

Italy's response to COVID-19 and the need for International Cooperation ¹

La respuesta italiana frente al COVID-19 y la necesidad de la cooperación internacional

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On the World Health Day

Dedicated to all people who are striving against COVID-19

Abstract: The article proposes a first approximation to the international cooperation response against the novel coronavirus disease 2019 (COVID-19) pandemic. In particular, the paper aims to analyze the two fundamental strategies against the virus, with a focus on the Italian reaction and its consequences on European cooperation. The pandemic has accelerated some conflicts and claimed deeper international cooperation on health and the attempt to create a "community of shared health" for mankind.

Keywords: Italy, China, COVID-19, cooperation, Europe.

Resumen: El artículo propone una primera aproximación a la respuesta de la cooperación internacional contra la pandemia de coronavirus (COVID-19). En particular, el trabajo tiene como objetivo analizar las dos estrategias fundamentales contra el virus, centrándose en la reacción italiana y sus consecuencias en la cooperación europea. La pandemia ha acelerado algunos conflictos y ha reclamado una cooperación internacional más profunda en materia de salud y el intento de crear una "comunidad de salud compartida" para la humanidad.

Palabras clave: Italia, China, COVID-19, cooperación, Europa.

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1. Introduction²

The COVID pandemic constitutes a new scourge affecting the whole world. It challenges practically all the principles and fundamentals of the present society, at national and international levels. Its connections with the development model based on the wild exploitation of resources, destroying natural habitats and therefore contributing to the creation and spreading of new lethal viruses, are self-evident. As a result, some Western intellectuals, like Slavoj Žižek (2020), consider that “it represents the death of capitalism” and that it shows that “we need a catastrophe in order to reconsider the very fundamentals of the society where we live”.

One aspect of the inadequacy of such fundamentals unveiled by the coronavirus epidemics is the extreme frailty of national health systems and the insufficiency of international cooperation in this vital field.

As acknowledged and proposed by the Chinese government, this situation calls for a reinforcement of the World Health Organization and, more generally, of international cooperation in order to safeguard human health.

Therefore, the coronavirus epidemics could mark, notwithstanding its catastrophic effects on human life and the economy, the beginning of a new phase characterized by a stricter coordination of efforts and attitudes taken by the different States.

Moreover, the disastrous epidemics requires all States to review deeply their approaches in four strategic fields:

Environmental protection and natural resources management, given the fact that, as scientific research is ascertaining, there is a direct link between the birth and spread of new viruses and the destruction of natural habitats worldwide. There are, furthermore, immediate connections between the spread of such diseases and other environmental damage factors, such as air pollution and climate change³.

Health protection and social State, since it is very clear that only States with strong public health services will be able to cope effectively with the scourge. Additionally, the undeniable fact that national and international health conditions amount to public good has to be taken into consideration, in the sense that it cannot be granted only to certain sectors and classes of the population instead of others, given the diffusive nature of epidemics. This means that the poorest and least protected parts of population will be struck more severely than others, but that the epidemics will affect also the more protected ones. Such reasoning applies also at an international level and gives rise to serious concern, since in many parts of the world national health systems are practically nonexistent or very weak.

Coordination of the efforts to be undertaken at the international level, because of the

² This short article is aimed at initiating a discussion on the legal aspects of international cooperation in connection with COVID 19. Our intention is to give raise to a network of institutions working on these problems in different parts of the world.

³ See *Sustainable development must account for pandemic risk*, at <https://www.pnas.org/content/117/8/3888>.

spreading speed of the infection and of its capacity to penetrate national borders and to circulate from a country to another. Such a coordination has not been achieved until now and every country seems to go on its own autonomous path without taking into consideration the lessons to be learned from the experiences from other countries. This also happens within regional unions which are apparently closely integrated, like European Union.

d) Redistribution of wealth worldwide, in order to make the poorest States and the most marginal sectors of the population in every State, likely to be affected by the pandemic and its economic effects on their very possibility of survival, more resilient. In this direction, measures to be considered include the “universal basic wage” proposed by Pope Francisco⁴ and the suspension of payments of external debt envisaged in some way by G20 and the IMF themselves⁵.

Another aspect to be stressed is that, unfortunately, the COVID will not be the last episode. We have already witnessed previous epidemics, like SARS and Ebola, and we probably will have to face the diffusion of other, maybe even more threatening, ones. It is therefore imperative to stay prepared at national and international levels.

The pandemic also represents a major event conditioning international balance and the distribution of power among the different Powers. Such field of research, although extremely interesting, will remain outside our focus. This choice is not only of a disciplinary nature but derives also from the need – we want to emphasize – to promote, extend and organize, at every level, international cooperation to cope with the disease.

Hence, after having described the major characteristic of the disease and of the pandemic, this essay aims at, first, comparing the responses adopted by Italy, China and other States, and then focusing on the international cooperation put in place in order to cope with the scourge and on the need to reinforce the international organizations acting in the field of health protection, primarily the WHO.

In this regard, we cannot but share the stance taken by IAI's (Italian International Affairs Institute) Director, Nathalie Tocci:

The current crisis reveals the inadequacy of the current order, but rather than indicating a bright future of nationalism and unilateralism, it points to the need for more global coordination and cooperation. The international order is not inadequate because of an excess of norms, rules, laws and institutions, but because these are too few and weak. The onus is now on multilateral platforms and institutions to prove their worth, not only in containing and ultimately defeating the virus and sustaining the global economy, but also by learning the positive long-term lessons from this crisis, beginning with the quest for sustainable development⁶.

⁴ See <https://cruxnow.com/vatican/2020/04/pandemic-is-time-to-consider-universal-basic-wage-pope-says/>

⁵ See <https://www.aljazeera.com/aiimpact/coronavirus-g20-suspends-debt-payments-poorest-countries-200415150124523.html>.

⁶ *IAI Notes*, 02/2020.

clear, in particular, if there is only one strain or more strains and also where exactly the pandemic originated.

