



Globalizing the right to health under corona pandemic

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ملخص:

أصبح الترابط بين العولمة وحقوق الإنسان جلي الوضوح، إلا أن معالم العلاقة بين المفهومين تتسم بالتعقيد والتمايز، ويعتبر الحق في الصحة من أكثر حقوق الإنسان تأثراً بمقتضيات العولمة، نظراً لطبيعته الإيجابية التي تفرض على الدول القيام بتدابير معينة وبذل خطوات إيجابية من أجل أعماله، في حين أن العولمة تحاول التقليل من فاعلية الدولة قدر الإمكان، لذا وجب التمحيص في هذه العلاقة الجدلية التي تربط بين العولمة والحق في الصحة خاصة في ظل التعقيدات المرتبطة بانتشار جائحة كورونا .

Abstract

The interdependence between globalization and human rights has become clear, but the parameters of the relationship between the two concepts are complex and distinct. The right to health is one of the human rights most affected by the demands of globalization, given its positive nature, which requires States to take certain measures and take positive steps towards its realization, while globalization attempts to reduce the effectiveness of the State as much as possible. This dialectical relationship between globalization and the right to health must therefore be examined, especially in view of the complexities associated with the spread of the Corona pandemic.

Introduction:

The interdependence between globalization and human rights has become clear, but the limits of the relationship between the two concepts are complex and distinct. Globalization has a different impact on different categories of human rights negatively and positively, especially



as the effects of globalization are increasingly becoming more unequal and complex. It makes it difficult to investigate all the effects of globalization on all human rights, given the complexity and amplification of rights on the one hand and the multiple manifestations, complexity, and asymmetry of globalization on the other, as well as the difficulty of classifying jurists in view of their overlap and overlap in various international, universal and regional instruments, human rights are not a homogeneous fabric affected by the mechanisms of globalization in a similar way.

The General Assembly and the Commission on Human Rights, replaced by the Human Rights Council and the Sub-Commission on Human Rights, tried to answer this question by exploring the human rights dimensions of globalization. In 1999, the Commission on Human Rights recognized that globalization was not only an economic process but also a social, political, environmental, cultural, and legal dimension affecting human rights in its various manifestations, with a distinct effect from State to State.¹

Economic, social, and cultural rights are among the human rights most affected by the demands of globalization, because of their positive nature, which requires States to take certain measures and take positive steps towards their realization, while globalization attempts to cut the effectiveness of the State as much as possible. Through a review of the mechanisms for the globalization of economic, social, and cultural rights, the impact of globalization on the right to health is then reviewed in practice as a model, after defining the conceptual framework for both globalization and economic, social, and cultural rights to answer the central problem of the study: what is the nature of the intersection between globalization and the right to health in the international environment?

1/ Mechanisms for the globalization of economic, social and cultural rights

The logic of globalization is based on the break with the central role of the State in the regulation of economic, social, cultural, and even legal life. International institutions have emerged in the international arena that has confiscated the previously unique roles of the State,

¹ Leah Levin, Human Rights Questions and Answers, Publications of the United Nations Educational, Scientific and Cultural Organization, 1st Edition, Paris, 2008, p. 139



leading to the end of the so-called. "welfare state," which is concerned with economic, social, and cultural rights, so the effects of globalization on economic, social, and cultural rights have been coined by the international institutions that are active in the world economy, namely, the World Trade Organization, the World Bank and the International Monetary Fund (IMF), which shape the purposes of some active States in determining the course of globalization, trying to subject human rights legal texts to the requirements of economic globalization.²

1/1/ The World Trade Organization

Although the international trade-economic system has played an effective role in determining the human rights implications, many members of the international economic trading system and the World Trade Organization consider that human rights considerations are totally inconsistent with the rules of international trade, claiming that there is no point in including human rights issues in the international trading system on the grounds that the two regimes are different, especially since the international trading system takes into account only its own rules and regulations, since human rights are included in the international trading system.³

Indeed, the World Trade Organization (WTO) was one of the tools of Western globalization to get non-growing proportions of profits for Western countries at the expense of the developing world. It is the scientifically and economically advanced countries that benefit most from the principles of the World Trade Organization (WTO), especially since they have imposed protectionist restrictions on intellectual property rights to keep their development and block advanced technology from third-world countries. Developing countries have only two options, either to develop themselves or to join the World Trade Organization (WTO), subject to the unfair conditions imposed on them.⁴

² Lauren Boisson De Chazournes , « Institutions financières internationales, mondialisation et droits de l'homme », in: La déclaration universelle des droits de l'homme 1948 - 2008 réalité d'un idéal commun?, 1er edition, La documentation française, Paris, 2009, P 59(fench).

