

## INTRODUCTION

On 31 December 2019, the Wuhan Municipal Health Commission in Hubei Province, China, reported a cluster of cases of pneumonia in Wuhan, leading to the eventual identification of a novel coronavirus. On 4 January 2020, the World Health Organisation (WHO) confirmed a cluster of pneumonia cases – with no deaths – in Wuhan. This was followed by a public sharing of the genetic sequence of COVID-19 on 12 January 2020 and a convening, ten days later, of an Emergency Committee (EC) under the International Health Regulations (IHR 2005) by the WHO Director-General, Dr Tedros Adhanom Ghebreyesus. The objective of the meeting was to assess whether the outbreak constituted a public health emergency of international concern (PHEIC).<sup>1</sup> The EC, however, could not reach a consensus based on the evidence available at the time.<sup>2</sup>

A second meeting of the Committee took place on 23 January 2020 at a time when 600 cases of COVID-19 had been identified globally, with most cases in China. However, the committee members remained split on a PHEIC recommendation on the outbreak.<sup>3</sup> Finally, on 30 January 2020, the Committee declared the COVID-19 outbreak a PHEIC.<sup>4</sup>

WHO subsequently issued country-level guidelines, developed with reference to former coronavirus outbreaks including the 2002 severe acute respiratory syndrome and the 2012 Middle East respiratory syndrome

- 1 Article 12 of WHO *International Health Regulations* (2005), the WHO's Director General has the power to declare a public health emergency of international concern (PHEIC). S/he can only do so after receiving the views of an Emergency Committee, as established by art 48 of the IHR.
- 2 WHO 'Archived: WHO Timeline – COVID-19' (27 April 2020) <https://www.who.int/news/item/27-04-2020-who-timeline---covid-19> (accessed 5 September 2023).
- 3 M Barna 'WHO process for declaring health emergencies scrutinized: COVID-19 response shows limitations' (2020) 50 *The Nation's Health* 1.
- 4 The declaration in July 2019 for the Ebola outbreak was only the fifth in IHR history. The 2009 H1N1 influenza pandemic (also known as swine flu), a 2014 declaration following the resurgence of wild poliovirus, the 2014 West African Ebola epidemic, the Zika emergency of 2015-16, and after much deliberation, the 2018-19 outbreak of Ebola in Kivu. R Katz 'Pandemic policy can learn from arms control' (2019) 575 *Nature* 259.

outbreaks. These guidelines were intended, among others, as a detection and response tool for countries to review national capacities for managing the COVID-19 outbreak by identifying gaps, doing risk assessments, and planning additional investigations, responses, and control actions, such as early detection, contact tracing, physical distancing, as well as isolation and patient treatment.

In this case, the WHO advised countries, among others, not to unnecessarily restrict travel and trade to China; to support nations with weaker health systems; accelerate the development of vaccines and treatments; stop the spread of rumours and misinformation; work to treat those who are already sick while limiting spread; share knowledge with the WHO and other countries; and work together ‘in a spirit of solidarity and cooperation’.

Finally, on 11 March 2020, WHO made the assessment that COVID-19 can be characterised as a pandemic. This announcement triggered responses from countries around the world with border closures, lockdowns, curfews, and a ban on public gatherings, among others.

## **1 The International Health Regulations and human rights**

The International Health Regulations (IHR) of the WHO<sup>5</sup> makes reference to, and calls for respect of, human rights in paragraph 5(f) of its foreword, stipulating that ‘[t]he IHR (2005) contain a range of innovations, including protection of the human rights of persons and travellers’. The IHR also provides in article 3(1) that ‘[t]he implementation of these Regulations shall be with full respect for the dignity, human rights and fundamental freedoms of persons’; and in article 32 that:

In implementing health measures under these Regulations, States Parties shall treat travellers with respect for their dignity, human rights and fundamental freedoms and minimize any discomfort or distress associated with such measures.

These provisions underscore the importance of human rights protection during public health emergencies.