It is worth mentioning that, in September 2019, a report issued by the Global Preparedness Board set up by World Health Organization and World Bank warned about the risk of a pandemic of this type, affirming that “there is a very real threat of a rapidly moving, highly lethal pandemic of a respiratory pathogen killing 50 to 80 million people and wiping out nearly 5% of the world’s economy”¹¹.

This means that the UN agency in charge of health protection and one of the most important international financial institutions had identified the main COVID characteristics four months before its outbreak and issued a strong warning, which apparently wasn’t taken seriously by the States and the other international organizations.

Several aspects of the COVID disease remain still unknown. Its origins and initial point of outbreak, in particular, are still to some extent quite obscure. It seems clear, however, that, like other viruses, the COVID was transmitted to humans by some other species (zoonosis) and that passage was facilitated by the reduction of biodiversity, the destruction of natural habitats and the overall impairment of ecological balance. It has been claimed as well that the virus may have derived from a bat and that the passage would have taken place in China.

Such circumstances are obviously extremely difficult to verify. However, it seems that the prevailing thesis is that the virus originated from an animal species and was subsequently transmitted to humans. This is, by the way, the usual path followed by viruses. Following an article published in 2015, “recent metagenomics studies have identified sequences of closely related SARS-like viruses circulating in Chinese bat populations that may pose a future threat”¹². But this could also apply to other species and other habitats. At any rate, the issue of the origin of the virus remains open and needs to be scientifically investigated and analyzed in depth, which requires in turn complete transparency of the information and results from the research as well as cooperation among States.

3. The pandemic’s spread and the two main strategic responses

The world is shocked and overwhelmed by how fast the pandemic has spread. “While authorities stumble about figuring out what to do, the scale of impact can suddenly engage in escape velocity. As 2019-nCoV itself demonstrated moving from a single food market to the world stage in a month, the numbers can ramp up so far and fast that an epidemiologist’s best effort, their *raison d’être*, is dealt a lethal blow by facts on the ground” (Wallace, 2020).

The first country victim to the pandemic has been China, with other, less affected, countries in East Asia (South Korea, Japan). Subsequently, the central point of the outbreak

¹¹ <https://www.rte.ie/news/coronavirus/2020/0321/1124579-should-we-have-been-caught-off-guard-by-covid-19/>.

¹² “SARS-like cluster of circulating bat coronavirus pose threat for human emergence”, in <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4797993/>.

moved to Italy and other European countries. Nowadays, the country with the heaviest number of casualties seems to be the US with more and more infected people every day.

China's example in containing the virus through strong limitations to the mobility and activities of the citizens now represents the most important success story, since the pandemic seems to be halted and life seems to have returned to normality, even in the first outbreak point of the pandemic, the Chinese province of Hubei.

A big variety of measures concerning the containment of the pandemic and the support of the economy and citizens' income have been adopted. At least two approaches have been identified with respect to the strategies adopted against COVID propagation (Ni, 2020). Strategy 1 refers to the implementation of highly restrictive measures, called the "SARS strategy"; while strategy 2 provides for a milder containment, through the regulation of activities outside the home, called the "pandemic flu strategy".

Strategy 1 provides for the fulfillment of the "Five Anticipations", namely "anticipation in detection, anticipation in notification, anticipation in investigation, anticipation in isolation and anticipation in treatment", as well as a rigorous management of the sources of infection and a gradual blockage of transmission.

As Dr. Ni Daxin explained very well, "early identification" refers to increasing the sensitivity of medical personnel to detect suspicious cases as soon as possible and to make rapid diagnoses. In this way, the most important source of infection, which is the patients themselves, can be controlled in a timely and effective manner. "Early notification" (a further "anticipation" compared to the WHO-China joint report) is that suspected and confirmed cases must be reported to the health department or to the Chinese Center for Disease Control and Prevention (CDC) within a specified period of time to begin investigation as soon as possible. "Early diagnosis" means that, after receiving reports of suspected and confirmed cases and positive examination results, the Department of Public Health and the CDC should promptly send epidemiological investigators to conduct in-depth and detailed investigations of the patient's previous exposure and his/her close contacts in order to find the origin of the patient's infection. Through this method, they try to identify each patient's transmission chain to achieve a comprehensive management of all potentially infected people associated with this patient. "Early Isolation" requires that all confirmed cases be treated in isolation, that all suspected cases be quarantined in a single room, and that all close contacts be observed in a single room as well. By "early isolation" of confirmed and suspected cases, it will be possible to prevent new patients from transmitting the virus to healthy people. The early quarantine of close contacts will not only help with the early detection of new cases, including atypical mild cases, but it will also allow for a control of latent infection and covert infection. By isolating suspicious patients and close contacts in a single room, cross infection between people in quarantine can be effectively prevented. "Early Treatment" focuses on using symptomatic treatment, supportive treatment, antiviral treatment, Chinese medicine, and other treatments to prevent the progression of mild cases into severe cases, save severe cases, and reduce mortality. Early treatment also serves to eliminate patients as a source of infection (Ni, 2020). Through the "Five Anticipations" principle, Chinese response to the

spread of COVID was very effective and concreted a strong and comprehensive approach, working as a pattern to defeat the virus globally¹³.

The hard approach was applied by China, and then followed by Korea, Thailand, Singapore and other Asian countries. This strategy expects the need for a total blockage of social and economic activities, together with the treatment and prevention of the disease at any stage of infection, mild or serious, even as a preventive measure. The complete halt of economic activities, transport and freedom of movement was monitored via computerized systems, through facial recognition and a control of social media by the authorities. The preventive hospitalization of the infected through hospitals built *ad hoc* required a drastic short-term economic effort, with a view to an improvement in the medium term with a simultaneous recovery of social and economic activities. The presence of a highly developed public health system in these countries and state wealth planning probably made a choice in this sense possible. In addition, these are states (and provinces, with reference to China) with a high population density, in which a collective contagion with milder measures would have been uncontrollable.

