

THE PROTECTION OF HUMAN RIGHTS IN EMERGENCY SITUATIONS: THE PREVENTION OF COVID-19

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Abstract: COVID-19/SARS-CoV-2 appeared in Wuhan on December 31, 2019 with 27 cases. The disease has since spread worldwide. Many countries have invested a lot of money to prevent and combat COVID-19. In this emergency situation, a “stigma virus” appeared together with the disease, but it is more dangerous than COVID-19. This paper will illustrate stigma cases in several countries and then focus specifically on stigma in Vietnam during the emergency situation of COVID-19. After introducing the applicable international and national legal frameworks, the paper will then suggest necessary elaborations of policies and laws to protect human rights in emergency circumstances in Vietnam.

Key words: COVID-19, WHO, stigma/discrimination, prevent, protection, human rights, regulate, law

1. Introduction

On December, 31 2019, 27 cases diagnosed as pneumonia of unknown cause were detected in Wuhan, Hubei province in China. These patients most notably presented with clinical symptoms of dry cough, dyspnea, fever, and bilateral lung infiltrates on imaging (Sohrabi et al., 2020). The causative agent was identified from throat swab samples conducted by the Chinese Centre for Disease Control and Prevention (CCDC) on January 7, 2020 and was subsequently named Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2). The disease was named by the World Health Organization (WHO) (WHO, 2020).

On January 30, 2020, the WHO declared the Chinese outbreak of COVID-19 to be a Public Health Emergency of International Concern posing a high risk to countries with vulnerable health systems (WHO, 2020). Despite rigorous global containment and quarantine efforts, the incidence of COVID-19 continues to rise. According to the WHO, on April 16, 2020, there were 2,074,529 confirmed cases, 139,378 confirmed deaths and 213 countries, areas or territories with cases (WHO, 2020).

Many countries have invested a lot of money to prevent and combat the disease. In order to help develop a COVID-19 vaccine, the government of the United Kingdom has invested £20,000,000 (BBC, 2020). Moreover, the United States has suspended all entry for immigrants and non-immigrants who have travelled to high-risk zones with the intention of halting further viral spread (The White House, 2020). Several public transport services have been suspended in Hong Kong. Additionally, growing fears regarding China's economy have led the Chinese Central Bank to invest ¥150 billion to support the stability of the currency market (BBC, 2020).

During this emergency situation, another "virus" appeared that may be more dangerous than COVID-19. This virus exists in various forms across communities worldwide, including regions where COVID-19 is active and areas where there is no COVID-19. This is the "stigma virus". This virus is widespread, occurring in all ages, and it manifests beliefs, attitudes and actions.

Social stigma or discrimination in the context of health is the negative association between a person or group of people who share certain characteristics and a specific disease. During an

outbreak, this may mean that people are labelled, stereotyped, discriminated against, treated separately and/or experience loss of status because of a perceived link with a disease (WHO, 2020). Such treatment can negatively affect those with the disease, as well as their caregivers, family, friends and communities. People who do not have the disease but share other characteristics with this group may also suffer from stigma.

The current COVID-19 outbreak has provoked social stigma and discriminatory behaviours against people of certain ethnic backgrounds as well as anyone perceived to have been in contact with the virus. The level of stigma associated with COVID-19 is based on three main factors: 1) it is a new disease for which there are still many unknowns; 2) we are often afraid of the unknown; and, 3) it is easy to associate that fear with 'others' (WHO, 2020). While confusion, anxiety and fear among the public are understandable, these factors are also fueling harmful stereotypes.

Stigma/discrimination undermines social cohesion and contributes to the social isolation of groups, potentially leading to situations in which the virus is more, not less, likely to spread. This can result in increasingly severe health problems and difficulties controlling a disease outbreak. The examples below do not cover every possibility, but they do demonstrate the danger of "stigma virus".

Discrimination in some countries

In the midst of the COVID-19 epidemic, US President Donald Trump stated that the US was in "the fight against the Chinese Virus" (BBC, 2020). The use of President Trump's language runs counter to WHO guidelines for naming a disease, which recommend avoiding the use of geographic features. Discussing this issue, the head of the WHO's emergency health program, Mike Ryan, spoke out against the use of the word "touch" to certain ethnic groups. The World Health Organization (WHO) has warned against linking the virus to any particular area or group due to the risk of stigmatisation (BBC, 2020). Consequently, immediately after his speech, US President Donald Trump faced criticism that highlighted how his use of the phrase "Chinese Virus" is discriminatory.

