What Can International Disaster Law Learn from Global Health Responses?

Workshop Report and Briefing Document 2025

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1 The views expressed in this are a summary of the workshop discussions and are not necessarily reflective of each and every author/participant.

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2 FCDO Legal and Policy Advisors participated in the panel discussions, providing their perspective on their recent experience of multilateral negotiations on the Pandemic Agreement and of discussions in the UN Sixth Committee on the Draft Articles on the Protection of Persons in the Event of Disasters. For the avoidance of doubt, none of the views and recommendations in this Report and Policy Brief should be regarded as a reflection of the views of the FCDO participants and/or as UK Government policy.

Executive Summary

In December 2024, the UN General Assembly adopted by consensus a Resolution agreeing to, 'elaborate and conclude a legally binding instrument on the protection of persons in the event of disasters by the end of 2027.' Such a Treaty is very much needed; while millions of people each year are impacted by disasters, there is a lack of systematicity in international disaster law and response.

Disaster law is an area with clear linkages to health: disasters are often occasions of crisis when the health and wellbeing of large groups of people are at grave risk. Global health law is an area which is further on in terms of the development of a substantive treaty focused on a subset of health crises; that is, pandemics. In that regard, the Member States of the World Health Organization adopted a Pandemic Agreement in May 2025 intended to ameliorate some of the deficiencies experienced during the COVID-19 pandemic.

Considering the more advanced development of international treaty making in the global health arena, the University of Strathclyde Law School organised an ESRC IAA funded workshop with a view to **producing a set of reflections and recommendations for negotiators to the International Disasters Treaty, as well as other relevant stakeholders, on what international disaster law can learn from experiences in responding to global health emergencies**.

In this policy brief, we set out a range of insights as well as key lessons gleaned from the workshop. The policy brief also reflects on developments since the convening of the workshop itself, with a view to distilling key lessons of relevance.

Executive Summary continued

Summary of recommendations - What Can International Disaster Law Learn from Global Health Responses?

Any future International Disasters Treaty must meaningfully integrate and embody the principles of transparency and inclusion within the process of treaty making. Stakeholders should be meaningfully involved in decision making processes. There should also be mechanisms for monitoring and review to build both trust and accountability.

Equity and human rights must be integrated throughout the operative provisions of the Disasters Treaty, which should further codify a duty of offering assistance premised upon solidarity. The Treaty should promote processes for post-disaster reflection and review, draw on existing human rights norms and ensure lessons are learned. Impacted communities should be involved in review processes.

Multilateralism and regional cooperation should be strengthened to foster a spirit of solidarity via strategies such as pooled resources and joint planning. These should be accompanied by a clear articulation of roles and (shared) responsibilities. The International Disasters Treaty must further recognise that all states retain agency and challenge false narratives that portray certain states, particularly those of the Global South, as passive recipients of aid.

Processes for dialogue between scientists and policy should be institutionalised. The International Disasters Treaty should be designed as a living, rather than static, instrument. It should create space for open approaches to science and knowledge construction, including recognition of indigenous and local knowledge, to inform disaster planning and response.

Fragmented and siloed approaches must be avoided. The International Disasters Treaty should support interdisciplinary research, foster holistic responses, and be aware of the risks of oversights and path dependencies arising from, among other things, the way in which issues are framed.

Risk communication obligations should be mandatory for states during disasters, together with obligations to bank and share critical data. This latter obligation should be accompanied by human rights, privacy safeguards and funding, if necessary. Negotiators to the International Disasters Treaty should also be cognisant of the need for equity in how data is produced, shared and governed. Data is not a value neutral concept.

The private sector must not be overlooked by the International Disasters Treaty and Parties should work to impose balanced obligations on private actors in alignment with Treaty goals, taking on board lessons from previous crises and from other areas of international law.

Finally, the International Disasters Treaty should promote a 'Four Harms Approach' - considering physical and mental health, as well as economic and social harms in an integrated and iterative way with a view to ensuring ongoing protection of impacted populations.

Introduction, Project Background and Context

On 20 May 2025, the **Member States of the World Health Organization (WHO), the United Nations specialised agency for health, adopted by consensus the Pandemic Agreement.** The Pandemic Agreement is the culmination of three years of negotiations commenced in the shadow of the COVID-19 pandemic. The Pandemic Agreement contains a range of provisions focused on, among other things, pandemic prevention and surveillance, One Health, regulatory systems strengthening, sustainable and geographically diversified local production, technology transfer, supply chains and logistics, and procurement of relevant pandemic health products. The Agreement emphasises whole-of-society and whole-of-government approaches, with Parties encouraged to 'empower and enable community ownership of, and contribution to, community readiness for and resilience to pandemic prevention, preparedness and response' (Article 15 (1)).

Its entry into force requires ratifications from 60 WHO Member States.[3] The Pandemic Agreement cannot, however, be opened for signature and ratified at domestic level, and hence cannot enter into force, until the issue of pathogen access and benefit-sharing (PABS) is resolved. Negotiations on PABS are set to continue until (at least) the 2026 World Health Assembly and once PABS is agreed upon, it will form an Annex to the Agreement.

The Pandemic Agreement is intended to complement the WHO's International Health Regulations (IHR). These Regulations are - at present at least - the key legal mechanism for governing international response to public health events of international concern, including pandemic emergencies and were recently amended in the aftermath of COVID-19. These amendments have now entered into force for most States Parties. Significantly, the IHR takes an 'all hazards' approach to global health security and does not focus solely on infectious diseases. Incidents involving, for example, nuclear contamination have the potential to fall under the auspices of the IHR as much as an outbreak of a previously unknown infectious disease.

Another important international law initiative is taking place within the United Nations General Assembly. In December 2024, it adopted by consensus a Resolution agreeing to, 'elaborate and conclude a legally binding instrument on the protection of persons in the event of disasters by the end of 2027.' A disaster may be defined as, 'a calamitous event or series of events resulting in widespread loss of life, great human suffering and distress, mass displacement, or large-scale material or environmental damage, thereby seriously disrupting the functioning of society.'[4]

3 In full, Article 33 (1); 'The WHO Pandemic Agreement shall enter into force on the thirtieth day following the date of deposit of the sixtieth instrument of ratification, acceptance, approval, formal confirmation or accession with the Depositary.'

4 International Law Commission Draft Articles on the Protection of Persons in the Event of Disasters, Draft Article 3 (a).

Introduction, Project Background and Context continued

A binding international instrument on disasters is keenly anticipated; according to the UN Emergency Event Database, in 2024, 393 natural hazard-related disasters caused 16,753 deaths globally and impacted 167.2 million individuals. The figures would be much higher if technological and human-made disasters were included.

The December 2024 General Assembly resolution is the culmination of almost two decades of work to develop international legal rules for disaster contexts, including the development by the International Law Commission (ILC) in 2016 of Draft Articles on the Protection of Persons in the Event of Disasters. With key themes likely to include solidarity and international co-operation, negotiations for an international treaty on disasters will impact the lives of hundreds of millions of people around the world.

The need for an international treaty is traceable to the fact that international disaster law lacks the systematicity of other areas of law. Indeed, the development of international disaster law has something of a mixed history, from the 1927 Convention Establishing an International Relief Union - which did not achieve its ambitions - to a range of post-World War II treaties that spoke indirectly to disaster relief. In 1984, the Draft Convention on Expediting the Delivery of Emergency Assistance fell by the wayside, a victim of Cold War politics. The post-Cold War era would see some enthusiasm for regulation and accountability of international actors in the disasters space, but the focus in this era was on the development of soft law initiatives including examples such as the Sphere project and various Red Cross and Red Crescent initiatives.[5]

At present, governance of the disasters space is multi-level, involving international, regional and national actors and legal frameworks, as well as bilateral cooperation and coordination. It is also a space within which private actors abound. It is a space which Fisher described as a 'swashbuckler's paradise' and the world's largest unregulated industry. Whilst a lack of formal rules affords states and humanitarian actors considerable flexibility, this can be costly in terms of,

... 'preventable delays, expenses, and administrative barriers to relief operations, as well as enormous headaches for receiving states concerning the coordination and quality of the relief they receive[6].'

5 See Sphere, 'The Sphere Handbook 2018' (2018) available at www.spherestandards.org/handbook-2018/ and International Federation of Red Cross & Red Crescent Societies (IFRC), 'Disaster Law' available at https://disasterlaw.ifrc.org/ respectively.

