

Challenges of Criminal Procedure in Emergency Conditions: A Critical Reflection on the Gap Between Norms and Reality in the Experience of the COVID-19 Pandemic

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The COVID-19 pandemic confronted Iran's criminal justice system with the question of whether the existing legal frameworks and judicial structures were capable of responding effectively to a widespread emergency. Adopting an analytical-critical approach, this article examines the challenges of criminal procedure under emergency conditions, with particular emphasis on the experience of the COVID-19 pandemic, across four dimensions: normative, human rights, structural, and practical-operational. The findings indicate that these challenges constitute an interconnected network of deficiencies that mutually reinforce one another. At the normative level, the absence of a legal definition of a state of emergency and the lack of a specific emergency criminal procedure law led the judiciary toward extra-statutory decision-making through administrative directives and circulars. At the human rights level, the failure to formally declare a state of emergency, the exclusion of emergency measures from judicial review, and the systematic weakening of the right to defense in electronic proceedings raised serious concerns regarding the compatibility of Iran's measures with international standards. At the structural level, the gap between administrative directives and practical realities, resulting from inadequate electronic infrastructure and deficiencies in training and interinstitutional coordination, undermined the effective implementation of emergency measures. At the practical level, the accumulation of pending cases, disruptions in communication between defense counsel and defendants, and inconsistencies in the management of the prison population further complicated the realization of a fair trial. This article concludes that the principal challenge lies not in the absence of a willingness to manage crises, but rather in the lack of a systemic and anticipatory approach to structuring the relationship between a "state of emergency" and "criminal procedure." Accordingly, the solution should be sought in moving from ad hoc responses toward ex ante framework-building through the enactment of a comprehensive emergency law, the balanced development of technological infrastructure, and the establishment of automatic mechanisms for judicial resilience.

Keywords: criminal procedure, state of emergency, COVID-19 pandemic, electronic proceedings, human rights.

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1. Introduction

Under normal conditions, criminal proceedings operate within a framework of predetermined rules and procedures designed to safeguard the rights of

the accused, the victim, and society throughout the processes of prosecution, investigation, and trial. But what happens to these mechanisms when those "normal conditions" collapse? If a sudden event disrupts the ordinary course of affairs to such an extent that holding



a court hearing becomes a threat to public health, physical access to judicial authorities becomes impossible, or an overwhelming volume of cases suddenly accumulates within the judicial system, what becomes of the rules and procedural formalities governing criminal proceedings? These are not abstract questions; rather, they are tangible issues that have long been discussed in the literature of public and criminal law under the concept of a “state of emergency.” In recent years, events such as global pandemics, large-scale natural disasters, and domestic unrest have transformed these issues into concrete and urgent questions for the Iranian legal system as well.

To understand precisely what constitutes a state of emergency, it must first be distinguished from related concepts. In legal discourse, terms such as “extraordinary,” “exceptional,” “crisis,” and “emergency” are sometimes used interchangeably, yet they all refer to a common semantic core: a departure from the ordinary course of affairs. The Oxford dictionary defines an emergency as a serious, sudden, and dangerous event requiring immediate action to control it (Wehmeier, 2004). Black’s Law Dictionary likewise defines a state of emergency as a “state of national crisis or a situation requiring immediate and extraordinary national action” (Garner, 2009; Parvin & Paknejad, 2021). From a legal perspective, a state or country enters a state of emergency when ordinary constitutional mechanisms and institutions are no longer capable of properly governing the country and, consequently, extraordinary measures must be adopted and special powers delegated to governmental institutions in order to preserve public order and protect national interests (Criddle, 2012; Parvin & Paknejad, 2021). In other words, a state of emergency is a condition intended to contain imminent threats to governance and restore public order for the purpose of safeguarding the existence of the state (Ghamami, 2020).

For a situation to qualify as an “emergency,” the mere occurrence of a crisis is insufficient. The first requirement is the existence of an exceptional threat to the life of the nation; a threat affecting the entire population and all or part of the national territory, and endangering the physical integrity of the population, political independence, or the essential functioning of institutions necessary for guaranteeing human rights (Rabiei, 2008). Second, the situation must possess an

exceptional character; that is, it must be so severe that ordinary measures are inadequate to address it. Third, the danger must be actual and imminent rather than speculative or remote. Fourth, a state of emergency is temporary in nature and cannot be transformed into a permanent rule. Fifth, governmental authority and discretionary powers expand during such situations, and executive authorities may sometimes acquire competences that ordinarily belong to the legislative or judicial branches. Sixth, certain public rights and freedoms may, where necessary and subject to the principle of proportionality, be restricted or suspended, although rights such as the right to life, the prohibition of torture, and the prohibition of slavery may never be suspended under any circumstances (Ghorbannia, 2007). These conditions provide a normative framework that both guides governments in crisis management and prevents the exercise of arbitrary power.

A state of emergency is not a uniform concept. Its sources are diverse, and each produces different consequences for the legal system generally and criminal procedure specifically. Broadly speaking, emergency situations may be classified into three principal categories. The first consists of “natural crises,” such as floods, earthquakes, droughts, and storms, which may rapidly disrupt public order and render physical access to judicial authorities impossible. The second consists of “human-made and anthropogenic crises,” including riots, civil disturbances, war, and terrorist incidents, during which criminal proceedings may involve the establishment of special courts, extensive restrictions on defense rights, and the intervention of security institutions in prosecution and investigation. The third category comprises “biological crises and epidemics,” such as the COVID-19 pandemic, which, due to their widespread, contagious, and potentially fatal character, threaten the organized life of society (Zamani & Esfandiari, 2017). The COVID-19 pandemic, which the World Health Organization declared a “Public Health Emergency of International Concern” on January 30, 2020, represents the most prominent contemporary example of this third category and, because of the breadth and depth of its effects on judicial systems worldwide, constitutes the principal focus of the present article.

The outbreak of COVID-19 in Iran confronted the criminal justice system with unprecedented challenges. The widespread closure of courts during the initial

waves of the disease, postponement of proceedings, prioritization of cases, granting leave to tens of thousands of prisoners, and acceleration of electronic proceedings constituted only part of the measures adopted by the judiciary to manage the crisis. Nevertheless, the central question of this article is why such challenges were able to emerge in the first place. Can what occurred within Iran's criminal justice system be attributed solely to the unexpected nature of the crisis and the pressures generated by public-health necessities, or should the roots of this disruption be sought in deeper layers of the country's legal, institutional, and operational structures? The present article moves beyond a merely descriptive account of the consequences of the COVID-19 pandemic for criminal proceedings and seeks instead to dissect Iran's legal and judicial system in order to identify those gaps, ambiguities, and structural deficiencies that existed before the crisis and that the pandemic, acting as a revealing factor, brought into sharper and more visible relief.

