

The Realistic Dilemma of Citizen Rights Derogation and the Theoretical Response of Administrative Law From the Perspective of Public Health Emergency

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ABSTRACT

This paper features high-profile cases during the pandemic to analyze the legitimacy of the strict enforcement of administrative law and how the law itself serves as the legal basis for such actions, drawing references from the value of laws and the cultural heritage. Besides, the author points out various malpractices in the process of law enforcement in the hope of helping it strike the right balance between public interests and individual rights so that social stability and individual liberty can both be taken care of. The conclusion of this article is that China's law-based anti-epidemic has set a model for all countries in the world. In the process of public health administrative emergency law enforcement, it is necessary to adhere to strict law-based administration on the basis of grasping the scope of rights derogation and protecting the basic rights of citizens, really achieving strict, fair and civilized law enforcement, and then realizing the integrated construction of a country under the rule of law, a government under the rule of law, and a society under the rule of law. This article uses the following research methods, such as investigation and research method, literature analysis method, comparative research method, and empirical research method.

Keywords: emergency, public interest, individual rights, administrative law enforcement

I. INTRODUCTION

In mid-to-late January 2020, a public health emergency — COVID-19 broke the auspicious nature of the Lunar New Year holiday. Benefit from the organization and mobilization of society, China has achieved remarkable initial results in the fight against the epidemic. This set of governance models with Chinese characteristics is worth learning and drawing lessons for other countries. However, some problems with the rule of law occur in the law enforcement process which worth further thinking and discussion. Especially at the moment when the second wave of COVID-19 is relapsing around the world, both law enforcement agencies and administrative law circles need to seek the theoretical basis for the derogation of rights in emergencies and the way to avoid excessive infringement in law enforcement.

II. CURRENT SITUATION: "GAINS" AND "LOSSES" OF EMERGENCY LAW ENFORCEMENT UNDER THE EPIDEMIC SITUATION

To protect the overall interests of all citizens and stop the malignant transmission of the virus, administrative organs at all levels have mobilized

administrative departments, social organizations, grassroots autonomous organizations and other organizations without administrative law enforcement power to assist the government in the prevention and control of the epidemic since the coronavirus happened. In the process of assisting the government in enforcing the law, the "hardcore law enforcement" of anti-epidemic teams without professional law enforcement training has once become the focus of wide public concern, such as violent law enforcement, rigid law enforcement, offside law enforcement and so on. This may because of their subjective will to stop the virus or the attitude of being responsible for the public interest.

A. "Flexible" enforcement of law enforcement methods — violent law enforcement

During the epidemic prevention and control period, rough law enforcement cases occurred in some regions. In Puyang City, Henan Province, people were tied up by epidemic prevention workers for not wearing facial masks. Those workers also shouted at them. As an ordinary staff member of the epidemic prevention and control headquarters, those workers are neither policeman nor legal or authorized administrative law enforcement officers. Their qualifications as subjects of law enforcement are questionable. Even in special

times, the epidemic prevention and control period, being bound without a facial mask is an absolute reservation under the constitution. Especially it is enforced in a way that is neither legal nor reasonable. Another case happened in Xiaogan, Hubei, when a family of three were playing mahjong at home, the epidemic prevention staff forced their way into the house and beat mahjong. One of the family members was suffered from violent behaviour like being slapped in the face by epidemic prevention staff. This case is even more illegality than the first one. This "break-in" is not in line with the central government's spirit of fighting the epidemic following the law, nor is it in line with the administrative organs' image of serving the people. As "temporary law enforcement officers", their such ACTS of violence have gone far beyond what is meant by the law to combat the epidemic.

