

CORONA PAN(DEM)IC: THE GATEWAY TO GLOBAL SURVEILLANCE?¹

Our solidarity must be grounded on facts – not on fear.

R. Surber, 2 April 2020²

It is said that the ‘corona crisis’ may be the biggest crisis of the current generation. As of 2 April, 937,783 persons are said to have been tested positive on Sars-CoV-2³ in 204 countries and territories,⁴ and 47,267 people are said to have died from Covid-19.⁵ On 11 March 2020, the World Health Organization’s Director General declared Covid-19 as a pandemic.⁶ By the end of January and early February 2020, a wave of panic of the unknown physical Covid-19 illness has spread across the planet.⁷

Governmental restrictions and human rights

In an attempt to contain the spread of the corona pandemic, and in order for national health care systems not to be overwhelmed by the potentially enormous influx of people suffering from the acute respiratory syndrome that Sars-CoV-2 may trigger, many governments have adopted emergency measures.

Those emergency measures are, arguably, drastic: in order to secure both public order and public health, most governments around the world have temporarily closed educational institutions, impacting 89% of the world’s student population. Several other countries have implemented localized closures that may impact millions of additional learners.⁸

Around 70 countries across the world are limiting entry in order to curb the spread of the virus.⁹ Many governments have also implemented curfews or urge people to stay at and work from home. In places where people are still allowed to leave their houses, gatherings of more than a hand full of people are banned.¹⁰ In many countries, doctors’ offices and pharmacies continue to stay open, but restaurants, bars and non-essential shops around the globe are ordered to close their doors. This threatens the existence of small companies, with some businesses already declaring

¹ Based on Regina Surber’s presentation ‘[Coronavirus, technology, human rights](#)’ held on 31 March 2020 at SwissCognitive’s and AICapital’s ‘Virtual Conference: AI in ‘Tumultuous Times’

² Regina Surber is scientific advisor to the ICT4Peace Foundation and the Zurich Hub for Ethics and Technology (ZHET).

³ John Hopkins University and Research Center, Coronavirus Research Center <https://coronavirus.jhu.edu/map.html> (accessed on 2 April 2020).

⁴ Ibid.

⁵ Covid-19 Coronavirus Pandemic, Worldometer, <https://www.worldometers.info/coronavirus/> (accessed on 2 April 2020).

⁶ WHO Director-General’s opening remarks at the media briefing on Covid-19, 11 March 20, <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> (accessed on 2 April 2020).

⁷ Sars-CoV-2 is a mutation of a corona virus known to cause severe disease in the human body; see e.g. Corman, Victor, Muth, Doreen, Neimeyer, Daniela, and Drosten, Christian, 2018, Hosts and Sources of Endemic Human Coronaviruses, *Advances in Virus Research* 100, 163-188; Andersen, Kristian, Rambaut, Andrew, Lipkin, W. Ian, Holmes, Edward, and Garry, Robert, 2020, The proximal origin of Sars-coV-2, *Nature Medicine*, <https://doi.org/10.1038/s41591-020-0820-9>.

⁸ Unesco, Covid-19 Educational Disruption and Response, Unesco, <https://en.unesco.org/covid19/educationresponse>, https://en.wikipedia.org/wiki/Impact_of_the_2019%E2%80%99320_coronavirus_pandemic_on_education (accessed 1 April 2020).

⁹ Salcedo, Andrea, and Cherelus, Gina, Coronavirus ‘Travel Restrictions, Across the Globe’, *The New York Times*, 1 April 2020, <https://www.nytimes.com/article/coronavirus-travel-restrictions.html> (accessed on 2 April 2020).