Before undertaking this analysis, it is necessary to review the existing literature. In recent years, concurrent with the emergence of diverse crises across different parts of the world, research concerning states of emergency and their effects on criminal justice systems has expanded considerably. In Iran, some studies have focused on the concept of a state of emergency, the conditions for its realization, and the competence of the institutions responsible for its management (Aghababaei, 2021; Najjarzadeh Hanjani, 2020). Other studies have examined substantive dimensions of crises, including criminal liability arising from the transmission of contagious diseases (Sharifi, 2020), while another group has addressed restrictions on fundamental rights during emergencies or comparatively analyzed measures adopted by other countries (Bigzadeh et al., 2020; Jalali & Abuata, 2020). At the same time, electronic proceedings, as a potential response to crisis conditions, have been independently examined, with such studies primarily addressing their technical and legal challenges under ordinary circumstances (Esmaeili & Pourghahremani, 2019). At the international level, researchers have investigated topics ranging from the underlying causes of delays and backlogs in court proceedings during crises (Godfrey et al., 2022) and the role of courts in supervising governmental measures

during emergencies (Popelier et al., 2021) to practical strategies for reducing pressure on criminal justice systems during the COVID-19 pandemic (Godfrey et al., 2022). Despite this substantial body of research, what still appears to be absent from the domestic literature is an integrated, multilayered analysis capable of simultaneously identifying and examining the normative gaps, structural deficiencies, human-rights challenges, and practical-operational barriers affecting criminal proceedings under emergency conditions within a coherent framework. Existing studies have generally either focused on a specific crisis or examined only one dimension of the problem without exposing the internal relationships among these different layers. By focusing on the Iranian legal system and treating the COVID-19 pandemic as a case study, the present article seeks to fill this analytical gap. The novelty of this research, in comparison with previous studies, lies, on the one hand, in adopting a general approach to the concept of "emergency conditions" and, on the other, in simultaneously distinguishing and analyzing legal, judicial, and operational challenges within the context of criminal proceedings. This approach demonstrates that these challenges should not be regarded as isolated problems; rather, they constitute an interconnected chain of deficiencies that reinforce one another.

Accordingly, the article is organized into four principal sections. The first section addresses normative challenges, including the legal gaps, ambiguities, and silences with which Iran's legal system has long struggled concerning the definition of a "state of emergency" and the establishment of a criminal procedure framework appropriate to such conditions. The second section evaluates the existing situation from a human-rights perspective and assesses the extent to which Iran's measures complied with international standards of fair trial, particularly Article 4 of the International Covenant on Civil and Political Rights and the interpretations issued by the United Nations Human Rights Committee. The third section addresses structural challenges, namely deficiencies rooted in the institutional and infrastructural organization of Iran's judicial system. The fourth section examines practical and operational challenges, focusing on difficulties that arose in practice, impeded implementation of emergency measures, and themselves became additional barriers to the realization of fair criminal proceedings.

2. Normative Challenges

The question of why disorder emerged in Iranian criminal proceedings during the COVID-19 pandemic directs attention, first and foremost, to the normative and legislative dimensions of the legal system. What occurred during the critical months of the pandemic was not merely the consequence of the unexpected nature of the crisis or the pressure of public-health necessities. More than any other factor, it was rooted in legal gaps, ambiguities, and silences that had existed for years before COVID-19 and that the crisis transformed from dormant deficiencies into explicit and crisis-generating problems. By examining three principal manifestations of this normative challenge—the absence of a legal definition of a state of emergency, ambiguity regarding the legal basis of judicial powers, and the absence of an emergency criminal procedure law—this section demonstrates how legislative silence and ambiguity, rather than channeling judicial crisis management into a rule-governed framework, shifted it toward case-by-case discretion, decisions lacking adequate legal foundations, and ultimately extra-statutory governance.

2.1. Absence of a Legal Definition of a “State of Emergency” in Iranian Criminal Law

Advanced legal systems, both internationally and domestically, have provided relatively clear definitions of a “state of emergency.” For example, in the Paris Minimum Standards, the International Law Association defines it as “an exceptional situation of crisis or public danger, actual or imminent, which affects the whole population of an area and constitutes a threat to the organized life of the community” (Zamani & Esfandiari, 2017). The Siracusa Principles similarly provide a framework for identifying such situations by focusing on threats to the physical integrity of the population or the functioning of essential institutions (Zamani & Esfandiari, 2017). These definitions at least establish a conceptual framework for distinguishing emergency conditions from ordinary circumstances.

In contrast, although Article 79 of the Iranian Constitution refers to “emergency conditions,” it provides no definition of what those conditions entail. As commentators have observed, the Iranian constitutional legislator did not specify the concept of emergency conditions or the criteria for determining their existence

and merely referred, by way of example, to a state of war (Harisinejad & Soleimani, 2015). This ambiguity has not been confined to the Constitution but has extended to ordinary legislation as well. Although the 2019 National Crisis Management Act defines “emergency conditions” in Article 3, paragraph “۳,” that definition adopts a purely executive and relief-oriented approach and entirely neglects the judicial and procedural dimensions of emergency situations (Mansourian & Asakereh, 2024).

The practical consequence of this definitional gap became apparent with the emergence of COVID-19 in the form of debilitating uncertainty regarding which institution possessed authority to manage the crisis. The absence of a definition immediately raised a fundamental question for crisis managers: did the outbreak of a pandemic constitute “emergency conditions” within the meaning of Article 79 of the Constitution? Three competing approaches emerged in response: security-oriented management through Article 176 and the Supreme National Security Council; executive management through the National Crisis Management Act and the Crisis Management Organization; and legislative management through the government and Parliament pursuant to Article 79 (Najjarzadeh Hanjani, 2020). The first approach was ultimately adopted, and the “National Coronavirus Task Force” was established pursuant to a resolution of the Supreme National Security Council. From its inception, however, the legal basis of this body was open to doubt, and the hierarchical status of its resolutions within the system of legal norms remained ambiguous (Ghamami, 2020).

