



Daily Summary, 27 October 2020

Session 2: Impact of COVID-19 measures on the freedoms and rights of citizens, including those in uniform

Exposing and exacerbating existing vulnerabilities

The legal and practical measures introduced by governments worldwide in the fight against COVID-19 expose existing vulnerabilities and exacerbate these. Measures which limit the freedoms and rights of citizens thus have a differential impact on different groups in society. Social distancing and extensive hygiene requirements are near impossible for populations in detention. Conversely, social distancing and the inability to convene may be detrimental to the elderly, who rely on social contact to maintain physical and mental well-being. Hospitals are focused on COVID-19 patients to the detriment of other maladies. Measures which have digitalized education leave those households behind who rely on public facilities and materials as they themselves do not possess the means to access digital content. In addition to exposing existing vulnerabilities and disparities, measures exacerbate and compound these. For instance, children unable to access online learning are more reliant on their parents, who, in turn, experience greater difficulties in ensuring a stable income.

Restricted access to ombuds institutions

The impact of infringed rights and freedoms of individual citizens and those in uniform largely relate to access. This includes access to education, justice, and the mechanisms provided by ombuds institutions. Responses to alleviate restricted access center around digitalization or alternate forms of communication, however, these are often sub-optimal and – especially in the context of complaints – are unable to replace meetings in person. As a result, some ombuds institutions have witnessed a decline in the number of complaints, particularly in cultural contexts that place high value on personal contact. However, ombuds institutions that were able to effectively digitalize complaint procedures have reported a substantial increase in complaints received. Other ombuds institutions have moved swiftly in the procurement of personal protective equipment and are thus able to maintain visits with personal contact while ensuring the health and safety of their staff.

The precedent of unsound law

Laws and regulations on public health concerns are justified, but these must be constitutional and in accordance with international human rights treaties. In some contexts, the specific legal basis for rules and regulations is unclear or laws and regulations have been broad and vague, which may fuel grievances among communities whose social activities rely on the right to convene or the right to movement (e.g. in churches or to demonstrate). Thus, new legal instruments are required to enforce certain regulations, or otherwise countries risk setting a dangerous precedent that may be abused by governments down the line. Ombuds institutions should ensure alignment with extant rule of law and timely and widespread dissemination of clear information concerning these new laws. Further, they must ensure that penalties are proportionate and that their implications have been fully considered.