³ Buglal Salahuddin, Protecting Human Rights in the Globalized Economy: Study in WTO Law, doctoral thesis, Faculty of Law and Political Science, University of Batna, 2011, p. 03(Arabic)

⁴ Ayad Abdul Ali Salman Al-Shamari, Reza Abdul Jabbar Al-Shamari, "Effects of the World Trade Organization on States," Al-Kufa Literature Journal, University of Kufa, vol. 1, No. 1, 2011, p. 78(Arabic)



Perhaps the reason for the selective and opportunistic policies of the World Trade Organization is that it is an undemocratic institution, where the organization suffers from a crisis in its functioning. In the Uruguay Round, developed countries were adamant that the decision should be taken by consensus while developing States were of the view that the proper mechanism was to vote, and a compromise was reached under article 9 of the Statute of the Organization, which provided for the possibility of voting in the event of non-consensus, but that article was opposed by developed States.⁵

The principle of consensus, which operates in this Organization under the influence of the Club of Rich Nations la Quad, which includes the European Union, the United States, Canada, and Japan, has been modified and put into practice the mantra: "All of them are equal, but among them they are more equal than others." The consensual democracy agreed upon at the time of the founding of the organization cracked down on two factors: The first is the frequent use of unplanned meetings under pressure from rich countries, and the second is the application of the rule that "those who do not speak necessarily agree," especially since most countries lack diplomatic representation in the organization, which has turned the WTO into an oligarchic organization that lacks transparency and integrity⁶.

The principle of exclusion of human rights from the competence of the WTO is attributed to the very nature of the organization, which is an international organization with moral personality, whose functions are defined by article 3 of its Statute and which does not include human rights. Since public international law recognizes the principle of a narrow interpretation of the competence of international organizations, the competence of the WTO cannot be extended to areas other than those covered by the Treaty.⁷

⁵ Abdelaziz Al-Ashawi, *Research in International Criminal Law, Part 02*, ed. 1, Dar Homme, Algeria, 2006, p. 98.(Arabic)

⁶ Raul Marc Ginnar, "Human Rights, World Trade Organization and Globalization," in a collective entitled: *Human Rights, A Brief World Encyclopedia, Part 02, Edition 1*, Al-Ahali House, Damascus, 2000, p.191(Arabic)

⁷ Thiebault Flory et Nicolas Ligneul, « Commerce internationale, droits de l'homme, mondialisation: les droits de l'homme et l'organisation mondial du commerce », in: *Commerce et protection des droits de l'homme*, éditions Bruylant, Bruxelles, 2001, P 181.(french)



An irony of human rights neglect in the WTO Statute is the traditional link of human rights and trade, which focuses largely on how WTO member States impose restrictions or punitive measures on other countries for failing to comply with human rights standards, but the debate rarely extends to discussing the obligations of major States to promote their own human rights, or the need for international coöperation to achieve these ends, especially with regard to economic, social and cultural rights. (Or non-members) from complying with their obligations rather than punishing them for non-compliance is a natural starting point for effective advocacy of human rights.⁸

½ The International Monetary Fund (IMF):

In the context of finding new investment opportunities around the globe, IMF has played a crucial role in assessing the eligibility or viability of the country concerned for loans, and in the extent to which the country is responding to the implementation of structural reforms based on neoliberal principles, whereby the Fund has in one way or another become a mentor for capitalists to enjoy their global investment opportunities in a secure environment.⁹