The effects of this disorder were directly transmitted to criminal proceedings. Because it was unclear whether the country was legally in a “state of emergency,” the judiciary was compelled to adopt a reactive approach based largely on administrative circulars. The numerous circulars issued during this period—from postponement of court hearings to mandatory reliance on electronic proceedings—were all adopted within an environment of normative uncertainty, and this circumstance called their legitimacy into question from the outset (Aghababaei, 2021). Moreover, resolutions of the National Coronavirus Task Force, which effectively assumed the status of legislation, proved inconsistent with fundamental constitutional principles. On the one hand, the imposition of monetary fines for violations of

public-health protocols conflicted with Article 36 of the Constitution, under which punishment must be prescribed by law; on the other hand, the introduction of extensive restrictions without parliamentary approval effectively marginalized Article 79. To these problems must be added the complete exclusion of such resolutions from judicial review. Pursuant to the note to Article 12 of the Law on the Organization and Procedure of the Administrative Justice Court, resolutions of the Supreme National Security Council—with which the National Coronavirus Task Force was institutionally associated—fell outside the jurisdiction of the General Assembly of the Administrative Justice Court. Citizens were therefore deprived of any effective mechanism for judicial redress (Aghaei Togh, 2020). In addition, the National Crisis Management Act failed to provide adequate sanctions for violations of emergency regulations, focusing at most on misconduct by managers and employees of governmental institutions rather than noncompliance by ordinary citizens (Aghababaei, 2021).

2.2. Ambiguity Regarding the Legal Basis of Judicial Powers under Emergency Conditions

The second layer of normative difficulty concerns ambiguity regarding the legal basis of the judiciary's authority to restrict fundamental rights during emergency conditions. The central question is: on the basis of which explicit legal provision did the judiciary consider itself authorized temporarily to suspend or restrict the right to be physically present at trial, the right to meet with counsel, or the principle of public hearings? This question extends beyond a technical legal issue and reaches one of the most fundamental concerns of modern public law: where does the boundary lie between "lawful authority" and "extra-legal power"?

The constitutional position of the judiciary helps illuminate the depth of this ambiguity. Article 156 of the Constitution characterizes the judiciary as the "protector of individual and social rights," implying that it is expected to safeguard fair-trial guarantees even during periods of crisis. Nevertheless, none of the constitutional provisions—including Article 79, which authorizes only the government, with parliamentary approval, to impose necessary restrictions—refers to special powers or duties of the judiciary under emergency conditions. This silence is repeated in ordinary legislation. The National

Crisis Management Act enumerates a lengthy list of responsibilities for executive bodies but defines no role for the judiciary.

Within this legal vacuum, the judiciary resorted to "soft law": the circulars of March 4, 2020 and April 15, 2020—the latter comprising 22 provisions—as well as the Directive on the Method of Investigation and Adjudication through Electronic Communication Systems, issued on March 18, 2021, exemplify this approach. Although these instruments ostensibly regulated the internal affairs of the judiciary, in substance they had profound consequences for the fundamental rights of litigants. The unanswered question was whether the "administrative powers" of the Head of the Judiciary, as provided in Article 158(1) of the Constitution, are sufficiently broad to substitute for legislation enacted by Parliament during emergency conditions. As commentators have noted, although reliance on this method of governance may offer short-term solutions, it lacks essential legal requirements, including foreseeability of measures and decisions, accountability to review, transparency, and the rule of law (Mansourian & Asakereh, 2024).

The practical consequence of this ambiguity was the "fragility" and "instability" of the legal framework governing criminal proceedings during the COVID-19 pandemic. Because this framework consisted largely of circulars capable of amendment or revocation, it remained vulnerable to sudden change, thereby contributing to uncertainty among judges, lawyers, and litigants. As one commentator observed, the absence of a comprehensive emergency law and the lack of laws and regulations specifically designed for proceedings under emergency conditions represented the most significant challenge confronting the judicial system, initially resulting in inaction and subsequently in uncertainty, to the point that even the resolutions of the Coronavirus Task Force, the judiciary, and other institutions were viewed with skepticism (Aghababaei, 2021). Moreover, this ambiguity led to resistance by courts themselves to resolutions of the National Coronavirus Task Force. A prominent example was the Task Force's decision requiring landlords to extend lease agreements. Because the measure was not clearly compatible with existing legislation, it encountered judicial uncertainty and demonstrated the vulnerability of decisions adopted by an extra-statutory body, even one supported by national

security authorities, when confronted with the established legal order.

2.3. Absence of an “Emergency Criminal Procedure Law” and the Conflict Between Public Health and the Rights of the Accused

The central manifestation and natural consequence of the two preceding challenges is the absence of an “emergency criminal procedure law” within Iran’s legal system. While countries such as France responded during the first days of the crisis by enacting the Public Health Emergency Act on March 23, 2020 and subsequently issuing Ordinance No. 2020-303, thereby establishing a clear framework for holding hearings, constituting courts, addressing pretrial detention, and enabling the remote participation of lawyers (Moghaddasi & Ghasemi, 2021), the Iranian legal system lacked comparable arrangements. What existed instead was a scattered collection of statutory provisions, such as Article 175 and Part Nine of the 2013 Code of Criminal Procedure concerning electronic proceedings, and Article 178 of the same Code concerning valid excuses arising from contagious diseases. These provisions had been designed for ordinary circumstances and lacked the capacity to respond adequately to a widespread crisis (Moghaddasi & Ghasemi, 2021).

The most significant consequence of this gap was that the conflict between “protecting public health” and “preserving the rights of the accused” remained unresolved and was therefore left to case-by-case discretion. In the absence of legislation specifying in advance which of these fundamental values should prevail under particular circumstances and what mechanisms should be used to mitigate their conflict, the judiciary was compelled to adopt temporary and circular-based decisions. Questions such as whether the mere existence of a contagious disease was sufficient to justify complete suspension of the accused’s right to physical presence, or whether such suspension should be conditioned on “strict necessity” and “proportionality,” and whether mandatory quarantine prior to return to prison constituted an additional deprivation of liberty, were all left to the discretion of judges and executive officials because no clear normative framework existed.

The same deficiency was evident in the affirmative dimension of judicial policy. The judiciary’s circular-

based recommendation to make “maximum use of leniency mechanisms” and measures of decriminalization and diversion could, in emergency conditions, have reduced pressure on the prison system and protected public health. Yet in the absence of legislation specifying the conditions, standards, and operational mechanisms for their use, these recommendations remained largely general exhortations. Their practical implementation depended on the personal attitudes of individual judges and local practices, resulting in fragmentation and inconsistency. As commentators have observed, many political systems have designed mechanisms that, “like an emergency power supply, automatically assume management of an emergency when the ordinary course of life can no longer continue” (Aghababaei, 2021). In Iran, the absence of such an emergency mechanism in the field of criminal procedure ultimately resulted in the practical suspension of certain fair-trial guarantees and demonstrated that, without a predesigned normative framework, the judicial system is likely to follow the same turbulent path when confronted with future crises.

