve 'global health security' by broadening the scope of the regulations, expanding the obligations of states parties, and granting WHO unprecedented authority *vis-à-vis* sovereign states to deal with disease events.¹⁵

The H1N1 influenza pandemic in 2009 posed the first test for this new approach. The WHO director-general exercised for the first time the new authority in the IHR (2005) to declare a public health emergency of international concern. Although post-pandemic analysis identified problems,¹⁶ the IHR (2005) performed better than past international law. The H1N1 pandemic triggered controversies, including over equitable access to vaccines,¹⁷ but nothing during the pandemic suggested that balance-of-power politics had returned.

The next crisis, an Ebola outbreak in West Africa in 2014, was a disaster.¹⁸ WHO failed to act on information it received from non-governmental sources, as the IHR (2005) authorizes it to do.¹⁹ The WHO director-general did not declare a public health emergency of international concern until the outbreak was raging. Countries imposed travel restrictions that flouted WHO recommendations and the IHR (2005). The outbreak revealed that national implementation of the IHR (2005) was inadequate. By 2014, tensions between the United States, China, and Russia indicated that the distribution of power was shifting from American hegemony.²⁰ However, this perceived shift played no role in the Ebola debacle in West Africa because this outbreak was geopolitically insignificant.

Similarly, controversy generated by an Ebola outbreak that began in the Democratic Republic of the Congo in 2018 had nothing to do with balance-of-power considerations.²¹ WHO provided impressive scientific, medical, and

15 International Health Regulations (2005) (adopted 23 May 2005, entered into force 15 June 2007) 2509 UNTS 79.

16 Harvey V Fineberg, 'Pandemic Preparedness and Response—Lessons from the H1N1 Influenza of 2009' (2014) 370 *New England Journal of Medicine* 1335.

17 World Health Organization, *Report of the WHO Pandemic Influenza A(H1N1) Vaccine Deployment Initiative* (WHO 2012).

18 Suerie Moon et al, 'Will Ebola Change the Game? Ten Essential Reforms before the Next Pandemic—The Report of the Harvard-LSHTM Independent Panel on the Global Response to Ebola' (2015) 386 *The Lancet* 2204.

19 World Health Organization, *Report of the Ebola Interim Assessment Panel* (2015) 12, [22].

20 Walter Russell Mead, 'The Return of Geopolitics: The Revenge of the Revisionist Powers' *Foreign Affairs* (May/June 2014).

21 David P Fidler, 'To Declare or Not to Declare: The Controversy over Declaring a Public Health Emergency of International Concern for the Ebola Outbreak in the Democratic Republic of the Congo' (2019) 14 *Asian Journal of WTO & International Health Law and Policy* 287.

public health assistance that helped bring the outbreak to the verge of elimination in 2020. However, this outbreak revealed that WHO officials and other health leaders had grown skeptical about the benefits of declaring a public health emergency of international concern and had little confidence in the IHR (2005)'s rules on trade and travel measures. The response suggested that WHO had soured on groundbreaking features of the IHR (2005) and preferred the scientific, technical, and functional cooperation that had dominated the organization's activities since its establishment in 1948.

The post-Cold War story of HIV/AIDS records astonishing efforts facilitated by the absence of geopolitics. The pandemic grew worse in the 1990s, and, after antiretroviral treatments appeared in the mid-1990s, human-rights advocacy for universal access clashed with attempts to protect intellectual property rights under international trade law. However, massive funding from high-income countries, particularly the United States,²² turned the tide by making antiretrovirals more accessible in low-income countries. This outcome was achieved without initiatives – such as the Global Fund to Fight AIDS, Tuberculosis, and Malaria – being grounded in international law.²³ Sufficient progress was made that health leaders asserted that an AIDS-free generation is within reach.²⁴

Global health benefitted from the absence of balance-of-power politics in the post-Cold era and U.S. willingness to catalyze unprecedented developments, including funding increases for HIV/AIDS, the adoption of the IHR (2005), and the emergency response for the Ebola outbreak in West Africa. However, concerns increased during the 2010s that the distribution of power in the international system was, indeed, changing because Chinese and Russian efforts to challenge the United States gained momentum.²⁵ This change suggested that U.S. commitment to global health was not paying strategic dividends for the United States in its increasing competition with China and Russia. The shifting geopolitical terrain raised questions about how the re-emergence of the balance of power might affect global health and U.S. leadership in this area.