¹⁰ An example is Switzerland, Schweizerische Eidgenossenschaft, Bundesamt für Gesundheit, Neues Coronavirus: Massnahmen des Bundes, <https://www.bag.admin.ch/bag/de/home/krankheiten/ausbrueche-epidemien-pandemien/aktuelle-ausbrueche-epidemien/novel-cov/massnahmen-des-bundes.html#797337129> (accessed on 2 April 2020).

insolvency.¹¹ Further, in some areas of the world, health access is restricted to almost Covid-19-only cases.¹²

Those restrictions affect our human rights. Curfews and the ban on gatherings may infringe our freedoms of movement¹³ and assembly.¹⁴ The closing of educational institutions worldwide severely rephrases access to education, a right granted by the Universal Declaration of Human Rights (UDHR).¹⁵ What is more, the requirement to shift to online-learning exposes education's digital divide: in poorer countries, children may not have the resources required to be digitally home-schooled.¹⁶ Further, many health institutions and hospitals may be forced to triage patients in case of a sudden overload, which may impede access to medical care.¹⁷ In addition, the shutting down of public life may put jobs and livelihoods into severe jeopardy – possibly affecting our right to work.¹⁸

Global surveillance

Besides restrictions on physical movement that entail the above-mentioned potential risks to our freedoms of movement and assembly, our rights to access education and health institution, and our right to work, many governments also increasingly rely on emerging technologies in their 'fight'¹⁹ against pandemic. Those 'digital measures' may severely infringe our human right to privacy,²⁰ and mark the transition into a world of surveillance technology. What is more, it is precisely the countries adopting those 'digital measures', who are said to be most successful in curbing the spread of the virus.²¹

Recently adopted emergency measures that engage new technologies aim primarily at analyzing the spreading pattern of the virus and at monitoring and enforcing the curfews. By relying on digital strategies, governments follow the World Health Organization's recommendation to trace contacts between their citizens.²²

¹¹ Allen, Matthew, Fight to survive: Coronavirus fallout threatens existence of small companies, 18 March 2020, https://www.swissinfo.ch/eng/fight-to-survive_coronavirus-fallout-threatens-existence-of-small-companies/45625050 (accessed on 2 April 2020); for insolvency, see e.g. Vapiano, SDA/Reuters, Vapiano beantragt Eröffnung des Insolvenzverfahrens, 2 April 2020, <https://www.bluewin.ch/de/news/wirtschaft-boerse/vapiano-stellt-insolvenzantrag-375833.html> (accessed on 2 April 2020).

¹² Comment by Amb. Elisabeth Tichy-Fisselberger, Technology and human rights in times of crisis, WebDebate, DiploFoundation and Geneva Internet Platform, March 26 2020.

¹³ Art. 13 (1) Universal Declaration of Human Rights (UNDHR), Art. 12 (2) International Covenant on Civil and Political Rights (ICCPR).

¹⁴ Art. 20 (1) UDHR, Art. 21 ICCPR.

¹⁵ Art. 26 (1) UDHR.

¹⁶ Thong, Raymond, The Coronavirus exposes Education's Digital Divide, The New York Times, 18 March 2020, <https://www.nytimes.com/2020/03/17/technology/china-schools-coronavirus.html> (accessed on 2 April 2020).

¹⁷ Art. 25 (1) UDHR.

¹⁸ Art. 23 (1) UDHR.

¹⁹ Donald Trump uses belligerent rhetoric in framing federal governmental measures to curb the spread of Sars-CoV-2, see e.g. Coronavirus: Trump puts US on war footing to combat outbreak, 19 March 2020, BBC News, <https://www.bbc.com/news/world-us-canada-51955450> (accessed on 2 April 2020).

²⁰ Art. 12 UDHR, Art. 17 ICCPR.

²¹ Comment by Amb. Elisabeth Tichy-Fisselberger, Technology and human rights in times of crisis, WebDebate, DiploFoundation and Geneva Internet Platform, March 26 2020.

²² World Health Organization, Global *surveillance* for Covid-19 caused by human infection with Covid-19 virus, 20 March 2020, <https://apps.who.int/iris/bitstream/handle/10665/331506/WHO-2019-nCoV-SurveillanceGuidance-2020.6-eng.pdf?sequence=1&isAllowed=y> (accessed on 30 March 2020).

