



COVID 19, HUMAN RIGHTS AND CIVIC SPACE IN NIGERIA

Policy Briefing Paper 011

MARCH 27, 2020

SPACES FOR CHANGE | S4C

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COVID-19, Human Rights & Civic Space

Introduction:

Lockdown, social distancing, contact-tracing, self-isolation, quarantine, testing, face-masks, sanitizers: these are the buzzwords of the moment, triggered by the massive spread of Corona virus, popularly known as the COVID-19 pandemic. With the virus spreading rapidly and ravaging the world, causing thousands of deaths and incalculable social and economic losses, countries of the world are rolling out measures each passing day to both control the spread of the virus and mitigate the impact on affected populations. Nigeria's considerably low-infection rates witnessed in the early days of the pandemic dramatically turned around with one confirmed case in one state as of February 29, 2020 rising up to 65 cases and one fatality across 8 states as of March 27, 2020. Not only that, 4,370 people of interest suspected of COVID-19 infection are being traced. The sharp rise in the disease toll saw Nigeria imposing restrictions and mitigating measures, with implications on the fundamental human rights of citizens and the civic space in general. The Nigerian government is invoking the emergency doctrine in Section 45 of Nigerian Constitution to justify restrictions and measures to combat the pandemic

Summary of observations:

This policy brief extensively analyses the Nigerian government's COVID-19 containment measures within the context of the country's human rights obligations, and makes the following observations:

1. Nothing demonstrates the tensions between rights and containment measures during health emergencies more than the blanket recommendation for the public to avoid mass gatherings and close contacts with people. Any State invoking Section 45 of Nigerian Constitution to justify derogations from constitutional right guarantees must comply with rigorous due process provisions relating to proportionality, notification of derogation measures, exclusion of the non-derogable provisions, non-discrimination, temporariness of exceptional measures and consistency of those measures with the state's existing obligations under international law.
2. Certainly, the COVID-19 pandemic fits within the definition of "a public emergency which threatens the life of the nation" entitling the Nigerian State to invoke derogation measures. The federal government has yet to declare a state of emergency, but have gone ahead to implement derogation measures, putting a big question mark on the legality of these disease containment measures. The declaration of a state of emergency constitutes an announcement that the rights-derogating measures are **temporary and limited to the extent strictly required by the exigencies of the situation**.
3. As of March 26, 2020, Nigeria has reportedly conducted a total of 178 COVID-19 tests compared to South Africa's 15,500 tests over the same period. Low testing figures, compounded by the lack of adequate databases for contact details, has forced the government to trace suspected patients primarily through public appeals. Low response to public appeals is probably prompting the proposal to use the police and the military to enhance contact-tracing. The use of coercive action should be discouraged because of the potential to instil fear and anxiety, including social stigma.
4. With global borders shut, high-profile infected persons cannot travel abroad as they used to, and have to fall back on the health facilities abandoned for decades to rot and underperform. While massive healthcare reforms are anticipated in the long term, the risk of preferential treatment for high-profile infectees looms large. Substantiated media reports reveal cases of preferential treatment for foreign nationals and high-profile patients. These patterns fuel fears that COVID-19 response measures may perpetuate inequalities in access to health care in critical times like this. Urgent steps must be taken to restore public confidence in the health systems by ensuring all persons—irrespective of their social and economic background, identity, sex, religion, ethnic group, sexual identity—have equal access to healthcare.
5. The disease-containment approaches adopted across the country especially by state governors, reinforces fears of deliberate governmental clampdowns on civic freedoms using COVID-19 as an excuse. Documentation of these arrests and detentions of citizens on a digital database (www.closingspaces.org) revealed over 279 cases of many citizens being targeted and punished by state actors for various flimsy or no reason at all.
6. There is ample evidence that the pandemic may trigger states to enact a wave of restrictive legislations that shrink the civic space. The Lagos State Emergency Coronavirus Pandemic Bill 2020, sponsored by Speaker Mudashiru Obasa, scaled the first, second and third readings and eventual passage at lightning speed. There was little or no opportunity to engage the public or the broad spectrum of stakeholders that may be affected by the proposed law.



