



REIMAGINING THE SOCIAL CONTRACT IN TIMES OF PANDEMIC

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ABSTRACT

A pandemic infects the economic, social and political limbs of a country. It abruptly the normalcy in the society, leads to massive death tolls, cripples the healthcare system and brings the economy of the nation to a halting stop. In order to combat a global health emergency and minimise its impact on the society, extraordinary measures need to be taken. Thus, in light of a pandemic, the social contract between the citizens and the government needs to be reformed, permitting the state to intrude upon an individual's civil liberties which are ordinarily guaranteed. This paper aims to find a balance between protecting the citizen's civil rights and managing a public health crisis for the overall welfare of society. While the reasonable curtailment of certain civil rights is justified for the betterment of society, other civil rights are so intrinsic to an individual's existence that they are indispensable, even during a nationwide health emergency. Further, a pandemic demands a consequentialist approach to 'right to life' as it optimises resource allocation and preservation of medical personnel.

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INTRODUCTION

A global pandemic has the potential to irretrievably shake the foundations of the economic, political, and social structure of society. It can lead to confinement of an entire populace to their homes which may seem dwarfed in contrast with the ever-increasing death toll and unparalleled shock upon the capital market.

Thomas Hobbes' Leviathan introduced the concept of a social contract that has since been further developed by philosophers and political thinkers from the Age of Enlightenment.¹ The social contract, thus envisaged, refers to an agreement whereby citizens would voluntarily give up their natural freedom in return for a civilised society and bestow upon the government the power to take necessary measures to protect the safety of the citizens.² It is perceived by the citizens, government, and scholars to be the cornerstone of a balanced society. Over the years, the scope, limitations, and power of the government over its citizens under the social contract has been redefined with the expansion and needs of the society.³ The turmoil caused by the World Wars exposed the dire need to have a social contract built on the foundation of democratic rights and social protection mechanisms.⁴ Now, with the advent of globalisation, the world coming closer, the social contract struggles to adapt to the expeditious modifying situations and novel threats such as a pandemic. Thus, exposing the need to reimagine the social contract entered between the Leviathan and the masses. A new social contract needs to be drawn where an individual's certain freedoms are restrained to protect the rest of the society from a prevalent pandemic.

In lieu of this, the author proposes a social contract where the citizens agree to reasonable and proportionate retraining on their civil liberties for the betterment of the public health and safety thereby permitting the government to intervene in individual's lives in order to battle health crises and minimise its impact on society. The aim is to find a balance where public health benefits outweigh the harm of curbing the individual's rights. In order to be neutral,

¹THOMAS HOBBS, THOMAS HOBBS: LEVIATHAN 113-117 (Daniel Kolak ed., Longman Library of Primary Sources in Philosophy 2008) (1651).

²*Id.*

³ Sharan Burrow, *A New Social Contract can rebuild our workplaces and economies after COVID-19*, THE MEDIUM (Mar. 18, 2020), <https://medium.com/@SharanBurrow/a-new-social-contract-can-rebuild-our-workplaces-and-economies-after-covid-19-82b52e510ec3>.

⁴*See* BRIAN SKYRMS, EVOLUTION OF THE SOCIAL CONTRACT 41 (2 ed. Cambridge University Press 2014).

the author shall approach these issues with John Rawl's veil of ignorance,⁵ and shall apply the liberty principle⁶ and difference principle⁷ to determine which civil liberties must be curtailed and to what extent during a pandemic for the overall welfare of the society. Moreover, it shall assess the social contract in the Indian context taking its economic, social and legal aspects into consideration.

This article is segmented into three distinct parts. The first segment deals with liberties which may justifiably be curtailed and the last segment pertains to liberties which ought not to be curtailed, notwithstanding the pandemic. The second segment deals exclusively with the most sacrosanct of liberties-the the right to life and navigates the justifiability of any derogation thereof. The right to life has been positioned appropriately to proffer the author's view that its status lies somewhere between derogable and non-derogable in a jurisprudential buffer zone.

REASONABLE CURTAILMENT OF CIVIL LIBERTIES IS JUSTIFIED

Although civil liberties are guarded by international as well as domestic laws and declarations,⁸ in times of widespread public health emergency citizens should give up certain civil rights in order to protect the society from massive loss of life, overburdening of healthcare services and the collapse of the economy. The social contract authorises the government to expand to scope its power and impose extraordinary restrictions that would ordinarily be outside their jurisdiction.