6 David Fisher, 'International Disaster Relief: A Growing Regulatory Dilemma' (2007) 101 Proceedings of the Annual Meeting (American Society of International Law) 114-118

Introduction, Project Background and Context continued

The specific origins of the International Disasters Treaty initiative are traceable to the 2000 International Federation of Red Cross and Red Crescent Societies (IFRC) World Disasters Report[7] which bemoaned a lack of systematicity to international disaster response. This was given further impetus by the 2004 Indian Ocean Tsunami which prompted a range of efforts to improve the delivery, and quality, of disaster relief assistance.

The International Red Cross/ Red Crescent Movement has always been a prominent actor in the disaster relief field and the International Federation of Red Cross Societies (hereinafter IFRC) has been particularly active in not only developing standards for the delivery of assistance, but in assisting states to ensure that national laws accord with duties to reduce disaster risk and if need be, how to reform such laws.[8] After the completion of the previously discussed 2016 ILC Draft Articles, there was a pause in further legal development, but the COVID-19 pandemic subsequently brought things into focus, resulting in the 2024 resolution for an International Disasters Treaty. Clearly, the drive towards a treaty is underpinned by a desire for systematicity and an attempt to introduce coherence, alignment and integration, via the introduction of hard obligations.

7 International Federation of Red Cross & Red Crescent Societies (IFRC), World Disasters Report 2000 (Geneva, 2000), Chapter 8: 'Towards an International Disaster Response Law.'

8 IFRC 'Introduction to the Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance' (2007) available at https://disasterlaw.ifrc.org/idrlguidelines, IFRC and UNDP, 'The Handbook on Law and Disaster Risk Reduction' (2015) available at https://www.ifrc.org/sites/default/files/2021-07/IFRC_Handbook_Law_DRR.pdf, IFRC and UNDP, 'The checklist on law and disaster risk reduction' (2015) available at https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2020-09/The-checklist-on-law-and-drr.pdf, IFRC, 'Model Emergency Decree for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance' (2017) available at https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2020-09/Model-Decree_EN-LR.pdf, IFRC, United Nations Office for the Coordination of Humanitarian Affairs and the Inter-Parliamentary Union, 'Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (with commentary)' (2013) available at https://disasterlaw.ifrc.org/media/1772

Introduction, Project Background and Context continued

The **contextual linkages between disasters and health are self-evident**: disasters are often occasions when the health and wellbeing of large groups of people are endangered, when access to essential goods are at risk, and when basic humanitarian and human rights entitlements may be infringed. It is also often the case that as a disaster's effect endures, further harm can occur, such as might be seen when sanitation facilities are compromised and lead to the development of serious water borne diseases such as cholera. Indeed, the WHO Pandemic Agreement recognises the need to have due regard to health needs in humanitarian crises, directing, for example, in Article 7 (1) that each WHO State Party shall, 'prevent, prepare for and respond to health emergencies, including in *humanitarian settings*' (emphasis added).[9] The term, "humanitarian settings" is used in the Pandemic Agreement to refer to 'settings in which an event or series of events, such as armed conflicts, natural *disasters*, or other emergencies, have resulted in a critical threat to the life, health, safety, security or well-being of a community or other large group of people in need of humanitarian assistance' (article 1 (a)) (emphasis added). Persons and people in vulnerable situations are also given due regard in the Agreement (see e.g. Article 6 (2) (a)), with, '"persons in vulnerable situations" and "people in vulnerable situations"' referred to in the Agreement to, 'mean individuals, including persons in groups or in communities or in emergency, and/or humanitarian settings, with a disproportionate increased risk of infection, morbidity, or mortality, as well as those likely to bear a disproportionate burden owing to social determinants of health in the context of a public health emergency of international concern, including a pandemic emergency' (Article 1 (f)).

In terms of the interactions between disasters and health, questions immediately arise as to the substance of duties of protection and safeguarding, as well as which actors and organisations bear such duties, and how action 'on the ground' might best be coordinated to avoid siloed approaches and gaps in protection. Other questions concern matters of disaster planning and risk assessment which also arise in the context of both planning for, and responding to, health emergencies. International disaster law and global health law therefore overlap both contextually, and in terms of legal principle. Both specialisms are also experiencing major development. Since the changes in global health law are at a more advanced stage, with the adoption of the Pandemic Agreement, and revision of the International Health Regulations, **this is an ideal moment to learn from the experiences of crises within the (global) health arena with a view to optimising the opportunities being afforded to international disaster law.**

9 In full, Article 7 (1) provides that, 'Each Party, in line with its respective capacities and national circumstances, shall take the appropriate measures with the aim to develop, strengthen, protect, safeguard, retain and invest in a multidisciplinary, skilled, adequate, trained, domestic health and care workforce to prevent, prepare for and respond to health emergencies, including in humanitarian settings, while maintaining essential health care services and essential public health functions at all times and during pandemic emergencies.'

Introduction, Project Background and Context continued

The need for coordination between health and humanitarian crises is of course well recognised within the UN system. Notwithstanding its importance, this project's focus is not so much on how the health and disaster sectors coordinate their activity. Instead, the **spotlight is trained on what those negotiating the International Disasters Treaty might learn from mixed experiences in health law and (scientific) practice in dealing with crises, particularly as they relate to the development of the WHO Pandemic Agreement** and the recent amendments to the IHR. It is the commonalities and intersections between these distinct but overlapping fields of global health law and international disaster law that makes such an enquiry in terms of lessons learnt both appropriate and important.

With the above context in mind, in October 2024, the University of Strathclyde Law School hosted a **multidisciplinary workshop** with a range of participants from academia, public health, diplomacy, science, maths, statistics, government, policy, the legal sector as well as civil society. Perspectives and experiences from Scotland, the UK and beyond were engaged with during the workshop.

The aim of this workshop was to **produce a set of recommendations and lessons on what international disaster law can learn from experiences in responding to (global) health crises**, in the specific context of responses to **humanitarian crises.** In particular, the **intent behind the workshop was to produce a series of key takeaways for negotiators and stakeholders** involved with the International Disasters Treaty, ranging across government, relevant international organisations and civil society.

This policy brief aims to set out the range of insights and key lessons gleaned from this workshop which was comprised of four thematic panels, 1) the international and national context); 2) the process of treaty making; 3) the interface between Science, Data, Law and Policy and 4) conceptions of risk under health and disaster law.

The policy brief also reflects on developments since the convening of the workshop itself, including the recently concluded Pandemic Agreement - which was in draft form when the workshop convened - with a view to distilling key lessons of relevance. **We hope these will be impactful in terms of building specialised and relevant contextualised knowledge as well as legal capacity on the part of negotiators and other stakeholders.**

Our previous research has demonstrated the need for multidisciplinary and inter-regime learning across different cognate areas of international law. This project therefore translates this research into practice, bringing together participants from different sectors, backgrounds and regimes, with a view to securing impactful and policy relevant guidance for negotiators.

General Themes, Trends and Insights from Panel Discussions

The workshop was convened around four thematic panels - discussed below – and was held according to the Chatham House rule. The names of the speakers are therefore omitted and there is no attribution of statements to any one individual. Please also note that the views in this policy brief do not necessarily reflect those of all participants.

Panels One and Two – Context, Treaty Making and Insights from Domestic Processes

In panels one and two, the development of the WHO Pandemic Agreement and the resolution to create an International Disasters Treaty was discussed. This was with a view to ascertaining and distilling key themes and takeaways, as set out below. We then turned to the national context, looking at what lessons might be learned from State responses to the COVID-19 pandemic.

