

Order and Freedom in the Period of Normalization of Epidemic Prevention

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Abstract: Since January 20, 2020, the National Health and Health Commission issued an announcement, "Incorporating pneumonia infected by novel coronavirus into Class B infectious diseases stipulated in the Law of the People's Republic of China on the Prevention and Control of Infectious Diseases, and taking measures to prevent and control Class A infectious diseases", there will be some inevitable conflicts between the maintenance of social public order in China and the realization of citizens' individual freedom rights. How to balance and choose and maximize the coordination and balance between them is a great test for the whole society. For the prevention and control of infectious diseases, "early detection, early reporting, early isolation and early treatment, cutting off the transmission channels and preventing the spread" (see article 42 of the regulations on emergency response to public health emergencies), should be the most ideal and effective measures. When these measures are taken, it is inevitable that Article 37 of the Constitution: "the personal freedom of citizens of the people's Republic of China shall not be violated." In this article, the right of personal freedom, one of the basic rights granted by law, constitutes a certain degree of restriction and restriction. So, what is the relationship between order and freedom in the period of epidemic prevention normalization?

1. The basic relationship between order value and freedom value

Order value and freedom value belong to the target value of law. Abstractly speaking, order is a systematic category, which refers to a regular relationship state in which things exist. To realize the order, we must use relevant rules and norms as standards to regulate individual behavior. Freedom generally refers to the individual's getting rid of the bound state or the unconstrained state, which emphasizes the action under the control of individual will. The value of freedom fully embodies the individual's autonomy and human rights consciousness. However, order and freedom are by no means completely competing with each other. To a certain extent, they fully reflect the coupling state. In fact, the value of order and the value of freedom are interdependent and promote each other. For example, if our national machine and community life are a train, the overall order formed by various rules and systems is the track of the train. On the one hand, the train can maintain stability, continuity and safety only when running on the track, but the train does not run for "running" itself, but actually for reaching the final destination; On the other hand, trains can't "derail" arbitrarily in order to reach their destination as soon as possible [1]. By the same token, order does not exist to keep order itself, but to serve the higher value of "freedom". At the same time, the realization of freedom should be based on the order with certainty, consistency and continuity.

When the epidemic broke out and spread on a large scale, it was difficult for us to live, and everyone's life safety was facing a huge threat. In the face of this natural disaster, we, as small as ephemera valley millet, will involuntarily carry out certain protection and basic isolation for basic self-protection. From this point of view, all human rights at this time will be spontaneously and temporarily dissolved to a certain extent [2-3]. From the perspective of jurisprudence, according to the principle of value hierarchy of law: the role played by law is also different because of the difference in the hierarchy of its objects. In the period of normalization of epidemic prevention, the

values such as order and freedom, which serve the highest interests of the social community, and their mutual relations will also have specific changes with the urgent needs of epidemic prevention and control.

2. During the epidemic period, order maintenance is superior to freedom maintenance and becomes the central essence of prevention and control

Order corresponds to disorder, which refers to a state of being organized and not chaotic, and generally refers to the rationality of the overall structure and function of things. Harmonious coexistence and dynamic balance between external and its dependent environment, coordination and stable development between internal elements. The order in the sense of social community has many characteristics, such as the security of individual existence, the stability of member relations, the clarity of behavior rules, the smoothness of mechanism operation and the orderliness of development process, which means that the whole society keeps a stable and harmonious, stable operation and benign development. Order is the prerequisite for human existence and development. Seeking order conforms to human essential needs and social nature, and constructing a reasonable public order is the eternal theme of the evolution of human political civilization [4-5]. In social life, if there is no order, consistency and constancy under the restriction of law, then no one can engage in his business, or even meet his most basic needs, and the right to personal freedom can certainly not be effectively guaranteed. Professor Zhou Wangsheng of Peking University Law School mentioned in his article "On the Order Value of Law": "Legal order is a basic social order, which is established and maintained by the bill. It takes the rights and obligations of certain social subjects as the basic content, showing certainty, consistency and continuity, and a social state with special coercive power." The legal order is characterized by certainty, consistency, continuity, stability and universality, which enables it to achieve a normal and stable social order in an advanced and efficient way [6].

