

# THE COVID-19 PANDEMIC AND FUNDAMENTAL RIGHTS IN CYPRUS

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The pandemic brought the celebrated ‘world on the move’ to a standstill. The fear and panic generated new global and localized states of hygienic emergency against ‘miasmatic deviants’ and unleashed logics of control, containment and exclusion that undermine the culture of collective and individual rights. As the various waves of the pandemic unfold with the mutations of the virus, we witness accentuated processes of exclusion, racialization, marginalization and expulsion of those deemed different, ‘deviant’, ‘dangerous’ and ‘uncontrollable’, not only in Cyprus but in different parts of the globe. Both new borders and bordering processes are generated, and old ones are re-enacted and invigorated. This environment is engendering both ‘old’ and ‘new’ forces in Europe and around the globe, bringing about the collapse of consensus in politics and generating a ‘politics of hate’, as well as invigorated forms of solidarity and resistance, by enacting new socialities of significant segments of the populations.

The pandemic revealed executive and administrative excesses and gaps in democratic accountability which the government sought to justify on the basis of the emergency. The legality of the measures adopted was constantly being reshaped and shrunk, revealing the significance of the legitimacy that only popular endorsement can provide. The closure of the checkpoints as a first measure before any other measure adopted generated a climate of mistrust against the government, which subsequently escalated into a generalized opposition to several measures. The climate of mistrust was further aggravated by news of profiteering from government contracts for importing medical supplies and the fact that the recommendations of the scientific committee were not always reflected in the measures actually introduced, with regular and unjustified exemptions granted to the church and private businesses. When the vaccines appeared, the general climate of mistrust translated itself into a suspicion against the vaccines. The ‘discounted’ holidays in hotels across Cyprus for the vaccinated, for instance, is unlikely to have served as an incentive for anyone to get vaccinated and emerges more like a measure to finance the hotel industry rather than promote vaccination.

The police were given unprecedented powers and discretion, perpetrating a culture of arbitrariness within the police corps that eventually became hard to contain. EU institutions have already concluded that this is an area where particular attention needs to be paid, but more so in the case of Cyprus because of the legal gap in explicitly prohibiting racial profiling. This gap and the failure to introduce specific and binding safety valves against racial discrimination and in how the police exercised their unfettered discretion to impose pandemic measures has led to alarming phenomena of the police using their pandemic related powers to harass and further marginalise and exclude migrants from the public sphere.

The deprivation of rights on the pretext of the pandemic was perhaps nowhere more apparent than in the case of welfare rights of vulnerable persons, including persons with disabilities, who saw their rights and benefits disappear during lockdown, with little resort to mechanisms for challenging these decisions. The ban on public protests was also a constant source of political tension in the public sphere, as it could not be supported by medical evidence and was viewed as an attempt to silence critics and shrink civil society space. Few measures were introduced to address the needs of the vulnerable during lockdowns – persons with disabilities, women who were vulnerable to domestic violence, single parents, the undeclared and undocumented workers, mostly fell through the cracks of the schemes introduced. Frontline workers were not adequately protected against the risk of infection and their special circumstances were not adequately addressed by government measures. In the field of education, the frequent calls to reduce the number of children in the classrooms, hire more teachers and provide all children with adequate software and hardware for online teaching were largely ignored, whilst discriminatory treatment and exclusion of children with disabilities became the norm. No measure was introduced to foster dialogue with society and forge the collaboration needed in order for government and society to join forces to fight the pandemic.

Dialogue with the affected groups is necessary in order to review the situation which evolved during the pandemic and identify the areas where the government could have performed

in a more proportionate, legitimate and non-discriminatory manner. The experience of how the pandemic was managed has demonstrated that, whilst there was some tripartite consultation pertaining to welfare, there was no consultation with affected NGOs representing the most vulnerable and excluded, nor was there any consultation prior to the imposition of the repressive measures, which were disproportionate and unfair to those at the lower echelons of the social hierarchy. The measures to contain Covid-19, adopted and implemented so far, need to be evaluated both as regards their outcome as well as the public feeling they have generated. The lasting impact of the pandemic needs to be studied, to locate and address problems including excessive police powers, the suspension of labour and welfare rights, the impact of the increasingly prevalent use of distant education and distant work in terms of data protection and algorithmic discrimination.

The pandemic revealed the inadequacy in the institutional mechanisms for the protection of fundamental rights, including independent officers and courts. More effective mechanisms for complaints must be established, through the participation of the affected groups themselves, and they should be given the necessary legitimacy to effectively protect rights at risk by the pandemic measures. Such institutional frameworks must be genuinely independent and have effective power to hold to account those responsible for excesses.

Government decisions need to take on board both the medical evidence and the legal validity of the measures, in order to have a balanced outcome that can generate collaboration, a sense of community and responsibility.

## RECOMMENDATIONS

- Set up inclusive, democratic and participatory mechanisms to consult on measures and their impact, addressing particularly groups at risk of exclusion and discrimination and publish the results of the consultation, ensuring that the measures are proportionate.
- Grant independent institutions the power to make binding decisions and take action to make those responsible accountable for excesses and abuses of power before courts;
- Set up effective complaint mechanisms with the participation of representatives of groups at risk;
- Forge a comprehensive communication strategy addressing all sectors of the population to seek a common understanding and consensus on the measures to contain the pandemic;
- Prepare action plans with clear guidelines on how to independently monitor the actions of the police in implementing pandemic restrictions, setting out clearly the measures and mechanism to oversee and control excesses and discrimination in the exercise of police discretion;
- Ensure swift justice is done in all cases where people were ill-treated or discriminated against by the police since the outbreak of the pandemic;
- Draw up a binding charter of rights to serve as a guide to adopting measures that will not unnecessarily and disproportionately restrict rights, will not grant unnecessary powers to any sector of the executive and especially the police and will prevent injustices and arbitrary actions of the executive that favour strong lobbying powers

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