Transformative legal change

The panel discussions highlighted the differing positions of States, as well as the legal and political complexities associated with the negotiations on these two instruments. The panel discussion also touched on the potential for transformative legal change in the face of ongoing "polycrises", defined as where 'disparate crises interact such that the overall impact far exceeds the sum of each part.'[10] Polycrises are perhaps inevitable in an era of decreased geopolitical cooperation as the world is confronting the increasing impacts of climate change, rising pandemic risk, as well as mounting threats to food and energy supplies.[11] **International law's challenge is to identify areas where it can help to provide a coherent and systematic response to tackling such issues.**

10 World Economic Forum, 'The Global Risks Report 2023' (January 2023) available at https://www3.weforum.org/docs/WEF_Global_Risks_Report_2023.pdf 9

11 See ibid and M Lawrence and others, 'Global polycrisis: the causal mechanisms of crisis entanglement' (2024) 7 Global Sustainability

Panels One and Two – Context, Treaty Making and Insights from Domestic Processes continued

Motivations and hesitations regarding legal change

With the above context in mind, panels one and two examined the position and reasoning of States in developing these two key international instruments for dealing with international crises. In respect of the development of the resolution for an International Disasters Treaty, States were considered to fall into three broad categories; 1) those largely supportive of a Treaty as a vehicle to potentially streamline and offer a more coherent framework for international obligations as well as address gaps in international disaster law; 2) States tentatively supportive but nevertheless concerned that a treaty could bring about (further) fragmentation of the international legal system given the overlap between international disaster law and other areas of international law including human rights law and; 3) States largely opposed on the basis of sovereignty concerns.

The discussion in the panels also noted the State-focused nature of the previously mentioned 2016 International Law Commission (ILC) Draft Articles on the Protection of Persons in the Event of Disasters which will likely underpin the normative and conceptual development of the International Disasters Treaty. Similar concerns relating to sovereignty, and indeed fragmentation, were noted in respect of the negotiations for a Pandemic Agreement, with overlaps noted with respect to other international legal regimes (e.g. International Biodiversity Law and the World Trade Organization's intellectual property agreement, TRIPS). The fact that the amendment process for the WHO International Health Regulations (IHR) was occurring simultaneously with the negotiations for a Pandemic Agreement – with both instruments likely to have different memberships due to differences in their legal nature – also raised concerns of coherence. While Article 24(2) of the Pandemic Agreement directs that the Agreement should be interpreted to be compatible with the IHR[12], it remains to be seen how such compatibility will be worked out in practice.

12 Specifically, 'Parties recognize that the WHO Pandemic Agreement and the International Health Regulations (2005) and other relevant international agreements should be interpreted so as to be compatible.' The IHR Article 57 (1) similarly notes that; 'States Parties recognize that the IHR and other relevant international agreements should be interpreted so as to be compatible. The provisions of the IHR shall not affect the rights and obligations of any State Party deriving from other international agreements.'

Panels One and Two – Context, Treaty Making and Insights from Domestic Processes continued

Tensions between sovereignty and solidarity

The panel discussions further highlighted the tension between State sovereignty and the need for global solidarity, especially in the context of public health and disaster response. More generally, the discussion in both panels identified **a distinction between solidarity and cooperation**. While international cooperation is a central underpinning obligation of international law stemming from the UN Charter, it retains an element of quid quo pro and reciprocity. Solidarity on the other hand is more actively focused on the common interest. This distinction is traceable to the voluntarist, bilateral nature of public international law, which means it can better accommodate approaches founded in cooperation than those based on solidarity. In this regard, it was noted that sovereignty – and by extension, State agency - is alive and well in both the global health and international disasters contexts, with states resisting perceived encroachments or the imposition new of duties. **Indeed, even in resource constrained settings, States retain agency, and it is important to avoid a false narrative whereby only high-income countries (as seemingly economically powerful actors) have agency.** Furthermore, it was discussed how national values, as embodied in domestic institutions, can influence how states respond to global crises, with the UK's NHS noted as a particularly relevant institutional example in this regard.

The Pandemic Agreement notably contains a substantive Article on 'international cooperation and support for implementation' (Article 17). Solidarity is mentioned under Article 3 as a principle of the Agreement and is also referred to in the preamble. The 2016 ILC Draft Articles also refer in their preamble to 'the fundamental value of solidarity in international relations' whilst draft Article 7 refers to a duty of cooperation in disasters. More generally, **our discussions noted that while cooperation (with its transactional basis) has tended to find more by way of favour in public international law than approaches founded in solidarity (which, as noted, lack a quid pro quo) we do not have to resign ourselves to international law being a certain way. Notions of 'solidarity' can be infused into public international law. Even without a treaty, certain instincts and interests can be promoted.**

Panels One and Two – Context, Treaty Making and Insights from Domestic Processes continued

Ensuring transparency, inclusivity and compliance with processes of legal change

The panels also addressed the challenges of ensuring transparency, and inclusivity in treaty-making processes. Although State sovereignty is recognised as key given that this was a member State-led treaty negotiation, the negotiations for the Pandemic Agreement have been criticised as particularly lacking in transparency and inclusivity, with civil society at times largely excluded.[13] While this situation has improved of late, it nevertheless raises concerns around legitimacy and effectiveness.[14]

Compliance with international law was also noted as a continuing challenge, with State compliance a particular issue in the implementation of the WHO IHR which had no built-in review mechanism to monitor implementation and compliance. The Panel discussions noted that while the 2024 amendments to the IHR provide for a State Parties Implementation Committee (Article 54*bis*), this is clearly not a 'hard' compliance mechanism in that it is specifically directed to be 'facilitative and consultative in nature only, and function in a non-adversarial, non-punitive manner.' Instead, its focus is to be on, 'promoting and supporting learning, exchange of best practices, and cooperation among States Parties for the effective implementation of these Regulations.' In addition, the focus here is on State Parties, and it remains to be seen to what extent the views of other stakeholders will be considered as part of any review process. It is, however, potentially encouraging that the Committee is to be guided by the principles set out in Article 3, which notes that; 'implementation of these Regulations shall be with full respect for the dignity, human rights and fundamental freedoms of persons, and shall promote equity and solidarity.'

The Pandemic Agreement directs the establishment of a Conference of the Parties to take stock of the implementation of the Agreement, review its functioning and take decisions for its effective functioning (Article 19). This body will have the competence to engage with the IHR Implementation Committee. The Conference of the Parties is directed under the Agreement to consider and approve at its second meeting, 'the establishment of a mechanism to facilitate and strengthen effective implementation of the provisions of the WHO Pandemic Agreement.' In common with the IHR State Parties Implementation Committee, this mechanism – once established – is directed to be, 'facilitative in nature, and function in a manner that is transparent, cooperative, non-adversarial, non-punitive and cognizant of respective national circumstances' (Article 19 (6) (a)). It seems very unlikely this mechanism will provide an effective compliance review but a focus on learning and dialogue could arguably help to build shared understandings of the normative development of international law. However, how such processes might facilitate the voices of stakeholders, including communities and vulnerable populations, needs further consideration.

13 Nina Schwalbe, Susanna Lehtimaki & Elliot Hannon, 'The pandemic treaty: A forensic review of process and pitfalls' (2025) 20 (1) Global Public Health 1.
14 Ibid.

Panels One and Two – Context, Treaty Making and Insights from Domestic Processes continued

To expand upon the above, it should be noted that the Pandemic Agreement encourages Parties, 'to apply whole-of-government and whole-of-society approaches at the national level' (Article 15 (1)). It further emphasises the importance of Parties promoting, when developing and implementing education initiatives on pandemic and public health emergencies, the 'participation of relevant stakeholders in a way that is inclusive and accessible, including to people in vulnerable situations' (Article 15 (5)). Emphasis is also placed on enabling community ownership of pandemic prevention, preparedness and response (Article 15 (1)) as well as the promotion and facilitation by Parties of the effective and meaningful engagement of Indigenous Peoples, among other stakeholders, in planning, monitoring and review of policies (Article 15 (3)). However, how such voices will be heard in the actual implementation and review of the Agreement, particularly in respect of the mechanism to be created by the Conference of the Parties and the extent to which a **top-down approach is avoided, and local and indeed indigenous knowledge integrated into such processes, remains to be determined.**

The panel discussions noted how the need for 'whole-of-society approaches', together with an emphasis upon the role of vulnerable groups is already addressed within the international disaster law context via frameworks such as the (soft law) Sendai Framework for Disaster Risk Reduction[15] and the accompanying Bangkok Principles[16] (explored further in Panel Four). Drawing on the above, **the International Disasters Treaty should build on these positive developments and aim to incorporate the views and perspectives of stakeholders, including communities and vulnerable populations, into processes not just for implementing the Treaty, but also in respect of monitoring its implementation, as well as in processes for compliance and review.** The soft-law self-assessment frameworks for States developed by the International Red Cross/Red Crescent movement for disaster response were also discussed (in Panel Four), with some praising such efforts, while others were concerned that they might offer avenues to evade accountability. Lessons might also be drawn from the UN human rights treaty-body system (which concerns harder obligations). However, this model also highlights how, even when there are monitoring and reporting processes in place, States still feel free to exaggerate their human rights performances.