Ordinarily, freedom of movement is one of the oldest and globally recognised fundamental rights;⁹ however, during a pandemic, free movement of individuals adversely adds to the problem of containment of the virus. Thus, limitations should be imposed at the international, domestic, and local level.¹⁰ First, although freedom to leave and enter one's country is a

⁵ Samuel Freeman, *Original Position*, THE STANFORD ENCYCLOPEDIA OF PHILOSOPHY (Apr. 3, 2019), <https://plato.stanford.edu/entries/original-position/>.

⁶*Id.*

⁷*Id.*

⁸ International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171.

⁹Shapiro v. Thompson, 394 U.S. 618, 634 (1969).

¹⁰ World Health Organisation, *WHO SARS Risk Assessment and Preparedness Framework (2004)*, WHO/CDS/CSR/ARO/2004, at 23 (Oct. 2004).

fundamental right,¹¹ international travel should be suspended for all non-essential purposes to lower the spread of the virus from foreign countries and borders should be sealed.¹² Additionally, for all essential travel, measures such as the collection of personal passenger information, entry screening, physical testing, self-quarantine and other mandatory precautionary measures should be imposed.¹³ Second, although freedom to cross state borders is a fundamental right of every citizen under the constitution,¹⁴ inter-state travel should be prohibited for all citizens except essential service providers on state authorisation. Third, even within the affected states or areas, all citizens, including the asymptomatic individuals' freedom of movement, maybe restrained. Mandatory quarantine by confining individuals to their homes is warranted to control the spread of the disease.¹⁵ Such coercive measures that take away the freedom of the citizen is permitted under the social contract. In return, the government owes a responsibility to ensure that these restrictive movements, border measures and long-termed quarantining do not endanger the lives of vulnerable groups like the homeless and migrant workers who are unable to self- quarantine, disabled individuals and elderly who are unequipped to take care of themselves and women who are often subject to domestic violence and abuse at home.¹⁶ Moreover, to ensure maximum effectiveness of the social distancing, authorities should establish a distribution system where food, medicines, and other essentials are delivered to the door-step of citizens.¹⁷ Necessary protective precautions must be taken, and interactions with potentially infected individuals should be minimal.

¹¹ Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948).

¹²Joshua M Epstein et al., *Controlling pandemic flu: the value of international air travel restrictions*, 2 (5) PLOS One (2007).

¹³ NATIONAL ACADEMY OF SCIENCES ET AL., QUARANTINE STATIONS AT PORTS OF ENTRY PROTECTING THE PUBLIC'S HEALTH 112-113 (Laura B. Sivitz et al. eds., The National Academies Press 2006).

¹⁴INDIA CONST. art. 19, cl, 1(d).

Daniel S. Reich, *Modernising local responses to public health emergencies: Bioterrorism, epidemics, and the Model State Emergency Health Powers Act*, 19(2) JOURNAL OF CONTEMPORARY HEALTH LAW AND POLICY 379, 410- 11 (2003).

¹⁵*Flu Pandemic Mitigation: Quarantine and Isolation*, GLOBAL SECURITY, https://www.globalsecurity.org/security/ops/hsc-scen-3_flu-pandemic-quarantine.htm (last visited May 29, 2020).

¹⁶*Id.*

¹⁷See LAWRENCE O. GOSTIN, PUBLIC HEALTH LAW: POWER, DUTY, RESTRAINT (2 ed. University of California Press 2007).

One significant way to counter the spread of a pandemic is to have accurate and timely tracking of the number of patients and mass surveillance to ensure that the preventive measures are practised.¹⁸ This includes contact tracing the virus carriers and monitoring the imposition of quarantine measures to prevent the spread of the disease.¹⁹ Contact tracing is primarily done through telecommunication location tracking, which is invasive of an individual's privacy.²⁰ Thus, in the interest of the public health, the privacy of the citizens should be temporarily waived off under the social contract. This opens up the possibility of permanent institutionalisation of mass surveillance by the government. In order to mitigate this, data should be collected with the limited purpose of responding to the pandemic; data should be stored locally in the individual's device and not on a centralised server, and the data should remain encrypted throughout the entire process.²¹ Once normalcy is restored, no state agency should have access to this data. At the same time, the government should comply with principles of accountability, minimisation, and transparency since it involves the aggregation of pools of sensitive data of the citizens.