The IMF is dominated by a group of market fundamentalists who believe that markets generally work well and that governments generally work poorly, and here's the irony of an institution created to address certain market failures but now managed by economists. (Former staff in Washington and Switzerland) with high market confidence and low confidence in national public institutions. The mismatch in the Fund seems to be worrying, especially in the light of international developments and global crises that have proved market instability.¹⁰

The introduction of structural adjustment programs, even though they represent a national decision through which governments - in theory - try to find solutions to the economic situation in their countries after the failure of their national and economic development policies, under the influence of globalization, which limits the effectiveness of national

⁸ James Harrison, *The human rights impact of the world trade organization*, 1st edition, Oxford hart publishing, UK, 2007, P 177

⁹ Ernest Volf, *International Monetary Fund, A Great Power in the World Arena*, Adnan Ayyas Ali Translation, Edition 01, Knowledge World, Kuwait, 2016, p. 142(Arabic)

¹⁰ Jozef Stillitz, *Globalization and its Disadvantages*, Translation by Falih Abdul Qadir, Edition 1, House of Wisdom, Baghdad, 2003, p. 222.(Arabic)



action. However, this adjustment does not come without the necessary resources. The major capitalist countries have given loans to developing countries, which are often accompanied by conditions that affect the sovereignty of States and direct their political and economic choices.¹¹

The IMF's perceptions of the nature and structural imbalances in development problems are essentially reflective of the view and interest of developed capitalist countries and American capital as dominant in the international market. The objectivity of globalized capitalism and making it the bearer of progress do not correspond to the living conditions of third-world societies. The Fund's lending strategy is not devoid of completely biased political motives against development in the third world. Reform" programs are nothing short of an increase in the credit efficiency of these countries in paying their debts as a direct short-term goal, whereas the main objective is to link their economies to the globalized capitalist economy.¹²

The "recipes" of restructuring are usually "spicy" on human rights, starting with the reduction of the national currency, the imposition of a social withdrawal of the State, the suspension of support for commodities, cuts in public budgets for education and health, the elimination of protectionist tariff barriers and a policy. "Everything for export" without forgetting the liberalization of the banking system and the privatization of State enterprises, especially since the sale is at symbolic prices for multinational corporations in the form of direct investments. These operations are carried out with the support and active participation of the International Monetary Fund (IMF), thereby giving "legitimacy" to the takeovers of national institutions and resources.¹³

The direct effects of austerity policies include the reduction of the level of employment, the stagnation of the wage rate, the reduction of government spending, the raising of public-sector price levels, the reduction of spending to cut the budget deficit and the reduction

¹¹ Abdul Amir Hayali, Jamal Taha Ali, "The Effects of Structural Adjustment on Democracy in Third World Countries," *Diali Journal of Human Research*, University of DIALA, No. 43, 2010, p. 428.(Arabic)

¹² Tahir Fadel Al Bayati, "Fiscal Reform in the Third World between IMF Vision and Alternative Options," *Journal of the Baghdad School of Economic Sciences*, University of Baghdad, No. 40, 2014, pp. 27-34(Arabic)

¹³ Denis Horman, *Mondialisation excluante, nouvelles solidarités, soumettre ou démettre l'OMC*, édition l'Harmattan, 1er édition, 2001, P 87(french)



of inflation will undoubtedly lead to a rise in poverty levels, especially after social spending has been compromised. (Wages, education, health) as well as the elimination or limitation of government support to certain commodity sectors, which will lead to higher prices and thus support the standard of living of citizens, thereby increasing poverty rates after the adoption of economic restructuring programs by the State¹⁴.

It is clear from the above that the IMF is only a tool used by capitalist countries to exploit developing countries and deepen their dependence on the globalized capitalist economy. Structural adjustment "prescriptions" are systemic mechanisms to undermine human rights. The International Monetary Fund (IMF) is hardly the private financial institution imbued with Western capitalist values without giving attention to human rights considerations except when it is the practice of developing countries to deny them loans. Although the IMF Statute did not explicitly state human rights considerations, it could not disavow obligations in that area, especially as they were universal obligations. The Fund has sacrificed its human rights to make sure that States pay their debts through remote control of their economies through austerity "adjustment and reform" programs with expensive social costs.¹⁵

1/3/ The World Bank:

Globalization has led to a development in the World Bank's operations to support global capitalism trends so that lending for the purposes of supporting and developing the domestic and foreign private sector and encouraging it to contribute to production, reducing the role of government in production, restructuring public sector firms and institutions. The World Bank's activity is based on the relationship between the controlling and requesting countries. The impact of globalization on the World Bank can be seen through economic policies that are primarily in the interest of the capital States. "Reforms" aimed

¹⁴ - David Suleiman Sultan, "Economic reform policies in some Arab countries. What's happening?" Magazine. Rafidain Development, University of Mosul, No. 102, vol. 33, 2011, p. 29.(Arabic)

¹⁵ François Gianviti, "Economic, social and cultural human rights in the international monetary fund", in: non-state actors and human rights, Oxford university press, New York, 2005, P 118



at reducing the role of the State and lifting government support for goods.¹⁶

The World Bank is headquartered in Washington, D.C. The latter, in addition to the Western capitalist countries in general, has a dominant voting power, enabling them to design and implement policies that are consistent with their interests and thus impose harsh conditions on requesting countries. The loans provided by the World Bank are always dubious constraints, apparently related to development, poverty eradication, and protecting human rights, and are more insidious in terms of strategic political and economic objectives that serve the capital interests of States at the expense of the peoples and States of the third world.¹⁷

The management of the World Bank continues to be influenced by the influence of the five major powers, primarily the United States of America. As a result, all of its decisions are not contrary to the interests of these countries. So these institutions have not taken any stand against the intervention of the major capitalist countries in supporting their financial institutions that are troubled by the global crisis by pumping liquidity into them by the public treasury in a form of nationalization by the socialist-oriented economy. While harsh conditionality associated with utilitarian capitalist thinking is applied to developing countries without taking into account the specificities of each country, the same structural reform "recipe" is applied when requesting help.¹⁸

The World Bank has not developed a policy and agenda for action consistent with human rights, particularly on what lending policies are based on conditions that require reducing government spending on the public sector and its money from a serious human rights impact, as well as on the issue of trade restrictions that violate fundamental human rights standards, which raises a debate about the appropriateness of the World

¹⁶ Abhhal Reza Mohamed David and Ali Abbas Smiran, "Globalization and International Financial and Monetary Institutions," Political and International Journal, University of Mustansiriyah, No. 12, 2009, p. 64(Arabic)

¹⁷ Noam Chomsky ,Recovering rights a crooked path, in globalizing rights, 1st edition, Oxford university, New York, 2003;P 66

¹⁸ Berbas tahar,The Impact of the Intervention of International Monetary and Financial Institutions in the Economy: Case Study of Algeria, Master's Note, Monetization and Finance, Faculty of Economic and Management Sciences, University of Biskra, 2008/09, p. 195.



Bank's role as a political and moral reformer, and to what extent, given its legal mandate, it can deal with human rights considerations and not human rights considerations.¹⁹

For most of its history, the Bank has had limited human rights powers. The language and rules of the Bank adopt a purely economic and technocratic approach based on the Convention establishing it: "The World Bank can not intervene in the political affairs of any Member State. They may not be affected in their decision by the political approach of the Member concerned. Economic factors alone must be taken into account in their decisions, and these considerations must be balanced in a neutral manner for the purposes set forth in the first article. Throughout its history, the Bank has avoided recognition of human rights and has not had a human rights policy, but the principle of the application of limited powers has not been coordinated over the years, because the Bank has invoked human rights considerations to prevent loans from certain States and to ignore human rights violations to lend to other States.²⁰

The World Bank's hostility towards human rights is most prominent: The voting system in place, which undermines international participation in international economic/social decision-making. The voting method of Weighted voting gave America a large proportion of these votes, resulting in the latter having a right of veto. This has kept the subject of human rights inside the Bank as an additional (undisclosed) pressure tool used by America and its allies against anti-terrorist regimes, making the ideological/political neutrality myth claimed by the World Bank merely an argument for shirking the Bank's responsibility towards human rights.²¹

In addition, human rights are not well understood by a large number of officials within the World Bank. This lack of knowledge of the concept of human rights has led many Bank officials to automatically link "human rights" to "sanctions." Human rights policy within the Bank is limited to cutting off loans and other assistance. The problem is that

¹⁹ Leah Levin, opcit, p116(Arabic)

²⁰ Laurence Boisson de chazournes, « Integration human rights into the activities of the world bank », in: Commerce mondial et protection des droits de l'homme, Op cit, P 57.

