

Investigating Human Rights Implications Amidst Health Insecurity

دراسة الأبعاد الحقوقية في حالة اللا أمن الصحي

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Abstract:

In response to the negative consequences and impacts of the health insecurity caused by the COVID-19 pandemic, countries were forced to adopt strict measures to tackle this global crisis. These actions were justified by the need to protect public health. At the same time, states were responsible for maintaining a delicate balance between these precautionary measures and the protection of human rights against violations. Therefore, when studying the human rights implications of the response to COVID-19, a key question arises: to what extent have countries fulfilled their obligations to safeguard public health while also ensuring individual rights? This analysis highlights the importance of balancing public health protection with the commitment to uphold human rights.

Keywords : Global outbreak, Human rights, Public health, State of Health Insecurity, COVID-19 pandemic.

الملخص:

لأجل التخفيف من حدة التداعيات والانعكاسات السلبية لحالة اللا أمن الصحي في ظل جائحة كوفيد 19 كان لابد من أن تتخذ الدول تدابير وإجراءات صارمة في مواجهة هذا الوباء العالمي، والتي تستمد مبرراتها حسب متطلبات الحفاظ على الأمن الصحي، وبالمقابل تلتزم الدولة بالمحافظة على التوازن القائم بين هذه التدابير الوقائية والاحترازية وضمانات حماية حقوق الانسان من الانتهاكات، بناء عليه ولأغراض تتعلق بدراسة الأبعاد الحقوقية في الاستجابة لجائحة كوفيد 19 تطرح إشكالية مضمونها مدى احترام الدول للالتزامات المترتبة على عاتقها انطلاقا من واجب حماية الصحة العامة، وضمان الممارسة الحقوقية للأفراد، وإن بحث هذه المسألة يبرز ضرورة تحقيق التوازن بين حماية الأمن الصحي والالتزام بعدم انتهاك حقوق الإنسان.

الكلمات المفتاحية: الوباء العالمي، حقوق الإنسان، الصحة العامة، حالة اللا أمن الصحي، جائحة كوفيد 19

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Introduction:

As the urgent need for a swift response to health security has arisen, there has been a noticeable shift in international priorities, resulting in numerous demands for managing domestic policies in the ongoing battle against Covid-19. These demands aim to specify health security measures designed to curb the spread of this pervasive global epidemic, which has had significant and damaging effects on all facets of life. This situation has also negatively impacted the practice of human rights, even as states assert their commitment to upholding these rights for everyone.

It is essential to highlight the World Health Organization's role in outlining procedures to combat the pandemic. While these measures are critical for controlling the virus's spread, they inevitably impose certain restrictions on individuals' rights and freedoms. This raises important questions about community accountability, particularly regarding women's roles during the pandemic. Given the seriousness of the situation, there are valid concerns about the implications of Covid-19 on human rights, necessitating an examination of the effectiveness of the measures implemented to safeguard these rights amid the health emergency.

In light of these challenges, complex issues emerge within the realm of human rights practices related to Covid-19. To explore this multifaceted question, a study is warranted to investigate the intersection of the coronavirus pandemic and human rights. This inquiry aims to assess the legitimacy of the controls and precautionary measures enacted during the health crisis, contextualizing them within the unique circumstances created by the pandemic.

To discourse the study's central issue, we will adopt a descriptive approach complemented by an analytical method that aligns with the research data. This will enable us to examine the stance of internal systems regarding the essential balance between epidemic protection measures and the commitment to upholding human rights. Our exploration will follow this structured plan::

- Human Rights Dimensions in Addressing the Impact of Health Insecurity During the COVID-19 Pandemic (I)
- The Importance of Upholding Individual Human Rights in the Face of Health Insecurity (II)

1. Human Rights Dimensions in Addressing the Impact of Health Insecurity During the COVID-19 Pandemic:

The impact of the COVID-19 pandemic on human rights can be viewed from two distinct perspectives. Firstly, it highlights the government's duty to safeguard public health (Section One). Conversely, it also reveals a more limiting aspect, as international human rights law permits the curtailment of individual rights under certain circumstances. These limitations are deemed necessary for the greater good, particularly during health emergencies or in contexts where epidemic control is crucial (Section Two).

1.1- The Obligations Arising From the State's Duty to Ensure Public Health

The WHO Health Regulations of 2005 define an emergency as an unusual event posing a threat to another country's public health due to the international spread of a disease, necessitating a coordinated global response.⁽¹⁾

⁽¹⁾ World Health Organization. *International Health Regulations*. 2nd ed., 2005.

