



## Balancing State Power and Human Rights: A Jurisprudential Analysis of Pandemic Containment Measures in Nigeria

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**Abstract.** Pandemics pose significant public health challenges that necessitate government intervention. However, these containment measures, such as lockdowns, forced quarantines, and travel restrictions, often raise critical human rights concerns. This study examines the legal and jurisprudential justifications for government-imposed restrictions during pandemics, using Nigeria's response to COVID-19 as a case study. The paper evaluates the tension between state power and individual autonomy within the framework of constitutional rights, international human rights law, and legal jurisprudence. It argues that while states have a duty to protect public health, pandemic-related containment measures must be carefully balanced against fundamental human rights. By analyzing key legal provisions, philosophical perspectives, and case law, this study provides recommendations for ensuring that future public health responses uphold both safety and human dignity.

**Keywords:** Public Health Law, COVID-19, Human Rights, Paternalism, Jurisprudence.

### 1. Introduction

The COVID-19 pandemic, like previous global health crises, necessitated urgent governmental intervention to curb its rapid spread. Across the world, states implemented stringent public health measures, such as lockdowns, travel restrictions, quarantine mandates, and compulsory medical testing. While these measures were aimed at safeguarding public health, they often resulted in significant infringements on fundamental human rights, such as freedom of movement, personal autonomy, and economic liberties. This study examines the legal and jurisprudential justifications

for these containment measures, with a specific focus on Nigeria's response to the pandemic (Aidonojie et al., 2022; Aidonojie et al., 2023).

On March 24, 2020, the Rivers State government announced the establishment of surveillance posts at its land and sea borders to prevent unauthorized entry into the state. This was soon followed by a statewide lockdown, restricting movement from 6 AM to 6 PM (Yafugborhi, 2020). Similarly, on March 30, 2020, the Federal Government of Nigeria declared a total lockdown of Lagos and Abuja after confirming 131 cases of the novel coronavirus (Campbell, 2020). Other states followed suit, imposing similar restrictions after Nigeria recorded its first confirmed COVID-19 case—an Italian national who arrived at an international airport in Lagos on February 24, 2020 (Sotunde, 2020). These governmental actions, while unprecedented in scale, were taken in response to the public health emergency, which was rapidly escalating into a global crisis.

A pandemic is a widespread public health crisis that extends across multiple countries or continents, leading to severe disruptions in societal functioning (Taylor & Moji, 2021). The World Health Organization (WHO) defines a pandemic as an epidemic that occurs on a global scale, transcending international borders and significantly impacting large populations (Kelly, 2011). The term "pandemic" does not merely refer to an infectious disease that has caused high mortality rates; rather, the defining characteristic is its transmissibility across borders. For example, while cancer is a leading cause of death worldwide, it does not qualify as a pandemic due to its non-contagious nature (Piret & Boivin, 2021).

Pandemics occur periodically and often force governments to adopt extraordinary legal and administrative measures to mitigate their impact. These measures frequently conflict with fundamental human rights, such as the right to movement, association, and privacy (Antai et al, 2024). In every health crisis, there exists a legal and ethical tension between individual autonomy and public health necessity (Zaman et al., 2024; Aidonjé et al., 2024). The COVID-19 pandemic exemplifies this struggle, as governments worldwide restricted individual freedoms in an attempt to safeguard public health. This dilemma is not new. In 1859, John Stuart Mill questioned the extent of an individual's sovereignty over their own body and the legitimate limits of state authority over individuals (Mill, 2001, p. 69). His inquiries raised fundamental issues regarding self-autonomy and state paternalism. During pandemics, such questions resurface, as states impose strict restrictions on foreign and domestic citizens in an effort to prevent the further spread of disease (Antai et al, 2024). The conflict between individual rights and collective safety becomes most apparent during times of crisis.

Governments derive their authority to impose public health restrictions from national and international legal frameworks (Antai et al, 2024). In Nigeria, Section 305 of the 1999 Constitution grants the President emergency powers to declare a state of emergency in response to national security threats, including health crises. Additionally, the Quarantine Act of 1929 gives the President broad authority to declare any communicable disease a "dangerous infectious disease," implement travel bans, enforce quarantines, and restrict public gatherings. While these laws grant the government sweeping powers, they directly impact constitutional rights, including the freedom of movement (Section 41, 1999 Constitution), freedom of association (Section 40, 1999 Constitution), and the right to personal liberty (Section 35, 1999 Constitution). In Nigeria and South Africa, lockdown measures were legally justified under existing public health laws, such as the Quarantine Act in Nigeria and the Disaster Management Act in South Africa, but their enforcement raised significant human rights concerns (Esavwede & Ogisi, 2023). This raises an important question regarding the proportionality of state intervention in public health emergencies and the extent to which fundamental human rights can be lawfully restricted.

The Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) also recognize freedom of movement

and personal liberty as fundamental rights (Antai et al, 2024). However, these international instruments allow temporary restrictions on rights when justified by public health concerns (ICCPR, Article 12). Governments must ensure that these restrictions meet the principles of legality, necessity, proportionality, and non-discrimination (United Nations, 1966). The right to life is universally recognized as the most fundamental human right. Article 3 of the UDHR states that "everyone has the right to life, liberty, and security of person." In Nigeria, Section 33 of the 1999 Constitution protects the right to life but allows exceptions in situations where force is used to defend an individual from unlawful violence, to suppress an insurrection or riot, or to effect a lawful arrest (Antai, 2024).

Despite these protections, the enforcement of lockdowns, curfews, and movement restrictions during the COVID-19 pandemic led to allegations of human rights abuses by law enforcement officials. Some security personnel were accused of using excessive force to enforce lockdown measures, leading to loss of lives (Shodunke, 2022). Similar trends were observed in South Africa, where reports of police brutality and disproportionate enforcement of movement restrictions led to legal challenges against the government (Esavwede & Ogisi, 2023). This raises questions about the proportionality of containment measures and their compliance with international human rights standards.

The right to life is widely regarded as the foundation of all other human rights (Adangor, 2018, p. 585; Iyasere, 2015). Governments have a duty to protect life, but this duty must be balanced against other rights. The principle of proportionality requires that government actions be necessary and not excessive. However, some legal scholars argue that strict containment measures may themselves violate the right to life. For example, lockdowns disproportionately affected low-income individuals, who were unable to work remotely or access essential services. This economic hardship led to increased poverty, hunger, and preventable deaths (Okogule, 2018, p. 94). The African Charter on Human and Peoples' Rights recognizes the interdependence of civil and economic rights, emphasizing that economic deprivation can undermine the right to life (Vienna Declaration, 1993).

Legal theorists have debated the extent to which governments should limit rights for public health reasons. Mill's harm principle argues that government intervention is justified only to prevent harm to others (Mill, 2001, p. 13). In this context, pandemic

restrictions are justifiable if they prevent mass infections and deaths. However, Mill also warns against excessive state control, emphasizing that liberty should only be curtailed when strictly necessary. The principle of legal paternalism supports governmental intervention in cases where individuals may not act in their own best interest (Dworkin, 2020). This principle justifies compulsory quarantines and medical interventions. However, excessive paternalism risks infringing on fundamental freedoms, leading to state overreach and potential authoritarianism (Antai, 2024).

The statement of the problem in this paper is the legal tension between governmental containment measures and human rights during pandemics. While states have a duty to implement measures to safeguard public health, these measures often conflict with fundamental rights such as freedom of movement, association, and personal autonomy. The extent to which the government can lawfully restrict individual freedoms to prevent the spread of infectious diseases remains an important legal and ethical question. Many of the containment measures adopted in response to COVID-19 raised concerns about their constitutionality, proportionality, and impact on vulnerable populations. The aim of this paper is to examine the legal basis for pandemic containment measures, analyze their impact on fundamental human rights, and assess their compliance with constitutional and international legal standards. Additionally, this study seeks to explore the jurisprudential justifications for governmental restrictions during pandemics, drawing from philosophical and legal theories on state power, autonomy, and public health. The study aims to provide recommendations for ensuring a balance between public health measures and human rights protections, emphasizing the importance of proportionality, necessity, and judicial oversight in emergency responses.

This work explores the legal and jurisprudential basis for pandemic-related containment measures. While governments have a duty to protect public health, such measures must be proportionate, necessary, and compliant with human rights standards. This study examines how Nigeria's response to COVID-19 aligns with constitutional principles, international law, and jurisprudential theories. It argues that while state intervention is legally justified, it must strike a balance between protecting public health and upholding fundamental human rights.