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7. Despite rolling out a flurry of COVID-19 containment measures across states, there is no single state that has made provision of palliative measures for its citizens. In a state like Lagos where informal economic activity thrives, the Lagos Emergency Coronavirus Pandemic Bill 2020 did not address how millions of informal workers that depend on their daily earnings will survive hunger and deprivation during the lockdowns without any safety nets or social protection system in place.
8. On 24 March, 2020, the Nigerian Presidency barred certain media houses from covering its activities. The actions were reportedly taken to contain the spread of COVID-19. The ban which will last for a yet-to-be specified period, will limit the ability of journalists to accurately cover and report presidential initiatives to defeat COVID-19. The ban represents a threat to press freedom, prompting stakeholders to warn that the pandemic should not be a 'time for unnecessary pettiness, victimisation ... (and adoption of measures) completely at variance with national interest.'

Overview of COVID-19 Containment Measures in Nigeria

Nigeria's COVID-19 measures are coordinated jointly by the National Centre for Disease Control (NCDC), the Presidential Task Force (PTF) on COVID-19 and the Federal Ministry of Health. Recognizing the highly-infectious nature of the disease, these are not normal times and call for serious action and country-specific responses. Five out of the various disease control initiatives introduced in the country stand out, and can have serious consequences on civic freedoms. They include:

- Closure of educational institutions;
- Stay-at-home (SAH) directives and the suspension of public and private economic activities;
- Social distancing; Prohibition of public gatherings including for religious, social, political and entertainment purposes;
- Closure of state/national borders, which includes stopping inter-state/inter-town travels, except for essential services; and
- Contact-tracing and other disease preventive actions.

A. Closure of educational institutions

As part of efforts to contain the spread of the dreaded disease, the Federal Government ordered the immediate closure of tertiary institutions, the 104 Unity Schools, all public and private secondary and primary schools nationwide. Compliance was for the most part, immediate, and substantial, across Nigeria's 36 states and the Federal Capital Territory (FCT). Similarly, the closure affected ancillary educational programs and supplemental services that enable the sector to function optimally. For instance, the National Sports Festival, scheduled to hold in Edo state, was cancelled. All orientation camps of the National Youth Service Corps (NYSC) across the country were shut while the school feeding program for pupils in public primary schools stopped abruptly.

Legally recognizing education as a human right, the Child Rights Act (2003) confers on every Nigerian child, the right to free, compulsory and universal basic education and obligated the government to provide such education.¹ Closure of schools ostensibly, disrupts the yearly academic calendar, interfering with the right of a child to education. For students in the final years of study or enrolled in the NYSC scheme, indefinite school closure could mean an extra year before graduation. For their parents, this equally portends an extra time of unplanned educational expenses that potentially place heavy economic burdens for millions of households living on the margins. During this period, children with disabilities or other special needs that depend on the supplemental and psychosocial services rendered by ancillary educational institutions may not receive the support that they need.

[S4C's evaluation of the National Homegrown School Feeding Program](#) found that pupils enrolled in public primary schools are predominantly from the very poor and low-income households. Many of them do not eat before going to school, relying on the school-provided meals as the primary meal of the day. For these kids, school closure comes with the consequence of starvation, nutritional deficiency with attendant effects on child welfare and development.

¹ Article 15 (1) of the Child Rights Act



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The closure of schools as a containment measure may be impelled by the prevailing health emergencies, however, the absence of learning alternatives, the non-provision of relief for the poor and vulnerable not only complicates the situation, but could also cause indirect deaths.

The pandemic affords an opportunity to put a strong social protection system in place to enable the most vulnerable access learning and feeding alternatives, and to cushion the shocks that may be associated with forced school closures.