3. Human Rights Challenges: An Assessment of Compliance with International Standards

Having examined the normative deficiencies, the analysis now turns to the performance of Iran’s criminal justice system during the COVID-19 pandemic from the perspective of international fair-trial standards. As a party to the International Covenant on Civil and Political Rights, Iran is bound by Article 4, which sets forth the conditions and permissible limits for derogation from human-rights obligations during states of emergency. The Siracusa Principles, the General Comments of the Human Rights Committee, and the practice of international institutions provide a supplementary framework for this assessment. The principal question is the extent to which measures adopted by the Iranian judiciary during the COVID-19 pandemic complied with these standards and the areas in which they departed from them.

3.1. Assessment of the Compliance of Iran’s Measures with International Fair-Trial Standards

Article 4 of the Covenant permits States Parties, “in time of public emergency which threatens the life of the nation and the existence of which is officially

proclaimed,” to take measures derogating from their obligations under the Covenant “to the extent strictly required by the exigencies of the situation,” provided that such measures are not inconsistent with the state’s other obligations under international law and do not involve discrimination solely on the ground of race, color, sex, language, religion, or social origin (Ghorbannia, 2007). Paragraph 2 of the same Article enumerates certain non-derogable rights that may not be suspended under any circumstances.

There is little doubt that the substantive requirement of a “public emergency threatening the life of the nation” was satisfied. With its global spread and lethality, the COVID-19 pandemic clearly constituted a public emergency. The World Health Organization declared it a “Public Health Emergency of International Concern” on January 30, 2020, and, applying the four criteria developed in European human-rights jurisprudence—the actual and imminent nature of the danger, its effects on the entire nation, the threat posed to the organized life of the community, and the exceptional character of the situation—COVID-19 satisfied all of these criteria. Accordingly, from a substantive perspective, Iran’s resort to exceptional powers appeared justifiable.

The principal challenge, however, lay in the failure formally to proclaim the emergency in accordance with Article 4 of the Covenant. The Human Rights Committee, in General Comment No. 29, has emphasized that formal proclamation of a state of emergency is essential to maintaining the principles of legality and constitutional governance. During the pandemic, Iran did not formally notify the United Nations of a state of emergency or communicate a list of derogated rights to the international community. Crisis management proceeded through Article 176 of the Constitution and the Supreme National Security Council rather than through Article 79, which could have provided a legal framework for formal proclamation (Aghababaei, 2021). Article 4 treats “official proclamation” as a mechanism facilitating both national and international supervision (Zamani & Esfandiari, 2017); without it, effective oversight by international and domestic institutions was substantially weakened.

The second axis of assessment concerns compliance with the principles of “necessity” and “proportionality.” Article 4 of the Covenant limits derogating measures to those “strictly required by the exigencies of the

situation.” In General Comment No. 29, the Human Rights Committee treats strict necessity as an essential condition and relates it to factors including duration, geographical scope, and the substantive reach of the emergency measures (Navari, 2022). The temporary closure of courts during the first wave of COVID-19 may be justified on grounds of necessity, but repeated extensions without periodic review raise concerns under the requirement of temporariness. With respect to proportionality, the Siracusa Principles require derogations from human rights to respond to an immediate, actual, and demonstrable danger (Zamani & Esfandiari, 2017). It is therefore legitimate to ask whether the complete suspension of the accused’s right to physical presence and the disruption of lawyer-client communication were proportionate to the existing threat, or whether these rights could have been preserved through less intrusive measures.

In this respect, distinguishing security emergencies from non-security emergencies is important. In security crises, the expansion of governmental powers may be directed toward suppression and control of opponents, and defense rights may be severely restricted on the pretext of maintaining security. By contrast, during the non-security COVID-19 crisis, expanded powers were justified in the name of protecting public health, and their ultimate objective was health protection. This distinction matters because proportionality concerns not only the quantitative extent of restrictions but also their purpose and orientation. Nevertheless, the absence of a transparent legal framework specifying the limits of such powers within Iran’s legal system left the boundary between “necessary measures to protect public health” and “disproportionate restrictions on defense rights” to case-by-case discretion.

The third axis of assessment concerns non-derogable rights. Article 4(2) of the Covenant recognizes the right to life, the prohibition of torture, the prohibition of slavery, and several other fundamental rights as non-derogable. The Human Rights Committee has also emphasized that essential judicial guarantees necessary to protect non-derogable rights must remain available during emergencies (Criddle, 2012). Within this framework, the policy of reducing the prison population and granting extensive leave to prisoners may be understood as protecting the right to life and as broadly consistent with international obligations. International

human-rights standards likewise emphasize that protective measures adopted during health emergencies must not result in inhuman or degrading treatment of persons deprived of liberty (Navari, 2022). Conversely, the complete disruption of communication between an accused person and counsel in electronic proceedings and the use of asynchronous testimony without an opportunity for cross-examination may constitute violations of the right to a fair trial.

Beyond these considerations, the absence of effective judicial review itself raises serious human-rights concerns. International standards emphasize that effective and efficient judicial supervision is essential to ensuring that emergency measures remain compatible with international obligations (Zamani & Esfandiari, 2017). In Iran, however, crisis management proceeded through Article 176 of the Constitution, a route that, pursuant to the note to Article 12 of the Law on the Administrative Justice Court, removed resolutions of the Supreme National Security Council from judicial review. Consequently, resolutions of the National Coronavirus Task Force that directly affected criminal proceedings remained beyond the reach of judicial scrutiny (Aghaei Togh, 2020). Such a situation is difficult to reconcile with international standards requiring independent domestic judicial control as a safeguard against unchecked governmental power (Eghbali, 2021).

3.2. Assessment of Prison Conditions and the Treatment of Persons Deprived of Liberty in Light of International Standards

Prisons represent the most vulnerable components of criminal justice systems during outbreaks of contagious disease. High population density, limited ventilation, and the difficulty of implementing public-health protocols can transform such institutions into potential centers of catastrophe, while prisoners remain wholly dependent on the state for protection of their health. This heightened vulnerability has led international human-rights law to recognize particular standards applicable to persons deprived of liberty.

Iran's first and most significant measure was to reduce the prison population by granting extensive temporary leave. During the first wave, in March 2020, approximately 85,000 prisoners were granted leave. This measure may be analyzed in terms of the state's positive obligations to protect the lives and health of

persons in detention. International human-rights standards require that all prisoners be treated with respect for their inherent dignity and that adequate health-care services be provided to persons deprived of liberty (Criddle, 2012). International guidance issued during the COVID-19 pandemic likewise emphasized the obligation of states to treat all persons deprived of liberty humanely and with respect for human dignity (Navari, 2022). Viewed in this framework, reducing the prison population constituted a measure directed toward compliance with the state's positive obligations. Nevertheless, the policy is open to criticism from other perspectives. The first concerns the criteria used to distinguish prisoners eligible for leave from those excluded. According to statements by the judiciary, persons convicted of offenses such as armed robbery, kidnapping, and acid attacks were excluded from leave. Although these exclusions were intended to protect public security, the principle of non-discrimination—which remains relevant even under emergency derogation regimes—raises the question whether a category of prisoners may effectively be denied protection of their health solely on the basis of the offense for which they were convicted (Ghorbannia, 2007). International human-rights doctrine emphasizes that the right to life and the prohibition of inhuman treatment cannot be suspended even in emergency conditions (Criddle, 2012).