## 2. Methodology

This article employs a doctrinal legal research methodology, analyzing primary and secondary legal

sources to examine the relationship between pandemic containment measures and human rights protections. Primary sources include constitutional provisions, statutes, case law, and international legal instruments, such as the 1999 Constitution of Nigeria, the Quarantine Act of 1929, the Universal Declaration of Human Rights (UDHR), and the International Covenant on Civil and Political Rights (ICCPR). Judicial decisions from Nigeria and international jurisdictions are examined to assess the legal validity and proportionality of state-imposed restrictions during public health emergencies.

Secondary sources, including books, journal articles, and reports from organizations such as the WHO and the United Nations, provide critical perspectives on the philosophical, jurisprudential, and ethical debates surrounding state intervention and individual autonomy. The study incorporates jurisprudential theories, particularly Mill's harm principle and legal paternalism, to explore the legal and ethical justifications for state action in public health crises.

## 3. History of Pandemics

Pandemics have posed intermittent threats to global public health throughout history, causing severe illnesses and fatalities. Governments have often been compelled to implement emergency measures to mitigate the impact of these outbreaks, balancing public health concerns with the protection of human rights. Analyzing past pandemics provides insight into how containment measures have evolved over time and offers a framework for assessing the legal, ethical, and policy implications of such interventions. Some of the most significant pandemics in recent history include the Spanish Flu of 1918, the Asian Flu, the HIV/AIDS pandemic, the 2009 H1N1 Swine Flu, the Ebola outbreak, and the ongoing COVID-19 pandemic. Each of these pandemics has tested the resilience of legal and health systems, prompting governments to impose measures that have sometimes been contested on human rights grounds.

### 3.1 The Flu (H1N1 Infection) 1918 Pestilence

The 1918 Influenza Pandemic (H1N1), also known as the Spanish Flu, was the deadliest pandemic of the 20th century (CDC, 2023). There is no universal consensus on the virus's origin, but it was first identified among U.S. military personnel in the spring of 1918. The pandemic infected approximately 500 million people worldwide and resulted in an estimated 50 million deaths (CDC, 2023). The term "Spanish Flu" arose because Spain was the first country to publicly report the health crisis, though research

suggests that the virus may have originated in Kansas (Lawson, 2023). At the time, there was no vaccine or laboratory testing to detect the virus, necessitating reliance on non-pharmaceutical interventions, such as quarantines, isolation, and restrictions on public gatherings. Governments implemented strict measures, including social distancing, handwashing, and the use of masks, which are similar to modern COVID-19 containment strategies (Strochlic & Champine, 2020). The pandemic's legacy endures, as subsequent influenza outbreaks, including seasonal flu strains, are believed to be descendants of the 1918 virus, earning it the title of the "mother of all pandemics" (Taubenberger & Morens, 2019).

### **3.2 The Avian Influenza Virus (H2n2virus)**

The 1957 Asian Flu (H2N2), caused by an avian influenza virus, was first reported in East Asia before spreading globally. It became the second major influenza pandemic of the 20th century and was responsible for an estimated 1.1 million infections worldwide (Nuwarda et al., 2021). Unlike the 1918 pandemic, the Asian Flu did not prompt large-scale governmental containment measures such as curfews, border closures, or social distancing regulations (Vynnycky & Edmunds, 2007). The absence of stringent interventions led to widespread transmission, highlighting the need for more proactive governmental responses in future pandemics.

### **3.3 Acquired Immunodeficiency Syndrome (AIDS) Pandemic**

The HIV/AIDS pandemic, which emerged in the early 1980s, remains one of the most significant global health crises. HIV, the virus that causes AIDS, has led to over 25 million deaths worldwide, with more than 33 million people currently living with the disease (World Health Organization, 2024). The most widely accepted theory regarding its origin suggests that the virus was transmitted from chimpanzees to humans (Cunha et al., 2024). HIV/AIDS disproportionately affects marginalized populations, including women in sub-Saharan Africa, gay men, injection drug users, and sex workers. The global response to the HIV/AIDS pandemic has been marked by stigma, discrimination, and inconsistent government action. Governments struggled to implement effective public health measures due to taboos surrounding sexual behavior, gender relations, poverty, and mortality. In response, some nations imposed restrictive measures, such as the U.S. travel ban on HIV-positive individuals, which remained in effect until 2008 (Winston & Beckwith, 2011). The HIV/AIDS crisis underscores the intersection of public health and human rights, as

containment efforts often clash with personal freedoms and ethical considerations.