B. Stay-at-home (SAH) directives and the suspension of public and private economic activities

Lagos State has the highest number of COVID-19 cases. Likewise, Lagos was the first to direct civil servants in the states from Levels 1-12 to stay at home effective Monday March 23, 2020,² followed by FCT, Rivers, Bayelsa, and other states. A federal government directive particularly advised “all Abuja and Lagos residents to stay at home, avoid mass congregation of any kind as well as non-essential outings, until further advice is given.” This directive has now been extended to other state, with uniform application across the entire country.

Officials excluded from the government’s SAH directive include the first responders: medical personnel, fire fighters, members of the Lagos State Emergency Management Authority (LASEMA)... and other essential services. Though SAH directives targeted government personnel, substantial adherence by private establishments saw the closure or suspension of private sector-led economic activities, from markets³ to banking to insurance to flight operations⁴ to entertainment services to non-profit ventures.

Nigeria’s 1999 Constitution frames housing not as a fundamental right, but as an objective broadly realizable under the directive principles of state policy.⁵ The COVID-19 pandemic essentially tests Nigeria’s commitment to protect, respect and realize the policy of adequate housing. Only citizens with a roof above their heads can comply with the government’s stay-at-home directive. The housing deficit in Nigeria is estimated at 17 to 20 million housing units, increasing annually by 900, 000 units.⁶ As if the housing deficits are not enough, millions of people lose their homes annually for various reasons. For instance, a recent report found that approximately 3,021,141 people were affected by some parameter of displacement (16 of whom were reported dead) and up to 323,031 properties (houses, stalls/stores, land⁷, etc.) were either demolished or confiscated.⁸ No Nigerian city has witnessed the wave of forced evictions and large-scale displacement more than Lagos, Nigeria’s commercial capital and the epicentre of the COVID-19 statistics. Compliance with SAH orders is impossible for thousands of citizens forced into homelessness as a result of state-ordered forced evictions. Areas targeted by mass evictions are predominantly inhabited by the poorest of the poor. State intervention in the form of moratorium of forced evictions, for instance, would enable the poor safely remain in the places they call home, and facilitate their compliance with SAH orders.

As the Special Rapporteur on the Right to Adequate Housing⁹ exhorted, *states should at a minimum, ensure protection of those living in homelessness or grossly inadequate housing. States must: cease all evictions; provide emergency housing with services for those who are affected by the virus and must isolate; and provide adequate housing which may require the implementation of extraordinary measures as appropriate in a state of emergency, including using vacant and abandoned units and available short-term rentals.*¹⁰

² Abdur Shaban, Africa News, Coronavirus control: Nigeria’s Lagos orders 70% of workforce to stay home/ 22/03 - 18:40

³ Lanre Adewole, Nigerian Tribune, BREAKING: Lagos Markets to Shut Down on Friday, March 24, 2020. Markets and stores in Lagos selling food, drugs, water and other essentials were exempted from the SAH order.

⁴ Closing Spaces Database: Aero, Air Peace suspend flight operations over COVID-19
<https://closingspaces.org/4834-2/>

⁵ Section 16(2)(d) Constitution of the Federal Republic of Nigeria.

⁶ See Africa Housing Finance Yearbook 2018 – Nigeria, available at housingfinanceafrica.org/app/uploads/Nigeria-2018-Final.pdf

⁷ The land in question amounted to a total of about 559,934.58 hectares of farmlands and plots!

⁸ Urban Infrastructure Projects and Displacement in Nigeria, Julian Walker, Barbara Liepietz, Victoria Ohaeri, Victor Onyebueke and Oliver Ujah, March 2018: http://urn.icfwebservices.com/Media/Default/Research%20Reports/urn_displacement_report_2018.pdf

⁹ On July 29, 1993, Nigeria ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) which provides that “the States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

¹⁰ “Housing, The Frontline Defence against the COVID-19 Outbreak,” says UN expert, OHCHR, 18 March 2020, accessed via <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25727&LangID=E>



