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CIVIC SPACE DURING THE

SECOND WAVE OF THE CORONA VIRUS IN NIGERIA

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Introduction

Gradual economic recovery from recession to pre-pandemic levels, enhanced surveillance, low fatalities, improved diagnostic capacity and reporting of emergency spending have accompanied Nigeria's response strategy against the coronavirus epidemic during the second wave. In particular, the National First Rapid Response Team has been placed on alert to detect highly-pathogenic infections, prevent further disease importation and strengthen emergency preparedness and response systems across states.

Despite taking major steps forward in handling the coronavirus pandemic better than expected, the second wave of the virus has continued to crack new fault lines in Nigeria's human rights landscape, entrench existing inequalities, weaken democratic norms and practices and strain citizen-state relations. Public discontent and resistance to these trends have surged, provoking peaceful demonstrations, including strike actions by judicial and health workers. As with the onset of the coronavirus pandemic a year ago, state and federal authorities have latched onto hurriedly-enacted pandemic protocols to stifle dissent and assert executive authority with greater ferocity and constancy. Between January to April 2021, the database of Closing Civic Space in Nigeria—www.closingspaces.org—documented 1,510 cases of arrests, detentions and sealing of premises linked to the violation of COVID19 protocols. The methods used to enforce the multiplicity of policy and precautionary measures have not just caused inconvenience for individuals to freely associate in public spaces and human rights violations, but have also had significant impact on essential health services, traditional livelihoods and public safety.



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Based on the evidence from the database, six major rights that have been backsliding more than ever during the second wave of the pandemic include the freedom of assembly and association, rights to privacy and shelter, gender-based violence and the prohibition against non-discrimination. Women, young people and the low-income individuals bear a disproportionately high share of these limitations, and face higher risks of transmission, fatalities, increased violence and homelessness.

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Continuous decline in the number of infections and weekly fatalities recorded across the country in September and October 2020 changed abruptly in the last week of November to early December, ushering in the second wave of the pandemic. A statement credited to Mr. Boss Mustapha, Chairman of Nigeria's Presidential Task Force (PTF) on COVID-19—a day after the National Center for Disease Control's (NCDC's) surveillance system recorded the highest number of 1,145 new COVID-19 cases on 17 December—announced Nigeria's official transition into the second wave of the outbreak.¹

Increasing number of confirmed cases prompted the NCDC to issue a public health advisory and extend the guidelines of phase 3 of the eased lockdown by one month. The **COVID-19 Disease Health Protection Regulations 2021**² which Nigeria's President Muhammadu Buhari signed on January 27, 2021 flagged additional public health measures such as the mandatory use of facemasks, compliance with social distancing directives including ban on elaborate social gatherings, quarantine requirements for international travelers and penalties for contraveners of the law. In Lagos, the nation's commercial capital, curfews were imposed while social and religious gatherings were limited to 50% of the capacity of the facility.

Spikes in infection rates continued despite the multi-sectoral emergency response measures combined with the stringent enforcement of recommended public health safety protocols introduced in the wake of the pandemic. Lagos, Abuja and Kaduna emerged as new epicenters of coronavirus with over 70% of confirmed cases³ while the proportion of people who tested positive increased from 3.9% to 6.0%.⁴ In particular, the second wave of the virus in Nigeria was characterised by circulating variants of the disease ranging from harmless strains to variants of concern⁵ like the B.1.1.7 strain detected in the confirmed cases in Lagos, FCT, Osun, Oyo, Kwara, and Edo States.⁶

CIVIC SPACE DURING THE SECOND WAVE OF THE CORONA VIRUS IN NIGERIA

It is instructive to note that the second wave of the pandemic collided with a period of vaccine optimism after successful clinical trials inspired hope of getting countries through the pandemic. The analysis below documents how NCDC and states' concerted action to reduce infection spread and the burden of pandemic—through strict enforcement of public health protocols, ramping up testing, increasing genomic surveillance of the virus to identify circulating variants plus the vaccine registration and administrative procedures—are undermining public safety while triggering unintended consequences on the civic space, limiting civil society and democratic freedoms, especially the rights to free expression, assembly and association.



