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Pandemic Police States

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Abstract: The COVID-19 outbreak prompted governments around the world to employ a range of emergency methods to combat the pandemic. In many countries these emergency measures relied heavily on police powers, which refer to the capacity of governments to forcefully regulate behavior and impose order as defined by those in control of the state apparatus. Throughout the world police powers have been used to limit free association through government-imposed stay-at-home orders, impose social distancing rules, close non-essential businesses, and impose lockdowns. State orders have been enforced through various forms of direct monitoring, indirect surveillance, and in some instances, violence. We discuss the theoretical foundations of the troubling aspects of pandemic police states. We then catalog some pandemic police state activities associated with the COVID-19 pandemic. We conclude with the implications for peace studies.

Keywords: coronavirus disease 2019, COVID-19 pandemic, police states, surveillance

JEL Codes: D73, H11, H12

1 Introduction

The coronavirus disease 2019 (COVID-19) outbreak prompted governments around the world to employ a range of emergency methods to combat the pandemic. In many countries these emergency measures relied heavily on police powers, which refer to the capacity of governments to regulate behavior and

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impose order as defined by those in control of the state apparatus. Throughout the world police powers have been used to limit free association through government-imposed stay-at-home orders, impose social distancing rules, close non-essential businesses, and impose lockdowns. State orders have been enforced through various forms of direct monitoring, indirect surveillance, and in some instances, violence. Some state leaders have used the COVID-19 pandemic as an opportunity to expand and institutionalize authoritarian police powers.

As the range of government responses illustrate, one implication of COVID-19 is the rise of police states which, in the name of protecting public health, limit the basic rights and freedoms of citizens and impose, often harsh, punishments on those who fail to obey state dictates. The term “police states” is typically reserved for the most authoritarian of regimes who extensively repress the economic, political, and social lives of their citizens through the exercise of their police powers. As the responses to COVID-19 illustrate, however, this is too narrow as all states have the potential to act as police states. For instance, in response to surveillance activities undertaken by police in the United Kingdom to enforce social distancing, Jonathan Sumption, a former Justice of the Supreme Court of the United Kingdom, noted that “[t]his is what a police state is like ... It is a state in which a government can issue orders or express preferences with no legal authority, and the police will enforce ministers’ wishes” (quoted in Picheta 2020). This logic can be extended beyond surveillance to refer to the wide range of activities undertaken by states in the name of addressing the pandemic.

This has important implications for those concerned with peace studies. Many assume that a large-scale state response is necessary to combat public health crises, such as the COVID-19 pandemic. The underlying logic is that the state has the resources and scale to solve collective action problems. Doing so, however, grants governments significant political power over the lives of ordinary people, leading to a reduction in their social power. Social power refers to the ability of individuals to exercise individual choice, including how to resolve collective action problems. Increases in political power, and reductions in social power, can be long lasting as shifts in the scope and scale of government power associated with crises cannot simply be undone (Higgs 1987).

In Section 2 we discuss the theoretical foundations of the troubling aspects of pandemic police states. In Section 3 we catalog some pandemic police state activities associated with the COVID-19 pandemic. Our goal is not to judge the efficacy of these activities for combatting COVID-19, but rather to highlight how they require, and expand, state power. We conclude with the implications for peace studies and discuss areas for research.

2 Theoretical Foundations

In framing the different roles of the state, Buchanan (1975) made the distinction between the protective-productive state and the redistributive state. The protective-productive state protects the rights of citizens, as delineated in the constitution, while providing value-added public goods that increase social wellbeing. The redistributive state, in contrast, is predatory in nature. It involves the abuse of state power for narrow opportunistic ends. This might involve the abuse of citizens' rights or the forceful transfer of resources to benefit politically connected groups.

Buchanan's distinction illustrates the fundamental issue with empowering the state. It is possible that expanding political power will yield positive-sum benefits (the protective-productive state). That same political power, however, creates the potential for state predation. In Buchanan's framework, it is ultimately the constitutional rules which determine which type of state activities dominate.

In the context of public health crises, such as the COVID-19 pandemic, focus is typically on the protective-productive capabilities of the state. In this role governments adopt policies which advance human welfare while protecting people's rights and freedoms. This is indeed possible. Granting governments this power, however, also opens the door for the predatory state both during and after the crisis. The worrisome aspects of the predatory state operate through four main channels during public health crises.