²¹ Mohamed Fahim Yusuf, "Organizational Structure of the World Bank and Human Rights," Law Journal, Faculty of Law, University of Kuwait, No. 02, 27, 2003, pp. 371-372(Arabic)



this association is unfounded, as the practice of the major powers has shown that human rights considerations do not arise in the context of the Bank's advocacy of punitive measures against States alleged to have violated human rights. "Punitive" in spite of the possible roles that the Bank could play in strengthening respect for human rights, especially in the less developed countries.²²

It is clear from the above that the international financial institutions are an effective arm of the process of economic globalization, which has contributed to the redistribution of roles in international interactions. This has led to a decline in the role of the State as far as possible in the face of these international institutions, which are dominated by some Western States and, above all, the Western States, whose narrow interests prevail over human rights considerations.

2/ The impact of globalization on the right to health

Globalization does not conflict in principle with human rights considerations, but if it is not complemented by appropriate additional policies, it risks detracting from the centrality of human rights under international instruments and thus applies in particular to economic, social, and cultural rights, and the right to food, the right to health and the right to education may be compromised under the "restructuring and reform" prescriptions advocated and defended by the international financial institutions.

2/1/ The Legal consecration of the right to health

The right to health is one of the most fundamental human rights. The concept of this right has evolved from treatment only to prevention and the full well-being of people. The right to health has received due attention at the international, regional, and national levels. The United Nations, through the World Health Organization (WHO), has contributed to the realization of the right to health, making it one of the most important human rights obligations of States to accede to international health organizations and to commit themselves to the effective implementation of international conventions on the right to health.²³

²² Philip Alston, Rethinking the world's Bank's approach to human rights, In: www.law.nyu.edu/.../Philip_Alston_Annual_Workshop_Keynote.p, P 07.

²³ Wathik Abdul Karim Hamoud "The Human Right to Health in International Law," Tikrit University Journal of Legal Sciences, University of Tikrit, No. 26, 2015, p. 263. (Arabic)



In view of the link between the right to health and the right to life, it has been legally consolidated since the Universal Declaration of Human Rights under article 25, paragraph 1, so that the Declaration emphasizes the right to health by satisfying the necessary needs. (Food, clothing, housing) it was emphasized in article 12 of the International Covenant on Economic and Social Rights, which gives individuals the right to enjoy the highest attainable standard of physical and mental health. The Alma ata Declaration, sponsored by WHO and UNICEF in the Soviet Union, 1978, also emphasized the right of all to the highest attainable standard of health, and it is the duty of Governments to consider this task as one of the general social objectives.²⁴

The WHO Constitution adopted two years before the Universal Declaration of Human Rights, also provides that: "The enjoyment of the highest attainable standard of health is one of the fundamental rights of everyone without discrimination on grounds of race, political belief or social and political status," the United Nations General Assembly in 1981 adopted the Global Strategy for Health for All, and in 1982 adopted the Principles of Medical Ethics.²⁵

The importance of the right to health has made it the subject of rich legal, treaty, and declaratory commitment to human existence. It is guaranteed by the Convention on the Elimination of All Forms of Racial Discrimination against Women of 1979, the Declaration on the Rights of the Mentally Retarded 1971, the Declaration on Social Progress and Development of 1969 and the Declaration on the Rights of Persons with Disabilities of 1975.²⁶

Despite the legal devotion of the right to health, complex healthcare problems remain unresolved, in the contemporary debate over issues of conflict between public interests and individual rights, the emergence and expansion of public health crises in low-income countries, the challenges of regulation of the activities of health

²⁴ Kandali Ramadan, "The Right to Health in Algerian Law (Comparative Analysis)," Books of Politics and Law, Faculty of Law, University of Warqia, No. 06, 2012, p. 220(Arabic)