TRENDS, POLICIES AND ACTIONS NARROWING THE CIVIC SPACE DURING THE SECOND WAVE

Pandemic Enforcement and Gender-Based Violence: Out of the 1,510 cases of arrests tracked on the [Closing Spaces Database](#), strippers, commercial sex workers and funseekers arrested in strip clubs and nite pubs top the lists of defaulters and curfew violators. In a recent interview, a Lagos-based stripper narrated how enforcement operatives arrested her and 19 others, forced them to undergo COVID19 test for the sum of N50, 400 each, filmed them naked and forced to part with N3million.⁷ This encounter corroborates previous media reportage alleging rapes perpetrated by police officers enforcing coronavirus guidelines.⁸ While the reported accounts by strippers and sex workers arrested during raids by law enforcement agents suggest a deliberate profiling of women for criminal extortion, the delays in the justice delivery mechanisms coupled with the weakened social protection systems for gender-based violence have left female sex workers unprotected, exploited and without access to justice.

A year ago, Nigeria also witnessed an exponential rise in sexual and domestic violence barely a month into the pandemic. An influx of rape cases across the country was particularly noted during the lockdown months of March to May 2020. According to the Lagos State government-run Domestic and Gender Violence Response Team, there has been a 60 percent increase in domestic violence, 30 percent rise in sexual violence, and 10 percent increase in physical child abuse.⁹ Only 11 out of 3,000 sexual and gender-based violence (SGBV) cases have been successfully prosecuted in six states of the

country,¹⁰ underscoring the need for accountability. Movement restrictions and isolation did not only increase the prospect of gender-based violence, but particularly made it difficult for victims stuck with their abusers to get help from appropriate quarters.

The pandemic equally paved the way for new transgressions and offences to emerge. The sex-for-freedom cases reported in the Rivers State¹¹ illuminate how the enforcement of facemask policy designed to tackle the pandemic fueled new forms of gender-based violence in the country. Substantiated media reports of victims raped (sometimes at gunpoint) for not wearing a facemask further reveal how mask enforcement measures heightened the risk of sexual exploitation and violence targeted at women. As a best practice of successful response to COVID-19 and recovery from its socio-political impacts, the African Commission Resolution on Human and Peoples' Rights urges states parties—like Nigeria—to support the work of non-governmental organizations engaged in services for the prevention of gender-based and sexual violence and ensure the continuity of the operation of social systems that support women and children and those in protection shelters.

Strikes, Court Closures and Backlog of Cases: Members of the Judiciary Staff of Nigeria (JUSUN) embarked on an indefinite strike on April 6, demanding financial autonomy of the judiciary. The strike signalled the closure of Federal High Courts in different states across the country,¹² aggravating the significant delays that have historically plagued access to justice in Nigeria. Not only have all Nigerian courts been shut down, all administrative judicial bodies such as the National Judicial Council (NJC) and the Federal Judicial Service Commission (FJSC) have also been closed by the

striking judiciary workers.¹³

Access to justice is an important determinant of a free civic space. Access to justice is narrowed when courts are closed due to union strikes or in compliance with pandemic-induced protocols. The backlogs of cases building up means that detainees who are kept beyond the constitutional limits without trial in violation of their due process rights, often detained in unhealthy cells pending the re-opening of courts, pay a heavy price for the pandemic-induced disruptions. Police officers have been known to exploit such situations to demand bribes and extort suspects in exchange for freedom.¹⁴

Long before the sector-wide closure of the judicial arm of government, remote hearings have been introduced with state like Lagos blazing the trail with the promulgation of Practice Direction (PD) for remote hearing of cases.¹⁵ The restrictions on in-person criminal court proceedings introduced at the onset of COVID19 in March 2020 limited access to the court rooms, causing a backlog of unheard cases and undermining legal redress for violations of rights that cannot be restricted. The recent court closures comes at a time when litigants, legal practitioners

are getting to grips with technology, exacerbating historical delays and administrative challenges.