The right to health is seen as an evolving entitlement, shaped by the development of associated legal frameworks. This right integrates aspects of both public and private law, leading to its ongoing transformation to address diverse health-related issues. ⁽²⁾ This encompasses various dimensions, including the right to physical health and safety, mental health protection, environmental safety, workplace safety, access to adequate food and water, sufficient medical treatment, health education, and equality in the enjoyment of healthcare services. ⁽³⁾

Health is a dynamic state of balance in bodily functions, achieved through adaptation to environmental influences. This broader concept underscores the importance of promoting and enhancing health to ensure both physical and mental well-being. Additionally, health is closely connected to social and cultural contexts, as well as interpersonal relationships. ⁽⁴⁾

Public health involves actions and measures designed to protect citizens' health by preventing the emergence and spread of infectious diseases and epidemics. This involves maintaining public spaces, enforcing health standards in factories and restaurants, and ensuring the safety of drinking water and food products. ⁽⁵⁾

In a broader sense, public health, as articulated by American expert Charles Edward Winslow, is both a science and an art focused on disease prevention and health promotion. Winslow emphasizes the importance of combating infectious diseases through early diagnosis, preventive treatment, and the provision of health-related social services. ⁽⁶⁾ Public health encompasses a variety of preventive, curative, educational, and social strategies aimed at preserving and improving the health of individuals and communities. ⁽⁷⁾

The right to health is acknowledged as a fundamental human right, obligating governments to guarantee optimal health standards for their populations. To fulfill this obligation, numerous countries have adopted international human rights conventions, particularly those focused on health, ensuring their national laws reflect these global commitments. Such obligations require member states to take comprehensive actions to prevent, treat, and manage diseases. Both international and regional human rights frameworks highlight the critical need to protect citizens' right to health. ⁽⁸⁾ In this regard, the international charter, as outlined in the Universal Declaration of Human Rights, explicitly affirms the right to health. It states that "everyone has the right to a standard of living adequate for their health and well-being, including food, clothing, housing, and medical care." ⁽⁹⁾

⁽²⁾ Qandli, Ramadan. "The Right to Health in Algerian Law." *Journal of Policy and Law Notebooks*, no. 6, 2012, Algeria.

⁽³⁾ Ben Ayad, Jalila, and Kamel Habani. "Protecting Public Health in Algeria During the COVID-19 Pandemic." *Algerian Journal of Law and Political Science*, vol. 5, no. 3 Special Issue, 2020, Algeria.

⁽⁴⁾ Dibesh, Amirouch. *Objectives of Protecting Human Health in International Environmental Law*. 1st ed., Arab Center for Scientific Studies and Research for Publishing and Distribution, Cairo, Egypt, 2017.

⁽⁵⁾ Attab, Younes. "Preventive Measures to Protect Public Health from the COVID-19 Pandemic." *Journal of Legal and Social Sciences, Ziane Achour University of Djelfa*, vol. 2, no. 2, 2020, Algeria.

⁽⁶⁾ Michael T, Hamelinr, William C, Meeker, Introduction to Public Health for Chiropractors, Jones and Bartlett Publisher, 2011, P.35

⁽⁷⁾ Khalfouni Mohamed Adnan, Evaluation de la sante scolaire en Algérie, Science et pratiques des physiques sportives et artistiques, volume 3, n° 1, année 2014, p.2

⁽⁸⁾ Nabed, Belkacem. "Guarantees and Mechanisms for Protecting the Right to Health in International and Regional Instruments." *Journal of Comparative Legal Studies*, no. 3, December 2016.

⁽⁹⁾ Universal Declaration of Human Rights, December 10, 1948.

Building on the Universal Declaration of Human Rights, the right to health has been enshrined as a constitutional right, reflecting the international community's acknowledgment of the significance of personal health and the necessity for legal frameworks to safeguard individuals.⁽¹⁰⁾

The principle of "the right to enjoy the highest attainable standard of health" is enshrined in the 1946 Constitution of the World Health Organization and was reaffirmed by a resolution passed by the World Health Assembly in 1998. This right includes the entitlement to advocate for social and legal frameworks that enable its full realization. A significant interpretation of this principle can be found in Article 12(1) of the 1966 International Covenant on Economic, Social and Cultural Rights, which declares that "the States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."⁽¹¹⁾

The World Health Organization (WHO) defines the right to health protection as a holistic state of physical, mental, and social well-being, which goes beyond just the absence of disease or disability.⁽¹²⁾

Public health involves diagnosing and addressing health challenges within a community while assessing and improving the health environment through collaborative efforts. Individuals play a vital role in these initiatives by engaging in activities such as promoting environmental health, fighting infectious diseases, providing health education, and encouraging early diagnosis and preventive treatment of illnesses.⁽¹³⁾

Individuals are essential to the public health protection system, acting as both the target of its policies and a key factor in its effectiveness. Their health awareness, adherence to implemented measures, and dedication to positive values that promote public health greatly affect outcomes. Concurrently, the state is responsible for the health of its citizens, as outlined in international human rights legal frameworks. This responsibility can only be met by enacting the necessary policies and measures to ensure public health.⁽¹⁴⁾

It is imperative for governments to adopt effective strategies to prevent and address epidemics, endemic diseases, occupational hazards, and other health issues. The right to health necessitates that health facilities, resources, and services are plentiful, accessible to all individuals without discrimination, and affordable, particularly for marginalized communities. Furthermore, these services must be acceptable, aligning with medical ethics and cultural relevance. They should also be scientifically validated, medically appropriate, and of high quality.⁽¹⁵⁾

Governments are obligated to provide healthcare workers with adequate protective equipment and implement social safety programs for the families of those who fall ill or die

⁽¹⁰⁾ Khayati, Mokhtar. "The Role of International Criminal Justice in Protecting Human Rights." Master's thesis, Mouloud Mammeri University, Tizi Ouzou, 2011.