Emergency measures engaging new technologies may be roughly divided into three groups:

Digital Tracking: Digital tracking includes the use of aggregated mobile location data to track citizens during lockdowns, apps designed to help identify the location of those with Sars-CoV-2,²³ and the deployment of advanced mobile monitoring technologies. As of 2 April 2020, 20 countries around the world have adopted digital tracking measures. E.g., government officials across the US are relying on location data from millions of cellphone users to better understand the movements of Americans during the pandemic, and how those movements may be affecting the disease.²⁴ The British government is working with major mobile network O2 to analyze its users' location data.²⁵ On Tuesday, 17 March, Israel's government approved new surveillance measures that will allow the regime to track citizens by monitoring their mobile phones. The technology, which was originally developed to assist in counter-terrorism operations, is thought to be able to track the physical location of all mobiles in the country, as well as monitor calls and messages. According to digital rights group '7amleh', it is also capable of accessing citizens cameras and headsets.²⁶ Other countries whose governments retrieve their citizens' geolocation data are Brazil,²⁷ South Africa,²⁸

²³ See e.g. the tracking-app developed with the support of Swiss researches at the EPFL in Lausanne, Coronavirus: Schweizer Forscher entwickeln Tracking-App mit, Handelszeitung.ch, <https://www.handelszeitung.ch/panorama/coronavirus-schweizer-forscher-entwickeln-tracking-app-mit> (accessed on 2 April 2020).

²⁴ Tau, Byron, Government Tracking How People Move Around in Coronavirus Pandemic, 28 March 2020, The Wall Street Journal, <https://www.wsj.com/articles/government-tracking-how-people-move-around-in-coronavirus-pandemic-11585393202> (accessed on 2 April 2020).

²⁵ Martin, Alexander, Coronavirus: Government using mobile location data to tackle outbreak, 19 March 2020, Skynews, <https://news.sky.com/story/coronavirus-government-using-mobile-location-data-to-tackle-outbreak-11960050> (accessed 2 April 2020).

²⁶ 7amleh, Netanyahu imposes dangerous 'Big Brother' surveillance under the pretext of a security response to the coronavirus, 15 March 2020, <https://7amleh.org/2020/03/15/netanyahu-imposes-dangerous-big-brother-surveillance-under-the-pretext-of-a-security-response-to-the-coronavirus/> (accessed on 2 April 2020).

²⁷ Mari, Angelica, Brazil introduces surveillance tech to slow the spread of the coronavirus, 27 March 2020, Zdnet, <https://www.zdnet.com/article/brazil-introduces-surveillance-tech-to-slow-the-spread-of-coronavirus/> (accessed on 2 April 2020).

²⁸ Sout Africa will be tracking cellphones to fight the Covid-19 virus, 25 March 2020, Business Insider SA, https://www.businessinsider.co.za/south-africa-will-be-tracking-cellphones-to-fight-covid-19-2020-3?fbclid=IwAR2SuMq5K3QiaX5UPs0XQg0pAXDWLh4j8INxDqxr3ftj1l_1lfdpPNLTMOs (accessed on 2 April 2020).

Bulgaria,²⁹ Pakistan,³⁰ Russia,³¹ Singapore,³² India,³³ Poland,³⁴ Hong Kong,³⁵ Italy,³⁶ Ecuador,³⁷ Germany,³⁸ Austria,³⁹ South Korea,⁴⁰ Belgium,⁴¹ Iran⁴² and Taiwan.⁴³

Physical Surveillance: In order to slow the spread of COVID-19, governments are also adopting increasingly extensive physical surveillance measures. Those measures include the deployment of facial recognition cameras equipped with heat sensors, surveillance drones used to monitor citizens' movements, and extensive CCTV networks. The West Australian police force,⁴⁴ the New York Police Department,⁴⁵ UK police forces,⁴⁶ Belgian police,⁴⁷ and Madrid's police force⁴⁸ are increasingly relying on the use of aerial footage through drones in order to enforce ongoing

²⁹ Tweet by Dr. Vesselin Bontchev, 24 March 2020, <https://twitter.com/VessOnSecurity/status/1242503942409519106?s=20> (accessed on 2 April 2020).

