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The Predicament of Freedoms under Public Pandemic Protocol: Defects in the Political Compact in Morocco and Algeria

Ben Ahmed Hougua

Abstract

This paper aims to shed light on the state of the political compact in Morocco and Algeria under the Covid-19 pandemic, focusing specifically on the damage to basic freedoms and rights during the health emergency in the two countries. In identifying the source of this damage, the study examines the issue from two directions: from the bottom up, it looks at primordial sentiments at the bedrock of society and their impact on others' right to health safety from the virus; looking downward, it focuses on the setbacks to political freedoms resulting from the political exploitation of the pandemic, where information technology allowed the mobile surveillance of activists. The paper relies on a database of qualitative and quantitative data to confirm its hypotheses about the predicament of rights and liberties in the two countries under study, concluding that the precariousness of these freedoms stems from political regimes' determination to perpetuate primordial sentiments in political culture.

Keywords: Morocco, Algeria, primordial sentiments, moral development, pandemic

Introduction

Giorgio Agamben tells us that a state of exception refers, on one hand, to a 'state of law' in which normative rules remain in force though they are not applied, and on the other hand, to measures that acquire the force of law without officially rising to that level. In the most extreme cases, the force of law is a free-floating, indeterminate element that can be claimed by state authorities, whether a commissarial or sovereign dictatorship. The state of exception is a non-normative space embodied as the force of law without law, a domain Agamben calls 'force-of-law'.¹ As such, the tension between freedom and public order is intrinsic to the political compact. Although this latter concept obscures the role of institutional violence in the emergence of the polity and is not universally accepted in philosophical and sociological currents that cite pragmatism to explain political compliance, it nonetheless implicitly anchors the social and political demands of the ruled.

The state, too, regularly refers to it, using some interpretative template of it to evoke order and respect for the law.

The state's management of Covid-19 in the North African cultural context has laid bare the defects in the political compact viewed from both the superstructure and the base of the political community. As a result, as a high political and moral culture, civil liberties are straining under the sway primordial sentiments exercise over society even as they buckle under the burden of a health emergency that allowed the state to operate in stealth and infringe the commonweal and human rights.

Freedoms comprise a broad spectrum of rights enshrined in legislation, ranging from guarantees for the right to life to political participation and deliberation in public decisions. For them to flourish in society requires an appropriate level of social and political education and a political authority that takes into account citizens' choices, and abides by the principle of public good. Freedoms, viewed from the perspective of political psychology, are not a ready-made cultural fact of existence that society automatically accommodates. On the contrary, they are a matter of political and moral competencies² that require the destruction and construction of cognitive and emotional structures. The political community, or the body politic, in this context means the bonds of shared existence as people actually experience them, whether in their horizontal relations with other citizens or vertically with the structures and symbols of authority. Through these bonds, one can perceive the nature of the moral values and sentiments that underlie prevailing social relations.

The protection of freedoms during public health emergencies does not depend only on how the emergency authorities engage with the rights dimension of the political compact, but also on subjects' moral obligation to comply with medical measures to prevent the spread of the epidemic or pandemic. Public pandemic protocols ceaselessly remind the ruler and the ruled alike of the existence of obligations on both sides, in order to protect the self and society.

Disdain for health controls and disregard for quarantine and social distancing, in the name of freedoms and human rights, is a fundamental moral affront to the concept of civil liberty as articulated by political thought since the beginning of the eighteenth century. Exercising freedoms during a pandemic without a sense of moral responsibility is a flagrant violation of others' right to life. Oddly, the public sphere in both Morocco and Algeria offered ample social demonstration of a low level of responsibility in social engagement with the Covid-19 pandemic.

Nor was the state innocent in this regard, as evidenced by an examination of the decrees issued by the authorities during the pandemic. The state found in the pandemic an opportunity to impose its own vision of politics, economy, and society. In the cases under study, the state of emergency helped it to retake the initiative, and it violated the terms of the political compact on which it had expended enormous psychosocial energies to elevate to its current level prior to the outbreak of the pandemic.