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Another major impediment to the government's SAH directives is the high rates of informality in Nigeria, with most people self-employed, depending on their daily earnings for sustenance. The informal sector is a major contributor to Nigeria's economy, accounting for about 65% of Nigeria's 2017 GDP.¹¹ Closed businesses not only mean loss of income for enterprises, but also triggers livelihood losses for the millions of workers in their employ. Without income, they are unable to stock up food supplies needed to sustain a lockdown. Policy interventions to support the informal sector at difficult times like this are crucial to enable small- and medium-sized enterprises to pay their employees. Calls on the government to provide safety nets such as tax breaks, cash transfers, including devising 'modalities to distribute N10,000 as a supplement for foodstuff to each household, among other palliative measures' should be strongly considered.¹²

C. Social distancing; Prohibition of public gatherings including for religious, social, political and entertainment purposes

Social distancing is a COVID-19 buzzword that prescribes the practice of keeping a safe distance from another, in order to minimise the probability of physical contact with an infected person, thereby preventing disease spread and transmission. Crowds and large gatherings such as weddings, concerts, sporting events, conferences and so forth, have been prohibited because of the difficulty in practising 'social distancing' or avoiding physical contact between individuals in such situations.

Enforcing social distancing measures have had particular implications on constitutionally-guaranteed freedoms, particularly the rights of assembly¹³, movement¹⁴, conscience and thought.¹⁵ In Lagos, a state-wide directive banned all public gatherings above 50 (and later 20) people. A combined team of the Lagos State Environmental Protection Agency (LASEPA) and Lagos State Safety Commission was empowered to ensure total compliance.¹⁶ Enforcing the directive, religious houses, malls, hotels, cinemas, theaters remained shut while scheduled events requiring large gatherings were either cancelled or postponed. Recorded incidents of non-compliance with the ban, especially by certain religious denominations, attracted public opprobrium and heavy criticism on social media.¹⁷

Nothing demonstrates the tensions between rights and containment measures during health emergencies more than the blanket recommendation for the public to avoid mass gatherings and close contacts with people. Section 45 of Nigeria's 1999 Constitution empowers the state to restrict and derogate from the fundamental rights to rights of life, assembly, movement, conscience and thought guaranteed in sections 33, 35, 36, 37, 38, 39, 40 and 41 of the constitution in limited circumstances. While citizens must give up some rights in support of the government's planning and response activities aimed at reducing disease transmission, the United Nations Committee on the ICCPR, formally known as the Human Rights Committee (HRC) laid down a number of requirements and procedures stipulating how valid derogations may or may not be undertaken.¹⁸

Any State invoking Article 4 (counterpart provision to Section 45 of Nigerian Constitution) must comply with rigorous due process provisions relating to proportionality, notification of derogation measures, exclusion of the non-derogable provisions, non-discrimination, temporariness of exceptional measures and consistency of those measures with the state's existing obligations under international law. More importantly, there are two fundamental conditions that a state must satisfy before it can validly derogate from its covenanted rights. First, the situation must amount to a public emergency which threatens the life of the nation; and secondly, the State party must have officially proclaimed a state of emergency.

¹¹ Bank of Industry, Economic Development through the Nigerian Informal Sector: A BOI perspective, Working Paper Series : No. 2,17t h May 2018/ Access March 26, 2020, via https://www.boi.ng/wp-content/uploads/2018/05/BOI-Working-Paper-Series-No2_Economic-Development-through-the-Nigerian-Informal-Sector-A-BOI-perspective.pdf

¹² Dennis Ezeji, The Guardian, Atiku wants Nigerian Government to give families N10,000 to stay at home, March 26, 2020, <https://guardian.ng/news/atiku-wants-nigerian-government-to-give-families-n10000-to-stay-at-home/>

¹³ S. 40 of the 1999 Constitution

¹⁴ S. 41 of the 1999 Constitution

¹⁵ S. 38 of the 1999 Constitution

¹⁶ Lagos State Government: COVID-19: Lagos Begins Enforcement Of Directive On Public Gathering, March 23, 2020, Accessed via <https://lagosstate.gov.ng/blog/2020/03/23/covid-19-lagos-begins-enforcement-of-directive-on-public-gathering/>