⁽¹¹⁾ Zghouti, Rabah. "The Legitimacy of Restricting Human Rights in Light of the COVID-19 Pandemic Declaration as a Health Emergency." *Annals of the University of Algiers 1*, vol. 34, no. 3, September 2020.

⁽¹²⁾ Qandali Ramadan, op.cit, p. 219.

⁽¹³⁾ Hadi, Suheila. "Democracy Amid the COVID-19 Pandemic: Obligations and Challenges." Egyptian Institute for Studies, Istanbul, Turkey, December 18, 2020. Available at: www.eipss-eg.org (Accessed: January 4, 2021).

⁽¹⁴⁾ Suhaila Hadi, op.cit, p. 3.

⁽¹⁵⁾ Human Rights Watch. "The Human Rights Dimensions of the COVID-19 Response." March 19, 2020. Available at: <https://bit.ly/36JxRVV> (Accessed: January 4, 2021).

due to their work. These programs should also cover informal workers, who make up a large part of the caregiving workforce. Furthermore, to effectively curb the spread of coronavirus, healthcare facilities must have reliable access to water, sanitation services, hygiene practices, and waste management systems.⁽¹⁶⁾

The right to health has two interpretations. The first, a narrow definition, focuses on the right to medical care and the establishment of healthcare facilities. The second, a broader definition, includes multiple factors that contribute to a healthy life.⁽¹⁷⁾

The public health system concept goes beyond a limited view of public health. While public health mainly targets external and material threats to human health, particularly those arising from environmental factors, the health system takes a more comprehensive approach. It not only tackles these external risks but also aims to promote specific health behaviors among individuals who could pose health risks. This includes requirements for mandatory medical examinations, the obligation to report certain diseases to health authorities, and compulsory treatment.⁽¹⁸⁾

Since the 1976 Composition, the Algerian Constitution has recognized citizens' right to healthcare and tasked the State with overseeing the prevention and control of epidemic and contagious diseases. This commitment has been progressively fulfilled since independence through a range of national programs and policies.⁽¹⁹⁾ Additionally, the health legal framework has been amended since the enactment of Order No. 73-65 on December 28, 1973, which established free treatment in public health sectors starting January 1, 1974. This was further supplemented by Law No. 85-05⁽²⁰⁾ on the protection and promotion of health, and finally Law 18-11 to reform the health system⁽²¹⁾.

The health system consists of a combination of human and material resources designed to protect and promote the health of the population. It aims to address the health needs of individuals in a comprehensive, equitable, fair, unified, continuous, and harmonious manner.⁽²²⁾ This falls under a health plan aligned with economic and social development, emphasizing the equitable and rational distribution of human and material resources based on

⁽¹⁶⁾ Bekkouch, Ahmed M., and Hizoum Badr Eddine Margheni. "Impacts of COVID-19 Response Measures on the Guarantee of the Right to Life, Health, and Security: An Applied Study in Selected National Legislations." *Journal of Rights and Freedoms*, vol. 8, no. 3, October 2020, Algeria, pp. 149.

⁽¹⁷⁾ Mersli, Abdelhak. "International Recognition of the Human Right to Health and National Legislation Regarding Planning and Urban Development." *Academic Journal of Legal Research*, vol. 11, no. 1, 2015, Béjaïa, Algeria, pp. 143.

⁽¹⁸⁾ Chérif, Chamseddine Bashir, and Lakabi, Samihah. "The COVID-19 Pandemic: Reconciling Fundamental Rights and Freedoms with Public Health Order." *Annals of the University of Algiers 1*, vol. 34, Special Issue: Law and the COVID-19 Pandemic, July 2020, Algeria, pp. 141-140

⁽¹⁹⁾ Harrouch, Nourredine. "The Right of the Algerian Citizen to Health: Between Texts and Reality." *Ijtihad Journal of Legal and Economic Studies*, University Center of Tamenghast, Algeria, pp. 130-127.

* Tebina, Hakim, and Ben Wrezq Hicham. "The Role of Administrative Regulatory Authorities in Maintaining Public Health Order Amidst the Spread of COVID-19." *Journal of Comparative Legal Studies*, vol. 26, no. 2, 2020, pp. 54-55.

⁽²⁰⁾ Law No. 85-05 of February 16, 1985, on the Protection and Promotion of Health. *Official Gazette of the People's Democratic Republic of Algeria*, no. 8, February 17, 1985.