The soft approach, conversely, was chosen by United States, Japan, Italy, France and Switzerland. This strategy involves prioritizing medical-health intervention based on the severity of the symptoms. What is preferred in this case is to adopt hospitalization only for the seriously ill or for those suffering from other previous pathologies, reserving home health treatment for milder forms. This approach considers COVID, as shown by WHO data, as a "pandemic flu", therefore, it accepts the inevitability of numerous infections, considering the low percentage of serious cases. This choice derives from the double insufficiency of the national systems regarding (a) public health capacity, which would not allow the treatment of all cases, even mild ones, including the administration of tampons; and (b) economic capacity: the highly privatized economic system, not having solid state financial support, cannot stop suddenly and completely, but requires the necessary activity of some sectors of the private economy.

The hard strategy has made it possible to block the spread of the virus in a clear way, by totally stopping any form of contact between people, with an all-encompassing and highly sanctioning control of offenders. The Korean philosopher Byung-Chul Han has well underlined the social and cultural reasons that have allowed the Asian countries to successfully contain the COVID virus through an extremely invasive approach in the sphere of individual freedoms: according to this author, in fact, Asia is united by a certain "authoritarian mentality", deriving from the cultural tradition of Confucianism, which would make people more obedient, because they trust the state more (Byung-Chul Han, 2020). Other thinkers, on the contrary, see some similarity between the Chinese method and the Italian measures, considering as common factors the Chinese community character and the Christian concept of individual, the Chinese cult for ancestors and the Lares of the ancient Romans (Buffagni, 2020).

Therefore, according to the analysis carried out, although the approaches of Italy and China belong to two different intervention protocols, in reality they have in common a cultural and social spirit, in addition to a long history of mutual knowledge that has its roots in their intense commercial and cultural relations, as well as in the "correspondence of loving

¹³ Report of the WHO-China Joint Mission on Coronavirus Disease 2019 (COVID-19), pag.16.

senses"¹⁴ between the Jesuit missionary Matteo Ricci (利玛竇, Lì Mǎdòu) and Confucian thought¹⁵.

This closeness of peoples, on the contrary, does not seem to be found in the approaches implemented by the United States and the countries of Northern Europe. These states preferred a bland and negationist approach to the pandemic, affirming the simple "influence" nature of COVID¹⁶ and accepting its deadly effects for the weaker, elderly and sick patients of their population, trusting in the so-called "herd immunity"¹⁷.

A third stance can also be envisaged, characterized mainly by the noxious inclination of their supporters to underestimate the threat represented by the pandemic and to minimize the urgent need for containment measures. Within it, unfortunately, we can find some of the most important Heads of State and of Government of the Western Countries, like Trump, Bolsonaro and Boris Johnson. Apparently, at the end of the day, they were also obliged to acknowledge the gravity of the situation¹⁸, but their previous positions undeniably caused great harm to their people and to mankind as a whole.

4. Italy's response and its effect on European Union governance.

As pointed out before, from a technical point of view, the Government in Italy implemented the "pandemic flu" strategy, which we have called strategy 2. On January 31, the state of emergency was declared by the President of the Council of Ministers, Giuseppe Conte. Subsequently, Law Decree no. 6 of 23 February 2020 was issued, which was followed by various implementing Decrees: Law Decree no. 6 of 2 March 2020, to introduce support measures for families, workers and businesses in the areas most affected during the first stage of spreading of the COVID virus; Law Decree no. 11 of 2020, concerning extraordinary measures for justice; and Law Decree no. 18 of 17 March 2020, containing economic measures to support families, workers and businesses.

These extraordinary measures introduced a series of restrictions valid throughout the national territory for the period from 8 March to 3 April 2020, which affected different areas and different production sectors; additional, more restrictive, emergency containment and

¹⁴ Expression deriving from a famous poem by the Italian poet Ugo Foscolo, *Dei sepolcri*, 1807.

¹⁵ The reference literature on this interpenetration between Ricci and Confucian thought is almost infinite and cannot be explored here. Among others, Cfr. J. A. CERVERA JIMÉNEZ, *La interpretación ricciana del confucianismo*, in *Estudios de Asia y Africa*, Vol. 37, No. 2 (118) (May - Aug., 2002), pp. 211-239.

¹⁶ <https://www.bbc.com/news/world-us-canada-51818627>. This attitude was also followed by the President of Brazil, Jair Bolsonaro: https://www.corriere.it/esteri/20_marzo_26/coronavirus-bolsonaro-torniamo-nor-malita-ma-brasile-ha-paura-f4029ce6-6f43-11ea-b81d-2856ba22fce7.shtml.

¹⁷ https://www.corriere.it/esteri/20_marzo_14/coronavirus-gran-bretagna-immunita-gregge-sacrificio-piu-deboli-boris-johnson-come-sindaco-squalo-ma-anche-tory-c-chi-si-ribella-60ac9ce4-65e3-11ea-a287-bbde7409af03.shtml.

¹⁸ In fact, Trump had to abandon his minimalist position in view of the escalation of the infection in the United States; Boris Johnson fell himself victim of the disease; and Bolsonaro, who had blatantly denied the reality of the pandemic labelling as "cowards" people deciding to stay at home, was *de facto* put under the oversight of military and of the more cautious Minister of Health, whom he, however, eventually decided to replace.

management measures valid throughout the country were initially envisaged for the period from 12 March to 25 March 2020, and then extended until 3 April 2020. All these measures have been extended until 3 May.

On the basis of many Decrees enacted by the President of the Council of Ministers and Decrees Law¹⁹, partially restrictive measures have been implemented for some fundamental freedoms provided for by the Italian legal system, in particular personal freedom (Article 13 of the Italian Constitution), freedom of movement (Article 16 of the Constitution), freedom of assembly (Article 17 of the Constitution), freedom of religious worship (Article 19 of the Constitution), freedom of economic initiative (Article 41 of the Constitution), the right to teaching and education (Article 33 and 34 of the Constitution); in the name of the trade-off with the pre-eminent right to health as a “fundamental right of the individual and as an interest of the collectivity” (Article 32 of the Constitution).