Worrying trends such as the surge in human rights abuses, sexual and domestic violence and crackdowns on dissenters risk becoming normalized, when recourse procedures and judicial mechanisms of accountability remain under lockdown and beyond the reach of the aggrieved for too long. While enactments like the Lagos State PD for the Remote Hearing of Cases in the Lagos State Judiciary aligns with the country's international obligation to make special arrangements enabling the judiciary to continue dispensing with justice with particular attention to issues of rights violations in the context of the pandemic, there needs to be a more concerted effort to ensure recourse to detention and pre-trial detention as a measure of enforcing COVID-19 regulations only as a measure of last resort to avoid congestion and spread of the virus in places of detention.¹⁶

NIN/SIM Card Registration: Concerns over the rising state of insecurity and banditry prompted the December 16, 2020 directive to telecommunications companies and all Nigerian nationals to

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engage in a compulsory exercise linking all active SIM¹⁷ cards to registered National Identity Numbers (NINs) or face disconnection. In that directive, the Minister of Communications and Digital Economy, Dr. Isa Pantami hinted that non-compliance would attract disconnection from the subscribed communication networks within two weeks from the day of the announcement.¹⁸

With a population of over 200 million people and estimated 198 million active mobile lines, only 47.5 million people had registered with the National Identity Management Commission (NIMC) for their NIN as of January 2020.¹⁹ Social distancing measures put in place to checkmate the spread of coronavirus could not be enforced as multitude of citizens seeking to comply with the compulsory national identification registration policy, retain their communication lines and meet up with the two-week disconnection notice, thronged NIMC offices. Coronavirus infections surged days after the commencement of the exercise. Although the deadline was subsequently extended, the spikes in COVID-19 cases may not have been totally unconnected with the overcrowding and minimal adherence to safety measures across NIN registration centres.

It is important to note that human rights mechanisms have expressed concerns about mandatory SIM card registration as interfering with individuals freedom of expression online by rendering individuals susceptible to arbitrary surveillance. In particular, the UN Special Rapporteur on Freedom of Expression (FoE) has specifically recommended that, “States should refrain from ... requiring SIM card registration for mobile users.”²⁰ Disconnecting individuals is equally an excessive sanction that will lead to



censorship of communication. The compulsory NIN registration exercise during the peak of the second wave of the pandemic is not only a contravention of international human rights standards but also represents how uncoordinated national policies and programs slows down adherence to COVID-19 protocols and undermines public safety. Besides increasing vulnerability to infection, mandating public participation in a registration exercise where adherence to health regulations is impossible sets citizens up to violate COVID-19 rules and risk being punished through arrests, detentions, prosecutions, fines etc.

Under-funded HealthCare Systems and Doctors' Strikes:

The National Association of Resident Doctors (NARD) embarked on an indefinite strike on April 1st 2021, to demand improvements in the working conditions of resident doctors. Out of 42,000 registered doctors in the country, 16,000 identify as resident doctors²¹ undergoing training to become consultants. Since the coronavirus disease outbreak in March 2020, this is the third time the association is striking over poor remuneration, unpaid salary areas and medical allowances, provision of training and personal protective equipment (PPE). The strike actions paralysed medical services, crippling COVID-19 emergency response. States like Ondo responded to the strike actions with a mass sack of resident doctors and suspension of the residency training program, accusing them of insensitivity to patients' needs.²²

Oxygen shortages accompanied the

second wave of coronavirus in Nigeria. As infections spiralled, the demand for cylinders in isolation centres swelled. In Lagos, the epicentre of the virus, demand for cylinders increased from around 70 per day to as high as 500 daily in November 2020 – a situation that forced authorities to scramble for oxygen procurement from both the customary and emerging suppliers.²³ The heightened scarcity of oxygen translated into reduced access periods for patients in public isolation wards, with implication for the rights to health and life. In fact, COVID-19 exposed the unpreparedness of national health systems to respond to a sudden pandemic, exacerbating existing asymmetries and inequalities in access to healthcare. According to substantiated media reports, infected patients needing emergency care have to deposit as much as Ten Million Naira (\$26,000) to get a bed space in local hospitals.²⁴ This means that access to treatment was limited to only the super-rich elites to the exclusion of the vast populations living on the margins and below the minimum wage.