⁽²¹⁾ Law No. 18-11 of July 2, 2018, on Health, amending and supplementing Law No. 63-278. *Official Gazette of the People's Democratic Republic of Algeria*, no. 46, July 29, 2018.

* Weld Ahmed Tenhan, and Bichiri Abdel Rahman. "Legal Mechanisms for Protecting Public Health During Health Crises: The COVID-19 Pandemic as a Model." *Journal of Legal and Political Thought*, vol. 4, no. 2, 2020, Algeria, p. 138.

⁽²²⁾ Article 4 of Law No. 85-05, *Op. cit.*

health needs, demographic changes, and epidemiological trends. The goal is to ensure the prevention and protection of public health. ⁽²⁴⁾

Within this context, the WHO's Constitution asserts that the enjoyment of the highest attainable standard of health for everyone is essential for achieving peace and security. This goal depends on the full cooperation of both individuals and states, along with varying levels of health advancement and disease management among countries. The obligations tied to the right to health guide states in meeting their Convention responsibilities at the national level. Additionally, it is crucial to recognize that access to shelter, housing, and food is a fundamental prerequisite for effectively ensuring the right to health. ⁽²⁵⁾

Ensuring health security is primarily the state's responsibility within its territory, as international law permits governments to take necessary actions for disease prevention and control. This authority includes the power to impose restrictions, such as declaring a health emergency to protect public welfare. Nevertheless, the intricate challenges posed by the COVID-19 pandemic complicate the implementation of these measures.

1.2- The Negative Repercussions of the Health Imperative on the Exercise of Human Rights:

A state of health emergency is an official proclamation by a government signaling a health crisis. This extraordinary measure is enacted in response to sudden and severe epidemics, necessitating rapid action from public authorities to implement urgent preventive measures. These measures are temporary and aim to keep the epidemic under control while minimizing risks to public health, safety, and the environment. ⁽²⁶⁾

In light of the widespread transmission of the COVID-19 virus, which led the World Health Organization to label it a "global pandemic" affecting nearly all countries, significant repercussions have arisen across economic, social, and security sectors. This scenario forced governments to swiftly adopt unprecedented precautionary measures to combat the pandemic and reduce its effects. Within the context of declaring a state of health emergency, authorities are allowed to set aside normal legal principles and implement measures that restrict rights and freedoms in order to safeguard individuals' lives. ⁽²⁷⁾

states that choose to enforce mandatory isolation or quarantine without declaring a health emergency must adhere to international law. This requires them to conduct a thorough risk assessment to justify the use of restrictive measures in specific, limited, and temporary situations. ⁽²⁸⁾

The COVID-19 pandemic has significantly impacted human rights, negatively affecting several fundamental rights, including the right to health, the right to privacy, the right to

⁽²⁴⁾ Article 1 of Law No. 18-11, *Op. cit.*

* Weld Ahmed Tenhan and Bichiri Abdel Rahman. *Op. cit.*, p. 138.

⁽²⁵⁾ Moumen Bekouche Ahmed and Marghini Hizoum Badr Eddine. "Legal Measures to Address the COVID-19 Pandemic at the International and National Levels." *International Journal of Legal and Political Research*, vol. 04, no. 3, December 2020, Algeria, pp. 75-76.

⁽²⁶⁾ Ben Baghaïla, Leila. "The Legal Basis for the State of Health Emergency in Algeria." *Journal of Sharia and Economy*, vol. 9, no. 17, August 2020, p. 28.

⁽²⁷⁾ Bougaroun, Toufik. "The Extraordinary Constitutional Powers of the President During the COVID-19 Pandemic and Their Impact on Rights and Freedoms." *Annals of the University of Algiers 1*, vol. 34, Special Issue: Law and the COVID-19 Pandemic, Algeria, p. 207.

⁽²⁸⁾ Armin VON BOGDANDY –Pedro A.VILLARREAL, *OP .Cit* ,P.17

work, the right to information, the right to access the courts, the right to assemble, and access to public utilities.

Among these rights, the right to life stands out as the most vital international obligation that states compromised when they struggled to manage the health crisis. This failure stemmed from soaring infection rates, leading to discriminatory policies in the treatment of those infected. States often prioritized the protection of younger individuals, frequently at the expense of vulnerable populations, including the immunocompromised and the elderly.⁽²⁹⁾ Such troubling dynamics were particularly evident in numerous European countries.

Due to the Coronavirus outbreak, countries swiftly closed their land, air, and sea borders, imposing restrictions on the movement of people between regions. This precautionary measure aimed to halt the rapid spread of the epidemic and prevent its transmission to safer areas. However, these actions effectively set aside certain international standards, including specific provisions of the International Covenant on Civil and Political Rights:

- Article 12(1) of the International Covenant on Civil and Political Rights asserts that everyone lawfully present in a state has the right to move freely and choose their residence within that territory.
- Article 12(2) states that everyone has the right to leave any country, including their own.
- Article 12(4) guarantees individuals the right to enter their own country.
- Any restriction not provided for by law and that does not meet the requirements
- Article 12(3) constitutes an infringement of the rights outlined in the first and second paragraphs of the same article.

