



Civil liberties under attack during COVID-19

BY DAVID S. DAMATO, OPINION CONTRIBUTOR — 04/08/20 01:30 PM EDT
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Philosopher Bertrand Russell wrote, “Neither a man nor a crowd nor a nation can be trusted to act humanely or to think sanely under the influence of great fear.” The United States is now in the grip of such a fear. It is prostrating before authoritarians in government who have waited for such a moment and now relish in ordering us indoors.

In loudly applauding the authoritarian shutdown orders of American governments, many seem to be conflating at least a few separate sets of issues that relate to different areas of expertise.

The first area of expertise is the epidemiology of COVID-19. It entails questions of the virus’s contagiousness and deadliness. There are questions on which there are very significant disagreements (with important policy implications) and, importantly, very poor data.

A second question is whether cost-benefit analyses favor the draconian measure of coercively shutting down all of civil society, one that is fundamentally unanswerable. This question is unanswerable because we cannot know how much the forcible suppression of civil society will cost and we won’t know the benefits.

Lastly, even if we had perfect data about the characteristics of the disease, and we were able to perfectly calculate the costs and benefits of government-mandated shutdowns, we would be confronted nonetheless with the question of who gets to make such a decision. It’s a social theory question, not a medical one: how does a comparatively tiny group of people at the top of government acquire the right to make this call for all other people. How could anyone or any group attain to such a power?

This seems like an important philosophical question, but it is one that everyone on every side of the debate has apparently ignored. No one seems to care whether these few people — and they are just people, important-sounding titles notwithstanding — either have this power legitimately or can be trusted to wield it.

Politics is plagued by a do-something bias, which drives elected officials and bureaucrats to act hastily, scrambling to enact some policy even when faced with a complete lack of evidence about that policy’s long term effects.

Economist Robert Higgs has presented [the theory of a “ratchet effect”](#) to explain the growth in the power and scope of government during times of crisis. Higgs shows that crisis situations afford the state the opportunity to stretch its power into areas of life that were before beyond its reach.

The lesson from his work is clear. These layers of government power do not go away when the crisis subsides, but rather remain, becoming the new normal. The extremely high level of uncertainty over just how many people have or have had the virus should make governments hesitant to implement the extreme measures they have implemented by fiat — and citizens of a supposedly free country hesitant to accept them so readily. Of course, that’s not what we’ve seen. We’ve seen credulous, hyper-fearful Americans close their eyes to the available evidence and power of their ability to think critically. We might have expected to see large numbers of Americans question such extreme measures.

Georgetown philosopher [Jason Brennan](#) offers a succinct summary of [the problem](#): “[T]he biggest intellectual lesson we can learn from this is that, when a crisis hits, the powers that be violate everything we know about data collection, giving us non-random and unrepresentative samples from which — as we all learned in week two of methods — you cannot draw good conclusions.” One thing of which we can be absolutely certain is that the actual number of coronavirus infections is significantly higher than the number of confirmed cases today. The [Oxford Centre for Evidence-Based Medicine](#) points out that it’s important to distinguish between one’s dying from coronavirus and one’s dying while he happens to have coronavirus. These are the kinds of distinctions that politicians, eager to exploit an apparent crisis, don’t want ordinary people thinking about and, importantly, the kinds that ordinary people simply don’t have time to think about.

The case fatality rate (CFR) represents the number of reported deaths relative to the number of reported cases of the disease; this value is biased by the fact that in the early stages of an outbreak, the most severe cases receive testing. As Hannah Ritchie and Max Roser observe, “this is not the same as the risk of death for an infected person — even though, unfortunately, journalists often suggest that it is.” Anyone trying to focus your attention only on the CFR is either ignorant of the basics or intentionally trying to mislead you.

The infection fatality rate (IFR), on the other hand, is the answer to the [following question](#): “if someone is infected with COVID-19, how likely is it that they will die?” The lack of meaningful data on the total number of coronavirus cases quite simply means that our best and brightest — regardless of what politicians and cable news pundits tell you — have no way of calculating the IFR with anything remotely approximating accuracy. History offers that the lesson that the IFR is likely to be much, much lower than we think. The CEBM notes, “Mortality in children seems to be near zero (unlike flu) which is also reassuring and will act to drive down the IFR significantly.”

None of this is to say that coronavirus is not dangerous, or that people shouldn’t voluntarily stay home, avoid large groups of people, or wear masks. Be responsible and take all of these steps to the extent it’s possible for you. But the actions of governments to date are many orders of magnitude more dangerous than this virus, and it’s not even a close call.

Even if it were the case that going outside when sick somehow violates other people’s rights, this argument leads us to some troubling questions. For example, What kinds of communicable diseases function to void one’s right of free movement? How deadly does the disease have to be? How contagious?

completely uncritically the word of politicians and bureaucrats — people who are no less self-interested than anyone else. But these times of crisis are when we must be vigilant, guarding our rights and liberties, watchful of overreach.

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