Strategies to support the COVID-19 response in LMICs

A virtual seminar series
COVID-19, Public Health and Human Rights

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“Universal rights held to belong to individuals by virtue of their being human, encompassing civil, political, economic, social, and cultural rights and freedoms, and based on the notion of human dignity and worth.”

--Columbia Encyclopedia
“... Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, widowhood, old age or other lack of livelihood in circumstances beyond his control...”
Human Rights Instruments

1948  The Universal Declaration of Human Rights
1976  International Covenant on Civil and Political Rights
1976  International Covenant on Economic, Social and Cultural Rights
        General Comment 14: Health rights
        Prevention, treatment, control of epidemic diseases
1981  Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
1990  Convention on the Rights of the Child
State Responsibilities

Signatory States must not violate these rights

Commit to measurable progress to:

- Respect
- Protect
- Fulfill
Public Health Powers and HR

• In epidemics need to balance protection of the public with restriction of individual rights

• State powers include: isolation, quarantine, forced hospitalization
Public Health Powers and HR

- Recognition on part of medical community, public at large, that rights and freedoms need to be temporarily limited
- Public demand for protection
- Government role in dealing with fear, stigma, social harm

West African Ebola Outbreak, 2014-15

Source: WHO Global Response Roadmap
18 March 2015
Siracusa Principles of 1984:
Limitations of human rights and civil liberties for public health goals

- Provided for and carried out in accordance with law
- Directed toward a legitimate objective of general interest
- Strictly necessary in a democratic society to achieve the objective
- The least intrusive and restrictive to achieve the objective
- Based on scientific evidence and neither arbitrary nor discriminatory in application
- Of limited duration, respectful of human dignity, and subject to review
Siracusa Principles: Context

• Emerged in the 1970—80s when multiple governments were using emergencies to restrict civil liberties

• Emergencies included protests, uprisings, calls for elections, efforts to overthrow military regimes

• Emergency powers seen as cover for repression

• Siracusa attempted to limit these abuses of emergency powers
COVID-19 and rights abuses
Common Government Reactions:

• Denial & censorship
• Blaming others and closing doors
• Appear to “do something”
• Criminalizing exposure and transmission
• Opportunism (e.g., restrictions on abortion; repeal of environmental legislation)
• Stigma and discrimination
What Governments Should Do

• Recognize who most disadvantaged (gender, race/ethnicity, migrants, detainees, etc.)

• Engage and support communities

• Lift barriers to access to health care

• Heighten transparency and accountability
Abuses of Emergency Powers

Denial and Censorship
Dr. Li Wenliang
Died Feb. 7, 2020, in Wuhan, of COVID-19 disease, aged 34 years

Shared concerns about recurrence of SARS with medical school classmates in Wuhan in late December, 2019

“Security forces came to his house four days after he sent a public health warning and accused him of “making false comments” and acting illegally to disturb social order.

He signed a statement agreeing not to discuss the disease further.” -- Guardian
Cambodia: Human Rights Watch

• **Cambodian** authorities should stop arresting people for expressing concerns about COVID-19’s impact in Cambodia and claiming they are spreading so-called “fake news,” HRW said today. HRW has documented the arrests of 17 people since late January 2020 for sharing information about the coronavirus in Cambodia.

• These include 4 members or supporters of the dissolved opposition Cambodia National Rescue Party (CNRP), all of whom remain in pretrial detention.

• “The Cambodian government is misusing the COVID-19 outbreak to lock up opposition activists and others expressing concern about the virus and the government’s response,” said Phil Robertson, deputy Asia director. “The government should stop abusing people’s free speech rights and instead focus on providing the public with accurate and timely information about COVID-19.”
Abrogation of the right to information and to benefit from the outcomes of science
Article 27:

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and **to share in scientific advancement and its benefits.**
(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.
Astonishingly, [Myanmar] government spokesperson Zaw Htay pronounced that the absence of reported infections to date is due to Myanmar’s “lifestyle and diet.” He added that because Myanmar citizens generally paid for purchases with cash instead of credit cards, they were unlikely to spread the virus. Such irresponsible statements clash with everything known about the coronavirus outbreak, defy reality, and only serve to give a false sense of security to the country’s people about the disease and their risks of infection.
On March 24, Mr. Sobyanin told Mr. Putin that the number of infected Russians was significantly higher than the official data. Days later, he ordered all Muscovites to stay home.

But the Kremlin continued to play down the seriousness of the threat.

“There is de facto no epidemic” in Russia, the Kremlin spokesman Dmitri S. Peskov told reporters on March 26.

Under the surface, however, Russian hospitals were scrambling to prepare, with limited resources.
• Trump's "mischaracterization of the efficacy of chloroquine phosphate is an acute example," Free Press argued. "Broadcast of that statement led to a nation-wide shortage of a drug integral to treating other ailments—exacerbating this health crisis. It also precipitated the death of an Arizona man and hospitalization of his wife... when they ingested the drug because they said they had 'watched televised briefings during which President Trump talked about the potential benefits of chloroquine'.

• Free Press further argued that "[w]ide broadcast of other of the president's false statements have also contributed to the cavalier attitude some have taken toward containing coronavirus and mitigating its spread." Those false statements, Free Press said, include Trump saying that "[a]nybody that wants a test can get a test," that the United States has "tremendous control" of the coronavirus, and that the virus is "going to disappear. One day—it's like a miracle—it will disappear."
Vulnerable Populations:
Prisoners, detainees, refugees, undocumented migrants
“As we know from the HIV epidemic, epidemics wreak havoc in an unequal world. They feed off existing inequalities and hit the most vulnerable and marginalized the hardest—those who have no access to health care, who have no social safety net, who have no right to sick leave or who have no water with which to wash their hands.