### **3.4 H1N1 Flu Epidemic – 2009 - 2010**

The 2009 H1N1 Swine Flu pandemic was caused by a new strain of influenza A (H1N1) and was first identified in Mexico before rapidly spreading worldwide. The World Health Organization (WHO) declared it a global health emergency after cases were reported in multiple countries. To curb the spread, many governments adopted school closures, travel restrictions, and social distancing measures, particularly during the first wave of infections. In the U.S., over 700 schools were temporarily shut down to limit community transmission, demonstrating how educational institutions are often key targets for containment efforts (CDC, 2019). However, unlike COVID-19, mandatory quarantines and curfews were not widely implemented, and border closures remained limited. The pandemic lasted slightly over a year, officially ending on August 10, 2010, when the WHO declared it contained.

### **3.5 Ebola Virus Disease**

The West African Ebola outbreak (2013–2016) was one of the most severe public health emergencies in recent history. The outbreak, which began in Guinea in December 2013, spread rapidly to Liberia, Sierra Leone, and beyond, resulting in thousands of deaths. The index case was traced to an 18-month-old boy believed to have been infected by bats. By March 23, 2014, the outbreak was formally recognized, prompting emergency containment efforts (Ohimain & Silas-Olu, 2021). In response to the worsening crisis, the WHO declared Ebola a Public Health Emergency of International Concern (PHEIC) on August 8, 2014. This designation is reserved for outbreaks that pose a high risk of international spread and require coordinated global intervention. The disease spread to several non-African countries, including Italy, Mali, Nigeria, Spain, the United Kingdom, and the United States, primarily through health workers and travelers. Infected individuals who entered Nigeria, the most populous country in Africa, posed a significant containment challenge. However, Nigeria successfully controlled the outbreak within three months by implementing a rapid surveillance and response system, sharing expertise, and engaging international health organizations (Aidonojie et al., 2024). Unlike the COVID-19 pandemic, lockdowns were not widely imposed during the Ebola crisis, and Nigeria was officially declared Ebola-free on October 20, 2014 (Althaus et al., 2015).

### 3.6 Coronavirus Pestilence (Covid-19)

The COVID-19 pandemic, caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), was first detected in Wuhan, China, in December 2019. It was officially reported to the World Health Organization, which declared it a Public Health Emergency of International Concern on January 30, 2020 (World Health Organization, 2020). On February 11, 2020, the WHO designated the disease as COVID-19, and by March 11, 2020, it was classified as a global pandemic. The virus rapidly spread to over 188 countries, affecting millions of people and causing widespread social, economic, and political disruptions. Governments around the world imposed strict containment measures, including lockdowns, travel bans, curfews, and mandatory mask mandates (Zomalheto et al., 2020).

#### 4. The Nigerian Government measures to contain the Covid-19 plague

Following the declaration of COVID-19 as a global pandemic, the World Health Organization (WHO) urged nations to balance public health protection, societal stability, and human rights considerations. During such emergencies, governments often expand executive powers to manage public health crises effectively. This expansion, while necessary, raises concerns about proportionality, legality, and the impact on fundamental rights. Fionnuala Ní Aoláin, the United Nations Special Rapporteur on Human Rights, noted that states often find emergency powers attractive because they provide shortcuts, but also warned that such powers tend to persist and endure beyond the immediate crisis (Rutzen & Dutta, 2020). Accordingly, states must ensure that emergency measures adhere to the principles of legality, justification, necessity, and proportionality as required by international human rights law (ECHR, 1950, Art. 15).

Historically, governments have implemented strict measures to prevent the spread of infectious diseases. Courts have upheld such interventions in cases such as *Prince v. Massachusetts* (1944), where the U.S. Supreme Court ruled that the right to religious freedom does not extend to exposing others to contagious diseases. Similarly, Nigerian law permits government intervention to safeguard public health, though such measures must comply with constitutional and international legal standards (Antai & Aidonojie, 2024).

Under the Nigerian Constitution (1999), the Federal Government is empowered to take extraordinary

measures during public health emergencies. Section 305 of the Constitution grants the President emergency powers to suspend certain fundamental rights, provided such restrictions are reasonably justifiable. Additionally, the Quarantine Act (1929) grants the President and relevant health authorities' broad powers to declare communicable diseases as "dangerous infectious diseases" and to impose necessary containment measures (Quarantine Act, 1929, s. 3-4). Exercising this authority, the Nigerian government declared COVID-19 a dangerous infectious disease and implemented various executive orders and regulations under the Quarantine Act (Aboh & Aloamaka, 2022).