22 U.S. Department of Health and Human Services, President's Emergency Plan for AIDS Relief (PEPFAR) (*hiv.gov*, 28 November 2018) <www.hiv.gov/federal-response/pepfar-global-aids/pepfar>.

23 The Global Fund to Fight AIDS, Tuberculosis, and Malaria was organized as a non-profit entity under Swiss law. The Global Fund <www.theglobalfund.org/en/> accessed 26 May 2020.

24 UNAIDS, *On the Fast Track to an AIDS-Free Generation* (2016) <www.unaids.org/sites/default/files/media_asset/GlobalPlan2016_en.pdf> accessed 26 May 2020.

25 Elbridge A Colby and A Wess Mitchell, 'The Age of Great-Power Competition' *Foreign Affairs* (January/February 2020).

3 A Pandemic amidst Geopolitics: COVID-19, Global Health, and International Law

The COVID-19 pandemic provided the first opportunity to answer those questions. From the start, the United States and China approached the pandemic as an event with geopolitical importance. When the novel coronavirus appeared in Wuhan in late 2019, balance-of-power politics had returned to the international system, with the Sino-American military, political, and economic rivalry as the centerpiece. The willingness of President Donald J. Trump to challenge China's power and influence heated up the rivalry even more. As news of a dangerous disease event in China filtered out, U.S. commentary framed the outbreak in geopolitical terms by blaming China's leaders and political system for the tragedy and identifying ways that the United States could exploit China's travails.²⁶

The outbreak's geopolitical portents were clear for China too. Its rise as a great power and its global ambitions are grounded in a version of sovereignty intolerant of domestic dissent and foreign criticism.²⁷ For the Chinese government, the implications of the outbreak were so serious that its response had to embody China's perspective on its sovereignty, global stature, and international leadership. China's official narratives about the outbreak and the government's response reflected China's political requirements and geopolitical calculations.²⁸

These patterns continued when the tables turned and the United States began to struggle with COVID-19 after China brought its outbreak under control. U.S. leaders, politicians, and pundits blamed China for the illness and death that the United States and other countries around the world suffered.²⁹ Critics of the U.S. response to the pandemic complained that the Trump administration

26 Walter Russell Mead, 'China is the Real Sick Man of Asia' *Wall Street Journal* (3 February 2020) <www.wsj.com/articles/china-is-the-real-sick-man-of-asia-11580773677>; Ana Swanson and Alan Rappoport, 'Wilbur Ross Says Coronavirus Could Bring Jobs Back to the U.S.' *New York Times* (30 January 2020) <www.nytimes.com/2020/01/30/business/economy/wilbur-ross-coronavirus-jobs.html>.

27 On China's perspective on sovereignty, see Maria Adele Carrai, *Sovereignty in China: A Genealogy of a Concept since 1840* (Cambridge University Press 2019), especially Chapter 6's analysis of Chinese views on sovereignty since the end of the Cold War.

28 Gayle Tzemach Lemmon, 'China's Coronavirus Diplomacy is Rewriting the Narrative, as Trump and Europe Watch,' *NBC News* (11 April 2020) <www.nbcnews.com/think/opinion/china-s-coronavirus-diplomacy-makes-trump-europe-look-bad-even-ncna183776>.

29 Yaron Steinbach, 'Lawmakers Introduce Bill that Would Let Americans Sue China over "Wuhan Virus"' *New York Post* (17 April 2020) <nypost.com/2020/04/17/lawmakers-introduce-bill-allowing-americans-to-sue-china-over-coronavirus/>.

was ceding global leadership to Beijing.³⁰ China maneuvered to make the pandemic a launching pad for expanding its global influence and seizing the mantle of the world's leading power.³¹

The geopolitics of the pandemic have created problems for international health cooperation. The manner in which WHO appeared to defer to China's political calculations raised questions and criticism. The Japanese deputy prime minister complained that WHO had become the 'Chinese Health Organization.'³² Backed by China hawks, President Trump halted U.S. funding for WHO in order to conduct a review because, the president argued, WHO had been too 'China-centric.'³³ This review produced a demand from President Trump that WHO commit to changes or the United States might permanently freeze funding and leave the organization.³⁴ In response, China condemned WHO's critics and pledged to increase its support for the organization and the global fight against the pandemic.³⁵