Grossly-underfunded healthcare systems represents a stark contrast to the 2001 declaration by African heads of States (also known as the Abuja Declaration²⁵) requiring states to allocate at least 15% of their national budgets towards provision of health care. Nigeria's below 5% share of

budgetary spending on healthcare shrunk investments in advanced medical technologies, rendering the sector prone to inefficiencies, strike actions by thousands of resident doctors protesting against unpaid arrears of salaries and hazard allowances and the lack of PPE for frontline workers. Amid the acute shortage of medical manpower in Nigeria, frequent industrial actions during the peak of a national health crisis disrupt existing delivery of health care services that the sick and vulnerable patients especially in remote and rural areas depend on, while rolling back gains made in the fight against coronavirus. The mass sack of doctors in apparent retaliation for participating in protests further underscores government's determination to stifle organized dissent to its policies rather than guaranteeing the basic rights and safety of frontline responders.

E-Registration for Vaccine Innoculation:

On March 2, Nigeria took delivery of 3.92 million doses of the AstraZeneca/Oxford vaccine for coronavirus. Nigeria is slated to receive 84 million doses of the COVID-19 vaccines from the COVAX Facility, co-led by Gavi, the Vaccine Alliance, WHO, the Coalition for Epidemic Preparedness Innovations, the World Bank and others.²⁶ Health workers as well as first responders in the military, paramilitary, immigration services and other security agencies will be vaccinated in the first phase. Adults aged



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50 and older (with or without an underlying disease) will follow next during the second phase. Target groups can book vaccination appointments using an [online vaccination registration](#) portal coordinated by the National Primary Health Care Development Agency (NPHCDA).

Registration requires a device with internet connection. This places technologically savvy people in the urban areas, with stronger internet connectivity at an advantage over target groups in the non-urban areas lacking digital literacy, electricity and internet access. Another major factor widening inequality is the

growing perception that vaccines may have long term side effects, fuelling resistance by mostly low-income populations who are still nursing resentments from the inadequate social protection plans during the prolonged lockdown. Consequently, upper-and middle-class income groups are getting vaccinated more than their low-income counterparts. Documented bribery, preferential treatment of foreigners,²⁷ subversion of the vaccine administration processes in local healthcare facilities²⁸ and racketeering at some vaccination centres²⁹ point to multiple dimensions of social and

economic inequalities in access to treatment and prevention during a pandemic. The non-discrimination principle in enforcement of COVID-19 measures obligates states parties to ensure that the measures adopted for containing COVID-19 do not lead to discrimination against and further marginalization of vulnerable members of society including people working in the informal sector, the unemployed, indigenous populations/communities.³⁰

Disparities in access to healthcare trigger pressures on the civic space when

advocates pushing for systemic changes face hostility from state authorities. In April, the Department of State Service, DSS, invited a group of young advocates for questioning after they had registered their discontent regarding the state of health infrastructure in the country. The Nigeria Youth Union, NYU, has given the Nigerian Governors Forum (NGF) and the Association of Local Government of Nigeria (ALGON) 7 days ultimatum to equip primary health care centres across the country or risk a nationwide protest.³¹ Clamping down on citizens demanding health reforms and exercising their legitimate right to free expression curtails civil liberties and heightens tensions between government and citizens. As the #ENDSARS protests exemplify, strained citizen-state relations could fuel even stronger and better organized movements in the future.