From 22 March to 13 April (and probably afterwards as well), it was forbidden for all people to move by public or private means of transport from the municipality in which they are currently located, except for proven work needs, for absolute urgency or for health reasons (see Prime Ministerial Decree of 22 March 2020, article 1, paragraph 1, letter b). Movements must be motivated by self-certification. In addition, most production and personal services activities have been suspended. Schools, universities and research institutes have suspended all face-to-face activities, guaranteeing the right to education through online teaching. All production and industrial activities (except for numerous permitted activities as well as all sporting and cultural events) have been called off. In all cases, the interpersonal safety distance of one meter must be guaranteed for all unsuspended activities and services, and the application of other measures to counteract and contain the spread of the COVID virus in the workplace must be followed.

We can find numerous critical elements of Italian action with respect to the COVID health crisis, due to domestic and European pre-existing problems:

- a) Difficult coordination between the central state and the governments of the regions. The management of the health emergency highlighted a certain contrast between the regions and the state: this was due to the fact that health, according to the Italian Constitution²⁰, is a matter of “concurrent legislative power”, namely, the regions have legislative power but the State establishes the fundamental principles (art. 117 of Constitution). In fact, it should be analyzed that, under the slogan “Milan does not stop”, the government of the Lombardy region and some local governments, in whose territory the epidemic originated, initially denied the existence of the danger and failed to

¹⁹ Decreto del Presidente del Consiglio dei Ministri del giorno 22 marzo 2020; decreto del Presidente del Consiglio dei Ministri del giorno 11 marzo 2020; decreto del Presidente del Consiglio dei Ministri del giorno 9 marzo 2020; decreto del Presidente del Consiglio dei Ministri del giorno 8 marzo 2020; decreto legge 17 marzo 2020, n. 18; decreto legge 8 marzo 2020, n. 11; decreto legge 2 marzo 2020, n. 9; decreto legge 23 febbraio 2020, n. 6; decreto del Presidente del Consiglio dei Ministri del giorno 23 febbraio 2020; decreto del Presidente del Consiglio dei Ministri del giorno 25 febbraio 2020; delibera del Consiglio dei Ministri del 31 gennaio 2020.

²⁰ This competence was inserted by the Reform of Title V - which took place with the Constitutional Law 18 October 2001, n. 3 «Amendments to Title V of the second part of the Constitution».

promptly implement the measures envisaged by the central government, causing an exponential increase in infections.

- b) Structural cuts of public funds in health care, due to regional autonomy in the matter²¹ and also according to more general national funds cuts. A further problem of the “regionalization” of public health was the deterioration of public funding, with numerous corruption scandals on the part of the governors, precisely regarding health. A clear example is in the Lombardy region, whose former governor, Roberto Formigoni, was sentenced to 5 years and 10 months in prison for corruption and theft of funds destined for public health²².
- c) Non-activation of the Pandemic Plan (National plan for the preparation and response to a flu pandemic - CCM 2008) (Forastiere-Micheli-Salmaso-Vineis, 2020). Since 2005, the deadly threat of a pandemic has been a central topic in international scientific literature. In those years, the Italian Ministry of Health developed the "National plan for preparing and responding to a flu pandemic", which defined objectives and activities to be carried out to avoid being overwhelmed by the pandemic²³. When a pandemic broke out, then, most of the available resources would be used to strengthen the hospital and intensive care system, with the media limelight occupied by virologists, experts in vaccines and intensive care. This pandemic plan has been largely ignored and the Italian epidemiological skills have not been activated.
- d) Absence of common protocols prepared by the European Union and lack of supportive cooperation among the countries of the Union. The emergence of the COVID virus has exposed many weaknesses of the European system within the world system. Italy, once again, has been left entirely abandoned by her “sister” countries of the European Union: at the beginning of March, France and Germany accused Italy of making too many COVID swabs (around 6500, compared to their approximate 400), to cause "panic without reason" and to take "too harsh" measures, irreparably affecting the economy. Moreover, some governors of the northern Italian regions, inspired by the example of the Northern European countries, illegally relaxed the measures taken by the national government, considering them as "exaggerated."
- e) Lack of unified measures. The European Institutions have not taken any common measure, the subject of "health" being a "supporting" competence (art. 6 of the Treaty on the Functioning of the European Union – here in after the TFEU)²⁴; therefore, "the

²¹ La spesa per la prevenzione in Italia (2006-2013): analisi descrittiva, trend regionali e confronti internazionali. *Epidemiologia & Prevenzione* (2016); 40 (5):374-380. doi: 10.19191/EP16.5.AD01.095

²² <https://www.ilfattoquotidiano.it/2019/02/21/roberto-formigoni-condanna-a-5-anni-e-10-mesi-in-cassazione-lex-governatore-lombardo-dovra-andare-in-carcere/4988568/>

²³ Piano nazionale di preparazione e risposta a una pandemia influenzale, available at <https://www.saluteinternazionale.info/wp-content/uploads/2020/04/pianopandemico.pdf>

²⁴ Article 6 Treaty on the Functioning of the European Union: “The Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States. The areas of such action shall, at European level, be: (a) *protection and improvement of human health*; (b) industry; (c) culture; (d) tourism; (e) education, vocational training, youth and sport; (f) civil protection; (g) administrative cooperation.” <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT#>

EU can only intervene to support, coordinate or complement the action of the countries of the EU: The legally binding acts of the EU should not require the harmonization of the laws or regulations of the EU countries"²⁵. On the other hand, the specific norms of the Treaty on the functioning of the EU concerning health emergency have not been activated.

Only on 6 March did Commissioner Stella Kyriakides declare the need for "solidarity" between EU countries, in a very general way, without any practical action or linkage²⁶. Instead, she made sure that no help would be given to Italy²⁷. However, Article 168 of the TFEU²⁸ foresees the possibility of a complementary nature of national efforts, in conjunction with the European Institutions, for health issues, through Union actions to "guarantee a high level of protection of human health" (1st paragraph) and that "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, may also adopt incentive measures designed to protect and improve human health and in particular to combat the major cross-border health scourges, measures concerning monitoring, early warning of and combating serious cross-border threats to health" (paragraph 5).