*B. Mechanical application of enforcement discretion
— rigid enforcement*

The sudden outbreak of the epidemic has made both the central committee, local party committees and governments issued relatively strict guidance papers, relevant rules and regulations. For example, the CPC Central Committee issued the "Notice on Strengthening The Party's Leadership and Providing A Strong Political Guarantee for winning the Battle against COVID-19 (2020.01.28)", which is a macroscopic guiding paper on coVID-19 prevention and control issued by the CPC Central Committee. It is also a guiding paper for the country to fight against coVID-19. Announcement on Strengthening the Prevention and Control work of The Community in the novel Coronavirus Epidemic is a regulation on mobilizing communities to fight against the epidemic issued by the Bureau of Disease Prevention and Control under the National Health And Construction Commission. Provisions of it are more detailed than those in the previous paper, but many regulations would need more specifics rules. Relevant papers on local response to the epidemic, such as the announcement issued by the Heilongjiang provincial government, appointed three specific ways to implement effective measures for prevention and control. The papers also clarified the mechanism for strict accountability. This refinement has significantly increased the work operability of the epidemic prevention and control, and also provided a normative basis for law enforcement. Through systematic analysis, we could notice that from the central government to the local government, the content of regulations is gradually refined with the continuous decrease of levels. The refinement of abstract provisions is a necessary condition for the implementation of laws. This accords with the general principles of law and the general logic of administrative law.

However, with the gradual concretization of the provisions, the flexibility in the regulation implementation is gradually disappearing. Particularly in the context of strict prevention and control and nationwide fight against the epidemic, due to concerns about the accountability of strict law enforcement, law enforcement agencies tend not to exercise their discretion to "strictly implement" the regulations appointed by their superiors. For example, a teacher in Fengcheng, Jiangxi province was forced to quarantine for 14 days for jogging in his community without a mask. In the process of investigating grass-roots communities of fighting against the epidemic, author of this paper also found that community anti-epidemic workers often regard orders which were commanded by their superiors as iron laws and tend to ignore the legitimate rights and legitimate demands of ordinary citizens. The purpose of their action is only to reduce their responsibilities and the burden of work. In the practical aspect, strictly complying with laws and regulations is more likely to be recognized and praised by superiors, while excessive flexibility in the law enforcement process will be severely punished in case of adverse consequences. As a result, the law enforcement officials and the related personnel who are entrusted to exercise the power of law enforcement have understood the relevant provisions too mechanically and have ignored the application of justice in law enforcement practice.

C. Unclear rights and responsibilities of the subject of law enforcement — offside law enforcement

When fighting against the epidemic, the number of administrative organ staff is too small to undertake nationwide epidemic prevention and control work. Under the situation of emergency, community or village organizations, related units, and organizations of volunteers were entrusted to exercise a part of the public power. However, due to the inadequate professional law enforcement training and awareness of rules, many officers were assisted in a way which excessively violates the fundamental citizen rights. Sometimes they even overstep the law enforcement. For example, when a property owner was out walking his dog in Xi 'an, Shaanxi Province, an epidemic prevention worker beat his pet dog to death and said he could not walk the dog during the epidemic period. Another example happened in Hejian, Hebei was a villager went out for toilet without a facial mask. He was seen by epidemic prevention workers. The villager was then forced into an ambulance. We abhor privilege, however, when we have a certain extent power of our own, we would have no regard for the legitimate interests of others.

III. VALUE PROOF: THE LEGITIMACY OF RIGHTS DEROGATION

The centralization of government power in a democratic country is a correction of its potential dullness to the theory of decentralization in the face of an emergency crisis. In a state of emergency, in a state of law, it is necessary for the common good of all citizens for the public authorities to restrict the rights of individual citizens to the extent permitted by the rule of law. The derogation of individual rights in special periods accords with the theory of human rights principles and does not violate the requirements of humanitarianism. The reasonable administrative emergency right is the common call of all citizens and the statutory duty of administrative law enforcement organs. [1] As an important ideological principle to maintain the balance between public power and private rights in a special period, the relevant theories of administrative emergency principle make the subtraction of civil rights have legal value and the legitimacy of law application.