Among the key governmental containment measures were:

- Interstate and international travel bans
- Nationwide lockdowns and curfews
- Mandatory social distancing measures
- Closure of markets, places of worship, schools, and businesses
- Compulsory quarantine for travelers
- Arrests and fines for violators of containment orders

While these measures were enacted to limit the spread of COVID-19, they significantly impacted fundamental rights, including freedom of movement, economic rights, and personal autonomy. The suspension of inter-state and intra-state travel not only restricted personal liberty but also hindered the supply of essential goods, medical personnel, and humanitarian aid. Furthermore, while lockdowns were aimed at protecting public health, they resulted in severe economic hardships, particularly for low-income individuals who depended on daily wages.

Reports indicate that law enforcement agencies used excessive force to enforce these measures, leading to several cases of human rights violations (Aboh & Aloamaka, 2022). According to Shodunke (2022), security operatives were responsible for several extrajudicial killings during the enforcement of lockdown orders. This raises questions about the proportionality and legality of Nigeria's containment measures. While public health emergencies justify temporary restrictions on rights, such restrictions must comply with the principles of necessity and proportionality under international human rights law (ICCPR, Article 12).

Despite these concerns, the government justified its actions under the doctrine of public necessity, arguing that the right to life outweighs other fundamental

rights during a public health emergency. This argument aligns with the legal principle of *Salus Populi Suprema Lex* (the welfare of the people is the supreme law), which asserts that individual rights may be restricted for the collective good (Adangor, 2018, p. 585). However, critics argue that while emergency measures may be necessary, they must not become instruments of state overreach or human rights abuses.

### 5. Effectiveness of measures on pandemic containment and mitigation.

Pandemics have historically had far-reaching economic, social, and political consequences, and COVID-19 was no exception. The virus overwhelmed public health systems, disrupted economies, and tested legal frameworks worldwide. In Nigeria, the pandemic exacerbated existing inequalities, strained healthcare infrastructure, and disrupted livelihoods. While containment measures were implemented to curb the spread of the virus, their effectiveness remains contested, given the economic hardships and civil liberties infringements they caused.

One of the first measures taken by the Nigerian government was the closure of international borders and suspension of commercial flights (Shodunke, 2022). This prevented infected individuals from entering the country, though it also trapped thousands of Nigerians abroad. Consequently, some countries, including the United States and the United Kingdom, conducted evacuation flights to repatriate stranded citizens (PTI, 2020).

At the state level, governors enacted additional restrictions, including lockdowns, curfews, and bans on large gatherings. These executive orders regulated public funerals, weddings, and religious services, significantly altering daily life. However, the economic impact of these restrictions was severe, particularly for informal sector workers who rely on daily earnings for survival. While wealthier Nigerians could work remotely, low-income earners—especially those in transportation, agriculture, and trade—faced severe financial hardship.

Legal scholars argue that government actions that significantly restrict human rights must be proportionate and necessary (Okogule, 2018, p. 87). The closure of markets and public spaces, for instance, disproportionately affected small business owners and traders, many of whom lacked government relief or alternative means of livelihood. Critics argue that a more balanced approach, such as targeted lockdowns or financial support for affected populations, could have reduced economic hardships while still protecting public health.

Furthermore, the right to life is interconnected with other fundamental rights, including the right to work, healthcare, and social security. As Okogule (2018, pp. 100-101) notes, the right to life is meaningless without access to basic necessities such as food, shelter, and healthcare. The African Charter on Human and Peoples' Rights reinforces this principle, stating that the fulfillment of economic and social rights is a prerequisite for the enjoyment of civil and political rights (Vienna Declaration, 1993).

Additionally, some measures directly infringed upon personal autonomy and medical rights. Under common law principles, every competent adult has the right to refuse medical treatment (Stamatakis, 2007). In *Sideway v. Bethlehem Royal Hospital Governors* (1985), Lord Scarman held that performing a medical procedure without patient consent constitutes assault. This principle was reaffirmed in *Medical and Dental Practitioners Disciplinary Tribunal v. Dr. John E. Nicholas Okonkwo* (2001), which held that a patient has the right to informed consent for any medical procedure. However, during COVID-19, travelers and suspected carriers were subjected to forced quarantine and compulsory testing, raising concerns about violations of medical autonomy.

