

CONVERGE COVID-19 Working Groups for Public Health and Social Sciences Research

Research Agenda-Setting Paper

This paper was written to help advance convergence-oriented research in the hazards and disaster field. It highlights areas where additional research could contribute new knowledge to the response to and recovery from the pandemic and other disasters yet to come. Questions about the research topics and ethical and methodological issues highlighted here should be directed to the authors who contributed to this paper.

Working Group Name:

Civil Liberties and Social Control: COVID-19 in India and the United States

Working Group Description:

This Working Group focuses on the extent to which, and how, social control measures imposed in India and the United States to contain the COVID-19 pandemic have resulted in curtailment of civil rights and liberties. It offers a cross-national study highlighting, particularly, impact of the measures in law, policy, and healthcare norms on historically vulnerable communities, including migrant workers and racial minorities. Erosions of constitutional rights and liberties in the respective national responses to the health crisis present an imperative to advance disaster management and communication research, among other ways, by identifying appropriate lessons to balance lockdown, quarantine, isolation, and hospital admission with freedoms of movement and meetings. The Working Group, whose members are academics and practitioners in the two nations, propose research areas that will help in identifying lessons to balance social control measures like lockdown and isolation policies at one end with civil liberties and fundamental rights on the other end.

Priority Research Topics and Specific Research Questions:

India and the United States are using not only medical but also non-pharmacological interventions such as “social distancing” to contain COVID-19 pandemic at a potential cost of constitutional freedoms to travel and conduct meetings. There exists a constitutional imperative to balance and temper pandemic response with civil liberties and their associated rights, particularly the right to be free from discrimination in access to healthcare. Civil rights are protected on the premise of the natural autonomy of an individual and her or his need to self-actualize or seek truth. In India, they are the “fundamental rights” of Articles 12-35 in the constitution to assemble peaceably, form unions, and move about freely, among others. In the United States, they emanate from Amendments 1-10 and 14 of the constitution and include access to public services offered by the state or others, associating with other individuals, and travel. To achieve a balance between the extremes, COVID-19 disaster managers would need to defend the competing priorities in healthcare and civil rights. The Working Group aims to illumine this competition through multiple research topics and questions. This Working Group hopes that it will help disaster managers, funders, journalists, researchers, law and policymakers think about these complexities, and also open up new areas of inquiry for graduate students and other early-career academics.

Priority Research Topics	Potential Research Questions
1. Social Control Enforcement	<ul style="list-style-type: none"> • <u>Research Question 1</u>: What were the social control measures, specifically statutes, executive orders, policy declarations, and healthcare mandates, that the Union of India, the U.S. federal government, and state governments invoked to contain the COVID-19 pandemic? • <u>Research Question 2</u>: How or what mechanisms were used to enforce social controls referred to in Research Question 1? • <u>Research Question 3</u>: What civil liberties and fundamental rights referred to in Research Question 1 and 2 were protected or abrogated? • <u>Research Question 4</u>: How might future social control measures show more sensitivity to civil liberties and rights?
2. Freedoms of Expression	<ul style="list-style-type: none"> • <u>Research Question 1</u>: What concerns related to freedom of speech and other expression did news media report in response to social control measures intended to control misinformation and rumor? • <u>Research Question 2</u>: Did social control measures include specific protections for whistleblowers?
3. Pandemic Contingent Laws	<ul style="list-style-type: none"> • <u>Research Question 1</u>: Citing the COVID-19 pandemic, what laws were created, expanded, or invoked in India and the United States (unless otherwise stated, following questions pertain to both the countries) that impinged on civil liberties and rights? • <u>Research Question 2</u>: What immigration laws were changed ostensibly to contain the COVID-19 pandemic?
4. Social Distancing	<ul style="list-style-type: none"> • <u>Research Question 1</u>: What were practical difficulties or legal consequences triggered by social distancing mandates for individuals who are forced to live in congested spaces where social distancing is impossible, such as Indian slums or U.S. factories?
5. Protections of Privacy	<ul style="list-style-type: none"> • <u>Research Question 1</u>: Did <i>Aarogya Setu</i>, a mobile application developed and promoted by the Government of India for individuals to monitor COVID-19 pandemic infection, jeopardize civil rights? If so, which rights? • <u>Research Question 2</u>: How did the courts respond to health-surveillance measures to COVID-19 contact tracing and monitoring?
6. Protections Against Discrimination	<ul style="list-style-type: none"> • <u>Research Question 1</u>: Did COVID-19 public-health laws and healthcare priorities, including decisions of whom to hospitalize, upend anti-discrimination rights? • <u>Research Question 2</u>: Did the social control measures disproportionately affect historically vulnerable communities—specifically migrant workers within India and racial minorities within the United States—in access to information, testing, treatment, and healthcare? • <u>Research Question 3</u>: How did the social control measures accommodate homeless, migrants, and those with physical or psychological challenges? • <u>Research Question 4</u>: Which social control measures were or are likely to result in stigmatization or discrimination of COVID-19 victims?

7. Protections of Frontline Workers	<ul style="list-style-type: none"> • <u>Research Question 1</u>: Were frontline workers—including doctors, nurses, counselors, and ward assistants—provided adequate information, training, protective gear, and conducive work hours?
8. Civil Rights of Prisoners	<ul style="list-style-type: none"> • <u>Research Question 1</u>: Did processes of detention, arrest, incarceration, and parole change in response to social control? • <u>Research Question 2</u>: Did incarcerated individuals have access to COVID-19 healthcare?

Ethical / Methodological Considerations:

The Working Group recommends qualitative content analysis of primary sources, such as legal and policy documents and secondary sources, such as news reports, and questionnaire survey, distributed to a random sample of scholars in civil rights, disaster management, and government. The COVID-19 pandemic provides limited access to interview research participants and spaces, but the methods of content analysis and survey (with questionnaires distributed electronically) will circumvent some of those contingent challenges. IRB approvals are difficult to attain, as they are slowed or not functioning in some institutions. As such, civil liberties researchers may need to modify methods according to prevailing conditions. In the prevailing lock down and stay-in-place orders in many parts of India and the United States it is difficult to conduct civil liberties “quick-response research” in the field. Quick response research may actually be slow to disseminate because of the very social control it will like to examine. The alternative is to utilize virtual modes, utilizing emails, online forms, social media, and telephone for data collection. Virtual modes often have a disproportionate presence of certain demographic section and researchers need to be cognizant of this limitation. Researchers may take oral consent of participants and record audio or video to satisfy ethical considerations.

Other Frameworks, Considerations for Collaboration, and/or Resources:

Supplement 1: Literature Review on Civil Liberties and Social Control: COVID-19 in India and the United States

Supplement 2: Legislation and Orders Issued to Contain COVID-19 Pandemic in India, the United States, and their Selected States

Please see: <https://converge.colorado.edu/resources/covid-19/working-groups/issues-impacts-recovery/civil-liberties-and-social-control-covid-19-in-india-and-the-united-states>.

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