Under ordinary circumstances, an individual needs to consent to any medical tests or procedural as it infringes upon in his bodily integrity and dignity.²² However, under the social contract during a medical emergency, the citizen's bodily autonomy and liberty may be curtailed by imposing mandatory testing, screening, and self-isolation for the furtherance of public safety and health.²³ Positive tests could result in mandatory isolation, where they may be confined to a particular space under the supervision of the medical authorities. However, the administration is accountable to ensure that tests are done in the least intrusive and non-

¹⁸See Ronald R. Bayer & Amy Fairchild, *The limits of privacy: Surveillance and the control of disease*, 10 HEALTH CARE ANALYSIS 19, 33 (2002).

¹⁹*Id.*

²⁰See Kin On Kwok et al., *Epidemic Models of Contact Tracing: Systematic Review of Transmission Studies of Severe Acute Respiratory Syndrome and Middle East Respiratory Syndrome*, 17 COMPUTATIONAL AND STRUCTURAL BIOTECHNOLOGY JOURNAL 186, 193 (2019).

²¹*Governments Should Respect Rights in COVID-19 Surveillance*, HUMAN RIGHTS WATCH (Apr. 2, 2020, 4:00 AM), <https://www.hrw.org/news/2020/04/02/governments-should-respect-rights-covid-19-surveillance>.

²²INDIA CONST. art. 21.

²³ David M. Studdert & Mark A. Hall, *Disease Control, Civil Liberties, and Mass Testing — Calibrating Restrictions during the Covid-19 Pandemic*, THE NEW ENGLAND JOURNAL OF MEDICINE, Apr. 9, 2020, at 3.

discriminatory manner, and the patient should be informed in advance of the reasons for infringement.²⁴

Freedom to carry profession, trade, occupation, and business of the citizens should be reasonably curtailed to cope with a pandemic.²⁵ Private industries and manufacturers may be mandated to prioritise or increase the production of medical equipment, drugs, personal protection equipment, and testing kits to meet the rising demand in order to combat the disease. Additionally, there should be compulsory licensing of the required drugs in order to meet the public health demand.²⁶ Further, private healthcare facilities may be nationalised; the government may rent private beds, and drugs should be sold at an affordable rate. Medical practitioners should be directed to extend their services pro bono to make it accessible for the lower social-economic strata and decrease the strain on government hospitals and doctors. Additionally, private labs should provide testing and screening for free to amplify the rate of testing, but an efficient reimbursement mechanism should be set up by the government to prevent them from incurring any financial loss.²⁷ If the authorities deem it necessary, online delivery service companies like Swiggy, Amazon, and Flipkart may be called on to suspend their regular operation and utilise their pre-established channels to home deliver essentials like food, medications, and protection gear to enforce the quarantine effectively. Additionally, if necessary normal operations of all non-essential businesses and services may be suspended and permitted only online functioning.²⁸ However, the government must formulate employment guarantee schemes, tax reduction policies, cover the provident fund contribution amount, job retention policies, especially for small scale industries and companies by subsidising salaries to incentivise employers to retain their workers and minimise economic backlash.²⁹ Further, in order to safeguard the casual workers

²⁴GOSTIN, *supra* note 17.

²⁵INDIA CONST. art. 301.

²⁶Alexandra Minna Stern & Howard Markel, *International Efforts to Control Infectious Diseases: 1851 to the Present*, 292(12) JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION 1474, 1476-1477 (2004).

²⁷See Tim K. Mackey & Bryan A. Liang, *Lessons from SARS and H1N1/A: employing a WHO–WTO forum to promote optimal economic-public health pandemic response*, 33 (1) JOURNAL OF PUBLIC HEALTH POLICY 119, 125 (2012).

²⁸See Timothy C. Germann, et al., *Mitigation strategies for pandemic influenza in the United States*, 103 (15) PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES 5935, 5936-37 (2006).

²⁹MARK A. ROTHSTEIN ET AL., QUARANTINE AND ISOLATION: LESSONS LEARNED FROM SARS 123-125 (2003).

who lose their source of livelihood during the suspension of operations, they should be provided with government rations and stimulus payments.