Methodologically, this paper undertakes a vertical and horizontal analysis of the defects of the political compact in the Moroccan and Algerian contexts. Specifically, it addresses the damage done to the concept of civil liberty at the level of the polity's foundational meanings and seen as

well in the slippage in the permissible bounds of public good and transparency in public decision-making in the era of Covid-19.

The study seeks to expose latent factors in North African political culture that underlie the defects of the political compact by analysing anomalous social incidents during the pandemic and the public decrees issued by the emergency authorities in the two countries. For Algeria, the incidents were taken from video clips³ on the average citizen's attitudes and reactions to the pandemic measures. For Morocco, we relied on twenty-eight videos found on Facebook and YouTube that document social events and the pulse of society during the pandemic.⁴ The database also includes interviews with thirty Moroccan citizens who were convicted of non-compliance with emergency measures, focusing on their justifications for their unlawful actions. The study further considered a set of decrees issued by the emergency authorities in Morocco and Algeria, which took advantage of the pandemic to curb political freedoms and public deliberation.

The basic premise of the study is that the political compact, from the perspective of civil liberties in the context of the public pandemic protocol, has experienced a series of reversals, manifested, on one hand, in the resurgence of instinctive types of freedom that conflict with the concept of civil liberties and, on the other, in the emergency authorities' determination to curb political and civil liberties. In its theoretical approach, this paper leans on John Jacques Rousseau, Immanuel Kant, and John Rawls, and on the level of fieldwork on Lawrence Kohlberg's thesis on moral development. The paper also draws on German philosopher Carl Schmitt's ideas about the state of exception, as well as the notion of primordial sentiments articulated by Clifford Geertz in his political anthropology of newly independent states.

From the Freedom Impulse to Civil Freedom: Ethics during a Pandemic

Given the medical facts on the spread of the virus,⁵ the public pandemic protocol logically and pragmatically provides for universal public measures that entail restrictions on basic rights and freedoms. In turn, new compacts emerge that make the preservation of life a political priority. In such a crisis, compliance with health measures does not reflect a collective submission to authoritarian arrangements, but rather an elevated sense of moral responsibility. This responsibility is invoked not only to preserve one's own life and safety, but also in response to others' right to avoid infection. But looking at the reality of engagement with public pandemic protocols reveals the extent to which primordial sentiments continue to hold sway over the deep mental structures of North Africans at a time of 'liquid modernity'.⁶

Manifestations and Justifications for the Violation of Public Pandemic Protocols

Ordinarily, the general contours of Moroccan and Algerian societies are in apparent alignment with the spirit of the age, notwithstanding a set of regressions to essentialism whose manifestations express the profound shock of the self's confrontation with modernity.⁷ Most social groups are observably determined to appear modern, which requires a reinterpretation of tradition to bring it in line with the logic of civil and democratic values. This may give the impression that the external

change in society is indicative of actual internal transformations on the level of identity. But external manifestations do not always correspond with the bedrock from which political culture derives a measure of its temporal durability. Clifford Geertz describes this apparent contradiction in the political culture of new states as follows:

As in medicine the severity of surface symptoms and the severity of underlying pathology are not always in close correlation, so in sociology the drama of public events and the magnitude of structural change are not always in precise accord. Some of the greatest revolutions occur in the dark.⁸

Nature is an important element in structuring human attitudes and determining the difference in behaviour towards oneself and others. As noted by anthropologist Maurice Godelier, a person's relationship with society, culture, and politics cannot be separated from their relationship with nature.⁹ The social and individual reactions to the Covid-19 pandemic embody features of the deep behavioural maps of North Africans. There is no doubt that social engagement with the pandemic again raises the issue of political community in societies characterised by a weak level of civil sentiments, as well as questions about the structure of the political culture from which society draws the conceptual constructs that govern its view of existence and thus determine what Geertz calls the collective spirit.

In the North African cultural context, Covid-19 has stripped society of some of its false masks and introduced anxiety into its tranquil structure; it has left the political compact, seen from below, confronting some of its shortcomings in confusion. The breach of public pandemic protocols for reasons of narrow interest embodies a dysfunction in the moral, legal, and political formation of the citizen in both Morocco and Algeria. It spotlights the latent and actual threats to the political compact when examined at the bedrock level of the body politic. It should also be noted that this phenomenon has also occurred in developed societies, albeit in different forms and for different reasons depending on the cultural context.