International law has not escaped the balance-of-power politics affecting the pandemic. Accusations that WHO coddled China connected to provisions in the IHR (2005) that give the organization and its director-general the authority to challenge governments in the interest of global health. The IHR (2005) also informed claims that China violated international law by not reporting its outbreak to WHO in a timely manner or providing WHO with additional information as the outbreak developed. President Trump's decision to halt U.S. funding included his position that WHO 'fought' the travel restrictions

30 Steven Erlanger, 'Another Virus Victim: The U.S. as a Global Leader in a Time of Crisis' *New York Times* (20 March 2020) <www.nytimes.com/2020/03/20/world/europe/trump-lead-ership-coronavirus-united-states.html>.

31 Brian Wong, 'China's Mask Diplomacy' *The Diplomat* (25 March 2020) <thediplomat.com/2020/03/chinas-mask-diplomacy/>.

32 Emma Colton, 'Japanese Deputy Prime Minister Says WHO Should be Renamed Chinese Health Organization' *Washington Examiner* (2 April 2020) <www.washingtonexaminer.com/news/japanese-deputy-prime-minister-says-who-should-be-renamed-china-health-organization>.

33 Michael D Shear and Donald G McNeil Jr, 'Criticized for Pandemic Response, Trump Tries Shifting Blame to the W.H.O.' *New York Times* (14 April 2020) <www.nytimes.com/2020/04/14/us/politics/coronavirus-trump-who-funding.html>.

34 Letter from President Trump to the WHO Director-General (18 May 2020) <twitter.com/realDonaldTrump/status/1262577580718395393>.

35 Huileng Tan, 'China Defends the WHO after Trump—and Others—Say It is Deferring to Beijing' *CNBC* (13 April 2020) <www.cnn.com/2020/04/13/china-defends-the-who-after-trump-critics-say-it-defers-to-beijing.html>; and Valérie Niquet, 'Decoding Xi Jinping's Speech at the World Health Assembly,' *The Diplomat* (19 May 2020) <thediplomat.com/2020/05/decoding-xi-jinpings-speech-at-the-world-health-assembly/>.

that he imposed on China.³⁶ Media reports about information the U.S. government gathered on the outbreak in China in late 2019 and early 2020 raised questions about whether the United States shared this information with WHO as the IHR (2005) both permits and requires.³⁷

Claims that China violated the IHR (2005) produced assertions that, under the international law of state responsibility, this internationally wrongful act obligated China to compensate other countries for the damage the pandemic caused.³⁸ Resort to the law on state responsibility is an unusual response to an outbreak, but, rather than presenting a credible legal case, this approach provided another way for China critics to use international law to highlight the danger they believe a rising China creates for the world.

Geopolitical dynamics appear in other areas of international law that the pandemic affected. The perceived success of China's response created human rights worries that measures China used, such as pervasive surveillance for disease control purposes, will spread because of China's influence and its efforts to promote its version of sovereignty.³⁹ Russia's disinformation campaign on COVID-19 continued its strategy to sow distraction, discord, and division in U.S. politics in order to weaken American power and influence.⁴⁰ This strategy's use during a pandemic reinforces concerns that neither international law nor non-binding cyber norms provide a basis for countering disinformation as a form of political coercion.⁴¹

As of this writing, the COVID-19 pandemic is not over, but what has happened is unprecedented in the history of global health. Rival great powers have turned an infectious disease outbreak into a battleground in their competition for power and influence. The United States and China both doubled down on their geopolitical calculations even as the outbreak devastated their respective

36 Shear and McNeil (n 33).

37 Eric Lipton et al, 'He Could Have Seen What Was Coming: Behind Trump's Failure on the Virus' *New York Times* (11 April 2020) <www.nytimes.com/2020/04/11/us/politics/coronavirus-trump-response.html>.

38 James Kraska, 'China is Legally Responsible for COVID-19 Damages and Claims Could be In the Trillions' (*War on the Rocks*, 23 March 2020) <warontherocks.com/2020/03/china-is-legally-responsible-for-covid-19-damage-and-claims-could-be-in-the-trillions/>.