Citizens have their fundamental right to vote and elect their leaders in a democracy.³⁰ However, during a public medical emergency, this right can be postponed under the social contract. Holding elections would expose people to the disease due to the crowded polling booths and use of same voting equipment. Further, it would put certain groups of people like older citizens and poll workers at high risk of contracting the disease.³¹ The fear of the pandemic would also result in a lower turnout, which is harmful to democracy and goes against the principles of fairness and equality in voting.³² No citizen should be pressured into choosing between casting a vote and their health. Furthermore, the alternative mode of voting through postal ballots is inefficacious as there is a risk of coercion, fraud, and vote tampering, and online registration is not feasible with diverse demography.³³

Free speech is a right that is endowed on every citizen;³⁴ however, in exceptional situations of a pandemic, this can be curtailed under the contract. Any form of intentional or unintentional dissemination of fake news by media houses or social media has serious potential to cause panic in the society, which would cause irreparable damage to public health.³⁵ Therefore, media houses should not be permitted to telecast news related to specific subjects like death statistics, a cure for the virus, preventive measures, and government rules or policies without prior fact-checking by the government. This partial prior censorship is to ensure only accurate information reaches the masses and should not be used to muzzle the press and their legitimate criticisms of the government.³⁶ Additionally, to check inaccurate information on social media, practical intermediary guidelines should be formulated by the government. Fact-checkers need to be engaged, efficient complaint mechanisms should be formulated, and a chatbox mechanism for disseminating authentic information should be implemented.

³⁰INDIA CONST. art. 362.

³¹*Id.*

³² Arndt Leininger & Max Schaub, *Voting at the dawn of a global pandemic*, OSF 1, 8-9 (2020).

³³Stuart Wilks-Heeg, *Postal voting and electoral fraud*, DEMOCRATIC AUDIT (Apr. 26, 2011), <https://www.democraticaudit.com/2010/05/01/postal-voting-and-electoral-fraud/>.

³⁴INDIA CONST. art. 19, cl. 1 (a).

³⁵ Alakh Alok Srivastava v. Union of India, (2020) 1 SCC 345.

³⁶*Coronavirus v. Free Speech: Modi Government Opens New Battlefield in Supreme Court*, THE WIRE (Apr. 1, 2020), <https://thewire.in/law/coronavirus-v-free-speech-modi-government-opens-new-battlefront-in-supreme-court>.

Furthermore, stringent measures may be taken in the form of increasing the severity of punishment for circulating false news by individuals or groups.³⁷

The author suggests that in order to safeguard the interest of the society in protecting public health, significant deprivation of citizen's civil liberties such as the right to work, right to assemble, freedom of practising religion and right to education in addition to the aforementioned civil rights are justified.

RIGHT TO LIFE: DEONTOLOGICAL V. CONSEQUENTIALISM

Deontological ethics, in square opposition to consequentialism, emphasises the ethical superiority of the 'right' over the 'good'. Simply put, an action ought to be done if it is found to be ethically 'right' after being sieved through a mesh of interacting duties.³⁸ Adverse to this, consequentialist metrics recommend an action that accomplishes a desirable 'good'.³⁹ As such, deontological ethics require that the most sacrosanct of fundamental rights-the right to life- be safeguarded as an end in and of itself which aligns perfectly with the practice in the medical community of preserving life at all costs.⁴⁰ This system, however, is blind to both good and bad consequences brought on by acts which are 'right' and in furtherance of duties. A deontological approach, while apposite under the circumstances resembling normalcy, nevertheless becomes deficient in the wake of the infectious pandemic plaguing our lives, and the author recommends a shift to a consequence-driven calculus. When loss of life is a given, a decision-making calculus which tries to attain the 'good' of life for the maximum number of people as consequentialism endeavours is preferable to one which does not permit the slightest infraction of the right to life.⁴¹ With finite ventilators and life-support-machines and imminent risk of infection to medical personnel, a consequentialist strategy aimed at resource optimisation and preservation of medical personnel becomes palatable.

³⁷ The Disaster Management Act, 2005, § 54.

³⁸ David McNaughton et al., *Deontology*, THE OXFORD HANDBOOK OF ETHICAL THEORY 424, 425 (2007).

³⁹*Id.* at 428.

⁴⁰ Samuel Freeman, *Utilitarianism, Deontology, and the Priority of Right*, 23 (4) PHILOSOPHY AND PUBLIC AFFAIRS 313, 348 (1994).