The second concern related to the conditions governing prisoners' return from leave. The Prisons Organization required returning prisoners to undergo quarantine and obtain health clearance before re-entering prison facilities. From a public-health perspective, this measure appeared necessary. From the perspective of protection against arbitrary detention, however, the legal status of a person whose leave had ended but who was prevented from returning to prison because of quarantine requirements, while simultaneously not being free, remained legally ambiguous (Navari, 2022).

The third concern was the rapid expansion of electronic monitoring. The number of prisoners subject to electronic ankle monitoring increased from approximately 800 before the pandemic to around 3,000. On the one hand, this development may be understood as consistent with policies of reducing reliance on imprisonment. On the other hand, it raises serious questions regarding the right to privacy. Continuous

tracking of an individual's location without informed consent and in the absence of sufficiently restrictive legal safeguards may normalize pervasive surveillance and contribute to the erosion of fundamental rights (Vajdani et al., 2022).

The conditions of prisoners who remained incarcerated also warrant consideration. International standards require access to fresh air, natural light, adequate ventilation, and appropriate medical services (Criddle, 2012). During the COVID-19 pandemic, measures were adopted such as separating high-risk prisoners, establishing health committees, and deploying medical teams. Nevertheless, reports continued to indicate high population density even after the implementation of leave policies, chronic shortages of financial and human resources, and difficulties in securing adequate sanitary and medical equipment.

Ultimately, a fundamental question arises: was the model of "temporary reduction of the prison population" more consistent with international standards, or should more sustainable mechanisms—such as broader pardons, sentence reductions, or permanent conversion of custodial sentences—have been utilized? International human-rights recommendations during COVID-19 encouraged states to consider early or temporary release of prisoners (Navari, 2022). Iran's approach, by focusing primarily on temporary leave, entailed the risk that, once leave expired, prisoners would return to overcrowded environments and the cycle of vulnerability would begin again.

4. Structural Challenges

If normative challenges may be described as deficiencies in legal texts, structural challenges concern limitations embedded in institutional arrangements, organizations, and operational processes. Even assuming the existence of a clear and comprehensive framework for managing criminal proceedings during emergencies, the question remains whether the institutional, organizational, and infrastructural structure of the judiciary was capable of responding to a crisis as extensive as a pandemic. By examining three dimensions of structural challenges, this section demonstrates how institutional, infrastructural, and human-resource deficiencies obstructed the realization of fair criminal proceedings even where there was a genuine intention to manage the crisis effectively.

4.1. Structural Inability of the Traditional Judicial System to Respond to Widespread Crises

Iran's criminal justice system was fundamentally designed for "normal conditions": circumstances in which a complainant can attend the prosecutor's office without concern for personal health, the accused is physically present at trial, counsel sits beside the client, and the judge evaluates the body language and tone of voice of witnesses from the courtroom. These foundational assumptions, which had underpinned criminal proceedings for centuries, suddenly collapsed during the COVID-19 pandemic. The pandemic was therefore a "crisis of assumptions," revealing the extent to which criminal proceedings become vulnerable when physical presence itself constitutes a health threat.

The first manifestation of this weakness was the presence-oriented character of traditional Iranian criminal proceedings (Nemati et al., 2024). Although the 2013 Code of Criminal Procedure made significant advances toward digitization in Part Nine, it remained fundamentally premised on "physical presence." Article 195 requires the investigating judge to inform the accused of the charges and obtain the accused's statements "in person"; Article 352 links the public nature of hearings to the physical presence of citizens; and Articles 232 and 236 emphasize the witness's presence before the judge when giving testimony. These requirements, which ordinarily function as guarantees of fair trial, became structural vulnerabilities during the COVID-19 pandemic because each presupposed "proximity," "gathering," and "contact"—precisely the behaviors that had to be avoided to control a contagious disease. Faced with this structural contradiction, the judiciary had to choose between two difficult options: strict implementation of statutory procedural requirements while accepting the associated health risks, or protection of public health through temporary departure from some procedural requirements. The circulars issued in March and April 2020 chose the latter, recommending the submission of written pleadings instead of physical attendance and emphasizing electronic systems. Although defensible from a public-health perspective, this approach exposed the structural inability of the procedural system to adapt to crisis conditions without compromising fair-trial guarantees. This incapacity had additional dimensions. The rigidity of procedural rules—including procedural deadlines,

service requirements, methods of preparing hearing records, and regulations governing the transportation of prisoners—had all been designed for ordinary circumstances, making strict compliance difficult or impossible during the pandemic. The physical and geographical concentration of judicial institutions, characterized by crowded corridors, densely occupied offices, and concentrations of visitors, had not been designed for social distancing and consequently endangered the health of judges, court staff, and litigants (Mirkamali, 2020). Despite the development of electronic systems, the justice system's continuing reliance on physical documents also created a potential means of disease transmission, while cultural resistance and inadequate infrastructure impeded full implementation of the objectives set out in the relevant circulars.

4.2. Weakness of Judicial Electronic Infrastructure and the Gap Between “Administrative Directives” and “Operational Reality”

The clearest manifestation of structural challenges during the COVID-19 pandemic was the deep gap between what was prescribed in administrative circulars and what was actually possible in practice. In the absence of a predesigned statutory framework, the judiciary resorted to “soft law”; yet implementation of these instruments depended on infrastructures that either did not exist or had not been sufficiently developed. The April 15, 2020 circular, which emphasized the use of videoconferencing systems for examining litigants, receiving witness testimony and expert opinions, and conducting correspondence electronically, appeared comprehensive and decisive on paper but encountered numerous infrastructural obstacles in practice.