However, during a period of public health emergency a long list of rights can be affected. The impact of declaration of public emergency in this work is assessed in three main ways. First, rights whose enjoyment are

5 *International Health Regulations* (n 1).

affected directly or indirectly due to the pandemic. Second, rights whose enjoyment are suspended during declaration of periods of emergency to control and stem the tide of the pandemic. Third, rights which are violated by security forces and other actors while enforcing observance of the emergency.

In the first scenario, the principal right that is directly affected by the pandemic and is at the centre of the debate is the right to health. Yet, the right to health is not a stand-alone right. To be able to enjoy this right, some other rights that constitute integral components of the right to health or the underlying determinants of health, such as the rights to food, water, and housing, need to be respected as well. Secondly, one's ability to (properly) enjoy the plethora of rights available to him/her is only guaranteed on one's ability to enjoy the right to health.

The second scenario in which rights exercise is affected by the declaration of a state of emergency is with respect to rights which are suspended or derogated from during such period. These include the right to education (through closure of schools), freedom of religion (suspension of services in churches and mosques have been suspended for the next four weeks), cultural rights (funerals – private burials limited to 25 people), freedom of association (suspension of conferences, workshops), political rights and freedom of expression (suspension of political rallies), leisure (sporting events), and movement (travel advisory).<sup>6</sup>

The third way in which the normal enjoyment of rights in peace time has been affected by the pandemic are the excesses committed by security forces mandated to ensure public compliance with emergency policy measures. As a result, several human rights violations have been recorded in many African countries by the security agencies against citizens and residents during the emergency period attending COVID-19.<sup>7</sup>

## **2 Historical roots of a state of emergency**

The historical roots of the concept of a state of emergency are traced to Roman times where a 'dictator' would be appointed to deal with emergencies, such as in times of strife. The Roman Senate was given the power to postulate a decree which when enacted was final and not

6 Section 1 of the Imposition of Restrictions (Coronavirus Disease (COVID-19) Pandemic) Instrument, 2020.

7 D Olewe 'Coronavirus in Africa: Whipping, shooting and snooping' *BBC News* 8 April <https://www.bbc.com/news/world-africa-52214740> (accessed 5 September 2023).

subject to review,<sup>8</sup> hence the name, *senatus consultum ultimum* or *justitium*<sup>9</sup> (meaning, ‘final decree of the Senate’ or ‘Final Act’). Aristotle also traces the concept to the *aesymneteia* (the ‘elected tyrant’) in whom was vested absolutist powers on a temporary basis when their cities were under threat.<sup>10</sup>

The legal regime of states of emergency is, however, traceable to the French Revolution and, therefore, from the liberal democratic tradition.<sup>11</sup> In his postulation on the subject, Locke argued that during such times, a government needed a prerogative or legally unconstrained power to ‘act according to discretion, for the publick good, without the pre-scription of the Law, and sometimes even against it’.<sup>12</sup>

A practical application of this principle reflected in a 1789 decree of the French Constituent Assembly, which sought to distinguish between a ‘state of peace’ (*état de paix*) and a ‘state of siege’ (*état de siège*). Under the latter, ‘all the functions entrusted to the civilian authority for maintaining order and internal policing pass to the military commander, who exercises them under his exclusive responsibility’.<sup>13</sup>

Emergency laws in the UK are also traced from the martial law concept which emerged in medieval England and where it operated as ‘military law’ to maintain order and discipline within the armed forces.<sup>14</sup> Application of martial law was later extended to civilians such as ‘rebels and traitors, discharged soldiers and sailors, thieves, brigands, vagabonds, rioters, publishers and possessors of seditious books, even poachers, were condemned or threatened with the justice of martial law’.<sup>15</sup> However, the peacetime use of martial law was outlawed by parliament during the reign of Charles I by virtue of the Petition of Right in 1628.