A. *Axiology of legal principle — the balancing of public interest and private interest*

The value of law mainly includes justice, order, human rights, freedom, efficiency etc. According to the general view, in the general state, the value of human rights and freedom of law should be prepositioned. However, when an emergency occurs and the society is in danger of losing control, the law's demand on the value of the order is often more urgent than that in the state of social stability. At this time, the survival of the country, social security and the interests of all citizens are seriously threatened by the special state. Eliminating the crisis and restoring the normal social order should be the primary value. At this time, when administrative organs exercise power, they could break the value hierarchy principle of conventional law, better deal with the crisis. [1]

In addition, from the perspective of the justice value of law, a true country under the rule of law should not only pursue superficial justice and narrow justice, but also pursue substantive justice and comprehensive justice. It should examine and judge the right and wrong of social changes and development from the perspective of wholeness and change. Paying attention to the value of human rights and freedom under the condition of social stability and order, while focusing on social order and governance efficiency under the state of emergency represents the real justice in this special period. Kant once quoted the maxim that "there is no law in a state of emergency". Aristotle, on the other hand, argues that "all regimes which take care of the common good are justified by the principle of absolute justice. [3]

B. *The legal angle of law enforcement — good law administration of law enforcement according to law*

In general, in the process of epidemic prevention, administrative law enforcement agencies and organizations, as well as individuals entrusted or authorized to enforce the law, are justified in the application of law enforcement and epidemic prevention laws. In 2007, the Emergency Response Law was promulgated and put into effect, marking the basic establishment of the national emergency management system. In addition, the Law on the Prevention and Control of Infectious Diseases and the Regulations on Emergency Management has provided a strong legal basis for the fight against the epidemic. Although these laws lack the refinement of lower-level laws, they are in line with the legislative spirit and specific provisions of the law in the practice of combating the epidemic. First of all, when the epidemic broke out, because of the vigorous mobilization and call of the Party, the government and grass-roots organizations, a large number of units, social organizations and volunteers actively participated in the work of fighting the epidemic, which made up for the shortage of manpower during the epidemic and played a great role in assisting administrative organs in law enforcement. Article 9 of the Law on the Prevention and Treatment of Infectious Diseases, Article 6 of the Law on Emergency Response and Article 55 of the Law all have a clear legal basis. Secondly, the biggest highlight of the fight against the epidemic is that the grassroots communities play a major role in assisting the administrative organs in law enforcement, which greatly alleviates the work burden of the administrative and law enforcement organs. It also improves the actual effect of the fight against the epidemic. This point is stipulated in Article 55 of the Emergency Response Law, which has the legality of legal basis.

C. *The collective view of local legal culture — the subordination of individual rights and interests to public interests*

President Xi Jinping has pointed out that ideological and moral construction should be strengthened and collectivism education should be strengthened. China is a country with a long history and culture, and the spirit of collectivism has been widely praised in Chinese traditional concepts. The traditional Chinese society emphasizes the public interest represented by the national interest, the national interest and the family interest, while the personal interest is compressed within a very small space and in an absolute subordinate position. When the personal interest and the public interest conflict, the personal interest should make the necessary compromise and concession, which reflects the Confucian ethical spirit of the reality of the concept of the state. This value orientation of "valuing justice over profit" and "being unselfish" undoubtedly

reflects the historical consciousness of morality and plays an important role in the cohesion of society. It has been exerting an important influence on the development of Chinese society for thousands of years. The Chinese nation has gone through hardships but also difficulties to thrive. Its huge population and scarce arable land have led to a chronic shortage of resources. Historical experience proves that to overcome natural and man-made disasters, we must always maintain the spirit of collectivism.