As the COVID-19 pandemic unfolded, Algeria's administrative control authorities were given extensive powers to respond to the crisis, as detailed in Executive Decree No. 20/70. These measures were designed to curb the further spread of COVID-19 and included social distancing to reduce physical contact in public spaces and workplaces, as well as total and partial home quarantine, movement restrictions, and regulations on commercial activities and dining services. Moreover, initiatives were launched to encourage citizens to participate in the national response to the pandemic's impacts.⁽³⁰⁾

Exceptional circumstances are typically characterized by their global nature, showing minimal distinction among countries in terms of progress; nations often employ similar approaches to safeguard health security. However, the implementation of precautionary measures in response to the epidemic differs based on each country's specific internal structure.

While compulsory curfews have proven effective in limiting the virus's spread in public spaces, health lockdowns are among the most intricate measures, with significant implications for human rights. These lockdowns can adversely affect economic and social rights, leading to

⁽²⁹⁾ Ait Malik, Nadia, and Al-Anja, Manaa. "The Legal Framework of Measures Taken in Response to the COVID-19 Pandemic and Their Impact on Fundamental Rights." *Annals of the University of Algiers*, vol. 34, Special Issue: Law and the COVID-19 Pandemic, July 2020, Algeria, p.132.

⁽³⁰⁾ Abu al-Qasim, Issa. "The Theory of Administrative Control and Its Applications in the Prevention of the Spread of the Coronavirus (Covid-19)." *Journal of Oasis for Research and Studies*, University of Ghardaia, vol. 13, no. 2, Algeria, pp. 459-60.

increased food prices and reduced access to essential supplies. Furthermore, the COVID-19 pandemic may be used to justify violations of civil and political rights, resulting in arbitrary detention, censorship, and other authoritarian practices. There are growing concerns that some governments could misuse emergency powers to undermine democratic principles, curtail public freedoms, and unjustifiably extend executive authority even after the national state of emergency has ended.⁽³¹⁾

As a result of the bans on mass gatherings in many countries, places of worship—including mosques, churches, and temples—were not exempt from these restrictions. The right to freely practice religious rituals was limited under the pretext of health necessity. However, in some cases, this justification may mask political and security agendas that have little to do with actual health concerns.

One of the first measures taken to ensure social distancing and curb viral transmission was the closure of kindergartens, schools, and universities, alongside the shift to distance education. However, this mode of learning poses significant challenges to the right to equality in education, as not all students have access to smart devices. Additionally, problems such as slow internet speeds in certain countries and insufficient training for both students and educators in online learning further exacerbate these issues.

In its report on human rights violations during the COVID-19 pandemic, the United Nations emphasized various infringements concerning the right to access information. This right is vital for promoting transparency, which is critical in combating the Coronavirus. However, achieving transparency becomes increasingly challenging in an environment where freedom of expression is suppressed.⁽³²⁾

The International Labour Organization (ILO) estimates that around 25 million people worldwide are at risk of losing their jobs, with the transport and tourism sectors being the hardest hit. The virus's impact is expected to lead to the dismissal of low-wage temporary workers and a reduction in working hours, resulting in decreased income for both freelance and temporary workers.⁽³³⁾

Many commercial activities that typically attract large crowds were suspended to reduce interpersonal contact and curb the spread of the pandemic. However, strict adherence to the right to work poses a risk to societal security, as it contributes to a decline in individuals' standard of living.

As a result, a state of health emergency must be declared based on valid justifications that align with established legal criteria and are approved by the relevant domestic authorities. The extent of this emergency should be dictated by the specific needs required to respond effectively to the epidemic. Additionally, it is crucial to adhere to the obligations set forth by international human rights law to prevent harmful practices that could infringe upon individual rights and freedoms.

⁽³¹⁾ Zaghouti, Rabah. *Op, Cit*, p. 109.

⁽³²⁾ Hadi, Souheila. *Op, Cit*, p. 7.

⁽³³⁾ Arab Monetary Fund. *Report on the Economic Implications of the Novel Coronavirus on Arab Countries*, Abu Dhabi, Apr. 2020, p. 13.

2. The Importance of Upholding Individual Human Rights in the Face of Health Insecurity:

To alleviate the negative effects of health measures on human rights, it was crucial to establish obligations that emphasize the importance of respecting human rights (Section I). This required adjusting the pandemic response to ensure it aligned with the need to protect human rights (Section II).