8 D Dyzenhaus ‘Emergency, liberalism, and the state’ (2011) 9 *Perspectives on Politics* 69.

9 A Eraydin & K Frey *Politics and conflict in governance and planning: Theory and practice* (2019).

10 J Reynolds ‘The long shadow of colonialism: The origins of the doctrine of emergency in international human rights law’ Osgoode Hall Law School Comparative Research in Law & Political Economy Research Paper Series, Research Paper 19/2010 at 5. cf Aristotle *Politics* trans Benjamin Jowett (1999) 73-74.

11 SP Sheeran ‘Reconceptualizing states of emergency under international human rights law: Theory, legal doctrine, and politics’ (2013) 34 *Michigan Journal of International Law* 491.

12 J Locke *Second treatise of government* (1980) paras 22, 137.

13 Sheeran (n 12). Also, AV Dicey *Introduction to the study of the law of the Constitution* 8th ed (1915) 283-284.

14 Reynolds (n 10) 7.

15 Reynolds (n 10) 6.

Yet, martial law resurfaced in the colonial territories of Britain as a tool to quell dissent when the vestiges of the empire was in decline. Consequently, it became ‘an essential part of the security apparatus of many parts of the empire’<sup>16</sup> and used to ‘suppress native protests against anything from colonial taxes to agrarian policies to maltreatment of slaves’.<sup>17</sup>

States of emergency in former colonial territories such as Malaya and the Gold Coast (now Ghana) were declared by the respective colonial Governors under the Emergency Powers (Colonial Defence) Order in Council of 1939.<sup>18</sup> This law entitled the Governor to

make such regulations as appear to him to be necessary or expedient for securing the public safety, the defence of the territory, the maintenance of public order and the suppression of mutiny, rebellion and riot, and for maintaining supplies and services essential to the life of the community.

Also in Kenya, during the Mau Mau Uprising, an emergency law was declared which gave the Governor sweeping powers of arrest and detention without trial through the issuance of Governor’s Detention Orders and Delegated Detention Orders.<sup>19</sup>

Dicey justified the return of state of emergency in England on these grounds:

There are times of tumult or invasion when for the sake of legality itself the rules of law must be broken ... The Ministry must break the law and trust for protection to an Act of Indemnity. A statute of this kind is ... the last and supreme exercise of Parliamentary sovereignty. It legalises illegality ... [It] ... combine[s] the maintenance of law and the authority of the Houses of Parliament with the free exercise of that kind of discretionary power or prerogative which, under some shape or other, must at critical junctures be wielded by the executive government of every civilized country.<sup>20</sup>

16 Reynolds (n 10) 10.

17 As above.

18 F Tsikata ‘Limits of constitutional law’ (1978-1981) 15 *University of Ghana Law Journal* 17.

19 Refer to witness statement of, for example, David Anderson in *Ndiku Mutua and 4 Others v the Foreign and Commonwealth Office* Case HQ09X02666 (London, Royal Courts of Justice, 21 December 2010) 4.

20 AV Dicey *Introduction to the study of the law of the constitution* 10th ed (1959) 412-413.

It must be noted that states of emergency were also practised in pre-colonial traditional political systems. For example, Rattray notes that, within the Asante Kingdom, the autonomy enjoyed by states that constituted the kingdom was compromised during ‘the very rare occasions of a great emergency’ when there was the need for the ‘quest of common safety’. Such an emergency could be on a tribal or national scale and such times, a form of governance akin to, in the words of Rattray, aristocracy, was practised. When the danger has been averted, ‘each unit went back largely to the management of its own affairs, as long as those did not affect a wider group’.<sup>21</sup>

### 3 A state of emergency – Definition and scope

Under article 4(1) of the International Covenant on Civil and Political Rights (ICCPR), a state of emergency is described as a condition that ‘threatens the life of the nation’ and poses an ‘exceptional and actual or imminent danger’. While article 4(1) of the ICCPR does not cover war directly, the European Convention on Human Rights (ECHR) and the American Convention on Human Rights (ACHR) both directly extend the conditions which will attract a state of emergency to include a period of war.<sup>22</sup> The gap in the ICCPR was filled by the Human Rights Committee (HRC)<sup>23</sup> in its General Comment 29 on article 4 when it mentions war as part of an emergency but ‘only if and to the extent that the situation constitutes a threat to the life of the nation’.<sup>24</sup>