Adhering to the unity of individual interests and public interests is also a major feature of the Marxist view of interests. [7] Although Marxism affirms and respects individual interests, and actively advocates people's struggle to protect their legitimate rights and interests. But at the same time, Marxism also opposes the absolutism and extreme individualism of individual interests and opposes the disrespect of collective interests and public interests to realize individual interests. Focusing on the interests of the people is a clear-cut class standpoint of Marxism. Only by relying on the collective can we truly bridge the gap between personal interests and public interests, and finally realize personal interests, which is also the advanced nature of the Marxist concept of interest.[2]

When human beings live together in groups, the contradiction between individual and collective interests will never be resolved. When the two conflict, to realize the collective interests, individuals with the tendency of collectivism are always willing to give up their interests. China's social system and state governance, from the micro ordinary people to the macrostate machinery and political system, have a profound sense of collectivism, which is the fundamental difference from the Western system, but also the root of China's "institutional advantage". This sense of collectivism rooted in the Chinese nation is rooted in China's time-honoured traditional culture, sublimated by the introduction of Marxism, and highlighted under the ruling of the Communist Party of China, which is a powerful weapon to defeat the epidemic this time. As WHO expert Aylward said, China has shown an amazing spirit of collective action and cooperation, and everyone has a strong sense of dedication and responsibility." The Chinese people feel mobilized as if they are in the war against the virus," he said.

IV. THE REALISTIC DILEMMA: THE BALANCE BETWEEN PERSONAL INTERESTS AND PUBLIC INTERESTS

During the epidemic sweeping across the country, social stability was worrying. Administrative and law enforcement agencies at all levels often seemed to lose the rationality of the rule of law to maintain social order. To realize the order value of law, law

enforcement was easy to ignore the most basic rights of individual citizens, thus adopting excessive ways to conduct social management. Tsinghua University has published a report on maintaining stability, pointing out that some administrative departments have expanded their staffing and added auxiliary institutions such as "maintaining stability" and "managing the situation comprehensively". However, massive human and material resources have been mobilized to maintain stability, and social contradictions and conflicts have not been reduced. In the process of law enforcement, the subject of law enforcement is not clear, law enforcement behaviour is excessive and even accompanied by the lack of legitimate purposes of law enforcement.

A. Debate on the legality of the subject of law enforcement

The subject of law enforcement, as the executor and defender of the law, is a key link for the implementation of the law. The quality of the subject of law enforcement is related to the firmness of the beam of the building of the country ruled by law. Therefore, it is necessary to ensure the legality of law enforcement subjects to ensure the smooth operation and maintenance of the state under the rule of law. During an epidemic, the degree of confusion among law enforcement agencies is worrying. First of all, in a state of non-emergency, according to the relevant provisions of laws and regulations, the administrative subject can only be the state organ exercising administrative functions and powers or the organization explicitly authorized by laws and regulations. Other organizations and individuals are not allowed to become the administrative subject, so they are naturally not qualified to become the subject of administrative law enforcement. Secondly, even in a state of emergency, the law does not add the authorized norms of administrative subjects to other social organizations. Even in special times when the situation is urgent, it is worth questioning whether non-government units or individuals willfully violate the basic citizen rights in the process of assisting law enforcement agencies in managing and controlling the epidemic. If a volunteer, or a few volunteers, or a grassroots organization can restrict civil rights at will because of the epidemic, the epidemic or a state of emergency could become an umbrella of lawlessness, and thus this period could become lawlessness, which is not tolerated by a society under the rule of law.[3]

In retrospect to the case introduced above: Xiaogan law enforcement officers dressed in military uniforms directly into citizens' homes for inspection. The question of whether the law enforcement officer was a soldier was not examined in the case. Even assuming he is a soldier, the legitimacy of his law-enforcement role is questionable. First of all, how does a soldier get the

right to enforce laws? According to the relevant laws and regulations of the state of emergency, there is no normative content for any military law enforcement subject. Next, entering a house to search involves the citizen most basic right — the residence is peaceful right, this important right does not allow a general person to violate at will, only specific state organ (public security or judicatory organ) are allowed the power for entering a house to search. Even in the special period, we considered public interests and focused on the emergency: The whole country was in the midst of a major battle against the epidemic, and Hubei was also the worst-hit province. Therefore, it was reasonable to strictly control the epidemic. But should recreational activities in the homes of infected families be controlled by the state? Think about how it would be implemented if it were controlled.