³⁰ Jahangir, Ramsha, Govts starts cell phone tracking to alert people at virus risk, 24 March 2020, Dawn.com, <https://www.dawn.com/news/1543301/govt-starts-cell-phone-tracking-to-alert-people-at-virus-risk> (accessed on 2 April 2020).

³¹ See announcement by the Russian Government ordering the Ministry of Communications to develop a new contact tracing system to help monitor citizens thought to have come into contact with those that have the virus, <http://government.ru/orders/selection/401/39243/> (accessed on 2 April 2020); Russian officials will track coronavirus patients' geolocation data to design a national warning system, 23 March 2020, Meduza.io, <https://meduza.io/en/news/2020/03/23/russian-officials-will-track-coronavirus-patients-geolocation-data-to-design-a-national-warning-system> (accessed on 2 April 2020).

³² Baharudin, Hariz, Coronavirus: Singapore develops smartphone app for efficient contact tracing, 20 March 2020, Straitstimes, <https://www.straitstimes.com/singapore/coronavirus-singapore-develops-smartphone-app-for-efficient-contact-tracing> (accessed on 2 April 2020).

³³ Srivastava, Roli, and Nagaraj, Anuradha, Privacy fears as India hand stamps suspected coronavirus cases, 20 March 2020, Reuters, <https://www.reuters.com/article/us-health-coronavirus-privacy/privacy-fears-as-india-hand-stamps-suspected-coronavirus-cases-idUSKBN21716U> (accessed on 2 April 2020).

³⁴ Poland's Ministry of Digital Affairs has launched an app for quarantined citizens that invites users to send geo-located selfies at random times throughout the day, helping the government to ensure that they are abiding by the quarantine rules, Poland: App helps police monitor home quarantine, 19 March 2020, Privacy International, <https://www.privacyinternational.org/examples/3473/poland-app-helps-police-monitor-home-quarantine> (accessed on 2 April 2020).

³⁵ Hui, Mary, Hong Kong is using tracker wristbands to geofence people under coronavirus quarantine, 20 March 2020, Quartz, <https://qz.com/1822215/hong-kong-uses-tracking-wristbands-for-coronavirus-quarantine/> (accessed on 2 April 2020).

³⁶ Vodafone launches a five-point plan to help counter the impacts of the Covid-19 outbreak, 18 March 2020, Vodafone.com, <https://www.vodafone.com/news-and-media/vodafone-group-releases/news/vodafone-launches-five-point-plan-to-help-counter-the-impacts-of-the-covid-19-outbreak> (accessed on 2 April 2020).

³⁷ Ecuador tracks mobile phones to enforce quarantine, 17 March 2020, Privacy International, <https://www.privacyinternational.org/examples/3476/ecuador-tracks-mobile-phones-enforce-quarantine> (accessed on 2 April 2020).

³⁸ Telekom teilt Daten über 'Bewegungsströme' von Handynutzern mit RKI, 18 March 2020, Welt.de, <https://www.welt.de/politik/deutschland/article206624141/Coronavirus-Telekom-teilt-Bewegungsstroeme-von-Handynutzern-mit-RKI.html> (accessed on 2 April 2020).

³⁹ Mobilfunkler liefert Regierung Bewegungsprofile, 17 March 2020, Kronenzeitung, <https://www.krone.at/2118142> (accessed on 2 April 2020).

⁴⁰ South Korea: App monitors and enforces patient lockdown, 6 March 2020, Privacy International, <https://www.privacyinternational.org/examples/3449/south-korea-app-monitors-and-enforces-patient-lockdown> (accessed on 2 April 2020).

