

Human Rights in a Pandemic

Briefing on ICCL report for media and policy-makers

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Find the full report: <https://www.iccl.ie/human-rights-in-a-pandemic/>

Key insights

ICCL has monitored human rights throughout this pandemic. A human rights framework offers protection to at-risk communities by clarifying for government where support is needed. The human rights framework also offers protection to the general population by indicating whether and for how long rights can be restricted.

Here are our main calls:

- Emergency legislation was rushed through the Dáil in March 2020 and again in October 2020. Fifteen months into the crisis, there is no longer any excuse for railroading draconian legislation without democratic oversight. **The legislation must be reviewed, and it must have a final sunset clause.**
- **Expanded police powers must end.** Not only do these kinds of powers damage the relationship between police and the general population, the evidence from behavioural science is that they are not effective.
- Fundamental rights such as **protest and worship must be explicitly protected.** Both rights can be exercised in a way that protects people from disease, and government must advise people how they can do that.
- Mandatory Hotel Quarantine is a form of detention. **Human rights standards for detention must apply.** If the current system is not amended so that basic standards such as inspections, review and appeals processes apply, it must end.
- If evidence cannot be provided on the **efficacy of the Covid Tracker App**, then it must be discontinued.
- **Urgent supports to at-risk groups** must be provided to help them recover from the disproportionate impacts of the restrictions.

“ICCL looks forward to a time when society can come back together in full enjoyment of our human rights. The pandemic has shown how, **when some are at risk, we are all at risk.** We've seen how interconnected we are and how reliant we are on each other for our health and wellbeing.

Yet during the pandemic, existing inequalities were exacerbated. ICCL echoes the global call for Governments to **'build back better'**, to address structural inequalities and solve entrenched societal problems. As we restore the rights and freedoms restricted during the pandemic, we must restore them on an equal basis for everyone.”

Liam Herrick, Executive Director of ICCL

Human rights are designed to protect and to empower people. In emergencies, some individual rights can be limited to protect other rights, including the right to life and the right to health.

However, every restriction a Government imposes to protect public health must meet certain tests: it must have a legislative basis; respond to an evidence-based need; be in pursuit of a legitimate aim; and every restriction must be the most minimal possible to meet that aim. Restrictions imposed in an emergency must be temporary.

Emergency Legislation

The human rights law framework explicitly recognises that protecting public health is a valid reason for placing limits on individual rights. We identify specific ways it should be amended if it is renewed again on 9 June 2021. We recommend a rigorous Oireachtas review before renewal with sufficient time for robust debate. We identify areas for improvement in the drafting of emergency regulations, including better scrutiny, clearer communication, and more transparency in decision-making.

Garda Powers

There has been an over-reliance on police powers to ensure compliance with public health guidelines where better communication and supports may have been more effective. Better data is needed on the use of these powers. We reiterate our concern that spit hoods may constitute inhuman or degrading treatment or punishment and we call for an immediate end to their use.

Access to Justice

More resources are needed to address the backlog in cases.

Protest

Peaceful protest should never be criminalised. Protest takes on an even greater importance in a democracy during a time when decisions are being made that have such a huge impact on lives and livelihoods. We again call for an exception to the restrictions on public gatherings for small, pandemic-safe protests that comply with public health guidelines.

Worship

The blanket ban under the highest restrictions on all gatherings was probably disproportionate in relation to religious services. We call for explicit protection for the right to worship.

Freedom of Movement

We question whether restrictions on movement were always proportionate. We criticise the lack of clarity in Government communication.

Private and Family Life

We recommend that all households should be permitted to pair with another household during low to moderate restriction levels.

Privacy

The Covid Tracker App must be shown to be effective. Without proof of effectiveness, such technology is a disproportionate interference with our rights to privacy and data protection. If introduced, domestic vaccine passports to access goods and services would have been discriminatory and disproportionately infringed rights to private and family life.

Mandatory Hotel Quarantine

MHQ is a form of State detention and so demands human rights standards. We identify a failure in the review and appeal process, as well as problematic and potentially arbitrary and discriminatory approaches to identifying what States are on the MHQ list. We call for an end to the system as soon as possible.

Equality

We call for answers and accountability into the controversial cuts to social welfare payments in the summer of 2020. An investigation should answer who authorised the cuts and the inspections at Dublin Airport.

At-risk communities

People living in congregated settings such as in Direct Provision Centres, Traveller halting sites and prisons have been more at risk than others. Older people and women have also suffered more. Government must provide accurate information as to the affects so that they can be mitigated in the future.

About ICCL

The Irish Council for Civil Liberties (ICCL) is Ireland's oldest independent human rights body. It has been at the forefront of every major rights advance in Irish society for over 40 years. ICCL helped legalise homosexuality, divorce, and contraception. We drove police reform, defending suspects' rights during dark times. In recent years, we led successful campaigns for marriage equality and reproductive rights.

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