Proposed Re-Opening of Lekki Toll Gate: On February 13, law enforcement agents swooped down on unarmed protesters in Lagos opposing the Lagos State Judicial Panel's decision to reopen the Lekki toll gate³²—the site where #ENDSARS protesters demonstrating against police brutality were allegedly shot and killed by security forces in October 2020. Arrested protesters were beaten, forced into tight a bus and subsequently charged on three counts including failing to comply with the Lagos State Quarantine Law which prohibits any social gathering to avoid the spread of the Coronavirus disease. The indiscriminate arrests and criminal charges



photo credit: **Iyinkaye Oreoluwa**

against demonstrators highlight how COVID-19 rules are used to crack down on dissent and violate human rights.

Not only that, cramming hordes of protesters into a small van in total disregard for social distancing protocols are completely opposed to public health recommendations, heightens the risk of coronavirus spread while jeopardizing the health of demonstrators. Under international human rights law, states have an obligation to ensure that these disease preventive measures are backed by mechanisms for independent, prompt, impartial and transparent investigations of all allegations of excessive use of force, extrajudicial killings, inhuman treatment, assault or arbitrary deprivation of liberty, gender-based violence, or extortion by members of law enforcement institutions and for holding perpetrators of violations accountable.³³

Forced Eviction of Informal Settlements:

Non-governmental organizations strongly condemned the demolition of homes and properties at Yaya Abatan to Obawole in Ogba, Ikeja, Lagos by Lagos state authorities on April 22, 2020 at the peak of the federal government-mandated lockdown in Lagos State.³⁴ 400 persons including women and children were also rendered homeless when Monkey Village, an informal housing settlement in the Opebi Area of Lagos was forcefully demolished on the orders of state authorities.³⁵ In the same vein, the homes of 500 residents of Kayetoro community in



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Ibeju Lekki were demolished³⁶ on the 8th of February, 2021 while residents of Gedegege and Aboki Estate in Lekki area of Lagos who provided significant and verifiable eye-witness account of the Lekki shooting incident of protesters on October 2020 had their homes and businesses pulled down on the 11th of February, 2021.³⁷

State authorities in conservative locales like Kaduna have also latched on coronavirus control measures to enforce demolitions inspired by religious conservatism. On December 31, 2021, the Kaduna State Urban Planning and Development Agency (KASUPDA) demolished Asher Hotel in Barnawa, Kaduna South days after a prank poster of a sex-party scheduled to hold at the hotel appeared online.³⁸ State authorities cited “immorality” and contravening the state’s coronavirus guidelines as the reasons for the demolitions. The demolitions however contrast with the safeguards in the state’s planning laws³⁹ which stipulate that a building cannot be demolished without

notice to the owner and without the opportunity for fair hearing.

Social security systems such as adequate shelter and access to basic amenities constitute a huge defense against the pandemic. Lagos and Kaduna are the epicentres of the COVID-19 statistics in the country. Strategies to contain the spread of the virus in overpopulated and high-risk infection cities like Lagos and Kaduna become difficult without shelter just the same way ill-planned displacement exercises potentially increase the risk of vulnerable people—including women and children—contracting and spreading COVID-19. Leaving displaced residents without access to remedies, including reparation and compensation, violates the constitutional provision which unambiguously requires that any government seizure of property must be done in accordance with the law: compensation and access to a court or tribunal to determine one’s right to compensation.



photo credit: [reuters.com](https://www.reuters.com)

Phase IV of Phased Restriction of Movements: In Mid-April, a resurgence of high infection rates in several countries and new strains of the virus amid low levels of compliance with public health protocols prompted the reinforcement of coronavirus measures across the country from May 11, 2021.[1] The latest Implementation Guidelines for Phased Restriction of Movement (PHASE IV) issued by the Presidential Steering Committee (PSC) on COVID-19 reviewed the country's COVID-19 response by re-instituting the enforcement of the COVID-19 Health Protection Regulations with effect from 11th May, 2021.