The first obstacle was a shortage of hardware. According to official reports, by February 16, 2021, only approximately 2,500 rooms in judicial units and 400 rooms in prisons had been equipped with electronic-trial systems, an insignificant figure relative to the enormous number of cases. Moreover, the mere existence of equipped rooms did not necessarily mean that institutions were prepared to conduct electronic proceedings, because ensuring fair trial and enabling effective assessment of the reliability of statements raise significant challenges in the context of electronic

testimony (Moazenadegan et al., 2025). Technical problems, including interruptions in audio and video transmission, delays in data transfer, and poor image quality, prevented judges from closely observing body language and facial expressions. Field findings indicated that accused persons were seated in small rooms before cameras while background prison noise—including conversations among officers and the opening and closing of heavy doors—dominated the virtual interaction (Nemati et al., 2024). More importantly, during hearings, the accused's audio and video were often accessible only to the judicial official, while defense counsel had no direct access to the accused (Nemati et al., 2024); this deficiency systematically deprived the right of defense of much of its substantive content.

Weaknesses in internet infrastructure and the national judicial network presented another fundamental challenge. Many judicial units in less-developed regions lacked high-speed internet access, producing a form of “infrastructural inequality” (Moazenadegan & Molabigi, 2022). Security concerns compounded these difficulties: necessary security infrastructures had not been adequately established before the pandemic (Moazenadegan & Abedin Nistanak, 2023), and phenomena such as “Zoom bombing” increased the risk that unauthorized individuals could enter hearings (Nemati et al., 2025). Unauthorized recording and dissemination of proceedings also created serious risks to privacy (Nemati et al., 2025). Furthermore, the absence of an “integrated architecture” for electronic proceedings—with multiple incompatible systems and different user interfaces—constituted an additional obstacle to effective use of electronic judicial services (Vajdani et al., 2022). Collectively, these factors demonstrated that “legal prescription” without “infrastructural preparation” cannot by itself transform “operational reality” (Moghaddasi & Ghasemi, 2021).

4.3. Deficiencies in Training and Coordination Among Relevant Institutions

Criminal proceedings are ultimately implemented by human actors. Accordingly, an important layer of structural challenges during the COVID-19 pandemic concerned weaknesses in “human capital” and “institutional coordination.” In the field of training, many judges had limited familiarity with modern technological tools (Moazenadegan & Molabigi, 2022), and the

pandemic placed them, without adequate preparation, in a position in which they were required to use electronic systems and assess evidence remotely. One consequence of this educational deficiency was difficulty in evaluating the authenticity and reliability of electronic testimony, a task requiring awareness of the inherent limitations of technology, including the effects of camera placement and image quality on witnesses' nonverbal behavior (Havener, 2014). These shortcomings were not confined to technological knowledge. Many judges were unfamiliar with the rationale of decarceration and the use of leniency mechanisms during emergencies and continued to adhere to previously established punitive approaches (Mirkamali, 2020). Judicial officers likewise confronted two competing responsibilities: enforcing restrictions on movement while simultaneously conducting criminal investigation and prosecution in accordance with new requirements. Without adequate training, this tension generated case-specific decisions and inconsistency in the protection of defense rights (Rostami, 2023).

Institutional coordination was equally problematic. Judicial circulars failed to provide clear mechanisms for coordinating the activities of the numerous institutions involved, including the police, forensic medicine authorities, the Prisons Organization, and bar associations. A clear manifestation of this lack of coordination was the communication breakdown between accused persons and lawyers during electronic hearings, which resulted from a mismatch between the technical design of the systems and the legal requirements of a fair trial (Nemati et al., 2024). At a broader level, coordination between the judiciary and the National Coronavirus Task Force was also deficient, while uncertainty regarding the Task Force's legal foundation caused governmental institutions to challenge one another's decisions rather than act synergistically (Aghababaei, 2021). These deficiencies demonstrate that any transformation of the criminal justice system must be accompanied by simultaneous investment in continuous training for relevant actors and the design of mechanisms for interinstitutional coordination. Otherwise, even the best legislation and the most advanced technologies cannot ensure justice in practice.

5. Practical and Operational Challenges

While the preceding sections addressed deficiencies in legal texts, structural weaknesses, and inconsistencies with international standards, this section examines what actually occurred in practice. Practical and operational challenges were tangible, everyday problems encountered by judges, lawyers, judicial officers, court employees, and litigants. Their importance lies in the fact that, even assuming the existence of a complete normative framework and highly developed institutional structures, a crisis as extensive as a pandemic inevitably generates operational difficulties requiring specific implementation measures. By examining three dimensions of these challenges, this section reveals the distance between "prescription" and "implementation" within Iran's criminal justice system.

5.1. Challenges in Managing the Flow of Proceedings and Case Backlogs

The first and most tangible operational challenge was disruption of the ordinary flow of proceedings and the accumulation of cases. The March 4, 2020 circular issued by the First Deputy Head of the Judiciary, with the objective of protecting public health, restricted the scheduling of new hearings to urgent and essential cases and required that consideration of new complaints and applications be postponed until after March–April 2020. Although this decision appeared to constitute a justified public-health measure, it effectively brought a substantial part of the criminal justice process to a halt for approximately one and a half months. As it became clear that the crisis would continue, the judiciary shifted from a policy of "closure and postponement" to one of "prioritization." The April 15, 2020 circular prioritized national-security cases, economic corruption cases, particularly serious and violent crimes, and COVID-19-related cases, while postponing nonessential matters such as eviction proceedings until after the emergency. Although understandable from the perspective of allocating limited judicial resources, in practice this approach meant that a substantial proportion of cases remained dormant for prolonged periods.

Several factors intensified this problem: reduced adjudicatory capacity because of limits on staff attendance—a December 2020 circular reduced staff attendance to one-third in areas designated as red

zones—difficulties in holding hearings in compliance with health protocols, and disruptions to administrative and support processes resulting from widespread remote work. Beyond the quantitative effects, the quality of adjudication was also adversely affected. Pressure resulting from case accumulation and the need to compensate for delays created the risk that the judiciary's "quantitative performance orientation" would lead to "hastened judgments and infringement of litigants' rights" (Mirkamali, 2020). Thus, the case-backlog problem both increased the duration of proceedings and threatened their quality.

5.2. Challenges Concerning Access to Counsel, Identity Verification, and the Security of Electronic Systems

The rapid expansion of electronic proceedings during the COVID-19 pandemic was accompanied by three interconnected operational challenges. The first and most critical was the disruption of communication between the accused and defense counsel. Field findings indicate that, during electronic hearings, the audio and video feed of an imprisoned accused person was frequently available only to the judicial authority, while defense counsel had no direct access to the accused (Nemati et al., 2024). This situation reduced the right of "access to counsel" to the mere formal status of "having a lawyer," stripping the right of its strategic and protective content (Nemati et al., 2024). A lawyer who cannot see or communicate with the client is, in practical terms, unable to perform an effective defense function. Empirical research confirms that remote communication makes it considerably more difficult to establish trust and rapport with clients and cannot reproduce the human and emotional interaction created by being physically present in the same room (Nemati et al., 2024). By creating an absolute communication gap, this arrangement effectively eliminated the lawyer's strategic, protective, and supervisory capacities (Nemati et al., 2024).