In another instance, a photo of 19 students from Sint-Paulus College Waregem secondary school (Dutch school in Belgium) appeared and was circulated online. In the photo, the students are wearing traditional Chinese clothes and leaf hats, and two people are dressed up as pandas. It is worth noting that the students are smiling and holding a signboard that says "Corona's time". A female student in the middle row is even using her hands to pull out the corners of her eyes — a gesture that is used to mock people of Asian descent. The signboard referring to the corona virus also includes a picture of a person wearing a facemask (An Nhien, 2020). Obviously, this is racism and discrimination.

At another school, this time during an event held at Bolssa Grande High School (in California, USA), two foreign girls used their phone to record a performance given by two ethnic Vietnamese students while mocking them with the words "Corona Virus". Afterward, one of the two female students who had filmed and mocked the performance took a costume hat from one of the Vietnamese students and wore it while jumping around and laughing, before throwing it to the ground (An Nhien, 2020).

From racism and discrimination to physical aggression and violence.

In Germany, some Germans interpreted a group of Vietnamese students wearing facemasks as having a bad attitude because they thought that Vietnamese students only wore facemasks when

they got the disease. One of the Germans who saw them ran in front of them, shouted "Here is the Corona Virus", and threw a lighter at them because they were wearing facemasks (An Nhien, 2020). In New York, a 23-year-old female student from South Korea was attacked when she walked into a building on West 34th Street (Manhattan, New York). She was approached by a 20-year-old woman who pulled her hair and shouted "Where is your facemask?" in her face. Then, the same woman punched the student in the face and said, "You are infected with the corona virus. You are Asian". Shortly thereafter, the female student was taken to Bellevue and treated for a dislocated jaw (Loc Lien, 2020). A similar incident occurred in New York's East Harlem district when a teenage boy attacked a 59-year-old Asian man, kicking him from behind and shouting, "Go away, China Coronavirus!" (Loc Lien, 2020).

In the context of the emergency of the COVID-19 epidemic, discrimination and violence against Asians in the US and around the world is increasing due to the prejudice that Asians contribute to the spread COVID-19. These attacks are motivated by the stereotype that Asians are more likely to carry or transmit COVID-19; however, there is no evidence that Asians are more responsible for spreading COVID-19. Moreover, discrimination also occurs in the provision of public health. For example, in America, African Americans are dying from COVID-19 in disproportionate numbers, especially in certain big cities. Louisiana has the fourth largest number of COVID-19 cases in the country, and the majority of the COVID-19 deaths are in New Orleans, where black Americans constitute 60% of the population and slightly more than 70% of [coronavirus] deaths in Louisiana are African Americans. This is a racial justice issue because it is an example of racial discrimination. Critics note that risks are significantly exacerbated by racial inequities in healthcare, including facility closures and caps on public health insurance plans like Medicaid and Medicare. African Americans are twice as likely to lack health insurance compared with their white counterparts, and they are more likely to live in medically underserved areas, where primary care is sparse or expensive. Unconscious racial bias can also contribute to unequal health outcomes, especially when health professionals are inexperienced with the culture of the community they serve, according to the Journal of General Internal Medicine. The Century Foundation found that healthcare providers located within majority African American or Latinx neighborhoods tend to provide lower-quality care (Evelyn, 2020).

Such condemnable acts of discrimination affect interpersonal relationships and lead to people disrespecting each other and shunning each other, as the examples above illustrated. In addition, discrimination also affects relations between countries, for example between China and the US, exacerbating other problems in the context of globalization. More importantly, discrimination (in the case of the Corona disease) also leads to conflicts among ethnic groups (Asians and other peoples) and impacts the global socio-economic-political situation. Finally, such discrimination violates the 1948 Universal Declaration of Human Rights and the 1966 International Convention on Human Rights.

Discrimination in Vietnam

While Vietnam has been affected by the COVID-19 epidemic, the number of people infected with COVID-19 in Vietnam is low. However, due to irresponsibility and the lack of privacy regarding personal information, a series of F2 lists were shared on social networks with information that included names, places of work, places of residence, and other information that made life terrible for the F2s who were outed by the lists.

Some people look at people infected with Covid-19 and those at risk of contracting Covid-19 like lepers and criminals. There are cases of F2 isolation because of Covid-19. In some cases,

their neighbours locked their gates (Phuong, 2020) or placed a sealed cloth into the hole in the door of an F2 house to keep them from infecting others (Nguyen, 2020). More heartbreaking, when a son (F3) of a mother (F2) heard neighbours whispering and looking at him as a patient, he became scared and asked her mother, "Will they burn our house, Mom?" (Hai, 2020). Not only patients were discriminated against, but also things that belong to them. In particular, when people contracted COVID-19, they became estranged or rejected in various ways, including losing their jobs or titles and being refused entry to drive their cars through tunnels. For example, motorbikes are required to be stored elsewhere for fear of spreading the virus (Phuong, 2020).