- f) Accelerating agent. The COVID functioned as a conflict accelerator within the European Union. The deliberate choice of Germany and France to wait before making the infections public in their respective territories at the expense of Italy's economic collapse; the humiliation that Italy suffered when it was forced to ask for the *fiscal compact*²⁹ to be overcome; and the fact that neither the European Commission nor the European Central Bank (ECB) provided any necessary relief measures, not only for Italy but also for the rest of the European countries, are all signs of already existing conflicts. What is more serious is that Germany has overlooked the European institutions by implementing national economic measures, through the operation of some funds "hidden" in the national budget. In fact, Germany has allocated 550 billion euros, compared to Italy's 25 (just to give a dimension of the difference), to the *Kreditanstalt für Wiederaufbau* (KfW)³⁰, with "unlimited assistance" to German companies, as stated by the German Finance Minister, Olaf Scholz³¹. The KfW is not a bank but a public body, a shareholder of the *KfW IpeX-Bank*, which carries out banking activities but does not exceed the threshold of 30 billion: it is for this reason exempt from the supervision of

²⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:ai0020>

²⁶ https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_20_410

²⁷ https://www.repubblica.it/politica/2020/03/06/news/coronavirus_ue_divisa_sulle_maschere_niente_aiuti_all_italia_speranza_serve_piu_solidarieta_-250487344/

²⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12008E168>

²⁹ The *fiscal compact* is the expression with which the Stability, Coordination and Governance Treaty in the Economic and Monetary Union is known, an international treaty approved on March 2, 2012 by 25 of the 28 member states of the European Union (it was not signed by the United Kingdom, Croatia and the Czech Republic). Entered into force on January 1, 2013, the pact contains the binding principle of budgetary balance.

³⁰ <https://scenarieconomici.it/kfw/>

³¹ https://www.repubblica.it/economia/2020/03/23/news/germania_piano_governo_coronavirus-252083864/

the ECB, and it need not comply with the requirements of capital and banking union rules. It practically operates as a central bank that responds to the government, which is its benchmark shareholder. Around this strategic system, which is perfectly legal, Germany built the monetary union and European economic policies, remaining outside the system itself and protecting its "plan B", *legibus solutus*.

These deep disagreements, which exploded during the COVID pandemic emergency, produced a clear fracture in the European integration process. Italian Prime Minister Conte, during the meeting of the European Council on 26 March, harshly reacted to the German opposition to intervene economically to help the European countries most affected through a financial strategy by the European Central Bank. Conte clearly requested the adoption of "innovative tools" and not the use of "old personalized formulas"³², following what widely supported by the former president of the European Central Bank, Mario Draghi, in an article published by the Financial Times³³. The President of the Italian Republic, Sergio Mattarella, further reiterated the need for a new, unlimited approach to "predetermined schemes" (referred to as the German approach) not applicable in this emergency, stressing that "[s]olidarity is not just required by the values of the European Union; it is also in our common interest"³⁴, stressing a possible Italian exit strategy from EU. The support from the Prime Ministers of France, Spain and Portugal indicates a deep rift between Southern Europe and Northern Europe. Statements by the President of the ECB, Cristine Lagarde, against Italy, as well as that of the President of the European Commission, Ursula von der Leyen, who formally apologized to Italy after having underestimated the impact of the pandemic, are a clear sign of the hypocritical and unstable relations between the two sides of Europe: a Northern Europe more attentive to the interests of finance and a more people-centered Southern Europe.

One of the most difficult issues facing the European Union is undoubtedly the need for strong economic support for the serious crisis that broke out with Covid-19: seasonal workers, temporary workers and private companies have all fallen into a dizzying crisis, due to which the Italian government has given some answers, but not enough, especially for irregular workers who already lived on the threshold of dignity with jobs that did not receive sufficient remuneration. As a result of this, situations of domestic violence and social instability (prisoners, immigrants, families living in poverty) have increased. The European Union is currently discussing the conditions of funding for Member States to respond economically to this disruption, whether to "mutualize" the debt, through the issue of Eurobonds called "Coronabonds", or to apply the already existing European Stability Mechanism (ESM)³⁵, which provides assistance to euro area countries experiencing or threatened by financial difficulties³⁶. Furthermore, the use of votes on decisions at European level as an instrument

³² https://www.repubblica.it/economia/2020/03/26/news/cont_e_alla_ue_se_aiuti_gli_saranno_come_in_passato_facciamo_da_soli_252410637/

³³ <https://www.ft.com/content/c6d2de3a-6ec5-11ea-89df-41bea055720b>

³⁴ <https://www.quirinale.it/elementi/48604>

³⁵ https://eur-lex.europa.eu/summary/glossary/european_stability_mechanism.html?locale=en

³⁶ Despite the fact that the current financial crisis is not an "ordinary-endemic crisis" but an extraordinary event, a global pandemic, Germany and the Netherlands continue to want to apply this mechanism, which

of domestic political contrast³⁷ within the Member States, and among them, are not facilitating a responsible and solidary response from the European institutions.

It would be advisable to rethink the European institutional structure and plan a revision of the European Union treaties, reinforcing joint cooperation to guarantee social rights, primarily the right to health. Moreover, it seems urgent to set in motion new mechanisms for a direct support to European economy, which will experience a heavy negative impact by the pandemic.

Notwithstanding the limitations and open problems mentioned above, the Italian approach seems, until now, to have worked to a considerable extent in order to contain the pandemic, as ascertained in some scientific studies putting Italy, together with China and South Korea on the list of "success stories" (Bianconi-Marcelli-Campi-Perali, 2020)³⁸.

5. International cooperation regarding the COVID epidemic.

The disease will be defeated only through international cooperation. This solution is commanded by the force of facts, i.e. the devastating impact of the pandemic which requires a concerted effort, concentration of resources and homogeneity of sanitary and social patterns of response, and by that of norms.