2.1- Positive Responses as Safeguards for Human Rights During the COVID-19 Pandemic:

The restrictions put in place to protect public health must be balanced with the imperative of respecting human rights in response to the consequences of the COVID-19 pandemic. This balance can only be achieved by adhering to principles that uphold the non-derogability of absolute rights. Moreover, an effective response requires that measures taken to protect human rights during the pandemic are truly effective.

In this context, declaring a public health emergency is crucial when serious diseases and epidemics arise. This declaration should be supported by clear legislation that provides a legal framework for the actions of relevant government authorities. Such a framework ensures the legitimacy of the measures implemented to combat the COVID-19 virus nationwide, justifying them in light of the need to safeguard the public interest. The extent of extraordinary measures that may be enacted is delineated by executive decrees, regulatory decisions, or other appropriate announcements.

These measures are viewed as the most effective and suitable for addressing urgent needs, as they are simple and bypass administrative processes, allowing for a rapid response to limit the epidemic's spread.⁽³⁴⁾

The International Covenant on Civil and Political Rights asserts that certain human rights receive absolute legal protection, preventing any state from derogating or restricting them, even during health emergencies. A declaration of a state of emergency must never be used as a justification for violating fundamental rights, such as the right to life and the freedom of thought and belief.

Moreover, it is imperative that inhumane practices that undermine human dignity—such as torture, slavery, persecution, or exclusion—are not sanctioned under any circumstances.⁽³⁵⁾ A state of emergency does not justify violations of international obligations that require states to uphold human rights during an epidemic. Furthermore, states must fully adhere to their commitments under international and regional treaties, including the Geneva Conventions, the Convention Against Torture, and protections for the rights of children and minorities. Notably, these treaties remain binding even in times of war.

Regional conventions enable their members to declare a state of emergency under specific conditions. For instance, the European Convention on Human Rights (1950) and the American Convention on Human Rights (1969) both feature provisions related to states of emergency. Similarly, the Arab Charter on Human Rights (2004) includes comparable clauses.

⁽³⁴⁾ Ben Bghila, Leila. *Op, Cit*, p. 32.

⁽³⁵⁾ Article 5, Paragraph 2 of the *International Covenant on Civil and Political Rights*, previously mentioned.

- Ponta, Adina. "Human Rights Law in the Time of the Coronavirus." *Insight*, vol. 24, no. 5, April 2020. Retrieved from <https://bit.ly/2X02Fli>.

Most conventions and charters that establish legal rules for states of emergency reference Article 4 of the International Covenant on Civil and Political Rights (1966) as a foundational guideline.⁽³⁶⁾

While international law grants states the right to declare health emergencies, several conditions must be satisfied. These conditions align with established international standards in this area, which can be summarized as follows:

- The World Health Organization (WHO) must classify the situation as an extraordinary event that constitutes a public health emergency of international concern.
- The unusual event must be serious enough to pose a threat to the human right to public health, and the WHO must confirm the accuracy of information indicating that the infection has spread internationally.
- The disease must have crossed national borders, necessitating immediate international action.⁽³⁷⁾

A serious risk describes a situation that is either currently unfolding or about to occur. Notably, certain rights—such as the right to life and the right to freedom from torture and slavery—are deemed absolute, allowing for no restrictions. These rights aim to safeguard the integrity and dignity of individuals.

No justifications or mitigating circumstances can be invoked to justify the violation or derogation of these rights under any circumstances.⁽³⁹⁾

Medical facilities are vital during the spread of the Coronavirus. Therefore, states must ensure these facilities are well-staffed with healthcare professionals and supplied with essential medical resources to provide timely care. Such provisions are essential for protecting the right to health.

To uphold this right, states must maintain proper sanitation, implement isolation measures, and prevent gatherings in prisons and detention centers, which are especially susceptible to COVID-19 transmission.

Therefore, international standards regarding prisons and the treatment of prisoners and detainees establish key principles that states must uphold to fulfill their international commitments, particularly during outbreaks of infectious diseases and epidemics.⁽⁴⁰⁾

- Environment, hygiene and food.
- Medical services for every detained person without any discrimination whatsoever.
- Health responsibility for prisoners in the event of an outbreak of infectious diseases.

⁽³⁶⁾ Article 15, Paragraph 1 of the European Convention on Human Rights (1950); Article 27, Paragraph 1 of the American Convention on Human Rights (1969); and Article 4 of the Arab Charter on Human Rights (2004).

- Mouni, Hanan. "Human Rights in the Context of the Coronavirus Pandemic." *Almanara Journal*, 21 Sept. 2020, available at <https://revuealmanara.com>. Accessed 1 Apr. 2021.

⁽³⁷⁾ Bekkouch, Ahmed M., and Hizoum, Badr Eddine Margheni. "Impacts of COVID-19 Response Measures on the Guarantee of the Right to Life, Health, and Security: An Applied Study in Selected National Legislations." *Journal of Rights and Freedoms*, vol. 8, no. 3, 2020, Algeria, p. 78.