15 UNDRR, 'Implementing the Sendai Framework' available at https://www.undrr.org/implementing-sendai-framework/what-sendai-framework

16 See Adam Strobeyko, 'Disaster Preparedness And Response In International Law: Implications For A Prospective Pandemic Treaty' (2021) Global Health Centre Policy Brief, available at https://www.graduateinstitute.ch/sites/internet/files/2021-11/PolicyBrief3.pdf

Panels One and Two – Context, Treaty Making and Insights from Domestic Processes continued

Integration of values into processes of legal change

The panels discussed how the development of international human rights law indicates that crisis can – but does not necessarily have to - act as a spur for legal development. The panels also discussed how **values, particularly human rights, should guide the normative development of international legal frameworks responding to crises such as pandemics and disasters. Integration of such values into international legal processes can help to bolster the legitimacy of international law making.**

However, the panels examined how sovereignty, while of course central to the international legal system, has tended to limit and/or undermine the achievement of key values such as equity, human rights, and solidarity within the negotiations for a Pandemic Agreement**.** While the Pandemic Agreement does incorporate these values (Article 3 – Principles and Approaches), concern exists regarding their obligational 'bite' (see also discussion in Panel Three). The difficulties and tensions within the Pandemic Agreement negotiations very much mirror those of multilateralism more generally.

Reflecting on the Pandemic Agreement with a view to gleaning lessons for the International Disasters Treaty, the panel discussions drew attention to the need to give prominence to such values early in the negotiating process. The panels agreed there is a need to look at how values are considered and conceptualised within the treaty making process, and how they appear in the operational text of the Treaty itself.

In essence, values should shape Treaty development. Relevant considerations in this regard are whether values such as human rights are reflected in the substantive operational aspects of a Treaty, or whether they are mere 'fig leaves'?

Panels One and Two – Context, Treaty Making and Insights from Domestic Processes continued

Ensuring equity

More generally, the provision of aid and assistance in times of crises was noted as raising questions of equity.[17] Indeed, '(t)he provision and delivery of aid involves power relations that can be addressed by creation of appropriate legal frameworks.'[18] It was clear during the COVID-19 pandemic that the provision of vaccines via COVAX – operationalised in large part on a charitable basis[19] – struggled to meet its objectives, with countries of the Global North dominating procurement and hoarding vaccines. As a result, equity, particularly around access to medical countermeasures, has become something of a flashpoint within the negotiations for a Pandemic Agreement with PABS a touchstone for how equity will be delivered under the Agreement. This is unfortunate as there is likely to be a transactional element to PABS – with pharmaceutical companies sharing pandemic products in return for access to pathogen samples and genetic sequences. Access to pathogens, as well as essential lifesaving products and the right to health should not be underpinned by a logic of exchange, nor should equity be bound up in a transactional bargain where pharmaceutical companies and states with manufacturing capacity – several of whom imposed export restrictions during COVID-19 on essential pandemic products - hold all the cards. This is not equity, and it is not solidarity.[20]

An important lesson to be gleaned from both experiences during COVID-19 and the Pandemic Agreement negotiations is that the provision of assistance is not enough. The terms, the operational context and the logic behind the grant of such assistance also needs to be considered. Ultimately, it was agreed in the panel discussions that value informed negotiations, together with 'agreed standards, based on trust and transparency'[21] and underpinned by a concern for human rights are a necessary starting point to developing frameworks for assistance during times of crises.

Avoiding fragmentation

Both the health and disasters context further point to the need to be aware of the potential for fragmentation**, to avoid siloed approaches and promote coherence**. If the drive towards an International Disasters Treaty is underpinned by a desire for systematicity and an attempt to introduce coherence, alignment and integration in this important area of international law, **tackling head on areas of fragmentation and overlap from the start of discussions is essential.**

17 See also ibid.
18 Ibid.
19 Antoine de Bengy Puyvallée and Katerini Tagmatarchi Storeng, 'COVAX, Vaccine Donations and the Politics of Global Vaccine Inequity' (2022) 18 Glob Health 26
20 On the debates regarding equity and PABS, as well as the latter's 'transactional' underpinnings, see Abbie-Rose Hampton and others, "'Equity' In the Pandemic Treaty: The False Hope Of 'Access and Benefit-Sharing'" (2023) 72 (4) International and Comparative Law Quarterly 909-943.
21 Strobeyko (n 16) 10.

Panels One and Two – Context, Treaty Making and Insights from Domestic Processes continued

Regulating non-state actors

The panels also recognised the need to reflect upon the notion of States as the sole actors of relevance to public international law, towards potentially recognising duties on the part of non-State actors when dealing with crises. Discussions within the Pandemic Agreement have, for example, focused on creating obligations for pharmaceutical companies to share medical countermeasures (including vaccines, therapeutics and diagnostics) as part of the PABS negotiations discussed above, with these obligations likely to be implemented via private contracts between the WHO and the relevant companies. However, it was recognised that imposing obligations on private actors outside of the context of an area like PABS will likely be difficult.

From a disasters perspective, it was noted that codes of conduct – already commonplace in the sector - could be developed under the auspices of the International Disasters Treaty, with further refinements made as part of any ongoing process for monitoring, compliance and review (as discussed above) instituted under the Treaty. More generally, **the role of private actors during crises, including the business sector and NGOs, was recognised as requiring further discussion**. While they are often vital to emergency planning and response, there is also a need for nuance in respect of civil society engagement in crises. For example, there is a cautionary tale to be told in respect of NGOs and the Tsunami Coalition (formed in the aftermath of the 2004 East Indian Ocean Earthquake and Tsunami) which drew considerable criticism during the aid response in Sri Lanka. They adopted a top-down approach, designing and implementing projects wholly unsuited to local needs. Such an approach, designed in Geneva, largely failed to engage with local communities.

NGOs do important work during crises, but clearly, they can and do get it wrong, and projects during crises need to be co-developed with relevant stakeholders, including of course local communities. With respect to the idea of an International Disasters Treaty, NGOs have in general been unconvinced by the path to a treaty. There reflects a particular anxiety about regulating non-state actors, specifically NGOs. The panel discussions highlighted that regulatory intervention to promote NGO accountability posed certain risks. For example, NGOs could find themselves demonised in an unwarranted way, or an impression could be given of NGO co-option. However, it was agreed that it would be unfortunate if the issue of private actors was not properly addressed. In essence, if the responsibilities of private actors themselves are not addressed directly, there is a danger of over-relying on States exercising due diligence in relation to such entities, a strategy that has not always proved effective, as can be seen in the business and human rights context, for example. More generally, it should also be acknowledged that non-state actors are not a homogenous group, and that NGOs and corporations may warrant distinct regulatory approaches, given their differing roles, impacts and accountability structures.

Panels One and Two – Context, Treaty Making and Insights from Domestic Processes continued

Learning from the domestic context

The domestic process of pandemic response was discussed in these panels. It was agreed that processes of domestic review of pandemic/emergency response should not impede effective response, but this needs to be balanced against constitutional principles due to the risk of executive overreach. Dynamic processes for (constitutional) review are essential to both enhance decision making but also to strike a balance between these (at-times competing) considerations such as the need for rapid responses. There is also a **need to consider how best to integrate stakeholder voices and human rights in the response to pandemics and indeed, with respect to crises more generally**. These lessons are equally as applicable to the domestic and international context and, as noted above, review processes at international level have not always been particularly robust.

Furthermore, in looking at domestic processes of pandemic response, the panels discussed how while the rule of law should be considered in emergencies, it is often not at the forefront of emergency response, despite its potential to aid the reaction to crises. The panels discussed how **creating legal frameworks – 'legal preparedness'- in advance of an emergency is essential to ensure that the response to crisis is guided by agreed protocols.[22] There should also be mechanisms in place to supplement and build further guidance as knowledge of a crisis increases; there should hence be a dynamic and iterative aspect to this.** It was further recognised that planning should be inclusive and ensure the integration of different (often marginalised) groups.