The volume of prosecutions indicates that violations of emergency health protocols were not exceptional incidents. On the contrary, it was a collective phenomenon par excellence. As of May, there were nearly 65,000 prosecutions in Morocco¹⁰; in Algeria, the province of Tipaza alone saw 1,922 violations as of June.¹¹ This does not include cases that were not apprehended or prosecuted by administrative and judicial police.

Non-civil behaviour throughout the emergency reached such levels that doctors and nurses appealed to the public to stay home, practice social distancing, and wear masks.¹² Social media is full of videos documenting violations of the pandemic protocols. A set of characteristic features of the emergency period emerge in an analysis of these incidents, which can be briefly summarised as:

- Resistance to the decision to close mosques and the organisation of nightly mass demonstrations, with religious slogans expressing a regression to primordial, irrational sentiments in the face of disaster.

- An instinctive rush for consumer goods at the beginning of the pandemic and unprecedented crowding in the markets, reflecting the long-term impact of famines and disasters on the historical mentality of Moroccans and Algerians.
- Gatherings in popular markets and a lack of respect for social distancing in many situations, which indicates a disregard for the virus and the lack of moral responsibility towards oneself and others.
- Individual breaches of quarantine motivated by reckless justifications.
- Lack of mask compliance and performative displays of non-prevention.
- Popular attacks on buses selling Eid sheep and the abduction of sacrificial animals during the spread of the pandemic (Morocco).
- The wholesale purchase of immunosuppressant drugs by uninfected residents of the Moroccan city of Fez, which depleted stocks in pharmacies.

As of 27 August 2020, the number of coronavirus infections reached 43,016 in Algeria and 57,085 in Morocco, with deaths totalling 1,475 and 1,011 respectively. There is no doubt that the cultural repository of North Africans (Moroccans and Algerians in particular) played a role in the spread of the virus in kinship circles, especially when the lockdown was eased for economic reasons. It should be noted that the strict application of the quarantine at the beginning of the pandemic prevented the two countries from joining the ranks of societies such as Spain and Italy, where at the time the pandemic was uncontrolled. In Morocco, for example, the number of infections increased dramatically immediately after Eid al-Adha, as shown by Dr. Ahmed Aghbal's autoregressive time-series analysis.¹³

It is true that during the lockdown the public authorities, especially in Morocco, disregarded major businesses due to economic needs, but the easing of the curfew contributed to the spread of the virus, which prompted the European Union in the first week of August to exclude Algeria and Morocco from the list of safe countries from which travel to Europe was permitted.¹⁴ The phenomena discussed above undoubtedly contributed to the transmission of the virus in family circles. It should be noted that strong social ties in the community, as articulated by Mark Granovetter, created a virus-ridden climate within family networks. The distinction between strong and weak ties can be used to explain virus transmission within the family setting.¹⁵

In communities with weak ties, the virus is much less likely to spread from one individual to another in public spaces than in family settings. Conversely, in communities with a social structure marked by strong ties, the infection of one person increases the likelihood of infection of all family members, especially since visits between loved ones in North Africa were not interrupted during or after the quarantine period. The sociometric structure of social relations is therefore a significant factor in the spread of epidemics and infectious diseases. Covid-19 is no exception. Indeed, a set of studies has implicated social bonds in the way the virus spreads. In a study by Theresa Kuchler and colleagues from New York University, a positive correlation was found between social structure, as measured by Facebook networks, and the spread of the Covid-19 pandemic.¹⁶

Examining the reasons citizens give for violating the quarantine or health emergency measures, one is struck by the metaphysical justifications that deny a causal relationship between death (an inevitability in the parlance the respondents) and infection with the virus, promoting a fatalistic vision impervious to any medical calculus. And it is not only a matter of the impenetrability of these justifications; egocentric justifications for breaching pandemic protocols emerge which assign essentially zero moral consideration to others.