⁽⁴²⁾ Bakkouch, Ahmed M., and Hizam Badr-Eddine. "The Impact of Measures to Combat the Coronavirus Pandemic (Covid-19) on the Guarantee of the Right to Life, Health, and Security: An Applied Study in Some National Legislations." *Journal of Rights and Freedoms*, no. 3, vol. 8, 2020, Algeria, p. 154.

⁽⁴⁰⁾ Ait Malik, Nadia, and Manaa Anja. *Op, Cit*, p. 129.

The International Covenant on Civil and Political Rights (ICCPR) offers guidance on the reasonable restrictions of movement during the COVID-19 pandemic. It emphasizes that any limitation on individual liberty should be considered a measure of last resort.

Thus, detention to prevent the spread of an infectious disease is deemed appropriate only for individuals who present a genuine public danger.⁽⁴¹⁾

Governments are bound by international human rights law to safeguard the right to freedom of expression, which encompasses the ability to seek, receive, and share information without restrictions. Any allowable limitations on this right must not undermine freedom of expression, even for public health purposes. In this regard, the Committee on Economic, Social, and Cultural Rights emphasizes the necessity of providing education and access to information on crucial health issues, including preservation and control measures, as fundamental obligations. Furthermore, a rights-respecting response to the COVID-19 pandemic must ensure that accurate and timely information about the virus, available services, and the broader response is readily accessible to all.⁽⁴²⁾

From a different perspective, the significance of protecting individual human rights is underscored by the effectiveness of various measures taken during the coronavirus pandemic. These measures include digitizing sectors, implementing remote education and litigation, and providing financial support, such as grants for workers affected by job losses and hazard pay for vulnerable groups.

To alleviate the negative impacts of restrictions on human rights, a range of short- and medium-term measures, procedures, and policies was crucial. In the short term, key actions included raising public sector wages, increasing pensions, lowering interest rates while offering credit facilities and tax exemptions, and providing subsidies to informal workers and those in heavily impacted sectors like tourism. For the medium term, policies focused on strengthening the healthcare system, advancing communication and information technology to enhance education, and restructuring government services.⁽⁴³⁾

2.2- Mechanisms for Balancing Public Health Protection and the Exercise of Rights

According to the European Court, a public emergency refers to exceptional crises that endanger the lives of the general population or disrupt their daily activities, resulting in significant consequences for the full exercise of individual rights.

As a result, the measures taken during such emergencies are subject to legal scrutiny, requiring thorough examination and oversight of the controls put in place during these extraordinary circumstances.⁽⁴⁴⁾

The justification for implementing restrictive measures must be firmly grounded in scientific evidence, particularly from epidemiological studies. Scientifically, these measures are recognized as effective and necessary to achieve the primary goal of curbing disease transmission. However, managing the impact of these epidemic response measures on

⁽⁴¹⁾ Zaghoui, Rabah. *Op, Cit*, p. 109.

⁽⁴²⁾ Human Rights Watch. *Op, Cit*, 19 Mar. 2020, p. 20.

⁽⁴³⁾ Hanafi, Shaimaa Ahmed. "Policies to Mitigate the Economic Impact of the COVID-19 Pandemic and Adaptation Strategies in Egypt." *Al-Manhal Economic Journal*, vol. 3, no. 2, December 2020, University of the Martyr Hamma Lakhdar, Algeria, p. 366

⁽⁴⁴⁾ Sahnine, Ahmed. "Public Freedoms in Times of Exceptional Circumstances." Master's thesis in Law, Faculty of Law Ben Aknoun, University of Algiers, 2004-2005, p. 50.

individuals' legal rights is a significant concern, as stipulated by international human rights law.

While Article 32 of the International Health Regulations emphasizes the importance of upholding dignity, human rights, and fundamental freedoms, it does not provide specific guidance on how to ensure these rights are respected. Consequently, this general provision may lead to ambiguities in interpretation.⁽⁴⁶⁾

To implement the necessary measures for preventing serious risks and imminent dangers to the State promptly, it is crucial to exercise extraordinary powers solely to the extent required to mitigate those risks and dangers. These measures and powers should be limited strictly to what is essential for averting such threats.⁽⁴⁷⁾

In the same vein, the Siracusa Principles specifically state that restrictions should be at least⁽⁴⁸⁾.

- Defined and enforced in line with the law.
- Directed towards a legitimate goal in the public interest.
- Absolutely necessary in a democratic society to achieve a goal.
- Less intrusive and restrictive to achieve a goal.
- Based on scientific evidence, and not arbitrary or discriminatory in application.
- Time-bound, respectful of human dignity, and subject to review.