39 Liza Lin and Timothy W Martin, 'How Coronavirus is Eroding Privacy' *Wall Street Journal* (15 April 2020) <www.wsj.com/articles/coronavirus-paves-way-for-new-age-of-digital-surveillance-11586963028>.

40 Jennifer Rankin, 'Russian Media "Spreading COVID-19 Disinformation"' *The Guardian* (London, 18 March 2020) <www.theguardian.com/world/2020/mar/18/russian-media-spreading-covid-19-disinformation>.

41 Gary Corn, 'Coronavirus Disinformation and the Need for States to Shore Up International Law' (*Lawfare*, 2 April 2020) <www.lawfareblog.com/coronavirus-disinformation-and-need-states-shore-international-law>.

economies and developed into one of the most dangerous pandemics in a century.

WHO has become a pawn in this balance-of-power struggle. The freeze on U.S. funding jeopardizes WHO's ability to contribute to the fight against the pandemic. Any funding from China to plug the gap will anger the Trump administration. The threat of a permanent end of U.S. funding and U.S. withdrawal from WHO threatens the organization's future in a manner and on a scale that no previous controversy involving WHO approached. Renewal of U.S. funding now comes with demands for reform that other WHO member states, including China, might oppose, creating a crisis over the organization's future.

The geopolitical maelstrom over the COVID-19 pandemic also adversely affects international legal regimes that are important to global health, especially the IHR (2005) and international human rights law. Interest in reviewing and potentially revising the IHR (2005) was building before COVID-19 emerged.⁴² How WHO can prevent balance-of-power politics from dominating negotiations on the IHR (2005) is not clear, and the geopolitical impact on negotiations could produce a weaker set of rules.⁴³

For international human rights law, the COVID-19 pandemic hit as concerns were mounting about the spread of authoritarian practices that resemble China's version of sovereignty more than the International Bill of Rights.⁴⁴ With China and Russia rising and democracies in disarray, authoritarian leaders around the world have exploited the pandemic to increase their powers.⁴⁵ These worrying moves have been bolstered by a new human-rights headache – increased global interest in integrating information technologies, including mobile telephones, into public health strategies, such as disease surveillance, contact tracing, and enforcement of social distancing.⁴⁶ As human-rights

42 Lawrence O Gostin and Rebecca Katz, 'The International Health Regulations: The Governance Framework for Global Health Security' (2016) 94 *Milbank Quarterly* 264.

43 The functioning of the IHR (2005) is a topic of the evaluation of the pandemic that the World Health Assembly authorized in May 2020. See World Health Assembly, *COVID-19 Response*, WHA73.1, 19 May 2020, 7.

44 Lindsay Maizland, 'Is China Undermining Human Rights at the United Nations?' (*Council on Foreign Relations*, 9 July 2019) <www.cfr.org/in-brief/china-undermining-human-rights-united-nations>.

45 Kenneth Roth, 'How Authoritarians Are Exploiting the COVID-19 Crisis to Grab Power' (*Human Rights Watch*, 3 April 2020) <www.hrw.org/news/2020/04/03/how-authoritarians-are-exploiting-covid-19-crisis-grab-power>.

46 Amnesty International, 'COVID-19, Surveillance and the Threat to Your Rights' (3 April 2020) <www.amnesty.org/en/latest/news/2020/04/covid-19-surveillance-threat-to-your-rights/> accessed 26 May 2020. See also World Health Assembly (n 43), 4 (urging member

advocates confront these developments, the return of balance-of-power politics creates a difficult, if not hostile, context in which to operate.

4 Conclusion

In the past, when geopolitical calculations gave health issues heightened importance, the phenomenon proved temporary and did not transform international health cooperation or the international law that states used to address health problems. This pattern could repeat itself with the COVID-19 pandemic. Scientific, medical, and public health efforts might make sufficient progress that neither COVID-19 nor WHO has sustained relevance for the balance of power. Alternatively, some new crisis might re-focus the great powers so that the COVID-19 pandemic and WHO no longer have geopolitical importance.

Eventually global health will return to its traditional place underneath *realpolitik*. However, the convergence of a deadly pandemic and the return of dangerous balance-of-power politics might so damage WHO, international health cooperation, and the international law used for health purposes that the global health enterprise might be but a shadow of its former grandeur.

states to pay attention to privacy, protection of personal data, and legal and ethical issues in leveraging digital technologies against the COVID-19 pandemic).