During such periods, individual interests and the greater good of the community clash, which situation has often been exploited by government to abrogate its human rights obligations in order to enhance their powers, dismantle democratic institutions, and repress political opponents. To balance these competing concerns, international law has provided an escape clause in the name of derogations that sanction restrictions or suspension of the enjoyment of certain rights on a temporary basis (that is

21 Captain RS Rattray *Ashanti Law and Constitution* (1929) 404.

22 See article 15 of Council of Europe, ECHR as amended by Protocols 11 and 14 supplemented by Protocols 1, 4, 6, 7, 12, 13 and 16, 4 November 1950, ETS 5; and, art 27 of the OAU, African Charter on Human and Peoples’ Rights (Banjul Charter), 27 June 1981, CAB/LEG/67/3 rev 5, 21 ILM 58 (1982).

23 A quasi-judicial treaty body set up under art 28 of the ICCPR to monitor compliance of the treaty, among other functions. See UN ‘Treaty Bodies: Human Rights Committee’ <https://www.ohchr.org/en/hrbodies/ccpr/pages/ccprindex.aspx> (accessed 5 April 2021).

24 See para 3 of the CCPR, General Comment 29: States of emergency (art 4), 31 August 2001, UN Doc CCPR/C/21/Rev.1/Add.11 (2001).

during the life-span of the emergency) but subject those restrictions to the strictures of international law.<sup>25</sup>

Consequently, coming back to article 4(1) of the ICCPR, it provides that:

In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

Yet, as provided under article 4(2) of the ICCPR, not all rights can be derogated from, irrespective of the enormity or gravity of the emergency situation. These are the right to life (article 6); the right to protection against torture, cruel, inhuman and degrading treatment or punishment (article 7); the right to protection against slavery or the slave trade (article 8, paras 1 and 2); prohibition of imprisonment merely on the ground of inability to fulfil a contractual obligation (article 11); non-retroactivity of laws (article 15); recognition everywhere as a person before the law (article 16); and, the right to freedom of thought, conscience and religion (article 18).

The Human Rights Committee (HRC), the treaty body set up to monitor compliance of States Parties' obligation under the ICCPR, in its General Comment 24, identified other provisions of the ICCPR which cannot be derogated from during periods of emergency, based on two main grounds. One is that some of the provisions of the ICCPR are justified by their status as norms of general international law. These include the following prohibitions against taking of hostages, abductions or unacknowledged detention; international protection of the rights of persons belonging to minorities;<sup>26</sup> deportation or forcible transfer of population without grounds permitted under international law;<sup>27</sup>

25 K Appiagyei-Atua, TM Muhindo, I Oyakhirome, EK Kabachwezi & S Buabeng-Baidoo 'State security, securitisation and human security in Africa: The tensions, contradictions and hopes for reconciliation' (2017) 1 *Global Campus Human Rights Journal* 326.

26 This is reflected in the prohibition against genocide in international law, in the inclusion of a non-discrimination clause in art 4 itself (para 1), as well as in the non-derogable nature of art 18.

27 As confirmed by the UN General Assembly, Rome Statute of the International Criminal Court (last amended 2010), 17 July 1998, ISBN No. 92-9227-227-6.

incitement to discrimination, hostility or violence;<sup>28</sup> and, the right to a fair trial<sup>29</sup> and access to an effective remedy.<sup>30</sup>

Additionally, the HRC came to the conclusion in its General Comment that article 4 of the ICCPR cannot be read as justification for derogation from the Covenant if such derogation would entail a breach of the State's other international obligations, whether based on treaty or general international law.<sup>31</sup> The ICCPR, however, also allows substantial scope for states parties to respond to emergency situations by limiting specific rights rather than derogating from them.