¹⁷ Fatoyinbo's COZA Dragged For Defying Coronavirus Warning, PM News, <https://www.pmnewsnigeria.com/2020/03/22/fatoyinbos-coza-dragged-for-defying-coronavirus-warning/>

¹⁸ See General Comment 2936 – on the subject of state of emergency – containing authoritative interpretation of the components of Article 4



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Certainly, the COVID-19 pandemic fits within the definition of “a public emergency which threatens the life of the nation” entitling the Nigerian State to invoke derogation measures. The federal government has yet to declare a state of emergency, but have gone ahead to implement derogation measures, putting a big question mark on the legality of these disease containment measures. The declaration of a state of emergency constitutes an announcement that the rights-derogating measures are **temporary and limited to the extent strictly required by the exigencies of the situation**. The announcement precludes the state from continuing such derogatory measures after the period of emergency has ceased.

D. Closure of state borders, which includes stopping inter-state/inter-town travels, except for essential services

In a press release dated March 21, 2020, the Nigeria Railway Corporation announced the stoppage of passenger train operations with effect from March 23, 2020.¹⁹ Domestic flight operators followed by suspending all domestic flight operations.²⁰ All motor parks and inter-state road connections were also shut, except for essential services. These measures were preceded by a travel ban on 13 high-risk countries, plus an official ban on public officials from foreign trips. According to the National Centre for Disease Control (NCDC), the restriction starting March 20, 2020, applied to travellers from countries with more than 1,000 cases such as the United States, China, China, UK, Italy, Iran, South Korea, Spain, Japan, France, Germany, Norway, UK, Netherlands and Switzerland.²¹ A subsequent government directive expanded the restrictions by further banning all international flights into the country and also shut land borders for one month.²² A government advisory required returnees from these countries prior to the restriction to submit themselves to supervised self-isolation monitored by the NCDC and Port Health Services.

Shortly after Nigeria’s Information Minister warned Nigerians to expect tougher restrictive measures, including military action,²³ Nigeria’s constituent states announced very drastic measures to stop the spread of COVID-19. In Rivers State, air, sea and land routes into the state was closed to human traffic, beginning March 26, 2020.²⁴ The military-like lockdown in various states of Nigeria provoked legal debates in various quarters regarding the constitutionality and necessity of such measures.

The right to move about freely throughout Nigeria and to reside in any part of Nigeria is a constitutionally protected right. (Section 41). Interstate state border closures not only breach the right to free movement, but could also hamper the rapid response initiatives to contain virus spread, including the delivery of essential food supplies, medical, humanitarian and surveillance services. Train services stopped, flights suspended and land borders shut will hinder medical personnel from reaching hard-to-reach localities in great need.

Across Nigeria, family-based care is widely preferred to keeping the aged in old peoples’ homes. Elderly and aged populations sustained by the support and frequent visitation of their children/wards living in the urban centers are exposed to great risk of hunger, malnutrition, loneliness and death as a result of the interstate travel restrictions. Those whose livelihoods (e.g road transporters, local farmers etc) depend on crossing interstate borders, face a similar degree of exposure to hunger and want. Aggravating the situation, the shutdown was sudden, leaving populations whose livelihoods are dependent on interstate connections, unprepared. No palliative measures have been announced as of March 27, 2020. As one author warns, if these radical measures are prolonged, and not urgently

¹⁹ Closing Spaces Database: *NRC Suspends Passenger Train Services*, Accessed via <https://closingspaces.org/nrc-suspends-passenger-trains/>

²⁰ Closing Spaces Database: *Aero, Air Peace Suspend Flight Operations Over COVID-19*
<https://closingspaces.org/4834-2/>

²¹ Chioma Umeha, Daily Independent, *Update: FG Issues Travel Ban On 13 Countries Over Coronavirus*, Published March 18, 2020, Accessed via <https://www.independent.ng/update-fg-issues-travel-ban-on-13-countries-over-coronavirus/>

²² Aljazeera News: *Coronavirus: Travel restrictions, border shutdowns by country*, published March 26, 2020. Accessed via <https://www.aljazeera.com/news/2020/03/coronavirus-travel-restrictions-border-shutdowns-country-200318091505922.html>

