

The Wuhan Pandemic: The Chinese Communist Party and the need for reform of the international law

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Modern humankind has gone through great disasters. The First World War (1914-1918) and the Second World War (1939-1945), the Great Depression (1929-1933), terrorism and genocides of Hitler and Nazi Germany, terrorism, crimes against humanity and genocides of Stalin, Mao Tse Tung and Polpot...

The Wuhan Pandemic ranks among these great disasters of humankind.

The number of infected individuals amounts to hundreds of thousands and marching fast to millions. Fatalities amount to tens of thousands and marching fast to hundreds of thousands or millions. The Wuhan Virus has the potential to sow suffering among humanity beyond our imagination.

This virus is virulent not only because it kills humans but also because it kills the very foundation of the human economy.

In Australia, one of the most prosperous nations of the world, the economy has been hit hard. The government has to spend hundreds of billions of dollars to rescue the economy, including subsidizing 70% of wages of each employee (A\$1500 each fortnight) to keep their jobs. In the USA and other developed countries similar measures are being taken.

In poorer nations such as India, the situation is dire.

Thousands of fatalities and millions of unemployed people in the world find themselves without food and shelter.

In principle, individuals (Xi Jinping and cohorts) and groups (the Chinese Communist Party and the Chinese government) may have to be held responsible for this calamity because they have constituted the required elements for the commission of the following grave criminal offences:

1. Terrorism: defined as the use of violence and unlawful intimidation in particular against civilians in order to achieve political objectives

2. State terrorism: defined as the practise of terrorism of one state against another state or against its own citizens.

3. Crime against humanity: defined as an act intentionally aimed at attacking widely and systematically any individual civilian or an identifiable group of the civilian population. This crime includes genocide defined as the mass killing of groups of people, for instance pertaining to a nation of ethnic group.

However, under international law, the chances of prosecuting the above individuals and groups are non-existent due to the following reasons:

In the aftermath of the Second World War, the world order through institutions such as the United Nations and the system of international law is not wholly bases on the foundation of justice, but largely on the might of the victors. In consequence, on the positive side, we have the Universal Declaration of Human Rights and related documents encapsulating basic values of democratic nations such as the USA, Great Britain and France.

But on the negative side, conventions such as the veto power of each permanent member of the Security Council of the UN (including the USA, the Soviet Union, Great Britain and the Republic of China) as well as the maintenance and consolidation of the concept of state sovereignty or more precisely on the legal plane the concept of “supreme state sovereignty” are regrettable concessions by the USA and the free world to the Communist Party of the Soviet Union after 1945. This regrettable concession worsened when the General Assembly of the UN in 1971 resolved to replace the seat of the Republic of China (Taiwan) in the Security Council with that of Communist China.

In short, the supremacy of state sovereignty comprises the following legal characteristics:

1. Permanence
2. Exclusiveness
3. All-encompassing
4. Unchanging
5. Indivisibility
6. Absoluteness

The great impediment to international justice is this very concept of supreme state sovereignty and the above 6 characteristics.

Dictators and totalitarian political parties in the world take refuge under the shield of governments and through these governments they are granted absolute protection pursuant to the concept of supreme state sovereignty, thus immunity from prosecution.

Evidently, nothing is absolute in the world.

In the area of Corporations law, the individual shareholders or members of the board of directors may hide behind the separate legal personalities of their companies in order to dodge civil responsibilities, especially damages, similar to the above criminals hiding behind the concept of supreme state sovereignty.

However, in Western nations under the rule of law, there are laws to rectify this anomaly through the concept of “piercing or lifting the corporate veil” and prosecute individuals in cases of fraud or intentional damage to the public good.

Even the concept of supreme state sovereignty had previously been pierced when the Allies set up the Nuremberg Tribunal (1945-1949) to adjudicate on the Hitler cohorts or the Khmer Rouge Tribunal (1979) set up by the Cambodian government with the cooperation of the United Nations to adjudicate on the Polpot cohorts. The obvious difference is that these two blood-thirsty regimes had been eliminated prior.

Criminal convictions will lead to civil consequences for damages. In these circumstances, victims can sue for damages from convicted individuals such as Xi Jinping or the Communist Party of China.

On this important issue, on 25 March, the US Secretary of State Mike Pompeo alleged that Chinese officials risked the lives of thousands of people when they covered up information about the Wuhan pandemic and Chinese citizens should consider their leaders totally responsible for this calamity.

Recently a group of US citizens, through the Berman Law Group, have commenced legal action against China relative to the Wuhan Pandemic, in America.

It is now time to reform substantially the international law so that in cases of terrorism, state terrorism, crimes against humanity or genocide, the concept of “piercing or lifting the veil of supreme state sovereignty” could be activated, in order that blood-thirsty dictators or criminal groups such as communist parties in the world, must face their crimes in a just tribunal under international law.