Invoking a derogation under article 4 during a pandemic finds support in the Siracusa Principles on the Limitation and Derogation Provisions in the ICCPR, in particular in its paragraphs 25 and 26:

25. Public health may be invoked as a ground for limiting certain rights in order to allow a state to take measures dealing with a serious threat to the health of the population or individual members of the population. These measures must be specifically aimed at preventing disease or injury or providing care for the sick and injured.
26. Due regard shall be had to the international health regulations of the World Health Organization.

## **4 The African Charter and emergencies**

The African Charter, unlike the European and American systems, does not contain provisions on declaration of states of emergency. What it means is that it does not have room for derogation of rights. Indeed, the closest the Charter comes to recognising a derogation is found in article 27(2) of the Charter, which provides that the rights of the Charter 'shall be exercised with due regard to the rights of others, collective security, morality and common interest'. However, the place of article 27(2) in the scheme of things in the Charter is that as it is placed under the section of 'Duties' and it reads more as a limitation on the enjoyment of rights by

28 Article 20.

29 Paragraph 16.

30 This clause is not mentioned in the list of non-derogable provisions in art 4, para 2, but it constitutes a treaty obligation inherent in the Covenant as a whole.

31 Article 5(2) of the ICCPR. There shall be no restriction upon or derogation from any of the fundamental human rights recognised or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognise such rights or that it recognises them to a lesser extent.

an individual than as a limitation on the power of the State to restrict the enjoyment of such rights.

The African Commission has provided in *Amnesty International v Sudan*, a rationale for the non-recognition of derogation clauses thus: that ‘the restriction of human rights is not a solution to national difficulties: the legitimate exercise of human rights does not pose dangers to a democratic state governed by the rule of law.’<sup>32</sup>

Consequently, the African Commission decided in *Commission Nationale des Droits de l’Homme et des Libertés v Chad*,<sup>33</sup> that the Charter ‘does not allow for states parties to derogate from their treaty obligations during emergency situations’ even in a civil war situation. The civil war could not, therefore, be used as a legal shield for failure to fulfil the legal obligations under the African Charter, and Chad was held to have violated articles 4, 5, 6, 7 and 9. A similar decision was arrived at in the case of *World Organisation Against Torture v Zaire*.<sup>34</sup>

These decisions establish a higher standard than that provided in the ICCPR. And according to article 5(2) of the ICCPR, African countries which are States Parties to the ICCPR are required to comply with this higher standard.

However, this position of the African Charter as endorsed by the African Commission has faced some particular challenges under the COVID-19. Thus, the African Commission itself has moved away from that position in different resolutions passed in the face of the measures adopted by African States to deal with the pandemic. This is a reaction to the fact that most of states of emergency are draconian and end up taking away many rights of the people in the name of controlling COVID-19. In its Resolution 477, the African Commission noted with alarm the ‘highly securitised approach’ that has been used in many States Parties during the COVID-19 pandemic and subsequent states of emergency.<sup>35</sup> Similarly, the

32 Paragraph 79 of that case.

33 *Commission Nationale des Droits de l’Homme et des Libertés v Chad* (2000) AHRLR 66 (ACHPR 1995) para 40 of the text of the decision as published <http://www.up.ac.za/chr/>.

34 25/89, 47/90, 56/91, 100/93 *World Organisation Against Torture, Lawyers’ Committee for Human Rights, Jehovah Witnesses, Inter-African Union for Human Rights v Zaire*.

35 449 Resolution on Human and Peoples’ Rights as central pillar of successful response to COVID-19 and recovery from its socio-political impacts – ACHPR/Res. 449 (LXVI) 2020. The African Commission on Human and Peoples’ Rights (the Commission) meeting at its 66th Ordinary Session, held virtually from 13 July to 7 August 2020 in Banjul, The Gambia para 12 (Preamble).