²³ Closing Spaces Database, *Nigerians Should be Prepared for Tougher Military Measures Amid the Corona Virus*, accessed via <https://closingspaces.org/nigerians-should-be-prepared-for-tougher-military-measures-amid-the-corona-virus/>

²⁴ Daily Independent: *BREAKING: Wike Closes Land, Sea, Air Borders To Stop Coronavirus From Entering Rivers State*, March 25, 2020, Accessed via <https://www.independent.ng/breaking-wike-closes-land-sea-air-borders-to-stop-coronavirus-from-entering-rivers-state/>. Akwa-Ibom, Kogi and Kano States also closed their land borders. Kano took effect from Friday, March 27, 2020.



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addressed, they 'will lead to short term consequences of food shortages, price hikes, and medium to long term consequences of under-nutrition, mass starvation and eventually death, especially among our most vulnerable populations'.²⁵

E. Contact-tracing and other disease preventive actions

If you know you travelled (abroad) recently, give yourself up to relevant agencies', a federal minister warns repeatedly.²⁶ Contact tracing, one of the popular interventions, used to effectively control Ebola virus disease (EVD) outbreaks in Africa, is now being applied to contain the spread of COVID-19. It presupposes that those who have come in close contact with an infected person, are at higher risk of infection, and should therefore be isolated or hospitalised for a considerable period until the suspicion of infection is either disproved or established.

Nigeria has reportedly conducted a total of 178 COVID-19 tests²⁷ compared to South Africa's 15,500 tests over the same period.²⁸ Low testing figures, compounded by the lack of adequate databases for contact details, has forced the government to trace suspected patients primarily through public appeals to returnees to surrender themselves for isolation and possible quarantine.

As of March 27, 2020, 4,370 people of interest suspected of COVID-19 infection are still being traced.²⁹ Low response to public appeals is probably what prompted the proposal to use the police and the military to enhance contact-tracing. The use of coercive action should be discouraged because of the potential to instil fear and anxiety, including social stigma. As against the use of force to enforce contact tracing, heightening public sensitization regarding the modes of transmission is crucial. The elites lack confidence in local health care systems, and their inability to travel to access medical care elsewhere, worsens their dilemma. Heightened sensitization and targeted enlightenment programs will educate persons who may have had a high- or low-risk contact with a confirmed COVID-19 case to self-quarantine in a safe area or at home comfortably, and self-monitor for appearance of COVID-19-compatible symptoms. Voluntary separation from other healthy persons is necessary to facilitate self-reporting in order to avoid further spread and transmission.

Tracing contacts or having contacts surrender themselves for isolation is meaningless where the state lacks the manpower or capacity to conduct testing on a very large scale. The plans by the Lagos State Government to set up more isolation centers across the state as well as 3 testing centers with the capacity to test 100 people per day, is forward looking. The federal government's release of N10 billion grant to Lagos State and another N5 billion to the Nigeria Centre for Disease Control (NCDC) for tackling the raging pandemic,³⁰ is also a bold step in the right direction. It is hoped that these grants would be judiciously applied towards the procurement of the critical medical supplies, ventilators including the technical, human and infrastructural resources needed to conduct large-scale testing, isolation care and treatment.

REVERSING INEQUALITIES IN ACCESS TO COVID-19 HEALTH CARE

The COVID-19 pandemic has put healthcare systems around the world under severe pressure. Even the most efficient health systems are overwhelmed and practically gasping under the pressure. In Nigeria, the pandemic has exposed the unpreparedness of the national health care systems to handle serious emergencies of this nature. Following years of governmental neglect of the healthcare sector in general, most public health facilities are in bad shape. Public officials and high-profile citizens, especially Nigeria's

²⁵ Nndi Nwuneli, Business Day, *Ensuring that Hunger Does Not Kill More People than COVID-19 in Africa*, published March 24, 2020.