⁴¹ Clout, Amandine, Coronavirus: le cabinet De Block dit 'oui' à l'utilisation des données télécoms, 12 March 2020, Le Soir, <https://plus.lesoir.be/286535/article/2020-03-12/coronavirus-le-cabinet-de-block-dit-oui-lutilisation-des-donnees-telecoms> (accessed on 2 April 2020).

⁴² Gilbert, David, Iran launched an app that claimed to diagnose Coronavirus – instead, it collected location data on millions of people, 14 March 2020, Vice News, https://www.vice.com/en_us/article/epgkmz/iran-launched-an-app-that-claimed-to-diagnose-coronavirus-instead-it-collected-location-data-on-millions-of-people (accessed on 2 April 2020).

⁴³ Chen, Stacy, Taiwan sets example for world on how to fight coronavirus, 13 March 2020, Abc News, <https://abcnews.go.com/Health/taiwan-sets-world-fight-coronavirus/story?id=69552462> (accessed on 2 April 2020).

⁴⁴ West Australian police to use drones to enforce coronavirus restrictions, 30 March 2020, 9news.com.au, <https://www.9news.com.au/national/coronavirus-outbreak-wa-police-to-use-drones-to-enforce-restrictions/30387b30-f34d-40bd-84af-479cd10ff9fe> (accessed on 2 April 2020).

⁴⁵ Tweet from Spectrum News NY1, <https://twitter.com/NY1/status/1243502731408670720> (accessed on 2 April 2020).

⁴⁶ Tweet from Derbyshire police <https://twitter.com/DerbysPolice/status/1243168931503882241> (accessed on 2 April 2020).

⁴⁷ Tweet from Raphael-Antonis Stylianou, the EU Commission's Online Communications Officer, https://twitter.com/Stylianou_EU/status/1241405641266249728?s=20 (accessed on 2 April 2020).

⁴⁸ Tweet by BBC World News, <https://twitter.com/BBCWorld/status/1239267152546467843?s=20> (accessed on 2 April 2020).

lockdowns and monitor citizen movements.⁴⁹ Since the corona virus outbreak, also Russia⁵⁰ and China⁵¹ are relying on a host of extensive surveillance mechanisms, including both drones and facial recognition cameras.⁵²

Censorship: Since the outbreak of the corona virus, there has been an acceleration in the spread of false information.⁵³ In order to control and contain mis- and disinformation, governments have sought to regulate online content and promote official facts and figures from international health organizations. However, several governments have used the rise of mis- and dis-information about Covid-19 to justify censorship practices that aim at silencing regime critics and at controlling the flow of information. E.g., Cambodian⁵⁴ and Ugandan⁵⁵ authorities have arrested social media platform users that spread info about the virus. In Niger,⁵⁶ authorities have arrested a journalist due to his coverage of the virus. Egypt⁵⁷ has taken away the press credentials of a British Journalist due to his alleged bad faith in how Egypt is dealing with the virus. Iran⁵⁸ blocked access to the Farsi language edition of Wikipedia due to criticism on how its authorities are handling the pandemic. Further countries leveraging the risk of false information about corona for censorship purposes are China,⁵⁹ Singapore,⁶⁰ Kenya,⁶¹ Hong Kong,⁶² Russia⁶³ and Thailand.⁶⁴

The description of ongoing monitoring and surveillance measures leads to two observations. First, our right to privacy may be severely infringed. And second, for the first time in human history, technology may make it possible to monitor almost everybody, almost everywhere, almost all the time. In other words, the corona panic and pandemic may let us slide into a world of global

⁴⁹ Ibid.

⁵⁰ Moscow deploys facial recognition technology for coronavirus quarantine, 21 February 2020, Reuters, <https://www.reuters.com/article/us-china-health-moscow-technology/moscow-deploys-facial-recognition-technology-for-coronavirus-quarantine-idUSKBN20F1RZ> (accessed on 2 April 2020).