As with any disaster where considerable harm has been endured, proper investigation of state handling of the COVID-19 pandemic and its attendant harms is essential (particularly given the requirements of human rights law). However, the workshop discussions were clear that **the UK COVID-19 Inquiry cannot be confined to retrospective critique of decisions made in good faith at the time. Rather its true value will lie in looking forward towards preventing, managing and responding to future crises.**

22 Echoing discussions at the international level on such issues; see e.g. Global Health Security Agenda, 'Defining Legal Preparedness in the Context of Public Health Emergencies' (2024) available at https://globalhealthsecurityagenda.org/wp-content/uploads/2024/06/Defining-Legal-Preparedness-in-the-Context-of-Public-Health-Emergencies-1.pdf

Panel Three – The Interface between Science, Data, Law and Policy

There is a pressure in law to follow good, science-based approaches when making and enforcing rules, but the process of translation between science, policy and law can be thorny, something that is intensified in disasters (and something that was clear during the COVID-19 pandemic). As was noted above, both global health law and international disaster law call for a multidisciplinary approach. While the relevance of science, medicine and engineering are self-evident, the contribution of social sciences to holistic understandings in both legal fields has been invaluable and should be reflected in any outcome instruments. Consequently, the workshop set aside time for a particular focus on multi-disciplinarity during crises with a particular focus on science, data, law and policy and reflections garnered from experiences during the COVID-19 pandemic. For example, how can a state facilitate a multidisciplinary approach when responding to an overwhelming crisis? What is the role of research in social policy development for emergencies? Which issues arise when scientific information forms the basis of (often urgently made) policy? What is the responsibility (and potential liability) of a research professional in that situation?

Data

Historically, statisticians have been more focused on data-analysis and less concerned with issues relating to the data's origins, how it might be protected or any surrounding legal responsibilities. However, this has changed over time as the role of statistical analysis has moved beyond the confines of its discipline towards increasing inter-disciplinary engagement together with multiple non-statistical agencies. Given the project's imperative to look at lessons that could be learned from the experiences in health crises, the inclusion within the workshop of a mathematical/ statistical perspective with a focus on medical statistics (and associated modelling) was deemed indispensable.

The panel discussed how the use of data to inform and justify the implementation of policy has become ever more apparent, and manifestly so, in the case of public health emergencies. As was noted, during COVID-19, statistical data examining R-numbers and mortality rates occupied a high-profile in the UK daily briefings which outlined and explained government policies.

Statistics played a key role in informing decision-making in a variety of Scottish and UK government committees (both standing and COVID-19 specific) and the panel discussions concerned those and the inter-relationship with Public Health Scotland (PHS). The statistician's role is focused on analysing data, reporting on disease rates and trends, and designing studies and surveillance systems. Statistics can also be used for forecasting and estimating disease impacts or the likely impact of public health interventions.

Panel Three – The Interface between Science, Data, Law and Policy continued

Statisticians, along with epidemiologists and public health scientists, all require data to perform their functions. While many such experts are based in universities, others are employed by government or public health agencies. During a pandemic, scientists are looking to understand processes and estimate impacts. While it is relatively easy to fit a statistical model to existing data and obtain reasonably precise predictions, this is less the case with entirely predictive exercises. As soon as the focus shifts to forecasting, the potential for imprecision increases as many scenarios lie within uncertainty limits and any exercise is making untestable assumptions. For example, in the depths of the COVID-19 pandemic, the prediction of mortality rates was a key consideration for policy development. However, the successful development of a vaccine, and the potential for viral mutations were major variables in any predictions in what was already a fast-changing context.

In major crises like COVID-19, scientists must work at an incredible speed and are under intense pressure to produce results as soon as possible (and maybe before any interventions can be expected to have had an impact), all of which increases the potential for mistakes. Although this is guarded against by the practice of working in, and sharing results among, groups, scientists may not be the most effective communicators, and errors can still occur. It is extremely hard for any professional to operate in an environment where answers are asked for, but there is no solid data with which to provide reasonable responses. There is every chance that these technical experts will need to implement studies to provide the data with which to answer the policy questions. Although it is possible for professionals to use prior knowledge and experience to answer questions, the resulting conclusions can be somewhat tentative.

The main takeaway flowing from the panel discussions was that it is essential to plan now for the collection of data that needs to be available in a future pandemic. However, how data is collected, who has access to such data, and how it is used undoubtedly raises issues of equity and it cannot be assumed that data is 'value neutral.'

From the disasters perspective, there may be a need to establish obligations to bank and share key data in advance of crises, alongside human rights and privacy safeguards, while also being cognisant of the need for equity in how data is produced, shared and governed.

Panel Three – The Interface between Science, Data, Law and Policy
continued

The technicalities of development, manufacturing and delivery

There are always significant operational issues during a disaster's onslaught and the practicalities of getting the right assistance distributed efficiently is key. However, this presupposes that such assistance exists. In the case of COVID-19, there was no vaccine available when the pandemic struck. Since the beginning of the 21st century, the mean development time for vaccines was between 9 and 13 years which would have been catastrophic given the scale of harm being witnessed globally. Fortunately, the first COVID-19 vaccines were approved in December 2020 and January 2021. It became crucial to the workshop's enquiry to understand how the COVID-19 vaccines were developed and distributed so quickly.

The pandemic's global scale demanded that coordination mechanisms operate at a macro level. High level co-operation and synchronisation prioritised vaccine development and optimised the conditions for success with considerable collaboration among the scientific and medical communities, ethics approval boards, regulatory agencies and manufacturers. For example, governments and funding bodies joined forces to remove financial obstacles. The scientific community benefited from pre-existing advances in vaccine technology; manufacturers operated in sync with clinical trials to ensure the capacity for scaling-up production and a huge bank of keen volunteers for clinical trials removed any potential recruitment difficulties. Finally, in the UK, early, temporary authorisation was granted by the Medicines and Healthcare Products Regulatory Agency whilst a 'rolling review' process allowed for analysis of data as it was being submitted.

For some countries, potential challenges to scaling-up supplies and distribution such as capacity strain, technology transfer and limitations in work-force expertise were mitigated by global link-ups and automation. For countries with sufficient resources, supply chain difficulties were dealt with by way of stockpiling and diversification of suppliers. The stability of vaccines was attended to via real-time monitoring and innovative storage mechanisms. Distribution could be dealt with by pooling resources.

As the panel discussion highlighted, although good faith was key, a common goal of salvation was not enough. High-level, ongoing communication and multi-sectoral coordination was also essential for these initiatives' success. Regulatory flexibility was also apparent and, as the discussion noted, speaks particularly to the disasters context where, being beholden to certain legal regimes (such as visa and customs rules) has been criticised as hampering assistance. Equally, such 'elasticity' can provoke suspicion and outright challenge that standards and/or safety are being compromised.

Panel Three – The Interface between Science, Data, Law and Policy continued

While the panel discussion revolved mainly around the pharmaceutical context, it posed relevant questions concerning risk and preparedness, and in particular, issues of technological and industrial cooperation in a world that presupposes strong intellectual property protections. It also highlighted issues regarding the proximity of manufacturing and distribution sites to locations where harm is being experienced. Whilst total decentralisation is intuitively attractive in the disaster context for ensuring rapid response, questions may arise over ensuring the suitability of local sites and their own vulnerability when a disaster strikes.

Another problem common to health law and disasters relates to supply chains and stockpiling (either of raw materials or end products) in particular. Open borders and diversification of production and supply, global stock control, innovative storage and global distribution might ameliorate difficulties, but states' commitments to this might be doubtful in shifting geo-politics. Indeed, historical experience shows that export restrictions and border closures can be enacted rapidly in times of crisis. The key lessons that were learned from the pharmaceutical experience during COVID-19 were that: investment in flexible vaccine platforms is crucial; supply chains must be strengthened; cold chains are to be avoided or mitigated; equitable global access to vaccines is necessary; public health communication needs to be boosted, and, ultimately, a plan for long-term immunity is crucial**.**

Certain of the issues discussed in this panel are addressed within the Pandemic Agreement,[23] albeit to varying degrees of success, and concerns persist regarding the lack of commitments around new financing streams to support implementation. Furthermore, some anxiety surrounds the lack of obligational 'bite' of certain provisions which seem more aspirational than substantive.[24] This has led to question marks over the Agreement's capacity to overcome the deficiencies of global solidarity and equity witnessed during the COVID-19 pandemic.[25]

Whilst the panel discussion revolved around many practical concerns in a crisis, these all assumed and promoted **the imperative for equitable global access to life-saving assistance**, a concern which extends well beyond the pharmaceutical context. Indeed, **maximising and fast-tracking assistance to disaster-struck victims is a stated priority of most states and relevant actors.** However, there are divergences in views as to what that does, or should, entail and whether codifying a duty of offering assistance could help.