First, during times of crisis, there is a tendency to discard constitutional constraints on government for purposes of expediency. The underlying argument is that unchecked power needs to be centralized in the hands of a few who can act quickly and decisively in the name of the national interest. From this perspective violations of constitutional rules are necessary to maintain order and improve human welfare. Moreover, violations will be effectively addressed by the legislature and courts post-crisis to prevent permanent, institutionalized abuses of power.

An existing literature in public choice, however, identifies frictions—e.g. principal-agent problems, voter rational ignorance, bureaucratic incentives, special interest groups—in democratic political institutions which can weaken the effectiveness of these checks on political opportunism (Mueller 2003; Rowley and Schneider 2004; Reksulak, Razzolini, and Shughart 2014). Legal scholars have also identified similar frictions in democratic institutions, especially as they pertain to the ability of those with political power to impose significant costs on minority groups (Cole 2008).

Second, implementing pandemic-related policies involves expansions in state control to enforce government mandates. This entails employing, or developing, tools and techniques of state-produced social control to incentivize compliance through potential or actual punishment. Examples include targeted police patrols, state-issued papers regarding movement, widespread surveillance, and state-established mechanisms for citizens to report deviations by their fellow citizens. Punishments may include fines, state monitoring of targeted individuals, jailing, or violence. The human and physical capital associated with this state power remains after the crisis ends and can be used for future predation.

Third, the economic rents associated with state responses to health crises attract an array of interests who have an incentive to engage in narrow opportunism by rousing public fear and encouraging expansions in political power. The “health crisis industry” includes the array of experts, special interest groups, bureaucrats, and members of the media who have a stake in magnifying and perpetuating the crisis. The members of this industry promote, reinforce, and extend the redistributive state and the associated rents, offsetting at least some of the productive benefits of the government response to the extent they exist.

The final channel is the ideological change associated with the government response to the crisis which can lead to permanent changes in the state-citizen relationship (Higgs 1987: 35–56). A strong state response requires new powers and resources, some of which persist in the post-crisis period. Under this scenario political power increases at the expense of individual power with this shift becoming institutionalized in everyday life as people’s expectations regarding allowable state and private activities change.

Together, these four channels empower, entrench, and expand the operations of the predatory state. Note that these channels do not suggest that public health crises do not pose real threats or impose real costs on ordinary people. Nor do they imply that government activities never generate benefits on certain margins. What they do suggest is that it cannot simply be assumed that governments will always and everywhere act in a protective-productive manner to advance the “public interest.”

Moreover, these channels make clear that the costs of government responses to health crises are often long lasting, variable, and unseen meaning that the overall costs of government responses will tend to be understated. Even if the state response to a public health crisis generates short-term benefits, it does so at the expense of individual power which is reduced as political power expands. This expansion in state power can persist well into the future and lead to subsequent predation after the health crisis is over.

3 A Sample of Pandemic Police State Activities¹

3.1 Authoritarianism within Constitutional Rules

This category entails political rulers using a crisis as an opportunity to secure more power over citizens by expanding their constitutional authority. These efforts often take place through established legal processes as leaders strategically use existing institutions to shift constitutional constraints on their power. For example, in early March the Russian parliament (the Duma) approved constitutional changes, endorsed by President Vladimir Putin, to remove limits on the number of terms Putin can serve while also limiting the powers of parliament and the courts. These changes were justified in the name of ensuring stability in the face of the COVID-19 pandemic and dramatic swings in oil markets. A few weeks later, Hungary's parliament granted Prime Minister Viktor Orban the power to rule by decree with no expiration date on the expanded power.

3.2 State Violence

This category of activities includes state brutality—violence, jailing, murder—justified by the enforcement of pandemic-related dictates. Human Rights Watch has documented brutality by police enforcing social distancing dictates in Kenya and Nigeria. The organization also documented how Cambodia's government has used the COVID-19 pandemic to detain and arrest critics of the government on charges of incitement, conspiracy, and spreading “fake news.” In the United States, a group of police in Philadelphia physically carried a passenger from public transportation for not wearing a mask. In New York City police were filmed beating citizens and kneeling on one person's head for violating social distancing dictates.