Coming to the second one, we have to recall the principle of co-operation enshrined in art. 55 of the Charter of United Nations, whose text reads as follows:

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
- c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

has proved ruinous even in its own specific cases of application, such as the Greek financial crisis. Not only has Greece not emerged from the crisis, but financial austerity measures have constituted a "serious and systematic violation of human rights" according to the Report of the United Nations Independent Expert, Mr. Cephias Lumina, alleging that such drastic cuts in Greek public spending have affected "the capacity of the Greek Government to realize all human rights, particularly economic, social and cultural rights".
<https://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13281&LangID=E>

³⁷ https://www.ansa.it/europa/notizie/rubriche/altrenews/2020/04/17/polemica-sul-voto-di-lega-e-fi-contra-gli-eurobond-in-ue.-m5s-tradimento_ab755d75-3baf-422c-9b39-489888f909de.html

³⁸ Following a study by the Imperial College, the social distancing measures adopted in Italy averted 38.000 deaths (<https://www.imperial.ac.uk/media/imperial-college/medicine/sph/ide/gida-fellowships/Imperial-College-COVID19-Europe-estimates-and-NPI-impact-30-03-2020.pdf>).

Among the problems to be solved, those of health are specifically mentioned in letter b, and rather obviously health also constitutes an indispensable precondition for obtaining the highest standards and the economic and social progress and development mentioned in letter a of Article 55. What is more, another textual basis for the international obligation of cooperation in health matters is provided by the WHO Statute³⁹. If these are the norms, however, practice is not always consistent with them. In this case, fortunately, it was more than in other, though.

From this point of view, we have recently witnessed some interesting and comforting phenomena. Italy, which – after China – has been heavily struck by disease, received material support by some countries. Among them, we have to underline the importance of the Chinese contribution, which was central, also because of the experience accumulated by the Chinese authorities in fighting the virus. Cuba also sent two specialized teams of medical personnel, which had already participated in health campaigns in situation as difficult as those in Sierra Leone during the Ebola outbreak or in Haiti at the time of cholera epidemics. Russia sent some professionals specialized in virology. These and other countries sent also many instruments necessary to contain the infection, such as masks. One aspect of such cooperation is that the assistance to Italy was given, quite paradoxically, mainly by countries which are not considered allies in the geopolitical sense of the term.

This kind of assistance is certainly very important, but our attention shouldn't be limited to the present emergency situation but it should move on to consider a wider perspective, in order to embrace every research aimed at accumulating scientific knowledge on:

- a. the origin of the virus;
- b. the structural reasons which allowed the birth, multiplication and rapid diffusion of the virus;
- c. the spread of the epidemic, by giving precise figures of the people affected and dying;
- d. the creation of a vaccine able to prevent the disease.

Furthermore, there is a strong and urgent need to coordinate every initiative taken by States, international organizations and other subjects in the following fields:

- e. the containment of the pandemic;
- f. the distribution of all means necessary to thwart the pandemic;
- g. the distribution at equitable conditions of the vaccine, rendering it affordable and accessible to all; and
- h. the reinforcement of international organizations in charge of fighting against this and other diseases, primarily the World Health Organization (WHO).

On this sound normative basis, we have witnessed an unprecedented social mobilization at global level. An unprecedented initiative, consisting in a joint call launched by

³⁹ See *infra*.

organizations of workers (International Trade Unions Confederation – ITUC) and businesses (International Chamber of Commerce – ICC), requires the attainment of the following goals:

1. To ensure infection control and medical products into the hands of those who need them the most;
2. To provide direct support to small businesses and workers;
3. To enable the private sector to support testing at large scale, to boost stressed public health provision; and
4. To increase international assistance to help the world's poorest⁴⁰.

It is necessary and urgent to speed up and reinforce international cooperation on the matter, from the awareness that the fight will be long and difficult⁴¹.

In a moment of epochal change like the one we are presently experiencing, it also advisable to dig deep into the very philosophical foundation of international cooperation. We are in the presence of the concretization of the *international symbiotic system*, which is a theory proposed by the so-called "Shanghai School" of International Relations which has brought together knowledge of sociology, biology and philosophy with international relations. The term 共生 (Gòngshēng), symbiosis, has its etymology in the biological sciences, and the two parts of the word coincide with the Greek etymology of the English word. In fact, 共 (gòng) means "together" and 生 (shēng) means "to live" or "life", just as in Greek σύν means "with, together" and βίω means "to live" (from βίος "life"). As for biology, where symbiosis indicates various forms of coexistence between organisms of different species, animals or plants, called "symbiotes" and different modalities of symbiosis are defined according to the type of relationship that exists between them, in the same way the studies of the Shanghai school dismiss the idea that state actors can exist independently of each other, defining the antagonism as "you without me and I without you" ("有你无我, 有我无你" 的对抗式) (Su, 2016). This theory, therefore, foresees that each country needs to support and, in turn, receive the support of other countries in their development to guarantee their own stability (Mokry, 2018), somehow creating a "necessary interdependence" between nations.

The symbiotic system has practically not been deepened by the academic community (Staiano, 2018), as have been other key concepts of Chinese culture that affect international cooperation, such as "harmony", *guanxi* and *tianxia*⁴², among others. However, this is "the concept that most reflects China's effort in terms of building the international order" (Su), because it is linked with the ideas of international cooperation Win-Win, South-South, and also with China's leading role in building a new global order. In this sense, the European

⁴⁰ See <https://iccwbo.org/media-wall/news-speeches/global-business-and-workers-unite-in-call-for-international-cooperation-in-response-to-covid-19/>.

⁴¹ <https://think.ing.com/opinions/what-COVID-means-for-international-cooperation/>.

⁴² To deepen these terms of traditional Chinese culture and its implications in international relations, Staiano M.F.-Bogado Bordazar L., "Las teorías de las relaciones internacionales con "características chinas" y sus implicaciones en América Latina, en Staiano" – Bordazar (Coordinators), *Dossier especial sobre China: China y su proyección en el siglo XXI, Revista de Relaciones Internacionales*, Vol. 26, N. 53, Universidad Nacional de La Plata Press, Diciembre 2017.