The second challenge concerned identity verification and the validation of statements in electronic environments. The mere presentation of testimony through technological means does not establish that the statements genuinely belong to the purported witness (Moazenadegan et al., 2025). In traditional proceedings, judges assess the credibility of statements partly through observation of body language and other nonverbal cues,

but in electronic proceedings these forms of communication lose much of their effectiveness (Feizollahi et al., 2024). Camera positioning may itself alter the appearance of a witness's nonverbal behavior (Havener, 2014). These limitations became even more pronounced in asynchronous testimony, which lacked the psychological impact of live online testimony and deprived the judicial authority of the opportunity to observe the witness's face in real time when assessing credibility (Moazenadegan & Molabigi, 2022). Article 22 of the 2020 Directive, which permitted the judicial authority and clerk to sign the record when an electronic signature could not be obtained, was likewise open to criticism from the perspective of defense rights (Moazenadegan & Abedin Nistanak, 2023).

The third challenge concerned system security and protection of judicial data. Necessary security infrastructure had not been adequately established before the COVID-19 pandemic (Moazenadegan & Abedin Nistanak, 2023), while "Zoom bombing" increased the possibility of unauthorized individuals entering hearings (Nemati et al., 2025). The ease with which hearings could be recorded and disseminated without authorization also posed risks to privacy and even to the presumption of innocence (Nemati et al., 2025). These difficulties were particularly acute in less-developed areas without access to high-speed internet, thereby intensifying "digital inequality" (Moazenadegan & Molabigi, 2022).

5.3. Challenges in Enforcement of Judgments and Practical Management of the Prison Population

The first challenge in this field was inconsistency among circulars and executive decisions. The multiplicity of decision-making authorities resulted in measures that were sometimes inconsistent with one another and left those responsible for implementation uncertain about their obligations. Ambiguity regarding the legal foundation of the National Coronavirus Task Force caused governmental institutions to challenge the decisions adopted by other authorities (Aghababaei, 2021). For example, while the Task Force imposed restrictions on movement and monetary fines for violations, judicial authorities lacked a clear legal framework governing criminal prosecution of violators (Aghababaei, 2021).

The second challenge was the reluctance of some judges to employ leniency mechanisms. Despite the explicit instruction in the April 15, 2020 circular to make “maximum use” of mechanisms such as deferment of sentencing, suspension of prosecution, and alternatives to imprisonment, many judges considered such sanctions insufficiently deterrent (Mirkamali, 2020). Similar attitudes were observed among prison personnel, where fear of COVID-19 infection intensified the severity of staff conduct and rendered the system of sentence enforcement less flexible, with speed increasingly taking precedence over quality.

The third challenge concerned the practical difficulties associated with prisoners returning from temporary leave. Granting leave to approximately 85,000 prisoners in March 2020 required a mechanism for safe return. The Prisons Organization required prisoners to undergo quarantine before re-entry and to obtain health clearance prior to returning to the prison population. However, providing adequate quarantine space, securing medical equipment, and managing persons who, between the expiry of their leave and receipt of medical clearance, occupied an uncertain position between liberty and detention were challenges for which Iran’s prison system was inadequately prepared.

The fourth challenge concerned prisoners’ right to visits from family members. In this respect, a conflict arose between the right to in-person contact and the collective right to health, which, from the perspective of Islamic jurisprudence, constituted a case of conflict between competing harms. Under the principle of *lā ḍarar* and in light of juristic opinions, where in-person visitation creates a risk of transmitting disease to the extent that human life may be endangered, such conduct may become legally prohibited (Sobhani Tabrizi, 1994). Accordingly, temporary restriction of in-person visitation could be considered justified under jurisprudential and legal principles, provided that appropriate alternatives were available and that the restriction remained limited to the period during which the danger persisted. Virtual visits, however, were themselves hindered by infrastructural limitations and by emotional difficulties arising from the inability of virtual communication fully to substitute for physical contact.

Overall, the operational challenges of the COVID-19 period formed an interconnected chain. Inconsistent

circulars created uncertainty for those responsible for implementation; judicial reluctance weakened policies aimed at reducing the prison population; difficulties surrounding prisoners’ return from leave increased the risk of disease transmission; and shortages of health equipment intensified all of these problems. The experience demonstrated that emergency policymaking that fails to take account of operational realities—including judicial culture, institutional capacities, and infrastructural limitations—cannot produce satisfactory results.

6. Conclusion

The challenges examined in this article under the four headings of normative, human-rights, structural, and practical challenges may initially appear to constitute distinct problems belonging to different domains. Closer consideration of their interrelationships, however, reveals a recurring pattern: in each of these domains, what made the COVID-19 pandemic particularly difficult for Iran’s criminal justice system was neither a lack of willingness to manage the crisis nor even an absolute shortage of scattered legal instruments, but rather the absence of a systemic and anticipatory approach to designing the relationship between a “state of emergency” and “criminal procedure.” This deficiency meant that, when the crisis emerged, the judiciary was simultaneously required to make law, construct institutional arrangements, train human resources, and manage the emergency itself—an impossible combination whose natural consequences were temporary reactions, case-specific discretion, and the gradual erosion of fair-trial guarantees.

If a single connecting thread is to be identified among the four layers of challenges examined, it is the “negative synergy” between normative gaps and structural weaknesses. The absence of a legal definition of a state of emergency and the lack of an emergency criminal procedure law pushed the judiciary toward extra-statutory and circular-based decision-making. Yet when those decisions reached the operational stage, they encountered structures that had never been designed to implement them. Electronic infrastructure was inadequate for remote proceedings, judges had not been trained to evaluate evidence in virtual environments, and relevant institutions lacked established mechanisms for coordination. The result of this gap between

“prescription” and “capacity” was that the defense rights of accused persons and victims were compromised in the space between them. In other words, the human-rights challenges analyzed in the second section were not simply direct consequences of the COVID-19 pandemic; rather, they were the logical result of the underlying disconnect between normative rules and institutional structures.

This analysis carries an important implication for legal policymaking: under emergency conditions, reforming one layer without addressing the others is not merely inadequate but may actually intensify instability. Enactment of a comprehensive emergency criminal procedure law, if not accompanied by development of electronic infrastructure, judicial training, and mechanisms for institutional coordination, would fare no better than the circulars issued during the pandemic. By the same token, equipping courts with advanced technologies in the absence of a legal framework clearly distinguishing derogable from non-derogable rights would simply reproduce the same infringements of rights in a technologically modernized form. What Iran’s criminal justice system requires is a “comprehensive judicial resilience package” in which normative, structural, human-resource, and operational dimensions are designed and implemented in a coordinated manner before the occurrence of a crisis.