The Nigerian government justified compulsory quarantines and isolation orders on the grounds of public health necessity. This aligns with jurisprudence from *Esanubor v. Faweya* (2008), where the court held that a parent's right to refuse medical treatment on behalf of a child can be overridden if it endangers the child's life. Similarly, public health laws allow governments to mandate isolation when an individual's actions pose a direct threat to others. Despite legal justifications, some argue that Nigeria's response lacked adequate social protections, as seen in widespread hunger, unemployment, and lack of financial relief. Comparisons with other countries, such as the United States and the United Kingdom, reveal that many governments introduced stimulus packages to cushion the economic impact of lockdowns. However, Nigeria's relief efforts were criticized for being insufficient and unevenly distributed (Aidonjio et al, 2024).

### 6. Jurisprudence Supporting Government Measures for Pandemic Containment

The concept of human rights is universally recognized as fundamental to human existence. These rights, which are inherent and inalienable, exist independently of the state and predate the establishment of political societies (Igwe, 2020). In *Ransome Kuti v. Attorney General of the Federation*

(1985), the Nigerian Supreme Court affirmed that fundamental rights are not privileges conferred by the government but pre-existing rights that the law merely recognizes and safeguards. However, while these rights are protected under the 1999 Constitution of the Federal Republic of Nigeria, they are not absolute. A crucial question arises: Can the state justifiably restrict certain rights for the common good, particularly in times of public health emergencies? This debate centers on the tension between autonomy and paternalism, key jurisprudential concepts that underlie state power and individual rights.

Autonomy, as articulated by Immanuel Kant, is regarded as the foundation of human dignity (Wright, 2016). It refers to the right of individuals to make decisions regarding their lives, including choices about their health and bodily integrity (Gbobu & Oke-Chinda, 2017). Within the medical context, this means that a patient has the right to accept or refuse medical interventions, a principle that has been upheld in common law jurisdictions (Dryden, 2022). However, this autonomy is often challenged during public health crises, where the state may impose restrictions on individual freedoms to protect the greater welfare of society.

Conversely, paternalism justifies state intervention to protect individuals from harm, even if such actions override personal autonomy. According to Feinberg (1971), paternalism refers to interference with a person's freedom for their own benefit, whether or not they consent. This justification is often invoked in public health emergencies, where the state enforces measures such as mandatory quarantines, lockdowns, and vaccination programs to prevent the spread of infectious diseases. Dworkin (2020) defines paternalism as state actions taken against an individual's will to safeguard their well-being or to protect society from harm. While paternalism can sometimes result in government overreach and the erosion of civil liberties, legal scholars acknowledge that a total absence of paternalism could lead to a chaotic society where the strongest act unchecked to the detriment of others (Antai, 2024).

In Nigerian law, paternalism and autonomy are often in tension, particularly in cases involving medical treatment and public health policies. For instance, in *Esanubor v. Faweya* (2008), the court ruled that a parent's right to refuse medical treatment on behalf of a child can be overridden when it endangers the child's life. This precedent reinforces the principle that individual autonomy may be curtailed when the exercise of such autonomy risks harm to others or undermines the broader interests of society. Similar reasoning applies to public health regulations during

pandemics, where the government may impose restrictions on movement, mandatory quarantine, or forced medical treatment to prevent the uncontrolled spread of infectious diseases.

A key jurisprudential foundation for state intervention in public health crises is John Stuart Mill's "Harm Principle". In his seminal work *On Liberty* (2001, p. 13), Mill states that: "The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not sufficient justification."

This principle implies that individual freedom is not limitless—it can be lawfully curtailed when its exercise poses a direct risk to others. Mill acknowledges that the state has no authority to interfere with an individual's personal choices unless those choices cause harm to others (Aidonojie et al, 2024). For example, if a person infected with COVID-19 refuses quarantine, their actions could endanger public health, justifying government intervention. However, Mill explicitly excludes children and those incapable of making rational decisions from his analysis, suggesting that paternalistic intervention is more acceptable in such cases (Mill, 2001, p. 14).