⁵¹ Kuo, Lily, "The new normal": China's excessive coronavirus public monitoring could be here to stay, 9 March 2020, The Guardian, <https://www.theguardian.com/world/2020/mar/09/the-new-normal-chinas-excessive-coronavirus-public-monitoring-could-be-here-to-stay> (accessed on 2 April 2020); Shanghai introduced QR codes on the subway in order to monitor its citizens, Abacus, Shanghai introduces QR codes on subway to track potential contact with corona, 28 February 2020, South China Morning Post, <https://www.scmp.com/tech/article/3052880/shanghai-introduces-qr-codes-subway-track-potential-contact-coronavirus> (accessed on 26 March 2020).

⁵² Ibid.

⁵³ Woodhams, Samuel, Covid-19 Digital Rights Tracker, 20 March 2020, Top10vpn.com, <https://www.top10vpn.com/news/surveillance/covid-19-digital-rights-tracker/> (accessed on 2 April 2020).

⁵⁴ Cambodia: Covid-19 Clampdown on Free Speech, 24 March 2020, Human Rights Watch, <https://www.hrw.org/news/2020/03/24/cambodia-covid-19-clampdown-free-speech> (accessed on 2 April 2020).

⁵⁵ Coronavirus Covid-19 – Internet Censorship, 23 March 2020, Unwanted Witness, <https://www.unwantedwitness.org/news-brief-ucc-tightens-social-media-censorship-as-uganda-registers-first-case-of-covid19/> (accessed on 2 April 2020).

⁵⁶ Journalist Kaka Touda Mamane Goni arrested in Niger over Covid-19 report, 24 March 2020, Cpj.org, <https://cpj.org/2020/03/journalist-kaka-touda-mamane-goni-arrested-in-nige.php> (accessed on 2 April 2020).

⁵⁷ Egypt targets Guardian, NYT journalists over coronavirus reports, 18 March 2020, Aljazeera.com, <https://www.aljazeera.com/news/2020/03/egypt-targets-guardian-nyt-journalists-coronavirus-reports-200318155434068.html> (accessed on 2 April 2020).

⁵⁸ Wikipedia Farsi blocked in Iran as coronavirus fears spread, 3 March 2020, Netblocks.org, <https://netblocks.org/reports/wikipedia-farsi-blocked-in-iran-as-coronavirus-fears-spread-pA25OE8b> (accessed on 2 April 2020).

⁵⁹ Ruan, Lotus, Knockel, Jeffrey, and Crete-Nishihata, Masashi, Censored Contagion: How information on the coronavirus is managed on Chinese social media, 3 March 2020, Citizenlab.ca, <https://citizenlab.ca/2020/03/censored-contagion-how-information-on-the-coronavirus-is-managed-on-chinese-social-media/> (accessed on 2 April 2020).

⁶⁰ Mahtani, Shibani, Singapore introduced tough laws against fake news – Coronavirus has put them to the test, 16 March 2020, The Washington Post, https://www.washingtonpost.com/world/asia_pacific/exploiting-fake-news-laws-singapore-targets-tech-firms-over-coronavirus-falsehoods/2020/03/16/a49d6aa0-5f8f-11ea-ac50-18701e14e06d_story.html (accessed on 2 April 2020).

⁶¹ Woodhams, Samuel.

⁶² Tweet by Kenneth Roth, 19 March 2020, <https://twitter.com/KenRoth/status/1240671686258802692?s=20> (accessed on 2 April 2020).

⁶³ CPJ calls on Russia to stop censoring news outlets on Covid-19, 25 March 2020, Radio Free Europe, <https://www.rferl.org/a/cpj-calls-on-russia-to-stop-censoring-news-outlets-reporting-on-covid-19/30507738.html> (accessed on 2 April 2020).