Therefore, the maintenance of order should be the central essence of epidemic prevention and control. Under a unified and stable order, people can be more effectively prevented from falling into panic due to sudden epidemic and suffering from worries and tragedies due to the spreading trend. At the same time, only under the stable order conditions, the epidemic prevention and control measures and public treatment can be carried out in an orderly manner, and the basic living needs of the public can be met to a certain extent.

3. During the epidemic period, order was the basis for realizing freedom and rights

In the sense of order, any law should pursue and maintain a certain social order. Western jurists generally believe that: "The basic value accompanying law is social order." In the past, people always confirmed the value of maintaining social order under normalization, but lacked faith in the value of order in epidemic situation. The special period of epidemic raging is not a legal vacuum period. With the expansion of the people's government's power in the process of epidemic prevention and control and its deep intervention in the private sector, the necessity of prevention and control work according to law and order becomes more prominent. On the one hand, strictly abide by the laws and regulations such as the law of the people's Republic of China on the prevention and control of infectious diseases, the regulations on the emergency response to public health emergencies, and promote the order value of the law to set the rights and obligations of citizens, so as to impose necessary restrictions on individual freedom and rights, which is conducive to promoting the standardization and efficiency of epidemic prevention and control. Taking the rights and obligations of certain social subjects as the basic content is one of the prominent characteristics of the order value of law, which makes the order value of law have realistic basis. According to the work deployment of local governments and the new laws and judicial interpretations, "order" gives citizens the obligation in this special period of epidemic. Specifically: the government requires the public to consciously isolate at home, cooperate with temperature measurement when entering and

leaving public places, register "Health Code" and consciously announce the recent itinerary. In the emergency situation caused by the epidemic, these powerful measures and unconventional measures taken by the government departments have played a huge role in promoting the in-depth and orderly development of the prevention and control work, and the response to the crisis has been effective.

4. Order operates under the system, and finally the value of freedom can be truly realized

In the special period of the normalization of epidemic prevention, sometimes the temporary strategy of exceeding the law will be adopted, which will inevitably lead to the expansion of public power and limit and influence on individual freedom and rights. However, as far as the administrative response under the epidemic crisis is concerned, not all local government departments and their personnel can maintain the modest and standardized operation of power, and the expanding nature of power and the resistance of power restraint in an emergency state will retreat, which will easily lead to arbitrary and arbitrary abuse of public power, thus causing greater impact on the epidemic order and inevitable infringement and impact on citizens' freedom rights. Therefore, while emphasizing the value of order, we also need to regulate the administrative power under the crisis situation through institutionalized design, and clearly set the restrictive conditions such as the application situation, start-up procedure, time limit range, effectiveness boundary and obligations and responsibilities of the government's emergency disposal power in maintaining the epidemic order. In particular, the legal consequences and responsibilities of epidemic emergency behaviors such as ultra vires and expansion of power are clearly stipulated, which makes the government maintenance of epidemic order both effective in results and normative in procedural means.

On the other hand, restricting the right to personal freedom within the necessary limits in accordance with the law is conducive to maintaining the epidemic order in line with the principle of justice. Any policy design and rigid measures taken to maintain the epidemic order should follow a proper logic of justice, and the realization of this justice often needs to be supported and guaranteed by unified, continuous and stable rules. First of all, the order value of law is embodied in that it can provide an effective means for human society to restrain social conflicts and make society in a peaceful state, and also in that it can make the daily social life of the masses in a stable, safe and peaceful state. Human basic rights such as personal freedom are confirmed and guaranteed, and countless legal relationships and law-related phenomena such as these need to be realized through the order value of law. From the perspective of the function system of order value, there is consistency in the stipulation of order value, which emphasizes the equality of everyone's rights, and the value conflict between individual and community needs to be measured by the standard of justice.

5. Summary

In the epidemic period, what is synchronized with the expansion of government public power is the limited contraction and partial restriction of citizens' private rights. Therefore, for the long-term interests of society and the public interests of most people, temporarily dissolving some people's rights and freedoms, such as centralized isolation of confirmed patients and travel control in epidemic areas, are necessary means to maintain the epidemic order, and are also conducive to realizing the longer-term freedom of most people. However, it is necessary to guard against the risks of unlimited expansion and over-escalation. Whether the basic freedoms and rights granted by the Constitution can be effectively maintained and whether the concept of justice can be adhered to must have a clear legal basis and comply with legal procedures. From the experience of social development, the excessive conflict of human rights against the principle of justice means that the people can bear the second trampling after trampling on the epidemic situation.

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