In applying Mill's Harm Principle, legal theorists argue that the exercise of personal freedoms—such as the right to refuse medical treatment—must be balanced against the public interest in preventing harm (Wright, 2016). Savulescu (2023) supports this perspective, asserting that while individuals should be free to act as they choose, restrictions become necessary when their actions result in direct harm to others. This is particularly relevant in pandemic situations, where an individual's refusal to undergo testing, quarantine, or vaccination could facilitate the spread of disease, jeopardizing public health and safety.

Feinberg's Theory of Harm expands on this idea by arguing that harm occurs when an individual's actions compromise the legitimate interests of others. For example, a person infected with COVID-19 who refuses testing or isolation may expose others to infection, thereby violating their right to health and life. Consequently, the state has a legal and moral obligation to intervene to prevent widespread harm, even if this means restricting certain individual freedoms.

From a constitutional perspective, the Nigerian government's response to the COVID-19 pandemic was grounded in Sections 35(1)(e) and 45 of the 1999

Constitution, which permit the lawful restriction of personal liberty in the case of infectious diseases. Section 45 further authorizes limitations on freedom of movement and association when justified by public health concerns. However, in both Nigeria and South Africa, the legality of movement restrictions was challenged on the basis that emergency powers must be exercised with due regard for proportionality and judicial oversight (Esavwede & Ogisi, 2023). The comparative legal analysis of both countries highlights the tension between executive authority and constitutional safeguards during public health emergencies. Similarly, international human rights law recognizes that certain rights, including freedom of movement, may be lawfully restricted to prevent disease transmission, provided such restrictions are necessary, proportionate, and non-discriminatory (ICCPR, Art. 12). The African Charter on Human and Peoples' Rights (ACHPR, Article 27(2)) also states that: "The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality, and the common interest." This suggests that the common good takes precedence over absolute individual freedoms, particularly in emergency situations.

In practice, Nigeria's enforcement of COVID-19 containment measures was met with significant resistance, as many perceived the measures as disproportionate and unjustified. Reports of excessive use of force by security agencies, economic hardships caused by lockdowns, and insufficient government support for affected citizens raised concerns about the proportionality and fairness of state interventions (Shodunke, 2022). While legal justifications exist for pandemic containment measures, their implementation must align with constitutional safeguards and international human rights principles.

Another relevant legal principle is *Salus Populi Suprema Lex*—"the welfare of the people is the supreme law". This principle underpins public health laws worldwide, emphasizing that individual rights may be lawfully curtailed to protect the broader interests of society (Adangor, 2018, p. 585). However, legal scholars caution that emergency powers should not be exploited to justify indefinite restrictions on civil liberties. As Rutzen & Dutta (2020) highlight, emergency powers tend to "persist and endure", even beyond the crisis period, raising concerns about potential authoritarian overreach.

The Nigerian government's COVID-19 response illustrates the delicate balance between autonomy and state-imposed paternalism. While the legal foundation for government intervention is well established,

questions remain about the proportionality, necessity, and implementation of such measures. Moving forward, governments must ensure that public health policies are both effective and compliant with human rights obligations, preventing unwarranted violations of fundamental freedoms (Antai et al, 2024)

## 7. Conclusion

The legal and jurisprudential discourse on pandemic containment measures underscores the delicate balance between individual rights and the state's duty to protect public health. While the right to life, freedom of movement, and personal autonomy are fundamental human rights, they are not absolute—particularly when their unrestricted exercise poses a significant threat to society. As demonstrated in the COVID-19 pandemic and historical health crises, governments have invoked emergency powers and public health laws to curb the spread of infectious diseases. However, the extent to which these measures align with constitutional safeguards and human rights standards remains a subject of critical legal inquiry. The harm principle, paternalism, and *Salus Populi Suprema Lex* all provide jurisprudential justification for state intervention, yet they also necessitate careful scrutiny to prevent governmental overreach, abuse of emergency powers, and disproportionate restrictions on civil liberties.

Moving forward, pandemic containment policies must adhere to the principles of legality, necessity, proportionality, and non-discrimination, ensuring that measures taken to protect public health do not permanently erode fundamental freedoms. Governments must strike a balance between safeguarding collective welfare and upholding human rights, implementing restrictions only when absolutely necessary and subjecting them to judicial and legislative oversight. Future public health frameworks should incorporate clear legal guidelines, accountability mechanisms, and robust socio-economic support structures to mitigate the adverse effects of restrictions on vulnerable populations. Ultimately, an effective pandemic response is one that protects both public health and human dignity, reinforcing the rule of law even in times of crisis.

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