Ironically, such self-centredness is evident even in the justifications of those complying with health measures, such as wearing a mask, in that there is no reference to moral responsibility towards others. One interviewee in Algeria who does not wear a mask says, ‘I don’t wear it, as you can see, because the air is God’s air, the air is clean and there’s no need for a mask’. In contrast, an Algerian woman complies with the measure for health reasons: ‘I am very sick with cancer. I was afraid because I have no immunity, so I wear it to protect my life’.¹⁷

Despite the apparent contradiction between the two respondents, the disregard for health measures and compliance with preventive measures both express a blunt egocentrism and lack of concern for others’ right to physical safety from the virus. An analysis of the justifications offered by thirty people convicted of violating quarantine in the Moroccan city of Fez reveals this same lack of moral concern for the rights of others during the Covid-19 pandemic. Their justifications range from recklessness, carelessness, and forgetfulness to necessity. Interestingly, the violation of pandemic protocols is not limited to a specific age group or geographical area, urban or rural.¹⁸ If observers of political culture during a pandemic can deduce any principle, it is that the subject in the Moroccan and Algerian contexts faces tremendous difficulties in seeing like the other, as hermeneutical philosopher Paul Ricoeur puts it.¹⁹

When Primordial Sentiments Injure Civil Liberties

Interpreting the subject’s view of the self, the other does not appear to have a central value in the Moroccan and Algerian imaginations. The cognitive principle that governs the perception of the pandemic seems to derive from the self’s perceived immunity to the disease, exactly like death in Martin Heidegger’s conception of inauthentic existence.²⁰ This means that altruism, at least in the era of Covid-19, contributes little to the formation of North African subjectivity under study.

This denial of the other—the failure to take others’ health into account in speech or practice—poses an explicit threat to coexistence and the implicit social contract that governs it, entailing a disregard for the freedoms of others and their right to a healthy life. However, the issue of persistent concerns to observers and actors alike is comprehending these egocentric attitudes and interpretations at a critical juncture that require solidarity and control over impulses and sentiments.

Understanding what is happening today in newly independent states at times requires delving into matters unrelated to claims made about institutional development in contemporary political science discourse. Dreams of development, democracy, and equality have evaporated, and the polity in these countries is directly confronted with crises continuously arising from the very bedrock of social relations. This gives increased legitimacy to a sub-discipline that mobilises both

cultural anthropology and political psychology to understand what is occurring in the interstices of political culture.

The behaviour revealed by the data analysis is an expression of latent factors in the social culture that continuously erode the accretion of civil sentiments on which civil rights and liberties are based. Algerian and Moroccan memory seems still replete with the attitudinal matrices of primordial sentiments, and the feelings emanating from them are inconsistent with the imperatives of the social compact. If there is any underlying structural principle to the social contract, it is the moral obligation not to do things that would undermine others' freedoms and their legitimate rights.²¹ This is the essence of civil liberty, which in its moral and legal consistency is incompatible with the concept of natural freedom expressed as a primordial, pre-compactual sentiment that does not invoke the moral imperative of others' existence.²²

As examples of the violation of health protocols accumulated, some intellectuals, speaking in remote seminars, argued that these could be explained by the heightened aspiration for freedom and liberty in North African societies, citing the frequency of protests, criticism of political institutions, and lack of trust in them. In our view, however, this inference is not empirically valid, for several reasons. For one, protest in North Africa is motivated more by the drive for social justice and equality than freedom; secondly, the lack of trust in political institutions is matched by the high degree of trust in sovereign political institutions like the army.²³ This raises the question of the proclivity towards civil liberties and human rights in the liberal sense.

There is no significant difference between the two countries in the populations' aspiration for and embrace of civil liberties in the liberal sense. This means that most Moroccans and Algerians are concentrated around the median of the variable in question. It should be noted that few individuals in either country truly desire liberty. However, there are relatively fewer Moroccans than Algerians are concentrated around the lower level of this type of freedom, although the differences between the two populations are not statistically significant as indicated by the *t*-test (t -test=0.81; $p > 0.05$).

