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Newsweek
LearningEnglish

Second, fundamental questions of constitutional law have also emerged. The coronavirus crisis has **brought to the forefront** a national debate related to the interaction between constitutional rights, state police powers and federalism: What are the limits of government action in the midst of a pandemic?

Certain basic constitutional law questions **persist** for some Americans: Do governors have the authority to **issue executive orders** to shelter-in-place or quarantine? Can the legislature prioritize some business activity as "essential" while not granting that status to others? Is it legal to impose **shelter-in-place** on Sundays—a day when many Americans **seek to worship**?

The short answer is that, for nearly three centuries, quarantine has been justified and legally upheld—even before the official founding of the United States, dating all the way back to 1738.

In an 1824 case, *Gibbons v. Ogden*, the Supreme Court specifically referenced state authority to regulate health and erect quarantine laws. Eighty years later, in **a seminal decision**, the Supreme Court spoke directly to state police power to protect public health in its 1905 ruling, *Jacobson v. Massachusetts*. In that case, the Court **upheld an ordinance** requiring compulsory vaccination of all persons fit for inoculation. The Court found the statute to be a valid exercise of local police power to protect public health and reduce the spread of **small pox**—a deadly disease.

Despite the **myriad rallies** and protests to "reopen"—some filled with **vile** and violent imagery, including **effigies**—governmental authority to impose the types of orders modeled in California by Governor Gavin Newsom, in Michigan by Governor Gretchen Whitmer or in New York by Governor Andrew Cuomo is clear, consistent with constitutional law and legal. In other words, during a pandemic, some constitutional rights may be burdened, but only to protect the public health and promote safety.

Nevertheless, government authority is not absolute—and that's important to keep in mind, even in times of pandemic. In fact, during times of national disaster and health crises, government may attempt to exercise unconstitutional authority or unfairly or excessively **infringe on civil rights** and civil liberties.

Historically, governments, including our own, have deployed protecting the public health as a justification when seeking to harm and undermine the civil liberties of vulnerable groups. From eugenics, involving the forced sterilization of poor girls and women, to racial discrimination involving water fountains, swimming pools and interracial mar-

riage, politicians have oftentimes claimed to be in the service of public health goals when actually serving no other purpose than the **perpetuation** of social and racial stereotypes and discrimination.

Nearly a century ago, the commonwealth of Virginia claimed it was in a public health crisis, "swamped" by children, men and women it considered socially and morally unfit. Its solution was to impose sterilization on Virginians as young as 10 years in order to rid the state of those who **"burdened" society**. The sad result included the sterilizations of thousands of people in Virginia alone—a clear violation of civil rights and civil liberties.

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During this pandemic, questions related to the limits of governmental authority are all the more pressing and relevant in the wake of legislatures in Alabama, Indiana, Mississippi, Oklahoma and Texas, among others, that have used the pandemic as a cover for discriminating against women by **dismantling abortion access**. From a medical perspective, this is all the more senseless and tragic, considering that abortions are as safe as penicillin shots and far safer than child delivery; a woman is 14 times more likely to die by carrying a pregnancy to term than having an abortion. In these instances, **hampering abortion rights** had nothing to do with protecting health and safety, but were simply political attempts to undermine abortion rights.

For these reasons, government infringements on civil rights and civil liberties should be driven by science, confirmed by medical evidence and tailored to address the health harms and threats. It's not all or nothing—that's too simplistic a view. Rather, protecting the public's health and safety during COVID-19 requires prioritizing the public's health while safeguarding civil liberties. **NL**

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bring something to the forefront

– wysunąć coś na pierwszy plan
persist – utrzymywać się, trwać

issue an executive order – wydawać dekret prezydencki
shelter-in-place

– szukanie schronienia dostępnego na miejscu

seek to worship – oddawać się modlitwie

seminal decision

– przełomowa/kluczowa decyzja
uphold an ordinance

– podtrzymać zarządzenie
small pox – oспа prawdziwa

myriad rallies

– niezliczone wiece
vile – nikczemny, podły

effigy – podobizna, kukła

infringe on civil rights

– naruszać prawa obywatelskie

perpetuation – utrwalenie (np. stereotypów)

burden society

– dosł. obciążać społeczeństwo

dismantle abortion access

– likwidować/znosić dostęp do klinik aborcyjnych

hamper abortion rights

– ograniczać prawa do aborcji