

Video: Medical Martial Law and the Nuremberg Code in the Age of COVID-19

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Global Research, March 25, 2020

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Region: [Europe](#)

Theme: [History](#), [Law and Justice](#), [Police State & Civil Rights](#), [Science and Medicine](#)

The Covid-19 pandemic has thrown up an array of questions, yet one question that has been given little attention pertains to how much state power and suspension of civil liberties is justified in the face of a global pandemic? This is by no means a simple question to answer, but it is clear that state power in many countries has grown considerably in recent times, as governments and local authorities have declared national emergencies to fight the virus.

Martial Law Rollout?

Already, we have seen extreme measures taken and unnerving laws passed in the name of combating Covid-19, with these actions considered unthinkable only a few months ago. Just last week, the Italian region of Lombardy has called in the [army](#) to help enforce the lockdown against Covid-19. Italy has now reported the most deaths from the Coronavirus pandemic, and has imposed a strict lockdown on its citizens, with only essential travel permitted, such as going to work or going food shopping.

Approximately [40,000 people](#) have now been charged with violating the lockdown in Italy. One notable case was when a man disobeyed the order to self-isolate after testing positive for Covid-19, potentially facing up to [12 years](#) in prison if he is convicted of facilitating the spread of the virus. Italy serves as an example of a potential situation that could unfold in many other countries in the near future.

To be clear, I am not arguing that people should ignore the advice of governments and authorities that have imposed restrictions to contain the virus. For a limited period of time, these measures may well be justified in some sense, although each viewer and reader will have their own take on this issue. Yet there is a balance, and it does not take a rocket scientist to work out that there is so much space in this emergency, wartime period, for governments to abuse the power that they have given themselves. Fighting this virus on one hand, whilst keeping state power in check on the other, is going to be like walking a tightrope.

Mandatory Vaccination Laws?

Denmark has also reportedly passed emergency legislation that could give authorities the power to forcibly test, treat and quarantine citizens, including potentially being able to forcibly [vaccinate](#) people, even though no vaccine has been developed yet for Covid-19. The new law will be in force until March 2021, and will [suspend](#) certain rights stipulated in the Danish constitution, including the right to assemble. An earlier draft of the law would have allowed police to [enter](#) private homes without a court order, yet this section was scrapped

from the legislation.

More broadly, without a vaccine for Covid-19 even being available, the calls for stricter vaccination laws are [growing](#) louder by the day. The point here is not to take a position either way on the merits of vaccination programs, it is simply to state that the principle of consent is one of the most fundamental principles in free societies. In this time of fear and panic caused by the Covid-19 pandemic, it is crucial to remind ourselves of the history of medical consent.

The Nuremberg Code

The principle of consent was affirmed in the documents that came out after the prosecution of Nazi officials at the Nuremberg trials that took place after World War II. More specifically, the trial of the United States v. Karl Brandt, also known as the Nazi Doctors Trial, where Nazi doctors were tried for war crimes before US military courts, including for conducting [sterilization experiments and euthanasia programs](#). It led to the conviction of 15 out of the 23 defendants, seven of which were given the death sentence (Pelias 2006: 74). Karl Brandt was one of Hitler's personal physicians and the lead defendant in the trial, who served as co-director of the Nazi euthanasia program amongst holding other positions, and was hung in 1948 after being convicted and sentenced to death at Nuremberg (Ben-Amos 2009).

The Nuremberg Code was one document that came out of the Doctors Trial, and set principles regarding medical ethics and standards that should be followed by doctors and researchers when conducting experiments on human subjects (Pelias 2006: 74). Consisting of 10 principles, the first principle of the [Nuremberg Code](#) is perhaps the most important. It states that "the [voluntary consent](#) of the human subject is absolutely essential," and goes on to state that the consent has to be [competent, informed](#) and be the product of the "free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion."

Today, governments may well be justified in taking draconian steps to fight this deadly virus for a limited period of time, but in this process, we cannot lose all our basic human and civil rights permanently. Striking this balance is going to be no easy task, yet starting a reasonable conversation around this issue is at least one step forward.

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