The vigorous impulses of natural freedom seen during the pandemic demonstrate the failure of socialization to move people away from natural attachments toward functional integration. These impulses derive their dynamism from the predominance of a 'wild' culture, as opposed to a 'garden' culture that prepares young people for social life and a shared existence. In Ernest Gellner's analogy,²⁴ a garden culture requires a material and temporal investment in the conscious cultivation of young people, the way a plant must be watered, pruned, staked, and attended to in order to thrive. Civil freedom surely depends on such mindful horticulture, whereas a wild culture leaves young people vulnerable to accidents of nature and society, like an untended field whose growth is determined by irregular rains and climate fluctuations. If there is any lesson to be drawn from Gellner's metaphor, it is that civil morals gradually develop and thrive under a garden culture, like a physiologically well-balanced organism.

The political compact requires not only physical involvement in the social group or a positive attitudinal commitment to the public discourse on which it is based; it presupposes a certain level of legal education and moral development that turns obligation into an interior political sensibility,

secure from whims and primordial sentiments. If the compact assumes, as Rawls posits,²⁵ that one is rational (that is, able to understand the direct and indirect consequences of one's actions) and reasonable (meaning, aware of the moral imperative of one's behaviour and calculating the negative and positive ramifications of it on society and others), then the collective and individual breach of preventive measures expresses calculations of personal interest at the expense of social cooperation. This way of dealing with the coronavirus pandemic no doubt reflects a weak sense of moral responsibility towards others, as evidenced by the self-centred attitudes of Moroccans and Algerians.

The literature in cognitive and moral psychology views egocentrism as a sign of poorly developed moral reasoning,²⁶ which typically evolves parallel to individual cognitive development.²⁷ Self-centredness, as a plane of moral adequacy according to Lawrence Kohlberg, is part of pre-conventional morality—that is, the lowest phase of moral development, in which individuals' behaviour is determined based on the punishments or rewards their actions entail (the punishment or pleasure they anticipate).²⁸ Outcomes associated with poor moral sensitivity are consistent with the findings of some studies that measure moral reasoning using Georg Ling's scale.²⁹ Speaking of the relationship between egocentrism and educational formation, Professor Ahmed Aghbal says:

The official curriculum in educational institutions in Morocco does not encourage critical and independent thinking. The moral issues it addresses are carefully selected and typically discussed from a narrow religious perspective, offering only a rare opportunity to discuss complex moral issues such as euthanasia and freedom of conscience, for example. With the passage of time, a one-sided, egocentric logic comes to dominate thinking. It becomes difficult to deal with complex moral situations, and the capacity to understand and appreciate others' arguments falters.³⁰

Egocentrism seems to constitute a cultural syndrome that makes it difficult for North Africans to make space for others in their interpretive horizon. Recovered patients' theft of supplies and equipment from the field hospital set up by the Moroccan authorities in the city of Benslimane³¹ perhaps demonstrates that Moroccans' moral awareness has changed little from the time Edvard Westermarck conducted his fieldwork in Morocco at the beginning of the twentieth century.³²

The Political Compact: The Health Emergency and Crisis Powers

In principle, the political compact requires adherence to its implicit and explicit terms on the part of the compacting parties. As such, it requires the state and ruling elites to give citizens the social and political formative education needed to move beyond antisocial primordial sentiments to the broad space of civil behaviour, which enables them to avoid relapsing into pre-compactual social patterns, especially in times of disasters, famines, and epidemics. The state of emergency requires the state to respect basic rights and freedoms and to make its decisions exclusively in service of

public health. In other words, it has no right to use the emergency circumstance to dupe citizens and tighten its grip on society.

The Cultural Depth of the Public Pandemic Protocol

Self-centredness and a weak level of altruism in political culture, as a level of moral development found in the bedrock of society, would not have remained at that primordial level given an adequate political education and a climate of tolerance and reciprocity. The socio-political context plays a critical role in developing citizens' cognitive and evaluative structures, as moral development is not an innate process, but rather the result of an interaction between the individual and society with its various institutions.³³

The preservation of public order in the North African context has continued to rely on the use of force rather than interior compulsion and self-discipline. This means that throughout history the social contract has continued to rest on a Hobbesian conception of political submission to the sovereign.³⁴ A primal fear of death at the hands of the sovereign authority helped to cement a political conception of public order as one requiring coerced submission rather than interior moral obligation. Clearly, the violations of epidemic protocols witnessed at the beginning of the twenty-first century, and the consequences for the spread of the virus, are all symptoms of this same syndrome. Hence, when the central authority eases the use of external coercion, there is a tendency to violate the public health order without compunction, as we saw in the first part of this paper. In the context under study, the authority's insistence on displaying force and threatening its use, instead of using soft means of power to obtain political compliance at the lowest cost, has functioned to keep the political morality of the ruled at a low level of development.