23 Article 8 sets out obligations on regulatory systems strengthening; Article 9 on research and development; Article 10 contains provisions on sustainable and geographically diversified local production; Article 11 addresses transfer of technology and cooperation on related know-how for the production of pandemic-related health products; Article 12 sets out the outline detail of the PABS system; Article 13 directs the establishment of a "Global Supply Chain and Logistics Network" – which notably directs 'consideration of the needs of persons in vulnerable situations, including those in fragile and humanitarian settings, and the needs of developing countries' in the operationalisation of the network (Article 13 (2) (c)); Article 14 contains provisions on procurement and distribution while Article 16 contains provisions on communication and public awareness.

24 Clare Wenham, 'The Pandemic Agreement may weaken, rather than strengthen multilateralism' (2025) Chatham House, available at https://www.chathamhouse.org/2025/05/pandemic-agreement-may-weaken-rather-strengthen-multilateralism

25 Ibid.

Panel Three – The Interface between Science, Data, Law and Policy continued

Furthermore, the development of the COVID-19 vaccine was certainly a success story in scientific terms with sufficient vaccine coverage achieved in select countries around the world. However, this was certainly not the case for all countries with many lower and middle-income countries lacking equitable access at key points in the pandemic. Indeed, the parallel failure of the COVAX scheme and the vast inequities of vaccine access during the pandemic, together with the continued wranglings over PABS, and the lack of firm commitments in respect of new financing streams to support implementation of the Pandemic Agreement, **highlights how questionable the commitment to solidarity and equity can be and acts as warning against complacency in the drafting of the Disasters treaty**.

Applying the above lessons to the disasters context emphasises that **multilateral and regional cooperation should be strengthened to foster a spirit of solidarity via strategies such as pooled resources and joint planning. This should be accompanied by a clear articulation of roles and shared responsibilities. The Agreement on Disaster Management and Emergency Response[26] designed by the Association of Southeast Asian Nations potentially provides an instructive example to draw upon.**

Four Harms Approach

Beyond the specific realm of scientific expertise, the panel also discussed how science, policy, law and data can be integrated to optimise responses to crises. The Scottish experience was extremely instructive in this regard given the Scottish Government's adoption in April 2020 of a framework for decision making that assessed the four harms of the COVID-19 crisis.[27] As well as offering insights into how a devolved administration could tackle management and decision-making within a particular constitutional framework, the Four Harms approach offered a lens through which to see multidisciplinary collaboration in action. The Four Harms approach set out the challenges faced and outlined the approach and principles that guided decisions taken by the Scottish Government about transitioning out of the then lockdown arrangements.[28] Analysis included the use of modelling, statistical data, surveys, polling, qualitative research, scientific literature review and academic engagement, which together provided a basis for overall assessments of both individual and collective harms being endured. Equality considerations were factored into all aspects of the Four Harms.

26 ASEAN Agreement on Disaster Management and Emergency Response, https://www.aseandrr.org/about/aadmer and T Natoli and D Cubie, 'YIDL Dialogues with Practitioners: Ms Adelina Kamal – Former Executive Director of the ASEAN Coordinating Centre for Humanitarian Assistance (AHA Centre)' (2023) 4 (1) Yearbook of International Disaster Law Online 3-12.

27 Scottish Government, 'Coronavirus (COVID-19): framework for decision making - assessing the four harms' (11 December 2020) available at https://www.gov.scot/publications/covid-19-framework-decision-making-assessing-four-harms-crisis/

28 See also the Scottish Route Map (May 2020) available at https://www.gov.scot/publications/coronavirus-covid-19-framework-decision-making-scotlands-route-map-through-out-crisis/

Panel Three – The Interface between Science, Data, Law and Policy continued

The Four Harms approach was intended to take into consideration the diverse impact COVID-19 was having on the people, economy and services of Scotland when assessing options for action. The approach focused on the direct harm generated by COVID-19 (such as transmission and deaths) and its indirect impact on health and social care services and non-COVID health harms. It also considered how social harms generated by measures taken to tackle the virus (including lost learning and aggravated poverty and inequality) could be addressed. Finally, there was a commitment to focusing on how the pandemic and counter-pandemic measures had caused economic harms and hardship.

The approach was intended to be dynamic, agile and capable of keeping step with developing science and data, to allow for evolving harms assessments. Effective communication around different levels of scientific knowledge was key, with politicians, advisors and policy makers engaging in thorough and robust exchanges. Academic partnerships also proved particularly important. The panel discussed how one of the inevitable findings out of working in a multi-disciplinary group was the need for clear communication of information and decisions, and transparency as to methodologies and results. Similarly, the importance of disseminating information in a clear and trusted way was seen as crucial.

The key principles that guided decision-making taken under the Four Harms model prioritised safety, lawfulness, evidence-based decisions that would be fair and ethical, clear, realistic and reflect a collective response in partnerships with central government and other devolved administrations.

As the epidemic progressed and evolved, analysis expanded to countenance possible approaches for different outcomes. Using the data to model '4 plausible futures' (varyingly a polarised, immune, waning or variant world) allowed for a visualisation of these possibilities, and contemplation of their attendant harms. It also generated an impetus to avoid or ameliorate them. This gaming dimension had the advantage of being based on constantly updated data and offered an avenue for addressing how such an epidemic could be monitored and reported in the future.

The Four Harms approach endured beyond the lifetime of the pandemic with an *ad hoc* response becoming a standing approach. It evidenced clear multi-disciplinarity by blending science and social science, providing an immensely supportive hub for participants. This approach also built relationships for future policy making beyond the COVID-19/health context, in other disasters and crises.

Panel Three – The Interface between Science, Data, Law and Policy continued

The Four Harms Approach

There were underlying questions that were common for all four harms and could be characterised as follows:

What were the key aspects of any option being addressed (specific features)?

How many people might be affected (scale)?

What were the characteristics of those being affected (equality)?

How often would it occur (occurrence)?

Which areas would be affected (geography)?

Were there mitigation options (mitigations)?

Were there other options that could be developed (alternatives)?

The panel discussions regarding the Four Harms Approach highlighted the value of a structure and language with which to have difficult discussions. It was also seen as crucially important to have one source of truth for policy making, whilst the availability and sharing of data seemed central to the effectiveness of the approach. The panel also noted that open communication with internal and external partners and stakeholders was essential, and the value of academic partnerships could not be overstated.

From the perspective of disasters, it was recognised by the panel that the Four Harms approach could be utilised to ensure ongoing protection of impacted populations. It was also recognised that there needs to be institutionalised processes for dialogue between scientists and policy through the establishment of mechanisms such as advisory panels.

Panel Four – Dealing with Risk in the Health and Disaster Context

In this panel, the workshop reviewed how risk is conceptualised in both the global health and disasters contexts.[29] The rationale for this panel was that there is a prevailing environment of overwhelming risk common to both disasters and health law. After all, what both global health and international disaster law should have in common is a focus on how to prevent a hazard – whether natural, human-made, technological or an infectious disease - from becoming an emergency.[30] Issues of interest relate to identification of risk, risk calculation, risk mitigation/ risk reduction, risk management and in the best scenario, removal of risk. In the health context, the key phrases often used are prevention, preparedness and response. In disasters, risk awareness and assessments are often embodied in, for example, vigilant seismic readings and visualised via simulation exercises.

Risk is, however, something with which both areas struggle. The IHR (2005), for example, contained few provisions dealing with prevention of disease/disease risk, instead focusing on containment of disease at source.[31] The focus on the IHR was therefore not on preventing risk per se, but reducing the risk of disease spread across borders.[32] Recent reforms have – to an extent - bolstered references to prevention within the IHR, but the Panel discussions noted that it is via the Pandemic Agreement that there is a much greater emphasis upon prevention, preparedness and the imposition of obligations on One Health, discussed further below. The non-binding Sendai Framework for Disaster Risk Reduction also focuses on risk prevention, while the ILC Draft Articles on the Protection of Persons in the Event of Disasters articulate (under Article 9), that;

> 1. Each State shall reduce the risk of disasters by taking appropriate measures, including through legislation and regulations, to prevent, mitigate, and prepare for disasters.
>
> 2. Disaster risk reduction measures include the conduct of risk assessments, the collection and dissemination of risk and past loss information, and the installation and operation of early warning systems.

