

How the Covid-19 Crisis Affects Individual Rights and Freedoms. A New Crisis in International Law?

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*One of the direct impacts of the spread of the coronavirus COVID-19 is challenging human rights. The pandemic not only created and still creating health issues, economic challenges, political crises and social conflicts around the world, **it also affects individual rights and freedoms**. Human rights are facing violations such as arbitrary detention, discrimination, censorship, and xenophobia. The fundamental rights that may be involved in this pandemic are, among others, the right to privacy, the right to free movement, the right to health, the right to employment, the right to non-discrimination, freedom of assembly and expression, the right to information and the right to health care.*

The International Covenant on Economic, Social and Cultural Rights which is a multilateral treaty adopted by most countries, and the United Nations General Assembly (1966)[1] is emphasizing that everyone has the right to the highest standard of physical and mental health. Based on this treaty, the States are required to take the necessary measures to prevent, treat and control any epidemic, pandemic and other diseases. Therefore, the right to health is closely linked to other human rights, which set out in the Universal Declaration of Human Rights of 1948[2].

Freedom of expression

According to article 19 of the Universal Declaration of Human Rights, everyone has the right to freedom of expression, which implies the right not to be worried about their opinions. Freedom of opinion and expression is considered as a fundamental human right, such as freedom of information and freedom of the press, which lays the foundation for all other rights. Some states declare a state of emergency in response to the COVID-19. This exceptional measures created an environment to limit the freedom of expression.

In the context of COVID-19, a large number of journalists and media actors around the world are restrained from performing their functions, especially when it concerns statistics about the death-causing from the pandemic.

International human rights law, including the International Covenant on Civil and Political Rights of 1966, requires that restrictions on human rights for reasons of public health or national emergency be following the law, necessary and proportionate.

Rights to privacy and personal life

The protection of privacy also affirmed by the United Nations Universal Declaration of Human Rights. Article 12 states that an individual has the right to respect for his private life. This right includes the professional and medical confidentiality, the protection of privacy and the protection of the confidentiality of patient information. The government response to the COVID-19 pandemic may require restricting measures that control people's life affects directly the fundamental freedoms and human rights, specifically the right to data protection. In this regard, it is essential to remember that data protection cannot, in any case, constitute an obstacle to saving human lives. However, some countries use these data to restrain individual freedom.

It is crucial to know how to create a balance in collecting and processing personal data for global public health purposes without risking a disproportionate impact on the rights to privacy and personal life.

Xenophobia and racism

Racism against Asians, especially against Chinese people, is increasing from the beginning of Covid-19. Replacing the word "Chinese virus" instead "coronavirus" is a growing manifest of racism from different backgrounds. They have been the target of racist threats and intimidation in both public and online places, as well as acts of physical violence. According to the principle of fundamental human rights, nobody should feel threatened or rejected because of their race, skin color or origin.

In this situation, xenophobia and racism are not only a violation of human rights. They also considered a threat to national security. For these reasons, much remains to be done to ensure that COVID-19 does not worsen racial inequalities at national and international levels.

Border restriction and control

During the current Covid-19 pandemic, some governments are taking exceptional measures to control their borders to limit the spread of the virus. It is crucial to make a balance between state security and human rights to fully respect the rule of law. Even in a real emergency, the rule of law must be dominated. In the context of severe threats to public health and the event of public emergencies threatening national security, restrictions on individual rights may be justified if they have a legal basis and are strictly necessary. This exceptional situation must be based on scientific evidence, limited for the duration of time, respectful of human dignity, subject to examination and finally should be proportional.

Suppression of information

Free access to information is considered as a human right. The right to information is essential for the health care of people around the world, and it must be accessible during the COVID-19 crisis. Restrictions on access to health information constitute human rights violations.

Based on the gravity of the current global health crisis, the application of emergency powers of the States is authorized by international law in response to significant threats. However, any measure taken for limiting and suppressing information must be proportionate, non-discriminatory and crucial.

Refugees and detainees life conditions

The States' efforts to combat coronavirus may not be sufficient to protect the health of refugees and detainees in a different corner of the globe. There are serious concerns about the health conditions of these people, such as providing medical services. These vulnerable populations may be suffering from illnesses, mental and physical injuries, in addition to the serious medical complications related to COVID-19.

Refugees and detainees should have access to medical, social and health care on an equal basis with the general population. States have the responsibility to take all appropriate measures to prevent the risk of neglect and degrading treatment of these people. They should develop guidelines for proper hygiene and distance in this regard. In this perspective, access to health care should be equal and according to their medical criteria to ensure that the vulnerable people are not victims of medical discrimination.

Access to justice for domestic violence

Another actual impact of COVID-19 on human rights is increasing domestic violence in many countries. The limitation of police intervention, limited access to justice, the closure of the courts, the closure of services for victims and shelters and reduced access to reproductive health services are the main issues in gender-based violence against women and domestic violence in the context of the COVID-19 pandemic.

This situation requires increasing advocacy and access to justice. In this context, the vulnerable populations such as immigrants, specifically undocumented immigrants, need in priority to have access to the justice and shelter during this crisis. For this reason, the justice system should find a solution to serve women at risk and ensure their accessibility to justice and legal protections.

To conclude, the world is experiencing an unprecedented crisis after World War II.

The Covid-19 pandemic is not only considered as a health crisis, but it is also a humanitarian, socio-economic, political and development crisis that threatens entire humanity.

The response to this crisis requires global efforts to take appropriate measures for reducing harmful effects on the security, health care, food, water and sanitation of all human life around the world. The actions taken in this situation should guarantee health care to everyone and protect human dignity. They also should be based on the pathway that will restore economic, development and peace in a sustainable approach. International human rights law guarantees every single individual the right to health and health care access. It obliges States to take measures to protect public health and to provide medical care to their citizens.

International human rights law is generally based on the inalienable, universal, interdependent and indivisible rights. It imposes obligations on the States, especially in times of crisis. Human rights are applying to everyone without any discrimination. Besides, the States should adopt a policy to ensure that all levels of government, including executive authority, apply the strategic, legal, regulatory, emergency and public health measures that they are adopting to manage the COVID-19 pandemic on a human rights-based approach.

International organizations, specifically the United Nations and the Security Council, have a crucial role to play for reinforcing the rules of international law or universal values such as

the rule of law and respect to human rights. The conflict between the protection of human rights and the defense of national security could be balanced by the application of the rule of law.

The universal principles of the charter of the UN[3], such as non-recourse to violence, the peaceful settlement of international disputes, the establishment of peace by law, the fight against poverty, the respect for human rights and the right of peoples to self-determination are more significant in the context of COVID 19.

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Notes

[1] International Covenant on Economic, Social and Cultural Rights, New York, 16 December 1966, https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-3&chapter=4&clang=_en

[2] Universal Declaration of Human Rights of 1948, <https://www.un.org/en/universal-declaration-human-rights/>

[3] Charter of the United Nations, <https://www.un.org/en/charter-united-nations/>

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