Discrimination occurs both directly and indirectly. For instance, Thu Cuc Hospital refused to accept a pregnant woman when they discovered that she was from the Binh Xuyen district, Vinh Phuc province, although they had already consulted on her pregnancy and recommended that she have a caesarean section (Chi, 2020). Because people are stigmatized by their local community, who will boycott them and post their personal information on social media, many are afraid to report the truth when they have been in face-to-face communication with infected people and those suspected being infected. For instance, Patient No. 34 in Binh Thuan is called a "super-infectious" patient because she did not truthfully report her travel. Patient No. 34 directly communicated face to face (F1) with 31 people, and her F2 contact was 100 (Duc, 2020).

Due to discrimination, people infected with Covid-19 do not want to declare exactly what has happened, which makes it difficult to manage and monitor the spread of the disease. This difficulty makes the "stigma virus" more dangerous than the disease people are stigmatized for having. While the disease can be controlled, the stigma virus is very difficult to control, because it takes many different forms, and in some situations, it is tough to recognize.

World Health Organization's (WHO) statement on SAR-COVID-19 discrimination.

In a report updated on February 24, 2020 regarding the situation of the COVID-19 epidemic, the World Health Organization stressed the problem of discrimination against specific communities and the rise of harmful stereotypes. According to the WHO, stigma often occurs when people negatively associate an infectious disease, namely, in this case, COVID-19, with a specific community. An increasing number of media reports are recording the stigma of the community against people from affected areas. The WHO considers identifying, labeling, isolating, and discriminating against people because of a possible link to Covid-19 to be a public health risk (WHO, 2020). According to the WHO (2020), stigmatizing others can drive people to hide their illness to avoid discrimination, prevent people from seeking health care immediately and discourage them from adopting healthy behaviours. All of these barriers pose the risk of causing more serious medical problems.

2. Laws to protect human rights

Discrimination is a sociological term that refers to the treatment of a certain individual or group based on class or class categorization. Actual discrimination is an act of prejudice against another group. It includes removing or restricting group members from the opportunities to which other groups have access (Persell, 2009). According to the United Nations, "Discriminatory acts take many forms, but all of them involve some form of exclusion and rejection" (UN, 2013).

The denial or rejection of equal rights is based on racial, ethnic, gender, religious or social conditions. Discrimination on any basis impedes equal exercise of human rights and choices.

Consequently, it not only leads to social and economic insecurity but also affects the self-determination and dignity of those who are discriminated against. Overcoming real inequalities based on race, gender, ethnicity, religion, language or other social conditions is considered a top priority for the security of humans.

Article 2 of the 1948 Universal Declaration of Human Rights states that "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty" (UN, 1948).

Articles 26 and 27 of the 1966 International Convention on Human Rights stipulate that all people are equal before the law and are protected without discrimination by the law. In this respect, the law prohibits discrimination and ensures all people the right to equal and effective protection against discrimination based on racial, ethnic, gender, language, religious, political, national or social origin, property, lineage or any other status (UN, 1966).

The prohibition of discrimination has been stipulated in many international treaties and constitutes an important element in the laws of many countries. Clause 2, Article 16 of the 2013 Constitution of the Socialist Republic of Vietnam stipulates that "No one is subject to discriminatory treatment in political, civil, economic, cultural or social life " (National Assembly of Vietnam, 2013). With this provision, the 2013 Constitution of the Socialist Republic of Vietnam is coherently consistent with international human rights law.

Thus, we can see that the principle of all people having equal rights and equal treatment is a fundamental principle of the concept of human rights. This principle is built on the basis of inherent and equal dignity of every individual. From a civil and political point of view, this principle is understood as follows: Because everyone is equal before the law, all people enjoy freedom and justice; thus, governments must give every citizen equal rights and privileges. However, in practice, this natural equality has never been fully prescribed for everyone. Discrimination has always existed, in various forms and in more or less diverse and sophisticated ways.

Case law on protection from discrimination in Sweden

Stigma or discrimination have a long history and exist in every society. Many countries have their own laws that aim to combat discrimination. Sweden has an Anti-Discrimination Law that promotes equality and prohibits discrimination based on gender, gender identity or expression of gender or identity, race, religion or belief, disability, sexual orientation, and age (Ministry of Culture, 2008). Sweden's Anti-Discrimination Law is organized as follows:

Part 1: Definitions of stigma and discrimination and internal interpretation of characteristics that are often discriminated against.