B. The reason for "flexible" law enforcement methods

Even if the subject of administrative law enforcement has the legal qualification of the administrative subject, its specific law enforcement behaviour should be strictly restricted by the law. Without strict norms and restrictions, excessive law enforcement will be the norm. The guarantee of citizens' basic rights will be difficult to sustain. Every citizen wants to live with dignity, and every individual's dignity cannot be a tool for law enforcement agencies to achieve their goals. In a southern city, several police officers led poker players through the streets and shouted warnings to the public not to play CARDS. Although this case happened at a special time when the whole nation was fighting against the epidemic, this practice could achieve a good warning effect to a certain extent. However, as the subject of administrative law enforcement stipulated by the law, any law enforcement action of the police is bound by strict legal provisions. The behaviour of the police leading people who gathered to play CARDS through the streets seriously violates the personal dignity right of people involved and restricts their freedom right to a certain extent. Relevant laws regulate, no matter the criminal Procedure law and public security administration and punishment law under general circumstances, or the emergency response law under special circumstances, do not grant the police with relevant law enforcement powers. Whether from the type of law enforcement or the extent of law enforcement, are beyond the relevant provisions of the law. This type of enforcement, while taking place during a state of emergency, clearly goes beyond excessive restrictions on the fundamental rights of citizens. Law enforcement agencies do not take into account the balance between citizen rights and public interests. Citizens' rights are arbitrarily violated. If the law enforcement agencies do not limit the way of excessive law enforcement, it will be difficult to protect the basic human rights of citizens, the foundation of a

country under the rule of law should be regarded as it not strong enough.

C. Questions concerning the lack of the purpose of law enforcement

The above discussion has been carried out on the premise that administrative law enforcement agencies and organizations or individuals assisting law enforcement have a legitimate purpose, that is, it is assumed that the purpose is social public interest and social stability. However, in our investigation, we have found that some coVID-19 prevention and control workers carry out law enforcement activities under the pretext of coVID-19 prevention and control, which seriously infringe upon the legitimate rights and interests of ordinary citizens. If there is any justification for the above situation, it is clear that it is not only detrimental to the prevention and control of the epidemic but also brings more burden to the prevention and control of the epidemic. In a grass-roots community in Shanxi, some coVID-19 prevention and control personnel have no intention of preventing and controlling the epidemic. Instead, they approach the community with the subjective idea of "people with good relations are free to go in and out, while those who do not know are not allowed to go in and out". Although this kind of thinking is conducive to the prevention and control of the epidemic to a certain extent, it has an obvious "rule by man" mentality, which is not conducive to equal treatment and cannot guarantee the smooth implementation of the epidemic prevention and control work. Because of the existence of this thought, the reason that why a Hubei person released after serving a sentence with a low fever can back to Beijing during all cities were locked down and guarded by police is self-evident.

At the end of the epidemic, the law enforcement authorities in a county in Anhui insisted on blocking the community card points and restricting the residents' freedom to travel to avoid taking responsibility after the health emergency had been reduced to level 3 preparedness in the whole province of Anhui. This had no legitimate law enforcement purpose. Besides, there are many problems with the motivation of many law enforcement officials. For example, strict law enforcement during the epidemic is not for the benefit of the society, but to demonstrate their power and to be able to control people at will and make them obey their orders. Of course, this thought is also widespread in general non-emergency situations, but during the epidemic, this kind of man-ruled exclusive thinking appears to be more powerful, and the harm to ordinary people is more hidden. That is why, in the face of a national crisis and epidemic, we are struggling to balance public power with the private rights of individual citizens.