⁶⁴ Thailand: Covid-19 clampdown on free speech, 25 March 2020, Human Rights Watch, <https://www.hrw.org/news/2020/03/25/thailand-covid-19-clampdown-free-speech> (accessed on 2 April 2020).

surveillance. Most unfortunately, due to the level of fear and panic, we seem to accept or even take part in those measures without the usual reflex of questioning them.

Potential permanence and inefficacy of emergency surveillance measures

National constitutions as well as international human rights treaties⁶⁵ contain clauses that allow governments to temporarily suspend some of their obligations in a time of crisis. In those situations, governments can invoke special powers that would normally be considered infringements on human rights.⁶⁶ However, those powers are not absolute. The emergency measures must be *necessary* and *proportionate*.⁶⁷

Most importantly, emergency measures can qualify as necessary only if they are also *efficacious*. An instrument is efficacious if it produces the intended effect. An instrument that is incapable to produce the intended effect, is, hence, not efficacious and cannot be necessary for achieving that effect. It follows that, in order to determine whether surveillance mechanisms can qualify as necessary measures, one must determine whether those measures can actually provide *reliable* and *useful* location information, i.e. whether they are efficacious.

Especially measures tapping personal smartphone information could not prove fully efficacious. How can cell phones be tracked? Cell phone towers are one option, but they provide only a very rough measure that is not useful to determine whether the six-foot-proximity threshold is abided by. GPS signals are finer, but they work only outside, and can, therefore, not determine whether two people, e.g., sat in the same train wagon. What is more, as GPS drains battery, many people have it turned off in the first place. A WIFI network or Bluetooth beacon to which a smartphone is connected is a further location indicator. Still, the fact that two cell phones are connected to the same WIFI or Bluetooth does not say that they are not keeping the six-foot distance.⁶⁸

Besides the requirements of proportionality and necessity, emergency legislation must be *time-bound*.⁶⁹ Unfortunately, crises have a habit to fast-forward certain processes and instruments, whose consequences may not disappear once the crisis is over. Hence, the surveillance measures endangering, in particular, our human right to privacy may not be un-created once the pandemic is successfully contained. Hence, the requirement of time limitation may well be neglected.

Two reasons may support the danger of persisting digital surveillance: On the one hand, it could create financial pay-offs. If anything in the world is growing exponentially today, it is the provision

⁶⁵ Art. 4 (1) ICCPR.

⁶⁶ While many states have enacted what have been described as emergency laws in response to the pandemic, not all of these countries have actually declared a 'state of emergency' under law. Hence, governmental behavior is not uniform. E.g., Armenia, Estonia, Georgia, Latvia, Moldova and Romania have declared a state of emergency according to Art. 15 of the European Convention on Human Rights (ECHR), Reservations and Declarations of Treaty No.005, Convention for the Protection of Human Rights and Fundamental Freedoms, Council of Europe, Status 2 April 2020, https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/declarations?p_auth=0C00wpDO (accessed on 2 April 2020). Other countries in Europe, e.g. Italy, Spain, have declared states of emergency in accordance with their constitutional provisions; Italy declares state of emergency over corona virus, 31 March 2020, France24, <https://www.france24.com/en/20200131-italy-declares-state-of-emergency-over-coronavirus> (accessed on 2 April 2020); Armstrong, Mark, Covid-19: Spain extends state of emergency until 11 April, 22 March 2020, Euronews, <https://www.euronews.com/2020/03/22/covid-19-spain-extends-state-of-emergency-until-11-april> (accessed on 2 April 2020). Others, like the UK, have introduced what politicians have described as 'emergency powers.' The UK government, e.g., convinced parliament to pass lengthy legislation allowing extra powers in less than a week, Coronavirus Act 2020, 25 March 2020, UK Parliament, <https://services.parliament.uk/Bills/2019-21/coronavirus/documents.html> (accessed on 2 April 2020).

⁶⁷ Ibid.