For centuries, North Africans lived a political existence that Ernest Gellner calls marginal tribalism,³⁵ in which the state is more a symbolic horizon of imagination than a bureaucratic context for political life. The political psychology of most North Africans therefore still derives its identity from the political culture of primordial attachments. After the French occupation, the alignment of the affective (sentiments) and the spatial (the socio-political space) would lose its structural symmetry. Colonial technology helped to bridge these social and spatial dimensions, enabling tighter control of society.

If France's policy in Algeria invested heavily in radically changing social and cultural structures for well-known goals,³⁶ the situation is different in Morocco, where the policy was to preserve symbolic and social structures while according great importance to organisation and bureaucracy.³⁷ The political culture in the two countries should therefore have taken different trajectories, given their distinct colonial histories.³⁸ But when the reactions of the average Moroccan and Algerian citizen to political, cultural, and sexual issues are examined,³⁹ there are no significant differences, meaning that the post-independence regimes in both countries followed virtually the same cultural and political educational policies.

Ruling officials in both countries were convinced of the importance of preserving the architecture of primordial sentiments, in order to use them to politically divide opponents whenever necessary, and they consistently see a surfeit of civil liberties and sentiments as a

political sign that society is superseding the state in terms of political culture. But they failed to consider that primordial emotions could consume everything. Perhaps what is happening in Libya, Lebanon, and Iraq—that is, in fragile states generally—is evidence of the destructive power of primordial anger compared to civil anger.

The relationship of primordial sentiments to the public pandemic protocol is simply one of those socio-political manifestations that occasionally emerge from the hidden depths of the political order. These manifestations demonstrate the failure of the North African state to bring society into modernity and the contemporary age. Jean-Jacques Rousseau says:

He who dares to undertake the making of a people's institutions ought to feel himself capable, so to speak, of changing human nature, of transforming each individual...into part of a greater whole from which he in a manner receives his life and being...and of substituting a partial and moral existence for the physical and independent existence nature has conferred on us all...The more completely these natural forces are annihilated, the greater and more lasting are those which he acquires, and the more stable and perfect the new institutions... [then] it may be said that the legislation is at the highest possible point of perfection.⁴⁰

This quote, which gets to the heart of what the political community is in traditional states, asserts that the tension between nature and culture is not simply a struggle between temperaments, but between diametrically opposed social institutions. This demonstrates the gravity of the task the legislator must assume to dissolve nature into institutional life.

Algeria was nearly the largest country to receive its independence after 130 years of French colonialism, and it was consumed by the problem of identity and the construction of national identity on neo-traditionalist foundations,⁴¹ which encouraged the striking of a post-independence political compact based on less realistic hopes and promises, in order to ensure popular mobilisation and social preparedness. Playing to primordial sentiments to construct identity and collective subjectivity was a pragmatic policy pursued by the military behind the mask of stated socialist orientations. This facilitated a regression to subjective, essentialist policies, as heritage was reinterpreted and primordial attachments animated within vast networks of patronage and clientelism.⁴² Morocco fared no better than Algeria in this regard. If the monarchy has the power to defend modernisation or at least appear to do so, as Huntington says,⁴³ promoting traditional policies and encouraging regionalism and primordial divisions remained common in the kingdom even up to the turn of the millennium.

The authorities in these two countries, which were both pathologically obsessed by their hostile neighbour, could not create the citizen in either the cultural-psychological or the legal sense of the word. The old maxim applies here: Creating Italy is easy; much harder is to create Italians. This made the political compact dependent on metaphysical models such as religion, identity, and nationalist issues, far-removed from the fundamental elements of political modernity. Religious and linguistic identity constituted the linchpin of these political processes, as a result of which the political order is replete with manifestations of the regression to primordial sentiments. This was

aided by disappointments and the disaffection with political and partisan life. The minimal symbolic value and pageantry of political elites also undermined hope for salvation through politics.