Accessed via <https://businessday.ng/features/article/ensuring-that-hunger-does-not-kill-more-people-than-covid-19-in-africa/>

²⁶ Closing Spaces Database, *Nigerians Should be Prepared for Tougher Military Measures Amid the Corona Virus*, accessed via

<https://closingspaces.org/nigerians-should-be-prepared-for-tougher-military-measures-amid-the-corona-virus/>

²⁷ [Abdur Rahman Alfa Shaban](#), Africa News, *Coronavirus: Nigeria Cases Up To 65*, published March 26, 2020. Accessed via

<https://www.africanews.com/2020/03/26/nigeria-confirms-third-coronavirus-case-index-patient-fully-recovers/>

²⁸ National Institute for Communicable Diseases. Accessed via <http://www.nicd.ac.za/>

²⁹ THISDAY LIVE, *FG Traces 4,370 Contacts as COVID-19 Cases Jump to 65*, published March 27, 2020. Accessed via

<https://www.thisdaylive.com/index.php/2020/03/27/fg-traces-4370-contacts-as-covid-19-cases-jump-to-65/>

³⁰ THISDAY LIVE, *ibid*.



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President Buhari,³¹ are famed for their pastimes of travelling abroad for medicare, costing the country billions of dollars worth of capital flight.

As of March 27, 2020, the majority of Nigeria's COVID-19 cases have affected the high-profile and elite citizens with enormous opportunities and resources to travel to any country of choice. With global borders shut, infected persons cannot travel abroad as they used to, and have to fall back on the health facilities abandoned for decades to rot and underperform. Perception is high that the infection of high-profile citizens will now drive social change, by forcing public officials to refocus attention to health priorities of the populations, and increase budgetary appropriation needed to undertake massive infrastructural upgrades in the health sector.

While those changes are anticipated in the long term, the risk of preferential treatment for high-profile infectees looms large. Substantiated media reports reveal that foreign nationals are being taken into Lagos Isolation Center.³² Another media report confirming that an aide of the President that tested positive for COVID-19 may be moved from Abuja to Lagos³³ fuels fears that COVID-19 response measures may perpetuate inequalities in access to health care in critical times like this. The isolation facility in Yaba, Lagos currently serves the city's over 20 million population. Moving high-profile infectees to the only available and functioning medical facilities in Lagos not only puts pressures on the already-overstretched health facilities in the state, but could also potentially impede the access of vulnerable populations in greater need to isolation services and expert care that they deserve. Urgent steps must be taken to restore public confidence in the health systems by ensuring all persons—irrespective of their social and economic background, identity, sex, religion, ethnic group, sexual identity—have equal access to healthcare.

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Executive overreach by state actors: Closure of state waterways, air and land borders, fall within the realm of federal question jurisdiction. As the above make clear, various state governors are invoking the doctrine of necessity, exercising powers ungranted by the constitution in the name of containing the spread of corona virus. The approaches adopted across the country especially by state governors, reinforces fears of deliberate governmental clampdowns on civic freedoms using COVID-19 as an excuse. Documentation of these arrests and detentions of citizens on a digital database (www.closingspaces.org) revealed over 279 cases of many citizens being targeted and punished by state actors for various flimsy or no reason at all.

Restrictive legislations appear: There is ample evidence that the pandemic may trigger states to enact a wave of restrictive legislations that shrink the civic space. The Emergency Coronavirus Pandemic Bill 2020, sponsored by Speaker Mudashiru Obasa, scaled the first, second and third readings and eventual passage at lightning speed. There was little or no opportunity to engage the public or the broad spectrum of stakeholders that may be affected by the proposed law. The bill imposes a fine for defaulters of the state SAH directives, including imprisonment or community service. Where the offence is not spelt out, it attracts N200,000 and also allows the leadership of the various arms of government to structure their own restrictions format.³⁴

No social protection system in place: Despite rolling out a flurry of COVID-19 containment measures across states, there is no single state that has made provision of palliative measures for its citizens. In a state like Lagos where informal economic activity thrives, the Emergency Coronavirus Pandemic Bill 2020 did not address how millions of informal workers that depend on their daily earnings will survive hunger and deprivation during the lockdowns without any safety nets or social protection system in place. Furthermore, legal provisions empowering various arms of government to structure their own restrictions format vest wide discretionary powers on state actors which can be exercised without accountability, with little or no oversight.