The principles of necessity and proportionality in administrative control measures embody the need to balance the exercise of rights and freedoms with the maintenance of public order. These principles arise from the fundamental rule that freedom is the norm, while restrictions are the exception. They articulate the connection between the measures implemented by administrative authorities and the objectives those measures aim to achieve.⁽⁴⁹⁾

Moreover, Amnesty International has emphasized that practices such as surveillance, discrimination, arbitrary detention, and other human rights violations are unacceptable in the fight against the COVID-19 pandemic. Such violations not only obstruct effective responses to public health emergencies but also diminish their overall efficacy. The organization calls on states to ensure that any restrictions on rights, including the right to movement, adhere to the principles of necessity, proportionality, and legality.⁽⁵⁰⁾

Furthermore, citizens' reactions to restrictive measures are shaped by their perception of proportionality, which is closely tied to the effectiveness of government agencies, the professionalism of security forces, and the media's transparency in accurately reporting information—especially statistics that illustrate the progression of the epidemic. These statistics are essential as they provide benchmarks for evaluating the effectiveness of the measures put in place.

While attention to health security is vital for achieving human security, it is equally important to focus on food security and support low-income groups. This can only be

⁽⁴⁶⁾ World Health Organization. *Op, Cit*, 2005, p. 27.

⁽⁴⁷⁾ De Laubadère, André. *Manuel de Droit Administratif*. Paris: L.G.D.J, 1978, pp. 93-94.

⁽⁴⁸⁾ Bouaïssi, Samir. "Impacts of the COVID-19 Pandemic on Freedom of Movement and Economic Activity in Algeria." *Al-Mufakkir Journal of Legal and Political Studies*, vol. 3, no. 3, September 2020, p. 108.

⁽⁴⁹⁾ Chérif, Chams Eddine Bachir, and Laâqabi Samih. *Op, Cit.*, p. 144.

⁽⁵⁰⁾ Bakkouch, Ahmed M., and Hizam Badr-Eddine. *Previously Cited Source*, pp. 155-156.

accomplished by addressing the issue of the country's self-sufficiency in basic foods and encouraging local industry, both of which can contribute to job creation.⁽⁵¹⁾

Considering the range of measures implemented to address violations of quarantine procedures, it is essential that decisions regarding arrest, detention, and fines fall under the jurisdiction of the courts, which serve as the true guardians of liberty. Any failure by the judiciary to uphold this responsibility could lead to a denial of judicial accountability. This situation underscores the need to balance a government's authority during crises with the imperative to protect individual rights and freedoms as much as possible. No state of emergency, regardless of its severity, justifies the courts relinquishing their duty to uphold human rights.⁽⁵²⁾

In conclusion, governments must prioritize a swift return to normalcy. Additionally, powers granted under a state of emergency should not be used to indefinitely regulate daily life. There should be a consensus that responses must align with the varying needs of each phase of the crisis. The effectiveness of the measures implemented to meet this requirement should be paramount.⁽⁵³⁾

Conclusion

To effectively adapt procedures and measures aimed at curbing the spread of the global COVID-19 pandemic, states must harmonize their obligations to protect public health with their duty to guarantee individual rights. This objective is challenging due to the complexities of social environments and the influence of economic, political, and cultural conditions on the domestic response to the pandemic. The situation is further complicated by deficiencies in the healthcare sector, which hinder its ability to address the extraordinary challenges posed by the pandemic. Many countries have struggled to cope with this health crisis, negatively impacting the exercise of individual rights.

Consequently, states must work to strengthen health governance by balancing public health security with their commitment to uphold human rights. This balance can be achieved through the adaptation of precautionary and preventive measures in response to the global pandemic. Such measures should adhere to the principles of proportionality and appropriateness, in accordance with the legal standards related to necessity and circumstance, ensuring that the response to the pandemic does not infringe upon human rights.

In light of the findings outlined above, we offer the following recommendations:

- Governments should refrain from imposing broad and vague coercive measures. Instead, they should implement mandatory restrictions grounded in scientific evidence, ensuring legitimacy and providing mechanisms to support those affected.
- It is essential to raise awareness among individuals and groups regarding the dual responsibilities they hold: understanding the dangers posed by the virus and recognizing their rights.

⁽⁵¹⁾ Bakkouch, Ahmed M., and Hizam Badr-Eddine. *Previously Cited Source*, p. 76.

⁽⁵²⁾ Brandt, Erik. *Introduction to Constitutional Law*. Translated by Mohammed Thamer, 1st ed., Zain Legal Publications, Bayrut, Lebanon, 2012, pp. 372-373.

⁽⁵³⁾ Brandt, Erik. *Introduction to Constitutional Law*. Translated by Mohammed Thamer, 1st ed., Zain Legal Publications, Bayrut, Lebanon, 2012, pp. 372-373.

- There is a critical need to enhance health governance frameworks to create a balance between preventive measures against the virus and the protection of human rights from potential violations.
- Encourage individuals to comply with preventive measures aimed at safeguarding their rights and freedoms by promoting values of responsibility through intellectual, solidarity-based, and humanitarian awareness..
- A comprehensive and cooperative strategy is vital to address health insecurity. This can be achieved by acknowledging that the responsibility for prevention and response to the health crisis lies with both political and civic actors throughout the country, working together for the common good.

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