Part 2: Provisions that prevent discrimination and retaliation.

Part 3: Provisions related to promoting equality and non-discrimination.

Part 4: Terms relating to monitoring. In order to be enforceable, an independent body to monitor racism and discrimination must be established. This supervisory authority has the right to request the subject to conduct an investigation and to provide evidence and information related

to discrimination cases. The supervisory authority itself has the right to conduct investigations in facilities accused of stigma and discrimination.

Part 5: Provisions regarding financial penalties and claims invalidation. Entities that are found to be discriminatory will be subject to financial penalties depending on the severity of the act.

Part 6: Provisions on legal process. Individuals or organizations representing individuals (if agreed to by the individual) have the right to bring the case to an independent investigation agency for anti-discrimination. When a person files a complaint, he/she shall provide evidence to demonstrate discrimination.

Thus, this Anti-Discrimination Law provides a clear legal corridor to protect the equal rights of citizens. It is also a vehicle for raising social awareness and eliminating stigma and discrimination.

In Vietnam, stigma/discrimination is quite common and public, as exemplified by the behaviors analysed and demonstrated above regarding the emergency context of the Covid-19 epidemic. However, there has never been a successful case against discriminatory people or agencies, not even during the time of the Covid-19 epidemic. In fact, public authorities do not seem to be fully aware of the seriousness of the problem, and people do not know that they have the right to speak up. Vietnam also has no clear legal framework and specific appeal procedures for people to follow when they are discriminated against. The 2013 Constitution and some specialized laws deal with stigma and discrimination. However, due to the lack of specific sanctions, the policies against stigma and discrimination are not specific enough and have no effect in preventing consequences. Therefore, the development of an Anti-Discrimination Law will protect equal rights for many disadvantaged groups and minorities, especially in emergency situations like the Covid-19 epidemic.

3. Proposing the elaboration of policies and laws to protect human rights during emergency situations in Vietnam

In order to protect people from discrimination during emergency situations, it is necessary to develop an Anti-Discrimination Law that does the following:

First, the law must provide a set of criteria to recognize and identify discrimination in emergency situations. Recognizing and identifying discrimination requires reasonable criteria. Based on these reasonable criteria, we can determine which behaviours or gestures are discriminatory in the sense that they violate human rights. Additionally, it is worth noting that reasonable criteria are not the same among different countries because of differences in societies. Therefore, these reasonable criteria must be based on Vietnam's socio-economic-cultural-political conditions. From the established reasonable criteria, it is necessary to identify specific behaviours or gestures that are considered discriminatory against people during emergency situations.

Second, the rights of discriminated persons and the obligations of state agencies, organizations and individuals must be defined. It is obviously necessary to define the rights of people when they are discriminated against in emergency situations. Only with clear definitions can people who are discriminated against understand their rights and make successful claims when their rights are violated.

In terms of the regulating obligations of entities, the state must actively "resist" stigma and discrimination caused by individuals during emergency situations (called protection obligations). At the same time, the state must realize its guaranteed rights through legislative,

executive, judicial or practical measures (called fulfillment obligations). Together with the government, the private sector (non-governmental organizations, media, etc.) also has an important role to play in combatting stigma and discrimination. Private sector actors constitute the most important part of the civil society system. Normally, civil society can often cope with discriminatory attitudes using a bottom-up approach.

Third, the information security of infected people needs to be regulated, and cases of personal information leaks and exposure to infected people should be handled strictly.

Fourth, a mechanism needs to be developed for people to file discrimination complaints; at the same time, it is necessary to build a system of sanctions that is appropriate for each violation (civil liability, administrative liability and criminal liability).

Along with legal liability, the requirement for filing a lawsuit in this case should follow an emergency procedure (rather than the regular procedure as regulated), because discrimination in the emergency context (such as the Covid-19 context) may only occur for a short period of time, so it may be more difficult to prove discriminatory behavior over time.

Fifth, there must be clear provisions regarding legal aid for people who have suffered from discrimination.

Sixth, a supervisory body or committee should be established to protect rights in general and in emergency situations, as many countries have done (e.g., Morocco and Sweden).

Seventh, regulations regarding propaganda, dissemination and legal education must be developed. Radio, television and the Internet are means to facilitate the dissemination of information and views. The real challenge is to prevent discrimination before it happens. This is a difficult task and can only be achieved through institutional human rights education using local information, following a bottom-up approach and engaging the full participation of national institutions competent in cooperation with all relevant non-state entities.

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