

## **Legal Committee**

*The question of governments' rights  
to limit civil liberties in times of crisis*

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# RESEARCH REPORT



**Forum:** Legal Committee (GA6)

**Issue:** The question of governments' rights to limit civil liberties in times of crisis

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## Introduction

Nations with a true democracy need to provide civil liberties to their citizens. However, during times of national or global crises, governments may fail to do so. In such situations, governments may decide to limit civil liberties using “emergency powers”. Emergency powers can be helpful to solve problems, yet they can also be used for bad purposes. In short, the purpose of those powers are up to the governments using them. Thus, governments' actions may lead to limits on civil liberties when they use “emergency powers” in times of crisis.

Even though states' rights on liberties may be used for bad, it sometimes benefits the countries when there are unexpected scenarios like natural disasters and health concerns like pandemics. However, this does not mean that we should ignore the negatives. With the necessary legal background, it is possible to disable governments to abuse their powers, which would prevent unjust limits on civil liberties.

## Definition of Key Terms

**Emergency powers:** Unusual powers used by the government to solve an issue faster.

**Sovereignty:** Independence of a nation.

**Civil liberty:** Fundamental rights of a nation's citizens.

**Abuse of emergency powers:** Unnecessary use of emergency powers, which limits civil liberties.

## General Overview

A state of emergency is a situation in which a government is able to take actions it would normally be unable to. This can be done in cases of a natural disaster, civil unrest, armed conflict, medical pandemic/epidemic or other biosecurity risks. Emergency definition changes from country to country. Such differences may result in the abuse of powers. Most developed countries have detailed scenarios for emergency cases because their governments are stable. They do not feel the need to include it in their constitution. There are still countries that do not mention emergency cases at all, such as Japan, Luxembourg and San Marino.

## International Law and Fundamental Human Rights

The use of emergency powers can be against civil rights laws. This situation threatens human rights in countries where emergency powers are used frequently. Fortunately, main international human rights documents like The European Convention on Human Rights and Fundamental Freedoms (ECHR), The International Covenant on Civil and Political Rights (ICCPR), and American Convention on Human Rights (ACHR) have clauses that protect human rights against emergency power abuse.

### **Government Branches and Limits on Civil Liberties**

There are three branches of governments: the legislative, the executive, and the judiciary. The legislative branch is in charge of making laws. The executive branch is responsible for applying the laws. The judiciary branch handles cases that go against law. That said, it is up to governments to decide on how they position the branches in relation to each other. They may keep the branches “concentrated” under a single umbrella, or they may choose to keep them “separated” from each other to avoid overpowering the authority. If the powers are concentrated, that is a sign of bad practice of democracy. If separated, it strongly shows good practice of democracy. When emergency powers are used, governments may concentrate the branches to take faster action. However, this can be used for the benefit of the authority rather than the public, which limits civil rights.

### **COVID-19**

A pandemic is within the borders of an emergency state declaration. Responding to COVID-19, nations implemented different policies to stop the spread of the novel virus. Enacting lockdown for people to self-quarantine themselves at their home and closing down places known for public gatherings such as workplaces, shopping malls, and schools were among the measures. However, the coronavirus pandemic offers a perfect excuse for repressive politicians to suppress opponents and maintain control. As nations concentrate their government branches to stop the pandemic, politicians may act selfishly to benefit themselves or their policies.

## **Major Parties Involved and Their Views**

### **Democratic People’s Republic of North Korea (DPRK)**

Freedom of speech in the DPRK is extremely limited. Even though their state constitutions mention basic human rights, the government of DPRK does not put such rights into practice. Daily examples of limits the government puts on civil liberties include limits on the productions of radio, television, music, and news media. All those are owned and controlled by the government. In the case that someone goes against the government’s order, they face detainment camps, where they face all forms of abuse.

### **People’s Republic of China (PRC)**

Freedom of expression in mainland China is reviewed by the United Nations Human Rights Committee (UNHRC), with which the government has often disagreed. While the Constitution of 1982 ensures freedom of expression, the Chinese government still uses "subversion of state power" and "protection of state secrets" excuses to prosecute anyone who is against the government. Many human rights

organizations report that the Chinese government is using more limit on civil liberties than needed in acts such as the death penalty, the one-child policy (in which China had made exceptions for ethnic minorities prior to its abolition in 2015), the political and legal status of autonomous regions of Tibet and Hong Kong, the camps where China is thought to keep ethnic minorities in the Xinjiang Uyghur autonomous region and neglect of freedom of the press in mainland China.

## **Turkmenistan**

The government controls all the newspapers, and many opposition journalists have been abused, imprisoned, and otherwise persecuted by the State of Turkmenistan. The few who have access to the internet will use a filtered edition of it, where only official news reports are accessible. Any dissent to the government results in life imprisonment.

## **Office of the United Nations High Commissioner for Human Rights (OHCHR)**

OHCHR, is a supporter of reduced use of emergency powers that limit civil liberties. With regard to the COVID-19 pandemic, OHCHR called member states to not abuse emergency measures with the purpose of suppressing human rights.

## **Treaties and Events**

### *- Universal Declaration of Human Rights (UDHR)*

The most important international document about human rights is the Universal Declaration of Human Rights. Especially with its 19th Article, the declaration points to the freedom of speech and expression.

### *- COVID-19: States should not abuse emergency measures to suppress human rights – UN experts*

This statement was made by UN experts after seeing an increase in unnecessary government limits to benefit from the chaos caused by COVID-19, which suppressed civil liberties of citizens.

## **Evaluation of Previous Attempts to Resolve the Issue**

The issue of limited civil liberties due to governmental actions is complex. Many countries that abuse their rights do not let international organizations monitor them. Those countries use their sovereignty as an excuse. This situation makes it almost impossible for the international community to act on solving the problem. Unfortunately, the United Nations (UN) also failed to solve the issue. What the UN did was to identify the problem. There were not any major actions coming from the UN that would solve the problem of limited liberties due to government limitations. Despite their failures to act on the issue, international organizations such as Amnesty International, Reporters Without Borders, and Human Rights Watch were quick to point out the problems. All in all, the single problem for all previous attempts that have failed is countries refusing to let international organizations observe and monitor the citizens' civil liberties.

## Possible Solutions

To minimize the chance of abuse of powers, delegates can call for all nations to agree on a single definition of emergency powers. This way, the international community can act together to solve the issue. If the delegates want to take actions that would force nations to take an action, they can choose to propose taking the issue to legally binding organs such as the United Nations Security Council (UNSC). As the UN cannot deal with internal policies of nations, states may choose to impose sanctions or economic embargoes on nations that abuse their powers to limit civil liberties in times of crisis. These steps would threaten the nations both diplomatically and economically in order to reach a solution.

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