“fracture”, by differentiating a South inspired by solidarity, could mean a significant increase in Chinese cooperation with Italy, Spain, Portugal, Greece. Humboldt defined Europe as “a huge and articulated peninsula of Asia.” This could mean a new beginning: Europe and Asia as brothers, children of Ocean and Thetis, will find themselves in a strong “community of shared destiny” (Staiano, 2020).

In this context, the new doctrine of the shared future of mankind is also worth recalling: the new doctrine of international law and international relations approved by the XIX Congress of the Chinese Communist Party in October 2017, born as a reply to the growing global problems and challenges afflicting nowadays mankind, among them of course, that of pandemics like the present one.

It is necessary to catch the revolutionary and innovative character of that doctrine which represents a new point of view overcoming traditional strategic visions encompassing only the power interests of this or that country:

the problem, of course, is not that of replacing one hegemony with another one, but to give birth and shape to a new governance of international society and of the planet itself, acknowledging the new reality of multi-polarism. That is, giving shape and content to a really democratic governance of international community, developing and improving the institutional instruments provided for in the United Nations Charter. Important challenges face mankind in this decisive era. Giving the right answer to such challenges is of crucial importance in order to ensure the very survival of human species (Marcelli, 2019).

The need for such a reinforcement of international cooperation in a multipolar world applies, of course, very precisely to the reality of the pandemic, which requires a collective effort of the international community as a whole.

In the same vein, President Xi Jinping proposed to convene a G20 health ministers’ meeting “to improve information sharing, strengthen cooperation on drugs, vaccines and epidemic control, and cut off cross-border infections”, “to build a strongest global network of control and treatment that the world has ever seen”, “to support international organizations in playing their active roles” and “to enhance international macro-economic policy coordination”⁴³.

Such ambitious intentions undoubtedly require a strong coordination of the national policies in the field of healthcare as well as in other fields, such that of economy, and the most complete transparency in sharing data and information about the pandemic.

The ongoing need for international cooperation has been adequately stressed by the Global Health Committee of the International Law Association, which affirmed that:

[a] pandemic outbreak is an opportunity to demonstrate the value of pooling scientific ingenuity and of open cooperation among scientists and research institutions, for coordinating logistic and manufacturing capacity, for making available the financial resources necessary to purchase and distribute necessary health products (including vaccines, diagnostics, treatments

⁴³ <https://www.marx21books.com/xi-jinping-working-together-to-defeat-the-covid-19-outbreak/>

and personal protective equipment), and for attempting to assure that individuals throughout the world have access to life-sustaining support, including adequate nutrition⁴⁴.

6. The need for reinforcing WHO

The difficult situation arising from the COVID-19 disease should come as an opportunity to reinforce as well the UN agency which is specifically dedicated to fight against illnesses and for health, the WHO.

Article 2 of the WHO's Statute, establishing the functions of that organization, entrusts to it the task of acting as the directing and coordinating authority on international health work (letter *a*) and of establishing a detailed and comprehensive list of more specific tasks, including but not limited to those of collaborating with UN agencies and governments, assisting governments, promoting and conducting research, teaching, and standardizing diagnostic procedures. Letter *g* of this Article, concerning the purpose of the WHO to stimulate and advance work to eradicate epidemic, endemic and other diseases, is particularly worth mentioning too. Moreover, Articles 21⁴⁵ and 22⁴⁶ of the Statute give the WHO outright legislative powers as regards prevention of international spread of diseases.

The health protection systems of many States in the world have been plagued by Neoliberal policies. The establishment of effective health protection systems in many developing countries has been impeded by the policies of international financial institutions and by the extent of foreign debt, as it has been repeatedly denounced by the United Nations Rapporteur. Such a reinforcement nowadays represents a huge and urgent necessity, in face of the COVID pandemic and of other epidemic diseases, like *dengue* in Latin America.

The effective trend of States' policies, however, seems rather contrary to the need to implement such a reinforcement. On the contrary, the United States, historically the biggest fund provider, recently decided to diminish its financial contribution to the WHO and President Trump abruptly decided to stop US contribution under the pretext that the Organization did not timely give information on the pandemic⁴⁷.

It is thus urgent to relaunch WHO in the framework of a renewed and revitalized world governance, as requested, for example, by the former British Prime Minister Gordon Brown⁴⁸. In this regard, President Xi Jinping called on G-20 members "to enhance anti-

⁴⁴ See <https://frederickabbott.com/sites/default/files/Statement%20of%20the%20ILA%20Global%20Health%20Law%20Committee%20regarding%20COVID-19%20-%205%20April%202020%20r2.pdf>

⁴⁵ "The Health Assembly shall have authority to adopt regulations concerning: a) sanitary and quarantine requirements and other procedures designed to prevent the international spread of disease;...."

⁴⁶ "Regulations adopted pursuant to Article 21 shall come into force for all Members after due notice has been given of their adoption by the Health Assembly except for such Members as may notify the Director-General of rejection or reservations within the period stated in the notice"

⁴⁷ <https://www.nytimes.com/2020/04/14/us/politics/coronavirus-trump-who-funding.html>.

⁴⁸ <https://www.independent.co.uk/news/uk/home-news/coronavirus-gordon-brown-global-government-un-g20-covid-19-a9427376.html>

epidemic information sharing with the support of WHO and to promote control and treatment protocols that are comprehensive, systematic and effective”⁴⁹.

One of the main problems on which WHO should work now is that of the availability of drugs and vaccines at no-market conditions. This implies the obligations of pharmaceutical companies, which are also of a transnational nature, to put their production at the disposal of mankind.

WHO’s normative powers should be fully implemented and extended in order to organize and discipline a uniform and coordinated response worldwide, disposing and redistributing all the instruments, drugs, vaccines, and any other necessary equipment to fight the disease. The need to reinforce the WHO has been clearly expressed in the aforementioned document by the Global Health Committee of the World Health Organization, which called for “enhancing financial support for WHO in a sustainable, predictable and flexible manner through voluntary contributions as well as a long-term increase of its assessed contributions”.