At a deeper level, the COVID-19 experience exposed a paradigmatic weakness within Iranian criminal law: the absence of the concept of “differentiated criminal procedure under emergency conditions” from the mindset of the legislator and judicial policymakers. Iran’s criminal justice system is founded on the basic assumption that “normal conditions” will persist and that proceedings can continue according to the same permanent rules. The COVID-19 crisis demonstrated how fragile that assumption is. The solution is not merely to add several provisions to the Code of Criminal Procedure or adopt isolated administrative circulars, but to shift from “temporary crisis management” to “institutional design for resilience.” Resilience, in this sense, means designing the criminal justice system so that, when a crisis occurs, it automatically shifts into an “emergency mode” without requiring extra-statutory decisions or hastily issued circulars—much like an emergency power system that immediately activates when the ordinary electricity supply fails.

Another important lesson from this experience is the need to distinguish carefully among different types of emergencies and to design legal responses appropriate to the nature of each. A biological crisis caused by a pandemic differs fundamentally, in terms of the logic governing restrictions on rights, from a security crisis or a natural disaster. During the biological crisis of COVID-19, the primary objective was protection of public health, and restrictions on defense rights were an incidental and unintended consequence of health necessities. In security crises, by contrast, restricting rights may itself become a principal objective. This distinction must be incorporated into the proposed normative framework; otherwise, every crisis may become a pretext for extensive suspension of rights under the banner of “emergency.” For this reason, a comprehensive emergency law should establish separate categories of derogable rights, conditions and duration of derogation, and compensatory safeguards for natural, biological, and human-made crises.

A final issue is that the COVID-19 crisis generated a serious warning regarding the danger of “normalizing the exceptional” in criminal procedure. Many measures adopted during that period—including electronic proceedings without the accused’s consent, restrictions on in-person visitation, and expansion of electronic monitoring—were introduced to manage a temporary emergency. After the crisis subsided, however, there remained a risk that, because of their convenience or cost-saving benefits, they could become permanent practices. If these measures become entrenched in the justice system without critical reassessment, the COVID-19 crisis may result not in structural reform but in a lasting weakening of fair-trial standards. Preventing this outcome requires that every restriction of rights during an emergency be subject to a clearly defined termination criterion guaranteeing an automatic return to ordinary conditions once the crisis ends, and that any extension of such restrictions be conditional upon renewed assessment of their necessity and proportionality by an independent judicial or parliamentary authority.

In conclusion, despite all its difficulties, the COVID-19 pandemic served as a test that exposed previously concealed weaknesses within Iran’s criminal justice system. That revelation will be valuable only if it leads to reconsideration of the theoretical and structural foundations of the system. A legal order that treats a

crisis merely as a temporary event and returns to previous routines once it subsides is destined to repeat the same errors when the next crisis arrives. The next emergency may be another pandemic, a devastating earthquake, or a large-scale cyberattack. Whatever its form, the central question will remain the same: will the lights of justice once again go out, or will the criminal justice system, equipped with a legal and structural framework for resilience, be capable of continuing its course even through the darkness of crisis?

7. Proposed Recommendations

In light of the challenges identified above, any effort to redesign criminal procedure for emergency conditions must adopt an integrated, multilayered approach. The recommendations proposed in this article are formulated under four headings corresponding to the challenges discussed above:

First: Ex ante normative framework-building. The legislature should draw upon the comparative experience of jurisdictions possessing emergency legislation and enact a “Comprehensive Emergency Act” that provides a precise definition of a state of emergency, specifies the conditions for its declaration, identifies the competent authority for declaring and managing the crisis, and establishes mechanisms for parliamentary and judicial oversight of governmental measures. Within this broader framework, an “Emergency Criminal Procedure Act” should also be enacted, setting out the principles governing criminal proceedings during crises, clearly distinguishing derogable from non-derogable rights, specifying standards of necessity and proportionality for restricting defense rights, and providing alternative mechanisms for preserving minimum fair-trial guarantees. This framework should be designed so that it becomes automatically operative once a legally defined emergency occurs, thereby preventing reliance on temporary and extra-statutory decision-making.

Second: Alignment with international standards and clarification of the derogation regime. Iran should align its emergency practices with the requirements of Article 4 of the International Covenant on Civil and Political Rights and the interpretations of the Human Rights Committee. This requires formally proclaiming a state of emergency whenever such a crisis arises, communicating the list of derogated rights and the

reasons for derogation to the international community, and clearly defining the duration and territorial and substantive scope of the derogation. An effective mechanism of judicial review should also be established to supervise governmental action during emergencies and prevent unchecked executive power. In the prison context, policies aimed at reducing the prison population should be transformed from temporary crisis responses into a comprehensive program based on objective criteria, while the expansion of surveillance technologies such as electronic ankle monitoring should take place within a legal framework protecting privacy and, where legally applicable, informed consent.

Third: Balanced development of infrastructure and human capital. The gap between “prescription” and “implementation” can only be addressed through simultaneous investment in four dimensions: hardware, software, communications, and human resources. At the hardware level, all judicial units and prisons should be equipped with stable and secure electronic communication systems. At the software level, an “integrated architecture” for electronic proceedings should be developed to consolidate existing platforms within a coordinated environment and provide user interfaces compatible with the professional needs of judges, lawyers, and litigants. At the communications level, addressing unequal access to high-speed internet in less-developed regions should be treated as a fundamental priority. At the human-resource level, continuous training should be provided to judges, judicial officers, lawyers, and court staff in the use of emerging technologies, evaluation of electronic evidence, and the principles governing criminal proceedings under emergency conditions.

Fourth: Strengthening institutional coordination and ensuring adequate operational resources. Managing criminal proceedings under emergency conditions is inherently a multi-institutional process whose success depends on close coordination among prosecutors’ offices, courts, police, forensic medicine authorities, the Prisons Organization, bar associations, and other relevant institutions. Mechanisms for interinstitutional coordination should therefore be designed in advance, formulated as operational protocols, and automatically activated during emergencies. Moreover, every crisis-management policy should be accompanied by adequate financial, technological, and human-resource planning.

The COVID-19 experience demonstrated that even the most well-intentioned directives remain ineffective in practice when the necessary resources for implementation are absent. In addition, reconsideration of the judiciary's "quantitative performance orientation," under which judges are evaluated primarily by the number of cases processed, is essential to prevent rushed judgments and violations of litigants' rights during periods of crisis.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

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