Thus can one understand the historical process of injury to the political compact in Morocco and Algeria, which prevented large segments of society from moving into the space of civil sentiments and moral development. The historical cementing of primordial sentiments and the encouragement of essentialism explain not only the violations of pandemic protocols and what might happen in the future in similar crises that require a profound understanding of civil orientations and attitudes; they also explain a long trajectory of political behaviour, making clear some of the defects of the relationship between the ruler and the ruled in the time of Covid-19. In short, the politics of the present are inseparable from the politics of the past, at least in North Africa.

Exception and Political Freedoms during the Pandemic

The political compact is premised on a topographical harmony between the public order and basic freedoms—that is, between politics and the legal system that protects these freedoms. It is the responsibility of those in charge, Walter Benjamin believed, to avoid as much as possible the polity's slide towards states of emergency and exception.⁴⁴ But the political authorities seem to have little confidence in this ostensible correspondence between the public order and the legal system, for the Middle East and North Africa region has experienced long periods of emergency and martial law, reflecting the primacy of order over law.

Regardless of the harm caused to the right to health and other social rights during the pandemic,⁴⁵ the few already recognised political freedoms also suffered a noticeable setback. The health imperatives of the public order were used to suspend the normal operation of the system of rights and liberties, which placed the state of exception into the very heart of the legal system, as opposed to being a political anomaly from a space of lawlessness.⁴⁶

In Algeria, where the popular movement, the Hirak, continued to threaten the legitimacy of the government and denounce the tactics of the presidential election, calling for real change, the emergency authorities, whose actions toward activists resembled what Carl Schmitt called a commissary dictatorship,⁴⁷ curbed the Hirak and froze the activities of civil society even as it turned a blind eye to flagrant violations of the public health order.

The official discourse's focus on the need to protect society from the pandemic gave exceptional measures a patina of lawfulness, though they pose profound questions of constitutional legitimacy and democracy. This state of exception was a gap between law and de facto reality, justified by a necessity that not only does not know the law, but also creates its own law. In fact, this necessity has always been operative in Algeria when it comes to movements protesting the policies of the military regime that hides behind a civilian façade.⁴⁸

The Hirak, which had organised protest marches since February 2019 and succeeded in removing former President Abdelaziz Bouteflika and other officials, soon found itself besieged by the coronavirus pandemic, which the state utilised politically to silence activists. The Algerian

regime seized the opportunity of the quarantine, imposed in mid-March, to suppress protests and impose restrictions on an angry society. It also amended the Penal Code to legalise the violation of human rights and civil liberties. The pandemic gave the Algerian intelligence and security services the opportunity to prosecute militants and restrict freedom of expression, which resulted in the arrest of many authors of articles and blogs critical of the authorities on social media.⁴⁹

As the virus began to spread in Morocco, the state regained part of its symbolic capital in the social imagination thanks to efforts by public media to highlight the roles of the administrative police and the authorities in the fight against the pandemic, as well as through the allocation of support to vulnerable groups, despite the haphazard, incoherent character of this measure, which seemed selective to some. But it later became clear that state apparatuses were moving at different speeds to confront the pandemic. While the deep state was organised and cohesive, representative institutions and elected councils appeared at their worst. Election machines and political merchants disappeared from the face of the earth, while doctors, nurses, the police, military commander, and soldiers stood alone to confront the pandemic under the scorching rays of the sun—this is the image Moroccans had of the situation when they suddenly learned that the Islamist-led government was secretly drafting a law to gag society (Bill 22.20).

While the World Health Organization was talking about the need to wear masks to limit the spread of the coronavirus, with the aforementioned bill, the Moroccan government, in complete secrecy, expressed its desire to limit freedom of opinion and expression. The law, which concerns the use of social media, open broadcast networks, and similar networks, sets forth penalties ranging from a fine to one–three years imprisonment for anyone who publicly advocates or incites to the boycott of some products or services, withdraws money from credit institutions or equivalent bodies, and publishes false news questioning the quality and safety of some products and goods.