V. COUNTERMEASURES: ADHERING TO STRICT, STANDARDIZED, FAIR AND CIVILIZED LAW ENFORCEMENT

The report to the 18th National Congress of the COMMUNIST Party of China made it clear that we will promote law-based administration and ensure strict, standardized, fair and civilized law enforcement. Even during the epidemic, this rule of law standard cannot be compromised. As one scholar has said: "The restriction of the fundamental rights of citizens in a state of emergency is a mean, and the restriction cannot be an end in itself.

A. *A weapon for impartial law enforcement — making rational use of the principle of proportionality and strictly regulating the content of rights derogations*

The principle of proportionality is one of the most important principles in the process of administrative law enforcement. The principle requires that the interests of the public and the administrative counterpart should be balanced to achieve the purpose of law enforcement in the way that the least infringement is done to the administrative counterpart. The article 11 of China's Emergency Response Law on the principle of proportionality indicates that the state has established at the legislative level that the principle of proportionality should be applied to administrative law enforcement in a state of emergency. In non-emergency situations, the application of the proportionality principle in practice has gradually been deeply rooted in people's mind. Even if there are occasional omissions, it has been greatly improved. However, in a state of emergency, while the legal basis clearly defines the principle's indispensable status, it is often applied in emergencies, often with the "big picture" in mind, and receives little attention. It should be recognized that a country under the rule of law should be governed by the rule of law in all aspects. It should not only follow the thinking and mode of rule of law under normal conditions but also heal the damaged society with the spirit of rule of law following the law and regarding the legal principle under a state of emergency. [4]

Of course, law enforcement officers should not be required to use the standard of the normal proportionality principle in a state of emergency, so the principle of proportionality should be reconstructed. First of all, from the perspective of the government's exercise of functions and powers, excessive consideration of the principle of proportion by administrative organs will lead to the aggravation of emergencies and hinder the realization of legitimate social interests. From the viewpoint of right derogation, the principle of proportion should stick to the bottom line thinking and make clear the minimum of right derogation. As for the minimum derogation, the

International Covenant on Civil and Political Rights of 1976, the American Convention on Human Rights of 1969 and the constitutions of Portugal, Mongolia and other countries all have relevant regulations on the protection of the minimum standard of rights in emergencies. Generally speaking, the lowest human rights standards should include the right to life, the right to personal dignity, the right to personal liberty, the right to judicial protection and the right to state compensation.

B. *The guide of civilized law enforcement — actively using administrative guidance to strengthen the proportion of law enforcement flexibility*

Administrative guidance refers to the use of non-coercive means by state administrative organs to issue non-coercive guidance and Suggestions to citizens. Administrative guidance itself is a civilized system. In a real country under the rule of law, administrative guidance should be a system widely used by administrative organs and strictly different from other compulsory administrative ACTS. The provisions of article 45, paragraph 1, Paragraph 5 of the Emergency Response Law of China provide legal norms for administrative guidance issued by administrative organs under a state of emergency. However, many improper administrative ACTS mentioned in practice tend to confuse administrative guidance and abstract administrative ACTS more or less to some extent. In theory, there is a clear distinction between administrative guidance and mandatory administrative ACTS. The reasons for improper application in practice mainly include the following two situations: First, the organs issuing administrative orders confuse administrative guidance with normative documents without distinguishing them. As a result, executing agencies are acting as "superior orders", which leads to abuse of power. Second, the administrative agency that issues the regulations only issues some guiding recommendations, while the enforcement agency implements them by compulsory means, which is not conducive to the protection of citizens' rights.

In the current fight against the epidemic, the latter is more common. For example, when the government advocates wearing facial masks during the epidemic, it is administrative guidance. When ordinary citizens do not wear facial masks, they should not be subject to compulsory measures as long as they do not infringe upon the interests of others and the collective. If law enforcement officials were clear about the nature of the "order," there would be no cases of appellate violence. Besides, in a modern civilized country under the rule of law, the more administrative guidance measures are used, the better the role of "people's nanny" and the less interference in the private sector, which could reduce the conflict between the government and the citizens

and fully demonstrate the image of a socialist government under the rule of law that serves the people.