Certain provisions of the new regulations relating to crowd control and social distancing are arguably discriminatory, with enormous potential to stifle growing dissent and disenchantment arising from the country's mounting insecurity crisis. While the latest regulation sustains restrictions on mass gatherings in workplaces, bars, hotels, and a maximum limit of 50 persons in enclosed spaces, it imposes no such limits for 'political gatherings.' Instead, the regulation

transfers the burden of enforcing public health protocols during political gatherings to the electoral umpire, the Independent National Electoral Commission (INEC). As the Edo State gubernatorial and other bye-elections demonstrate, the electoral body has in the past, failed to enforce compliance with social distancing protocols during electioneering and political processes. Public gatherings and meetings fall within the purview of the constitutionally-protected freedoms of association and assembly. Without checks and balances, intolerant regimes, including overzealous state agents, could take advantage of this provision to proscribe legitimate gatherings and protestations against the surging security crisis across the country in the name of disease prevention. Excluding political gatherings from the realm of health jurisdiction positions political actors to benefit from the reinforced regulations in ways others do not, giving rise to the sort of discrimination outlawed in ACHPR Resolution 449 (para 5a) which requires states parties to ensure that the measures adopted for containing COVID-19 do not lead to discrimination.

RECOMMENDATIONS

- Ø Governments at all levels must ensure that state-sanctioned emergency measures to contain the virus are proportionate, non-discriminatory and devoid of intrusive and repressive approaches that undermine human rights and freedoms. Prolonged detention and overcrowding of correctional centers can be prevented through the strengthening of legal institutions in order to support critical interventions to minimize risk of infection spread and bridge the limitations in response capacity.
- Ø An extensive review of the welfare and working conditions of frontline workers coupled with increased investments in critical healthcare infrastructure could help to boost the morale of healthcare workers and turn the pandemic's trajectory in Nigeria around.
- Ø More than ever, legal and cultural reforms matched with social and behavioural changes are needed to address the pandemic-induced surge in violence against women. Deterrence and accountability for perpetrators will flourish only when lax enforcement of violence against women laws are reversed.
- Ø Suspension or absolute moratorium on housing evictions targeting mainly informal communities is essential for limiting the pandemic's crippling impact on livelihoods, physical security and access to health care. Expanding citizens' access to affordable housing are central to efforts towards minimizing infection spread and stepping up preparedness for COVID-19.
- Ø Aggressive sensitisation campaign to members of the public, especially citizens in remote areas, can help to dispel fears and improve acceptability of coronavirus vaccination. NCDC and NPHDA should provide information in readily understandable formats and languages, including indigenous languages, and take steps to extend information spread to areas lacking access to the internet and contemporary media sources.
- Ø Consistent with Nigeria's international human rights obligations, urgent steps should be taken introduce reforms to address gaps in the laws, guidelines regulating the conduct of law enforcement institutions and in reforming the mechanisms for monitoring and investigating the conduct of law enforcement institutions for their compliance with human rights principles and standards.

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- ³ <https://www.reuters.com/article/us-health-coronavirus-nigeria-regions-idUSKBN28V2SF>
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- ³⁴ SPACES FOR CHANGE: Groups demand immediate resettlement of persons displaced by Lagos State Government during COVID-19 pandemic lockdown, May 11, 2020: <https://spacesforchange.org/groups-demand-immediate-resettlement-of-persons-displaced-by-lagos-state-government-during-covid-19-pandemic-lockdown/>
- ³⁵ Prisca Sam-Duru. Vanguard Newspapers (Published January 11, 2021). "Monkey Village demolition is savage treatment of urban poor- CEE-HOPE".. Accessed March 30th, 2021 via <https://www.vanguardngr.com/2021/01/monkey-village-demolition-is-savage-treatment-of-urban-poor-cee-hope/>
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- ³⁹ Section 79 of the Kaduna State Urban and Regional Planning Law, 2018



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