Observers believe the bill was designed to prevent activists from calling for consumer boycotts like those previously launched against three major companies: a dairy corporation, a bottled water company, and Afriquia Gaz, the latter owned by a Moroccan businessman who heads the National Rally of Independents Party and serves as the minister of agriculture.

The government waited for an exceptional moment to ratify the bill, to make it a law the executive authorities can use to assess penalties in court. Unknown to all, the Cabinet approved it on 19 March—the same day the state of emergency was declared to confront the Covid-19 pandemic. In contrast to the usual procedure whereby prospective laws are subject to broad consultation by government sectors and posted on the General Secretariat of the Government website to inform the public and enable stakeholders to express opinions prior to approval, this ‘urgent’ bill was put to the Cabinet at the last moment. The bill was subsequently leaked, taking its defenders unawares and inflaming social media against the government.

This government action is grim portent for what the literature on democracy calls procedural justice.⁵⁰ Undermining both the public good and transparency, the authorities exploited the emergency powers of a state of exception to issue legislation unrelated to the health emergency. It is naked political deception that shows utter disregard for the electorate by stripping society of the freedom of expression and its right to deliberative judgment. The bill undoubtedly constitutes a

setback for the ethico-political system of the political elites at the top of the country's political hierarchy.

As discussed earlier, there are multiple political incidents beyond the bill that damaged freedom. In this context, Amnesty International accused the Moroccan authorities of wiretapping activists' phones, violating people's privacy without judicial authorisation, and using sexual matters as a basis for the prosecution of activists.⁵¹ Despite the Moroccan authorities' denials, these types of practices pose a grave threat to society, leading to a kind of mobile surveillance whose spatial effectiveness goes far beyond the prison architecture—the panopticon—envisioned by Michel Foucault and Jeremy Bentham,⁵² which promises to be dangerous for individual personal freedoms. Voluntary engagement with multiple technological and digital applications exposes the individual to what Bauman calls 'liquid surveillance',⁵³ which the political authority exploits in its pre-emptive operations against those it describes as a threat to public order.

Conclusion

The body politic in Morocco and Algeria has been reeling behind the institutional masks left by colonialism, hidden behind the makeup that the post-independence state has applied to the face of ostensibly democratic arrangements for the last sixty years. Everyone, rulers and ruled, has come to realise that the roots of the problems they confronted were not as superficial as they were made out to be during the elites' struggle against French colonialism. Despite claims to have successfully built the modern state, the discourse of reform has consistently found a place on the agenda of the ruling political and economic elites, at least until the outbreak of the coronavirus pandemic.

The pandemic was a true test of both governments' oft-touted achievements and an evaluation of the solidity of the political compact and the strength of the moral and cultural bonds of coexistence. An analysis of some facts, incidents, and political behaviour revealed the North African citizen's fragile awareness of the rights of others, demonstrating the failure of political and social educational policies to move society away from essentialism towards the civil morals appropriate to citizenship.

These manifestations of a pathological relationship to the public health order are undoubtedly motivated by primordial sentiments, and they impede the embrace of the rational and the reasonable as the two moral horizons for a democratic society.

As for the state, it has become obvious that the policies pursued for more than half a century have nearly brought society to a dead end, especially in energy-rich Algeria. An analysis of the political practices of government systems during the pandemic indicates that the Moroccan state has not rid itself of the Carl Schmitt complex of defining politics in terms of friend versus foe, which has adverse consequences for the cementing of political and civil rights and freedoms. Political elites also seem to suffer no pangs of conscience about duping the public, leading them to exploit a natural disaster to curb the political aspirations for change.

But in fact, Morocco and Algeria are not a bleak exception in the political and cultural geography of the world. Even developed countries have seen manifestations of this tendency to

violate public pandemic protocols. Regardless of the differing causes between societies in this regard, an elevated level of civil sentiments does not preclude a regression into primordial sentiments in difficult periods. According to scholars such as Slavoj Žižek, this may be intrinsic to human nature, though this essence is much debated in scientific and philosophical circles.

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¹⁸ Personal data collected by the researcher March–June 2020.

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