⁴¹*Id.*

The recent surge of US hospital officials and ethicists arguing for a mandatory 'do not resuscitate' order for COVID-19 patients perfectly illustrates the need for such a shift.⁴² Adoption of a mandatory 'do not resuscitate' policy for patients that have gone into cardiopulmonary arrest is necessary in times of a pandemic.⁴³ For a cardiopulmonary resuscitation (CPR) the patient requires eight to thirty medical staff, which necessitates a large quantity of protective gear – several masks, gloves, and gowns. Further, the procedure itself is highly risky as it exposes the healthcare workers to multiple bodily fluids, not only increasing the chances of infecting them but also making them potential carriers to other patients in the hospital.⁴⁴ After taking up such peril, the probability of a patient's survival is bleak.⁴⁵

Considering the scarcity of resources in terms of medical staff and shortage of personal protective equipment, ventilators and other medical equipment, continuing to allocate resources to perform CPR on one patient can have massive opportunity costs in terms of multiple human lives as it would result in detracting medical treatment to several of patients in the future.⁴⁶ The author opines that in times of a pandemic, it is ethically tenable to preserve the lives of a maximum number of people, which necessarily slightly derogates of the same right of a few which in times of a public health emergency.

NON-DEROGABLE CIVIL LIBERTIES

Certain civil rights cannot be curtailed as these are indispensable for effectively combating a public health crisis.⁴⁷ These rights ensure that the Leviathan does not exceed his powers and

⁴² Ariana Eunjung Cha, *Hospitals consider universal do-not-resuscitate orders for coronavirus patients*, THE WASHINGTON POST (Mar. 25, 2020, 10:23 PM), <https://www.washingtonpost.com/health/2020/03/25/coronavirus-patients-do-not-resuscitate/>.

⁴³ *Id.*

⁴⁴ Ariana Eunjung Cha et al., *Faced with a crush of patients, besieged NYC hospitals struggle with life-or-death decisions*, THE WASHINGTON POST (Mar. 31, 2020, 07:41 PM), <https://www.washingtonpost.com/health/2020/03/31/new-york-city-hospitals-coronavirus/>.

⁴⁵ Emelia J. Benjamin et al., *Heart Disease and Stroke Statistics-2019 Update: A Report from the American Heart Association*, CIRCULATION 56, 503 (2019).

⁴⁶ Curtis J. Randall & Robert A. Burt, *Point: The ethics of Unilateral "Do Not Resuscitate" orders*, 132 (3) CHEST JOURNAL 748, 749-50 (2007).

⁴⁷ U.N. Commission on Human Rights, *The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*, E/CN.4/1985/4 (Sep. 28, 1984).

is held accountable for providing the necessary protection to the masses. Denial of any of these rights evidences draconian measures that are unacceptable under the social contract.

First, the right to justice cannot be suspended. The legal system forms part of essential services; therefore, they should continue to function during a pandemic.⁴⁸ It is necessary to keep a check on the government to eliminate the excessive use of power under the garb of public health. However, their manner of operation may be changed; courts should hold trial only through video conferencing.⁴⁹ Only urgent matters involving fundamental rights, human rights violations, protection of vulnerable groups like the elderly, children, and victims of domestic abuse and enforcement of emergency laws during the pandemic should be given priority.⁵⁰ Not only should civil matters be postponed, but procedural rules and limitation period must also be relaxed. It is the government's responsibility to establish the necessary infrastructure to ensure transparency and accessibility to the public and transparent. The judiciary should not be wholly suspended to ensure compliance with principles of democracy and the rule of law.⁵¹

Second, in order to contain the disease, the government is justified in imposing state border restrictions, trading restrictions, and nation-wide quarantine. Such measures have an inequitable consequence on vulnerable groups like migrant workers, daily wage workers, and the poor. Such measures cannot be implemented uniformly across all classes of citizens and situations. Restrictions on work and closing workplaces put these vulnerable groups entirely out of jobs and take away their means of survival.⁵² Most of them lack a financial safety net, causing severe economic hardships like the inability to pay for food and rent. In addition, the mandate of self-quarantine cannot adequately be implemented by the homeless. Therefore, the administrative and executive authorities need to be sensitive to the needs of these vulnerable groups. Their right to food, water, and shelter should be protected. Policies for

⁴⁸JAMES C. SWAIN ET AL., GUIDELINES FOR PANDEMIC EMERGENCY PREPAREDNESS PLANNING: A ROAD MAP FOR COURTS 10 (American University and Bureau of Justice Assistance 2007).