Last but not least, the negative trend of underfunding of this essential agency of the United Nations should be reversed, with a call on all States to contribute to its finances and the imposition of substantial taxes on transnational corporations profiting from the pandemic, like Big Pharma, but also on companies active in the digital sector, like Facebook, Google, Amazon and others.

7. Conclusions

The COVID pandemic looms, while we are writing this essay, over the entire world. Perspectives are particularly gloomy for poor countries, but also for middle- and high-income countries weakened by the neoliberal policies devastating the health services and facilities⁵⁰.

This pandemic has raised many issues, not only pertaining to health protection. There are environmental issues as well as the issues of information and democracy. Concerning information issues, it seems urgent to further reflect upon the social utility of today’s Internet system. In this regard, it has been claimed that the diffusion of fake-news, seen as an aspect of so-called cyber-colonialism, should be strongly penalized, and we should thus learn from the Chinese example (Barredo Ibáñez, 2020).

Another important aspect is that of the protection of fundamental rights in the context of the pandemic. In connection with this, the resolution of the Office of the High Commissioner for Human Rights of the United Nations stressing, *inter alia*, the need of “overcoming existing barriers to affordable, accessible health care, and tackling long-ingrained differential treatment based on income, gender, geography, race and ethnicity, religion or social status”, taking into considerations specifically the rights of migrants and refugees, is

⁴⁹ <https://www.marx21books.com/xi-jinping-working-together-to-defeat-the-covid-19-outbreak/>

⁵⁰ Concerning the Latin American region see the recent CEPAL Report on COVID social and economic impact, in <https://www.cepal.org/en/topics/covid-19>.

worth noting⁵¹. The High Commissioner, Michelle Bachelet, reiterated the need to “take great care to protect the most vulnerable and neglected people in society, both medically and economically”, encouraging governments to share information and good practices, practicing great transparency and promoting people’s participation in the fight against the pandemic⁵².

But the impact of the COVID pandemic on world society, economy, culture and ideology goes even further. It is the demonstration of how much capitalism has been embodied in society. Individualism and exasperated competition have allowed the economy to move ahead, always, in any situation, as a symptom of capacity, of strength. In the name of economic efficiency (*rectius* of economic speculation), fundamental areas of social rights, such as health, education, labor, energy, transport and retirement, have been progressively privatized in the name of EU-generated funding (Maastricht and Amsterdam agreements). At the time, the expiration of this scheme and the total lack of a spirit of society capable of coping with common emergencies with solidarity are demonstrated.

In order to survive, States and people, as well as organized societies, have to recuperate basic values which seemed definitively jettisoned and abandoned, like that of human solidarity beyond egoistic economic calculation. As Wang Yi stated, “the international community has no choice but to give a collective response” (Wang, 2020).

Some trends have been reversed. Now Mexicans wish to close their borders in face of the danger of the infection coming from North. For the first time in history, Cuban medical aid and relief missions are operating in Western European countries, like Italy or Spain.

In order for a vaccine to be produced and distributed on a very large scale, it will be necessary to confront the power of Big Pharma, the five transnational companies (GlaxoSmithKline, Merck, Sanofi, Pfizer, Gilead Sciences) covering now almost four fifths of the global market.

A specific point of concern affects the possible evolution of the European Union in this very mobile and unprecedented context. The European Union will have to deeply review its approaches in at least two fundamental fields: public intervention in economy and public spending on the one side, and international policy on the other. The pandemic calls for the total overcoming of obsolete doctrines in both those sectors of paramount importance. Only if this condition is met, the “European dream” will be able to continue, in the framework of renewed solidarity among all peoples and the building of a “community of shared destiny” under the same sky (*tianxia*)⁵³.

⁵¹ <https://www.unhcr.org/news/latest/2020/3/5e69eea54/coronavirus-outbreak-test-systems-values-humanity.html>.

⁵² <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25668&LangID=E>.

⁵³ This is an innovative common approach with theoretical and pragmatic bases that is already studies in the international relations between China and Latin American region. Staiano M.F., *La relaciones internacionales entre China y América Latina: encontrando un camino común hacia un nuevo orden mundial*, in *Humana del Sur – Revista de Estudios Latinoamericanos, Africanos y Asiáticos*, n. 25, July-December 2018, Universidad de Los Andes, Merida, Venezuela.

All the above-mentioned unprecedented events and all the other events we will undoubtedly witness in the next months point to the existence of a sea-change in human history, international relations and international law. One thing already appears to be extremely clear: international cooperation is the only solution⁵⁴ against the COVID pandemic (Kochhar, 2020). Will governments and other international actors, like transnational companies, understand this?

For sure, an example to follow is that of the international scientific community today engaged in the fight against the virus, producing a common effort capable of overcoming all kinds of national or political divisions⁵⁵, as well as the effort to build a Health Silk Road⁵⁶ and the necessity to create a "community of shared health" for mankind.

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⁵⁴ As Eamon Gilmore, Special Representative of the European Union for Human Rights, has stated: "Never before the entire world population has shared the need to work together in the common interest of all. Rarely, if ever, international cooperation and solidarity have been so important. International cooperation is no longer what governments and official organizations should do, now it belongs to the people. Now we are all united in a common project, beyond borders because this deadly virus does not respect limits or distinctions." <https://www.larepublica.ec/blog/sociedad/2020/04/17/union-europea-lucha-contra-covid-19-es-una-batalla-por-los-derechos-humanos/>

⁵⁵ "I never hear scientists — true scientists, good quality scientists — speak in terms of nationality," said Dr. Francesco Perrone, who is leading a coronavirus clinical trial in Italy. "My nation, your nation. My language, your language. My geographic location, your geographic location. This is something that is really distant from true top-level scientists." [vurushttps://www.nytimes.com/2020/04/01/world/europe/coronavirus-science-research-cooperation.html](https://www.nytimes.com/2020/04/01/world/europe/coronavirus-science-research-cooperation.html)

⁵⁶ <https://www.who.int/dg/speeches/2017/health-silk-road/en/>

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