³¹ The Guardian UK, Muhammadu Buhari *Under Fire for Seeking Medical Treatment In UK*. Published June 7, 2016. Accessed <https://www.theguardian.com/world/2016/jun/07/muhammadu-buhari-nigeria-ear-infection-medical-treatment-uk>

³² Joshua Basse, Business Day, *Coronavirus: More foreign nationals taken to Lagos isolation centre*, Published March 6, 2020. Accessed via <https://businessday.ng/coronavirus/article/coronavirus-more-foreign-nationals-taken-to-lagos-isolation-centre/>

³³ Abimbola Adedokun, The Punch, *Weep not for Abba Kyari and Co*, published March 26, 2020. Accessed via <https://punchng.com/weep-not-for-abba-kyari-and-co/>

³⁴ Vanguard Nigeria: *N100,000 Fine, Jail Term for Coronavirus Lockdown Defaulters in Lagos*, published March 26, 2020:

Read more at: <https://www.vanguardngr.com/2020/03/n100000-fine-jail-term-for-coronavirus-lockdown-defaulters-in-lagos/>



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Threat to press freedoms: On 24 March, 2020, the Nigerian Presidency barred certain media houses from covering its activities.³⁵ The actions were reportedly taken to contain the spread of COVID-19. Particularly barred from covering the Presidency activities are channels noted for their vocal criticism of government's unpopular actions such as Africa Independent Television (AIT), Arise TV, Silverbird Television (STV), Ben TV and some radio stations. Also barred were reporters from PUNCH, Thisday, Tribune, The Guardian, Vanguard, Daily Trust and other major newspapers.

The ban which will last for a yet-to-be specified period, will limit the ability of journalists to accurately cover and report presidential initiatives to defeat COVID-19. Lack of access to accurate information during a pandemic could trigger misinformation and self-medication. For instance, misinformation regarding COVID-19 treatment resulted in the surge in demand and self-medicating on chloroquine, an antimalarial drug, poisoning two in Lagos. The ban represents a threat to press freedom, prompting stakeholders to warn that the pandemic should not be a 'time for unnecessary pettiness, victimisation ... (and adoption of measures) completely at variance with national interest.'³⁶

No end to derogations in sight: There seems to be no end-date for the stringent measures introduced across states to contain the pandemic. As explained above, COVID-19 pandemic fits within the definition of "a public emergency, but no such declaration of emergency has been made. Not only that, states cannot declare a state of emergency as this is a reserved federal function. Declaration of a state of emergency helps to communicate the temporariness of the measures by announcing an anticipated end date to the derogations.

The nature of the measures adopted so far and the rising incidents of infractions shared above show that the pandemic could be exploited to legitimize unlawful state behaviour that shrink the civic space. In spite of these fears, the directive by the Nigerian Police Chief to his subordinates across the country, warning against unnecessary arrests and detention of suspects amid the coronavirus outbreak, is very reassuring.

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For further information, please contact:

Office: 35B Ajakaiye Street, Onipetesi Estate, Mangoro, Ikeja, Lagos

Email: spacesforchange.s4c@gmail.com |
info@spacesforchange.org

Website: www.spacesforchange.org

Telephone: +2347036202074 | +2349094539638

³⁵ Punch Newspapers: *Villa Coverage: PDP, CSOs Knock Buhari For Barring PUNCH, Others*, published March 26, 2020. Accessed via <https://punchng.com/villa-coverage-pdp-csos-knock-buhari-for-barring-punch-others/>

³⁶ PDP National Publicity Secretary, Mr. Kola Ologbondiyan, quoted in Punch Newspapers: *Villa Coverage: PDP, CSOs Knock Buhari For Barring PUNCH, Others*, *ibid*.