Finally, the IFRC is clear that hazards can be prevented from becoming disasters by helping communities to be prepared[33], reduce their risks, and become more resilient.[34] However, an **important takeaway from the panel discussions is that risk is not uniform. For example, while a hazard can exist for large numbers of individuals, exposure to harm is not even. It is crucial to consider structural vulnerabilities and differences in exposure to harm in the identification, assessment and management of risk. Furthermore, it was agreed that robust obligations of risk communication should exist during times of crisis, including disasters.**

29 There is a growing literature in this area. Please see, for example Vol.3 (1) (2020) of the Yearbook of International Disaster Law which focused specifically on health and disasters.
30 See discussion https://www.ifrc.org/sites/default/files/2023-03/2022_IFRC-WDR_EN.0.pdf.pdf 198
31 Ginevra Le Moli, 'The Containment Bias of the WHO International Health Regulations' (2023) British Yearbook of International Law brad001
32 Ibid.
33 IFRC, 'Disaster and Crisis Preparedness' available at https://www.ifrc.org/disaster-preparedness
34 Ibid.

Panel Four – Dealing with Risk in the Health and Disaster Context
continued

The institutionalisation of risk within the UN system – One Health and the Sendai Framework

The UN occupies a central role in the disaster context and as discussed previously, operates in this context through its various agencies and offices. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) takes the lead in tackling humanitarian emergencies when they occur and is key to mobilising and coordinating assistance and advocating for disaster struck communities. A more pre-emptive role is occupied by the UN Office for Disaster Risk Reduction (UNDRR). As the UN lead for the coordination of disaster risk reduction, UNDRR has been particularly active in developing major programmes of action, most notably in the Sendai Framework for Disaster Risk Reduction, discussed above. As noted, legal reform has been driven by the International Law Commission (which undertakes the mandate of the UN General Assembly to progress and codify international law) most notably via the aforementioned 2016 ILC Draft Articles.

UNDRR defines disaster prevention as: 'the concept and intention to completely avoid potential adverse impacts of hazardous events.' While it recognises that some disaster risks cannot be eliminated, the aim is to 'reduc[e] vulnerability and exposure in such contexts where, as a result, the risk of disaster is removed.' The UNDRR identifies examples such as dams and embankments for eliminating flood risks, land-use regulations, specialised seismic engineering designs to ensure the survival and function of critical buildings and immunisation programmes. Prevention measures are not confined to those prior to a hazardous event but can also be taken during or after such an event or disaster to prevent secondary hazards or their consequences, such as measures to prevent water contamination.[35]

From the perspective of disasters, the diversity of legal rules and stakeholders is inevitable due to the multifarious issues that potentially arise from a humanitarian crisis. As noted above, while a hazard can exist for large numbers of individuals, exposure to harm is not even and understanding vulnerability is crucial. All these factors need to be considered in any identification and assessment of risk. There is also a **need to create space for open approaches to science and knowledge construction including recognition of indigenous and local knowledge, both of risk, but also more broadly**.

35 Ibid.

Panel Four – Dealing with Risk in the Health and Disaster Context continued

In terms of the Pandemic Agreement, pandemic risk (and prevention) was, from the early stages of the negotiating process, conceptualised as inherently linked to the promotion of a One Health approach. By looking at the interactions between humans, animals, plants and ecosystem health, One Health looks to adopt an integrated and unifying approach that aims to 'help to sustainably balance and optimize the health of humans, animals, plants, and the environment.'[36] Furthermore,

> 'The approach mobilizes multiple sectors, disciplines and communities at varying levels of society to work together to foster well-being and tackle threats to health and ecosystems, while addressing the collective need for clean water, energy and air, safe and nutritious food, taking action on climate change, and contributing to sustainable development.'[37]

The Panel noted that although the One Health approach can trace its origins to quite distant historical antecedents, it gained ground in the 21st century via the Manhattan Principles (2004) and the 'One World, One Health' approach which called for a more holistic approach to disease prevention and optimising the health of humans, animals and ecosystems. At its core is an emphasis upon **integration and interdependencies.**

The One Health concept interfaces with several different areas of international law, including international agricultural law (thereby engaging with the remit of the United Nations Food and Agricultural Organization), environmental law (relevant to the remit of the United Nations Environment Programme) and animal health (engaging with the World Organization on Animal Health (WOAH, formally OIE)). In recognition of such interconnections, the WHO, WOAH, and FAO (the so-called tripartite) formed a partnership in 2010. In the aftermath of COVID-19, UNEP joined the tripartite – becoming the quadripartite, with the One Health High Level Expert Panel (OHHLEP), acting as a scientific and strategic advisory group to the Quadripartite organisations. The Panel discussions noted that **a key focus here has been on the adoption of a joined-up approach with inclusivity, equity and access key guiding principles underpinning implementation, in recognition of the fact that no single international organisation can deal with One Health alone. This may prove to be an instructive example for any International Disaster Treaty.**

36 FAO, OIE, WHO and UNEP, 'The One Health approach and Key Recommendations of the Quadripartite' (June 2023) available at https://cdn.who.int/media/docs/default-source/universal-health-coverage/who-uhl-technical-brief-one-health.pdf?sfvrsn=353e9ad1_3&download=true

37 Joint Tripartite (FAO, OIE, WHO) and UNEP Statement Tripartite and UNEP support OHHLEP's definition of "One Health" available at https://wedocs.unep.org/bitstream/handle/20.500.11822/37600/JTFOWU.pdf

Panel Four – Dealing with Risk in the Health and Disaster Context continued

One Health is integrated into the Pandemic Agreement via Article 5 which requires that Parties shall promote a One Health approach and take measures 'aimed at promoting human, animal and environmental health' (Article 5 (3)). The focus here is on the 'drivers of pandemics and the emergence and re-emergence of infectious disease at the human-animal-environment interface' (Article 5 (2)). The direction to take measures is noted to be context sensitive, and subject to the availability of resources. This is significant as there was some concern during the negotiations that the adoption of a One Health approach could prove particularly costly for countries of the Global South and could be used by countries of the Global North to implement protectionist policies on agricultural imports.[38]

Article 5 is accompanied by a range of provisions on prevention and surveillance set out in Article 4 which direct, among other things, that Parties shall promote collaboration across relevant sectors. There is an emphasis on multisectoral surveillance, pandemic drivers and antimicrobial resistance in Article 4, but these are accompanied by a significant focus on national policies, capacity-building, and legal constraints including that measures take, 'into account national capacities and national and regional circumstances.' Accordingly, while the commitments are presented using the mandatory 'shall', they are heavily caveated. This is notably also the case for Party obligations in Article 5 on One Health.

There has been some criticism that the focus on zoonosis, antimicrobial resistance and spillover events seen in the Agreement is somewhat outdated and does not capture broader and more holistic understandings of a One Health approach.[39] However, the Pandemic Agreement's Conference of the Parties is tasked to develop further guidance on the operationalisation of the provisions on Article 4 and to adopt a One Health approach as appropriate when doing so (Article 4 (4)).[40] It remains to be seen to what extent this will capture more holistic conceptions of One Health.

38 Pedro A Villarreal, Aeyal Gross, Alexandra Phelan, 'The Proposed Pandemic Agreement: A Pivotal Moment for Global Health Law' (2025) 53 (S1) Journal of Law, Medicine & Ethics 55-58.

39 Elisa Morgera and others, 'What Do The 2022 UN Biodiversity Conference outcomes mean for the ocean and ocean research? A focus on marine biodiversity and human health (part 3)', 23 April 2023 available at https://strathprints.strath.ac.uk/85445/ though c/f arguing that Ricardo Matute, 'Preventing the Next Pandemic: A Closer Look at Prevention and One Health in the WHO Pandemic Agreement' (2025) Graduate Institute Governing Pandemics Snapshot, available at https://www.governingpandemics.org/gp-snapshot arguing that Article 4, 'includes "deep prevention" measures to be mainstreamed throughout the health systems of Parties.'

40 In full, 'The Conference of the Parties shall develop and adopt guidelines, recommendations and other non-binding measures as necessary, to promote the effective implementation of the provisions set out in paragraphs 1 and 2 of this Article, consistent with the provisions of the International Health Regulations (2005), following, as appropriate, a One Health approach, with full consideration of the national circumstances and the different capacities and capabilities of Parties, as well as the need for capacity-building and implementation support for developing country Parties.'