Commission has expressed deep concern at the severe socio-economic and humanitarian consequences of COVID-19 and the COVID-19 response measures.<sup>36</sup>

Consequently, the Commission has urged States Parties in respect of enforcement of COVID-19 regulations to ensure that the response of security and law enforcement agencies during the pandemic 'are consistent with the principles of legality, necessity, proportionality, accountability and do not endanger human life'.<sup>37</sup>

Further, the African Commission, through the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa (Special Rapporteur), has expressed concern at reports of the excessive use of force and abuses by security and law enforcement agencies during the implementation of states of emergency declared due to the COVID-19 pandemic. Consequently, the Special Rapporteur has reminded States that,

despite the declared State of Emergency, there are international human rights principles that guide the use of force and firearms, with emphasis on the principles of legality, necessity, proportionality and accountability.<sup>38</sup>

Also, at its 66th Ordinary Session held virtually from 13 July to 7 August 2020, the African Commission appointed a Focal Point on Human Rights in Conflict Situations in Africa and tasked the official

to develop a normative framework in the form of Guidelines on adhering to human and peoples' rights standards under the African Charter when declaring states of emergency or disaster, taking account of the relevant Protocols to the African Charter on Human and Peoples' Rights and standards of the African Commission; and report on declarations of state of emergency and state of disaster laws and practices in Africa to ensure that they comply with human and peoples' rights standards under the African Charter.<sup>39</sup>

36 Paragraph 15 (Preamble).

37 Paragraph 2. See also, ACHPR 'Press statement on human rights based effective response to the novel COVID-19 virus in Africa' (24 March 2020) <https://www.achpr.org/pressrelease/detail?id=483> (accessed ?).

38 ACHPR 'Press release of the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa on reports of excessive use of force by the police during the COVID-19 Pandemic' (22 April 2020) <https://achpr.au.int/en/news/press-releases/2020-04-22/press-release-special-rapporteur-prisons> (accessed 5 September 2023).

39 447 Resolution on upholding human rights during situations of emergency and in other exceptional circumstances - ACHPR/Res. 447 (LXVI) 2020 <https://www.achpr.org/sessions/resolutions?id=478> (accessed ?).

These decisions, therefore, clearly indicate an about-face on the Charter's position on derogations and states of emergency.

## **5 Emergencies without states of emergency**

In all the African states' constitutions studied, whether they reference international standards or not, the normal constitutional process is to grant the President or Head of State the power to declare a state of emergency which should be made public, for example, in the form of a gazette notification.<sup>40</sup> This declaration is to last for a couple of days while the declaration is receiving parliamentary approval. When approved, any other steps, including extension and modification of the measures, are subject to review and endorsement by Parliament. The fact that the constitutions of African States have references to a state of emergency indicates that the non-recognition of derogation clauses in the African Charter is disregarded.

Most African states responded to the COVID-19 pandemic by proclaiming a state of emergency or state of national disaster while a few others did so by way of their public health emergency laws. In making these declarations of emergency, a good number, including Botswana, The Gambia, Kenya, Cote d'Ivoire, Senegal and Lesotho, Benin, Cameroon, went by way of the constitutional steps. Yet, even in these countries, abuses have been recorded in the area of civil and political as well as economic, social and cultural rights.

The present work is devoted to a critical review of the measures, policies and initiatives introduced by African States to deal with the pandemic and lessons learnt from the human rights and international law point of view. It is roughly divided into four parts. The first touches on the gaps identified in the realm of social, economic and cultural rights wherein the right to health is located. The second introduces a gender dimension into the discourse in the terms of disproportionate impact of the pandemic on women. The third deals mainly with emergency measures enacted and implemented, how they were implemented and their impact on the civil and political rights of the citizens and residents of the select African countries. The last division deals with how to assess and assign responsibility for the origins and spread of COVID-19.

40 A research project undertaken by the editor (copy on file).

## 5.1 Economic, social and cultural rights

Chapter 1 of the work is a contribution by Simeon Igbinedion titled **State response to COVID-19 Pandemic – Failure of social interventions in Nigeria**. He looks at the collateral negative consequences for the socio-economic and civil and political rights of citizens generated by the emergency responses triggered by the pandemic in Nigeria. In particular, his contribution focuses on the failure of social interventions introduced by the Nigerian government to ameliorate hardship associated with the pandemic but which measures have been compromised by corrupt practices.