⁶⁸ Landau, Susan, 25 March 2020, Location Surveillance to counter Covid-19: Efficacy is what matters, Lawfareblog.com, <https://www.lawfareblog.com/location-surveillance-counter-covid-19-efficacy-what-matters> (accessed on 2 April 2020).

⁶⁹ Peter Micek, Acces Now, Technology and human rights in times of crisis, WebDebate, DiploFoundation and Geneva Internet Platform, March 26 2020.

of and the access to personal data. This may curb the AI industry and could partially support the economic recovery once the virus spread is curbed. On the other hand, surveillance technologies may persist if people spread the perspective of the next crisis being ‘just around the corner’. The speed of the Covid-19 panic wave was enormous, and the paralysis of reflection it created severe. Pre-emptive fear may corroborate and consolidate national and global surveillance mechanisms, and may make us blind to our duty to question them.

Panic and legitimation

The thought driving our precipitous behavior can be summarized as follows: ‘Any measure necessary to save humanity is legitimate.’ This clause must undergo severe scrutiny:

What does humanity mean? If ‘humanity’ is referring to the human species, the pressing question is: Could Sars-CoV-2 extinguish the human species? There exist scientific opinions that draw a less horrible picture.⁷⁰ If the claim that corona puts global human existence at risk lacks considerable evidence, it may not ground legitimacy of severely rights-infringing measures. The argument that corona could put the normal functioning of health institutions into jeopardy is better founded. Yet, whether hospital overcrowding justifies the rush into surveillance is doubtful.

If ‘humanity’ refers to what may slumber within each individual person, then the justification for increased surveillance may be even more fragile: Surveillance may violate human rights that protect precisely this seed of humanity each of us carries within.

Is panic the biggest risk? As it is improbable that corona extinguishes the human race, global panic seems equally ungrounded. Also, if we agree on a civilian duty to reflect upon whether government measures could infringe human rights, our state of excessive emotionality must again be replaced by a state of reason – especially given emergency surveillance’s potential permanence. Put differently, not only the pandemic, but also the panic must stop. If not, we will be incapable to reasonably reflect on whether, and if so, how, to opt out of the path fear has been pushing us on to.

This responsibility lies with all of us. Any institution is only as strong as the reflected minds of its members and the reflected minds of the population it aims to represent. On the one hand side, this conclusion must guide media professionals. Their responsibility to curb fear and provide well-balanced facts in order to push us back to reason is enormous. On the other hand, it must guide those of us whose primary needs are currently met. If we want to move into a balanced future, we must both reconquer and *use* our individual reflective capacity, which requires time and quietness. This may be one profound advantage of the demand to stay at home, as both can be easily seized. We can and must regard the isolation as an invitation for introspection, an increased level of self-understanding, and a new prioritization of values.

Regina Surber, 2 April 2020, Geneva/Zurich: ICT4Peace Foundation and Zurich Hub for Ethics and Technology (ZHET).

⁷⁰ E.g., the European Mortality Statistic does not show a rise in general mortality in Europe, European Mortality Bulletin, Week 12, 2020, <https://www.euromomo.eu/index.html> (accessed on 2 April 2020); note, further, that ‘(...) COVID-19–related deaths are not clearly defined in the international reports available so far, and differences in definitions of what is or is not a COVID-19–related death might explain variation in case-fatality rates among different countries.’ Also, note that the high fatality rate in Italy may well arise precisely due to a particular counting mechanism: ‘(...) Case-fatality statistics in Italy are based on defining COVID-19–related deaths as those occurring in patients who test positive for SARS-CoV-2 via RT-PCR, independently from preexisting diseases that may have caused death. This method was selected because clear criteria for the definition of COVID-19–related deaths is not available.’ Put differently, a corona-fatality is a patient who died and carried the virus, not one who died from the virus, Onder G, Rezza G, Brusaferro S. Case-Fatality Rate and Characteristics of Patients Dying in Relation to COVID-19 in Italy. *JAMA*. Published online March 23, 2020. doi:10.1001/jama.2020.4683.