C. The good medicine of strict law enforcement — effective implementation of administrative compensation, reasonable compensation for infringement losses

In a state of emergency, it is necessary for law enforcement agencies to take more stringent measures than normal promptly to maintain social order and protect the public interests of citizens. This means that in the process of administrative law enforcement, the infringement of the legitimate rights and interests of individual citizens will be more prominent. Even if the administrative organs have legitimate and legitimate purposes in the process of law enforcement, they should make reasonable compensation after the infringement of individual citizens' rights. Marshall, the Chief justice of the United States, pointed out in the judgment of *Marbury V. Madison* in 1803 that "the essence of civil rights lies in the relief and protection from the government when infringed". Especially in the state of emergency, the government afterwards gives compensation to the citizens whose individual rights have been infringed, which is both the embodiment of the rule of law government and the manifestation of the civilized government.[5]

As for administrative compensation, there are many definitions in academia. Generally speaking, there is no dispute among the academia that the government's infringement of citizens' legitimate rights and interests due to public interests should be divided into administrative compensation. Concerning compensation in a state of emergency, it is all the more important that citizens be reasonably compensated. From the perspective of power guarantee, reasonable psychological and material compensation should be given to citizens after the end of the state of emergency when their rights are derogated from as compared with the normal state.

D. Foundation for Standardizing law enforcement — upholding the concept of procedural justice and promoting the spirit of law-based governance

In modern society, the administrative procedure is the foundation to control the abuse of power by law enforcement officers and to build a stable administrative power operation mechanism. In a sense, the administrative procedure is the core and foundation of the administrative legal system, and modern administrative law is the legal system about the procedure. In the process of administrative emergency, summary or special procedures are usually applied. Most domestic scholars also advocate the importance of administrative procedures for emergencies, and some procedural matters can be simplified compared with

normal ones, but they should not be completely absent. The author also argues that administrative organs must follow the simplified procedures prescribed by law when dealing with emergencies to prevent arbitrary and arbitrary power. In the process of responding to emergencies, special attention should be paid to the relevant provisions on time limits, that is, after the factors of emergencies have been eliminated, the administrative law enforcement organs should lift the restrictions imposed on citizens due to special circumstances as soon as possible, and should not infringe excessively for other improper purposes. As Professor Ma Huide once said, the administrative law enforcement agencies should remove the constitutional dictatorship established by the crisis as soon as possible, and should not continue after the crisis has disappeared. A crisis is an important factor for the existence of constitutional dictatorship. When the crisis disappears, the constitutional dictatorship should end. If it does not end, it will be unconstitutional and go to evil. [6]At that time, the state emergency power is no longer a weapon to defend democratic constitutionalism but will become a tool to bring disaster to the country and the people. It can be seen that effective standardization of administrative law enforcement is a necessary condition for a civilized country under the rule of law.

VI. CONCLUSION

In response to public health emergencies, excessive emphasis on administrative power cannot save the public from the crisis, nor can it alleviate the national crisis. On the contrary, irregular administrative law enforcement would virtually push the public into the "fire pit" and increase the burden of national governance to a certain extent which therefore affects social prosperity and stability.

The effectiveness of epidemic prevention and control is vital to human lives and health. At present, China has won the battle against the epidemic at a basic level, but the epidemic has not reached worldwide. The prevention and control situation in the "post-epidemic era" should not be slackening. Like Engels said: An intelligent people can learn much more from mishaps and mistakes than he normally would. Reviewing the "yes" and "no" of administrative law enforcement under the epidemic situation and analyzing the "gain" and "loss" of rights reduction in China, to grasp the legitimate jurisprudence of power limitation theory and explore the rational path selection of emergency law enforcement, and avoid the recurrence of the adverse situation of administrative law enforcement has great theoretical value and practical demand.

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