3.3 State Surveillance

This category includes direct state surveillance of the citizenry as a form of social control. The purpose of these activities is to create compliance through fear of being caught and punished by state authorities. The Chinese government has leveraged its extensive surveillance system to monitor and track citizens. It has also installed CCTV cameras outside the apartments of those quarantined in order to monitor their movements. In Moscow the police have used the government's

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¹ Details and sources of the examples discussed are available from the authors upon request.

existing camera system along with facial recognition technologies to monitor people who violate mandatory self-isolation. The Israeli government has authorized its internal security agency (Shin Bet) to utilize cell phone data to trace the movements of those testing positive and to identify other citizens to be quarantined. The Israeli police also have the power to directly surveil those who are supposed to be isolating. Other governments, such as those in Singapore and South Korea, are also using tracking tools—e.g. cellular locational data, credit card information, and cameras—to track citizen movement. Governments in countries around the world, including the United Kingdom and the United States, are using drones to monitor citizens and enforce social distancing dictates.

3.4 State-Facilitated Civilian Surveillance

This category includes state activities to encourage and facilitate citizen surveillance of fellow citizens. Under this scenario citizens become extensions of the state surveillance apparatus. In China the government has relied on the extensive Communist Party network to facilitate citizen-on-citizen surveillance. Governments around the world have introduced mechanisms for citizens to report deviations from state dictates. For example, some local governments in the United Kingdom and in the United States have launched phone lines, phone apps, and websites for citizens to report violations of state-at-home orders and social distancing guidelines by their fellow citizens.

3.5 State Prevention of Free Association

This category includes the use of political power to suppress voluntary interactions and exchanges between private individuals. The types of interactions that are blocked may include social gatherings, religious gatherings, economic transactions, and political gatherings. Governments around the world have outlawed or severely limited the size of gatherings whether they are for social, economic, political, or religious purposes. Some governments have determined that political protests are considered non-essential activities with the threat of arrest for participation. Globally, governments have determined which economic activities should be considered essential and issued state orders to prevent those deemed nonessential. These dictates are typically backed by various threats such as fines or jail. Freedom of movement within countries has also been restricted. For example, in the United States several states—e.g. Rhode Island, Florida—have established checkpoints for out-of-state visitors in order to restrict their entry or to collect their

contact information. In France, the government required citizens to fill out a form to justify leaving their home and to present the form to police on demand. Similarly, government issued passes to limit citizen travel are in use by local governments in Russia and Kazakhstan.

4 Conclusion

The activities of pandemic police states highlight the contest between individual social power and state political power. Expansions in political power to address public health crises come at the expense of individual rights and freedoms. This political power can be used for good but can also be used to predate private people. Some of this predation is immediate and readily observable, such as discretionary violence against individuals who cross the enforcers of state dictates related to the health crisis. Other forms of predation are less transparent and have long-term consequences for individual rights, such as expansions in state surveillance, which can persist well after the crisis ends. Because of the possibility for predation, pandemic police states raise important issues for peace science scholars. Several potential opportunities for future research exist.

One area for future research is studying the long-lasting effects, if any, of the types of state activities discussed in the prior section. This research should focus on how police state activities intended to address the COVID-19 pandemic impact the institutional fabric of society for better or worse. A related, but broader, area of study should focus on understanding the general conditions under which state activities to address health crises generate enhancements or reductions in human welfare. This requires an appreciation of three realities.

First, health crises are extremely serious matters requiring efforts to minimize human suffering. Second, social power in its various manifestations—the ability of individuals to exercise self-determination, freedom of association, and economic freedom—is crucial to individual well-being and flourishing. Third, state-led efforts to address crises are often at odds with the power possessed by individuals as increased political power crowds out, or altogether erodes, social power. Scholarship in this area should seek to understand this tension by engaging in both conceptual and historical analysis of government responses to health crises.

A final potential topic of study is alternative modes of responding to public health crises. In the face of collective action problems many see “the state” as the only solution. But as Ostrom (2010) emphasized, polycentric systems, relative to monocentric system, may offer superior solutions because they allow for experimentation and a diversity of solutions which reflect context-specific conditions. The role of polycentric systems as a means for addressing public health crises and

for checking potential abuses by predatory states is a fruitful topic of study for peace scientists. Research on this topic appreciates the distinction between government and governance (non-government forms of order) while seeking to understand, both conceptually and empirically, the circumstances under which these alternative means of social organization are best able to deal with public health crises.

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