Paul Ogendi's piece on Kenya (Chapter 2), titled **COVID-19 emergency measures and the violation of the right to health in the Kenyan counties**, examines the level of preparedness of Kenyan counties' health infrastructure and lack of adequate medical equipment, personal protective equipment (PPEs), hospital beds and intensive care units (ICU) in most counties.

Kossivi Romain Midjresso, in his contribution, **The Scope of socio-economic measures in response to COVID-19 in Benin** (Chapter 3), focuses on deepening legal thinking around the socio-economic measures adopted by Benin, in particular, to verify whether they resolve the socio-economic difficulties of vulnerable people caught by the emergency measures. In so doing, his work also pays attention to the violations of civic and political rights against the poor in Benin.

## 5.2 Gender and COVID-19

Talking about the situation of women in the face of the pandemic and the impact it is having on their livelihoods, the work of Nkatha Kabira and Kameri-Mbote comes into the picture. In their work, **The man of COVID-19: The place of COVID-19 measures in international women's human rights law in Kenya** (Chapter 4), they address head-on, the disproportionate impact the pandemic has had on women and how it is continuing to magnify structural inequalities that exist in society. The writers rely on Ngairé Naffine's theory of 'The Man of Law' to argue that COVID-19 measures have a historically located man in mind.

Parfait Oumba addresses the Cameroonian issue in the larger context of the situation in Central Africa in his contribution in Chapter 5 under the heading, **Response to COVID-19 and protection of human rights in Central Africa: The case of Cameroon**. In his analysis, Oumba raises questions about the risk of corruption in the implementation of

these emergency measures and excesses committed by security forces and whether they conform to the constitutional provisions regulating the functioning of the state of emergency. His work also touches on the impact of the measures on the protection of vulnerable populations – particularly women – in emergency situations.

### 5.3 Civil and political rights

Annette Lansink's piece is in Chapter 6 of the work, titled **South Africa in times of a pandemic: Reflections on the fragility of human rights**. She focuses on the declaration of a State of National Disaster under the Disaster Management Act, 2002 and examines the dangers of draconian laws made through the Ministerial Regulations becoming a permanent fixture under the pretext of COVID-19.

The case of Senegal, Moussa Diop is treated in Chapter 7 titled, **The management of COVID-19 in Senegal: Between health necessity and desecration of the fundamentals of the rule of law and democracy**. His analysis touches on the rigour and intensity deployed by the Senegalese authorities to enforce the emergency measures, clashed with the citizen's perception and understanding of a normal legal order or the exercise of their rights and freedoms and the fierce resistance put up by the citizenry against defence and security forces.

Kwadwo Appiagyei-Atua, in his contribution (Chapter 8) – **A critical review of the COVID-19 response measures in Ghana**, examines how Ghana bypassed its constitutional and legislative mechanisms to enact the Imposition of Restrictions Act, 2020 (Act 1012) (IRA) to tackle the pandemic. The work questions the motive of the State in coming up with the IRA which does not specifically mention its purpose as relating to dealing with the COVID-19 and the fact that the IRA does not have a sunset clause.

Yonas Birmeta contends in his paper, **The material scope of emergency measures in response to COVID-19: The case of Ethiopia** (Chapter 9) about the measures undertaken in Ethiopia under the emergency measures and abuses that ensued. He uses the necessity and proportionality test to determine how the exercise of civil liberties under the country's state of emergency has been compromised.

Chapter 10, by Wole Kunuji, titled **COVID-19 and restrictions to the right to freedom of movement in Nigeria** examines the limitations placed on the right to freedom of movement and its subsequent impact on the liberty, livelihood, and psychological well-being of citizens.

#### **5.4 Origins of COVID-19**

In the last chapter (Chapter 11) of the present work, **State and individual accountability for the origin, transfer and or spread of COVID-19: Options under international law**, Evelyne Asaala provokes an intellectual debate on the likely origins, transfer and or spread of COVID-19. The ultimate goal is to assess whether state responsibility and or individual criminal accountability can be established.

## References

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