⁴⁹'Cases are in quarantine': Supreme Court lawyer writes to CJI, suggests how courts can run during lockdown, THE ECONOMIC TIMES (Apr. 12, 2020, 03:53 PM), <https://economictimes.indiatimes.com/news/politics-and-nation/cases-are-in-quarantine-supreme-court-lawyer-writes-to-cji-suggests-how-courts-can-run-during-lockdown/articleshow/75107052.cms>.

⁵⁰Access to Justice in Times of Judicial Lockdown, UNODC: THE DOHA DECLARATION, <https://www.unodc.org/dohadeclaration/en/news/2020/03/access-to-justice-in-times-of-judicial-lockdown.html> (last visited May 29, 2020).

⁵¹*Id.*

⁵²GOSTIN, *supra* note 17.

efficient public distribution system for food and essentials, payment of wages through government employment guarantee schemes, ex gratia payments, adequate shelter arrangements with proper hygiene should be formulated and implemented.⁵³ Additionally, they should be shielded from torture, cruel, and inhuman treatment in the form of police brutality.⁵⁴ In case the nation or statewide quarantine is imposed for a long period of time, special transportation should be arranged for the migrant workers to return to their home state after taking all the precautionary measures and tests to prevent the spread of the virus.

Third, the healthcare professionals endanger their life and are on the frontline during a pandemic; they have the right to a safe working environment. The government should ensure the protection of the medical staff by ensuring an adequate supply of gloves, gowns, masks, and other necessary personal protection gear. Further, workers in manufacturing units of personal protective and medical equipment, personnel who transport medical care and food to infectious people, employees who perform essential services, and government servants who maintain law and order during the pandemic should be provided with protective equipment and medical insurance by the government. Performing essential service for the benefit of public health does not dilute their right to safe working conditions.

The author concludes that the harm caused by denying the aforementioned rights would outweigh the benefits to public health; therefore, they are inalienable even during a public health crisis.

CONCLUSION

The author concludes that in times of public health crisis, where the risk to the society looms large, the Leviathan must intrude upon the civil liberties of the masses. Such interjection is only justified when it is imperative to safeguard public health. Therefore, certain civil freedoms can be curtailed to an extent, and some cannot be under any circumstance.

⁵³GOSTIN, *supra* note 17.

⁵⁴ Anisha Sircar, *India's coronavirus lockdown is bringing out the worst in its police force*, QUARTZ INDIA (Mar. 20, 2020), <https://qz.com/india/1826387/indias-coronavirus-lockdown-brings-police-brutality-to-the-fore/>.

REIMAGINING THE SOCIAL CONTRACT IN TIMES OF A PANDEMIC

According to Robert Higgs, any temporary expansive role taken by the Leviathan to handle national crises or emergencies remains permanent after the crisis is averted.⁵⁵ During emergency situations, government agencies strengthen their economic, political, and social control over the public, which gives rise to the 'ratchet effect' where the authorities refuse to give up their power once normalcy is restored.⁵⁶ They may continue to intrude into the personal liberties of individuals in terms of unabating mass surveillance, excessive travel control, interference in private healthcare sectors, and restrictions on free speech.

To eliminate such a possibility, the author submits that the masses should ensure that the powers of the authorities do not exceed the mutually agreed upon social contract. Moreover, the adoption of an efficient mechanism that ensures measures during the crisis is not easily converted into permanent policies.⁵⁷ Therefore, beyond the period of crisis, the power of the Leviathan should be limited, and all individual civil rights should be restored under the social contract.



⁵⁵See Peter G. Klein, *Coronavirus and Leviathan*, Mises Institute (Mar. 13, 2020), <https://mises.org/power-market/coronacrisis-and-leviathan?page=1&fbclid=IwAR3rGxvIcMyL2Sf3C1kGV1GXNaQUvv8LMdv-NNa5uL6cDveISgf3ERkeGFY>.

⁵⁶ Robert R. Keller, *Crisis and Leviathan: A Critique and Reconstruction*, 25(2) JOURNAL OF ECONOMIC ISSUES 365, 365 (1991).

⁵⁷Robert Higgs, *The Political Economy of Crisis Opportunism*, 2009 MERCATUS CENTER AT GEORGE MASON UNIVERSITY, at 13.