Panel Four – Dealing with Risk in the Health and Disaster Context
continued

In terms of learnings for the International Disasters Treaty, it was discussed in Panel Four how it is not necessary to agree on everything in an agreement's text, but mechanisms need to be put in place to ensure continuous learning, including of potential alternative approaches, and as regards other regimes and disciplines.

Of note is that international disaster law could have been considered as an approach in the Pandemic Agreement to deal with issues of risk, prevention and preparedness. The Sendai Framework, for example, contains several principles which could be of use in pandemic preparedness and response.[41] These include multi-hazard and multi-stakeholder coordination, addressing vulnerability, international cooperation and assistance, a focus on recovery and rebuilding, and the integration of health into disaster risk reduction and response.[42] However, as set out above, an approach founded in the One Health approach (together with an emphasis on prevention and surveillance) was endorsed. Whilst the two fields have much in common, discussions highlighted how international disaster law was seen as 'soft' and procedural and was not familiar to a global health audience. This shows how **a particular mindset can lead to oversights, such as the neglect of complementary frameworks and learnings emanating from other regimes.**

The workshop then concluded with several key findings and recommendations for negotiators.

41 Strobeyko (n 16).
42 Strobeyko (n 16).

Key Findings and Recommendations for Negotiators

Below are a set of recommendations and lessons on what international disaster law can learn from experiences in responding to (global) health crises, in the specific context of responses to humanitarian crises. These recommendations are intended to be of use to negotiators and stakeholders to the International Disasters Treaty and are set out thematically.

1. Transparency and Inclusion

- **Ensure inclusive stakeholder engagement** in any International Disasters Treaty negotiations, with representation from civil society, local communities and stricken populations.
- **Prioritise transparency in decision-making processes,** accompanied by processes for monitoring and review.

2. Integrate Equity, Solidarity and Human Rights

- **Embed equity as an underpinning principle** in all stages of disaster governance and recognise differential capacities.
- **Codify a duty to offer assistance** for states in respect of disaster-stricken states, based on solidarity (and considering respective capabilities).
- **Embed human rights protections** directly into treaty obligations accompanied by enforcement and accountability mechanisms.
- **Mandate post-disaster reflection and investigation,** drawing on existing human rights law to ensure reflection and learning from experiences.
- **Engage key stakeholders**, including local communities and civil society, in post-disaster review and reflection processes.

3. Strengthen Multilateralism and Regional Cooperation

- **Promote solidarity as much as cooperation**, through actions such as the pooling of resources and joint planning, together with the articulation of shared responsibilities.
- **Reference and build on regional mechanisms**, while ensuring alignment with multilateral frameworks.
- **Recognise and promote state agency** with a view to resisting intuitive understandings of societies, particularly of the Global South, as passive recipients of disaster assistance.

Key Findings and Recommendations for Negotiators
continued

4. Promote Science and Policy Interaction and Iterative Responses

- **Institutionalise processes for dialogue between scientists and policymakers** through the establishment of mechanisms such as advisory panels
- **Design treaties as living rather than static instruments**, creating processes for learning and iterative development to respond to changes in both scientific understanding as well as evolving landscapes of risk.
- **Establish processes to bring in learnings and perspectives from other regimes** with a view to avoiding the fragmentation of international law.
- **Create space for open approaches to science and knowledge construction** including recognition of the importance of indigenous and local knowledge.

5. Build Intersectoral and Multidisciplinary Approaches

- **Mandate intersectoral** and multidisciplinary coordination and expertise in disaster response and recovery as well as in disaster planning (covering prevention, preparation and mitigation).
- **Support interdisciplinary research,** foster holistic responses, and be aware of the risks of oversights and siloed approaches from the start of negotiations

6. Communication and Data

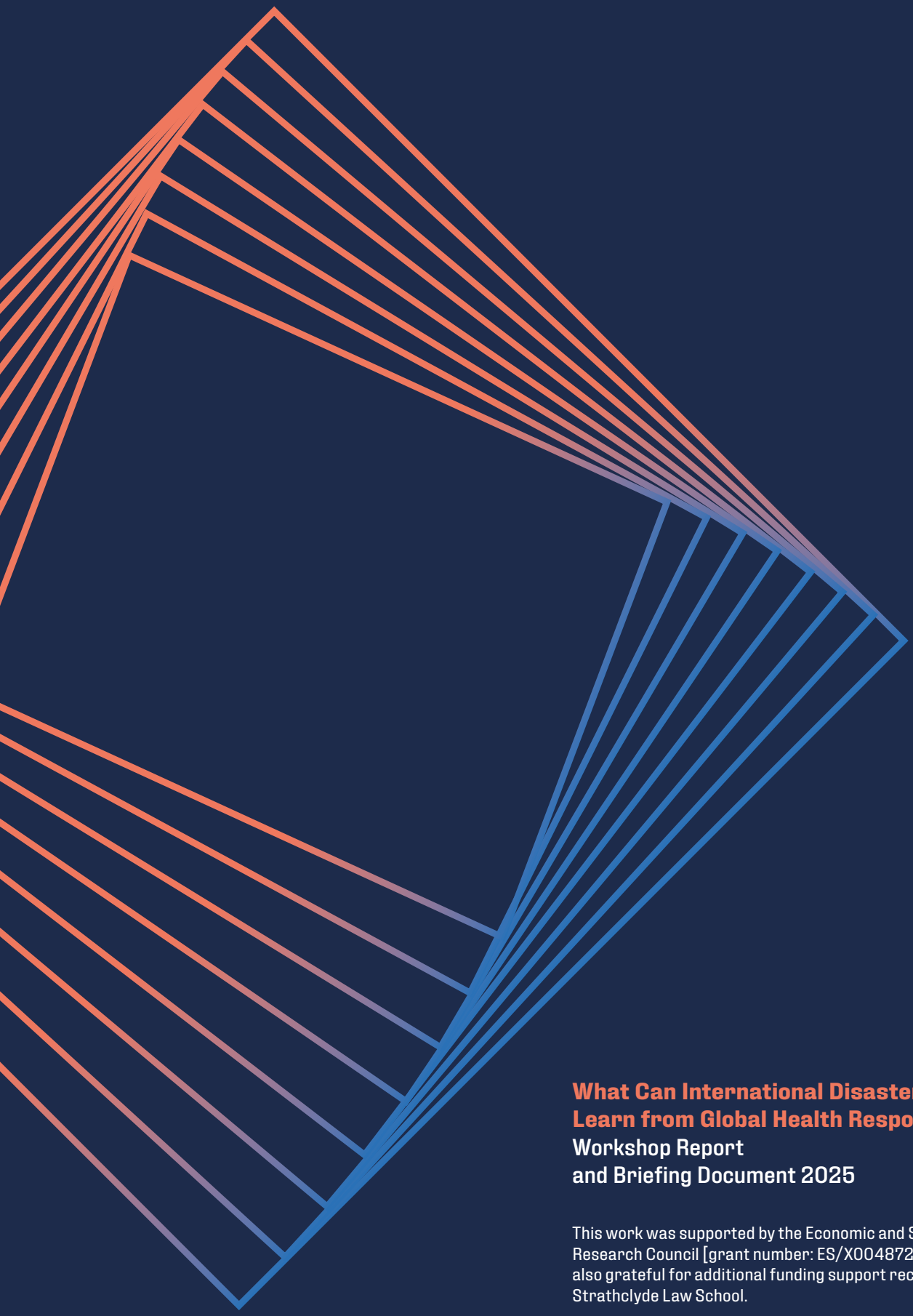
- **Mandate risk communication obligations** for states and other key stakeholders before, during and after disasters
- **Establish obligations to bank and share key data**, alongside human rights and privacy safeguards, while also being cognisant of the need for equity in how data is produced, shared and governed.

7. Consider the Private Sector

- **Impose obligations on private actors** to align with Treaty goals, drawing lessons from other areas of international law.

8. Risk and the 'Four Harms' Approach

- **Articulate a broader conception of risk** within the disasters context to encompass considerations of structural vulnerabilities and differences in exposure to harm.
- **Incorporate a 'Four Harms Approach'** (which considers physical and mental health, economic and social harms in an integrated and iterative way) to ensure ongoing protection of impacted populations.



What Can International Disaster Law Learn from Global Health Responses?

Workshop Report and Briefing Document 2025

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