The people whose right to health is denied are those who are hit first and hit the hardest.”
...for many undocumented immigrants, calling their doctor is not an option. The Affordable Care Act excludes undocumented immigrants from eligibility for coverage, and an estimated 7.1 million undocumented immigrants lack health insurance. As a result, many undocumented immigrants do not have primary care providers (PCPs) and have had to rely on EDs for years. Telling people now to avoid EDs and call their doctors leaves those without PCPs in limbo.

The Covid-19 epidemic has exposed the risk of limiting access to primary care for segments of the population, including undocumented immigrants.
Talking Points: COVID-19 in Detention

• The US incarcerates more of its citizens than any other country, 2.3 million persons are currently in US jails and prisons and 36,000 in immigration detention

• There is a long history of infectious disease spread in prisons, jails, including TB, multi-drug resistant (MDR) TB, influenza A, methicillin resistant Staph. aureus (MRSA), hepatitis B and C, now COVID-19

• COVID-19 outbreaks in prison and detention centers occurred early in the Wuhan outbreak—attributed to guards and other staff introducing SARS-CoV02 into the facilities
Talking Points: Actions

• All of the current recommendations for reducing spread, social distancing, avoiding crowds, good hygiene, are difficult to impossible in the crowded context of our detention facilities.

• Prison, jail, and immigration detention facilities are ill prepared to handle ill or critically ill patients.

• Every effort must be made to reduce the detained population. No one should be being held, or newly jailed, for unpaid fees and fines, for failure to make bail, or for immigration reasons, with exceptions made for those deemed to be flight risks or to be a threat to public security and safety.
State Efforts to Address COVID-19 in Prisons

State Corrections Departments reducing prison populations (12 States)

- **Massachusetts** Supreme Judicial Court ruled that people held pretrial for non-violent offenses and those held for technical probation/parole violations are eligible for hearings to determine if they can be released. (April 3)

- **Kentucky** Governor Andy Beshear signed an executive order to commute the sentences of 186 people convicted of felonies. The state also plans to release 743 people who are within 6 months of completing their sentences. (April 2)

- **California Department of Corrections and Rehabilitation (CDCR)** announced on March 31 that it would expedite the transition to parole for 3,500 nonviolent offenders with 60 days or less left on their sentences, with priority going to individuals with less than 30 days left. (March 31)

- **Georgia Board of Pardons and Paroles** has begun to review approximately 200 people for early release. They are considering people serving time for nonviolent offenses who are within 180 days of completing their prison sentences (or of their tentative parole date). (March 31)

- **New York**, Governor Cuomo announced that up to 1,100 people who are being held in jails and prisons across the state may be released with community supervision. (March 27)

- **Colorado** Governor granted the director of the Department of Corrections broad authority to release people within 180 days of their parole eligibility date, and suspended limits on awarding earned time, to allow for earlier release dates. (March 26)
State Efforts to Address COVID-19 in Prisons

• The Utah Department of Corrections has recommended over 80 people for release from state prisons to the Board of Pardons and Parole. The DOC reports that the people referred for release are within 90 days of completing their sentences. (March 26)

• The Director of the Rhode Island Department of Corrections is submitting weekly lists of people being held on low bail amounts to the public defender's and attorney general's offices for assessment in efforts to have them released. (Rhode Island is one of a handful of states that do not have jails, meaning that pretrial detainees are held in prisons.) The state DOC is also evaluating people with less than 4 years on their sentences to see if they can apply "good time" and release them early. (March 25)

• In Illinois, the governor signed an executive order that eases the restrictions on early prison releases for "good behavior" by waiving the required 14-day notification to the State Attorney's office. The executive order explicitly states that this is an effort to reduce the prison population, which is particularly vulnerable to the COVID-19 outbreak. (March 23)

• The director of the Iowa Department of Corrections reported the planned, expedited release of about 700 incarcerated people who have been determined eligible for release by the Iowa Board of Parole. (March 23)

• The North Dakota parole board granted early release dates to 56 people (out of 60 people who applied for consideration) held in state prison with expected release dates later in March and early April. (March 21)
Advocacy on Prisoners and Detainees


- Letter to the Governor signed by over 200 JHSPH Faculty calling for early release to reduce crowding March 28th, 2020

April 20th, The Washington Post
Hogan signs order to release hundreds of inmates to reduce spread of coronavirus

Under pressure from civil rights advocates, public health experts and congressional Democrats, Maryland Gov. Larry Hogan (R) announced on Sunday that he signed an executive order to grant early release to hundreds of inmates to reduce the spread of the coronavirus.
We propose an “ethical precautionary principle” in response to how governments should restart the economy from this pandemic. We define an ethical precautionary principle as a strategy used when approaching potential ethical harm under conditions where extensive scientific knowledge and data are lacking. In this situation, we propose an antibody certification process to identify those individuals who could safely return to work even though this process may violate ethical rights of privacy and confidentiality. Those with low or no titers of antibodies against SARS-CoV-2, the virus that causes COVID-19, will not be allowed to return to work until there is herd immunity or they are vaccinated.
Key Messages

• Global pandemics are public health emergencies and can demand restriction of rights and liberties

• Emergency powers can be abused—Siracusa Principles guide allowable restrictions

• There are fundamental rights to protection from infectious disease epidemics and to share in the benefits for science

• Misinformation, disinformation, and denials of severity are threats to both public health and human rights

• In an emergency, human rights demands that we pay special attention to the most vulnerable, the least served, and those whose liberty we have restricted
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