²⁵ Abdul Karim Alwan, Mediator in Public International Law, General Principles, II, Library of Culture for Publishing and Distribution, Amman, 1998, p. 1 (Arabic)

²⁶ Nabil Abderrahman Nasiruddin, Guarantees and Protection of Human Rights in Accordance with International Law and International Legislation, II, New University Office, Alexandria, 2006.p69.(Arabic)



professionals, and the effects of globalization on health-care systems such as reforms "Application of market laws" to the social security system or health service, mixed with a growing need for medical care with scarce "financial" resources, hence the need to prioritize health-care choices posed by globalization as a set of challenges for the key elements of a strong health system that will ensure the effective realization of the right to health.²⁷

2/2/ The intersection between globalization and the right to health

The system of globalization leads to a social response aimed at health services and social welfare systems. A large part of these services has been largely abandoned and the health system has lost its democratic and socially inclusive character. The health budget has also been reduced. A basic health strategy has been introduced in all countries. "Non-specialist and non-surgical" as an alternative to universal health insurance, and globalization is reducing the State's commitment as a major duty bearer of the right to health, leading the private sector, which has become increasingly active in the interests of multinational pharmaceutical companies.²⁸

One of the most serious manifestations of globalization on the right to health is the transformation of health care into a commercial capital activity governed by the law of supply and demand. The quality of services varies according to the patient's money. The absence of effective health insurance and the spread of pockets of poverty are acute factors that prevent people from enjoying the potential of modern medicine. The economic decision-making of Western States is a major cause of the problem.²⁹

In the context of globalization, which has widened the gap between the rich North and the poor South and increased the dependence of the South on the North and its important health implications, almost one-third of the population of the third world has no drinking

27 Ehbeden Exeter, International Health Care Act, Solidarity and Justice in Health Care, Translation by Ahmed Zaki and Ala Ghanem, National Translation Centre, T1, 2016, p. 7(Arabic)

28 ZAIM Issam, "A social market economy between the determinants of globalization and national challenges," Syrian Economic Science Journal, Syrian Economic Science Society, www.mafhoum.com/syr/articles06/zaim.pdf, p. 27. (Arabic)

29 Abdul Latif bin Muhammad Al Ghamdi, ethnocentrisme and its Contradictions with Human Rights, Master's thesis, Department of Criminal Justice, Nayef Arab University of Security Sciences, Riyadh, 2009,p189. (Arabic)



water. One in five of their children have not had enough calories and proteins. One billion people suffer from malnutrition; half of the world's population is unable to receive medicines. The world's health profile is not served by the policies of international institutions that involve controlling public health expenditures and opening the health market to competition.³⁰

Globalization is also at odds with the right to health, through excessive protection of intellectual property rights of innovative pharmaceutical companies, where the World Trade Organization (WTO), through the TRIPS Convention, established high protection provisions and standards that give the patent holder exceptional rights as property. States that would become members of the World Trade Organization (WTO), particularly developing countries, must adopt protective standards by adopting legislation that would lead to higher prices for medicines and thereby adversely affect their obligations to protect the right to health of their citizens, granting exclusive rights of succession. (Literature and finance) The patent of invention leads to the monopoly of medicines and the exploitation of this right to raise the price of the drug unit sold.³¹

The policy of States to protect the right to health of their citizens had previously been not to grant patentment to pharmaceutical products and simply to allow them to be manufactured in order not to block access to products that might otherwise be manufactured that might be less expensive; it had also been to deny exclusive rights to marketing test data and to allow national companies to rely on them to ease the entry of cheap products into the domestic market, but under the TRIPS Convention, no exception could be made by States. The protection of the patent of the product and the mere protection of the method of manufacture is indispensable, and the data of effectiveness tests must be protected from

³⁰ Suleiman Doughoui, "The Impact of Globalization on Health," translation by Kassem Mekdad, Journal of Political Thought, Arab Writers Union, Damascus, No. 4-5, 1999, p. 337. (Arabic)

³¹ Farhad Said Saadi, "The Right to Health and the Protection of Intellectual Property Rights, Study on the Right to Access to Medicine in Accordance with the Human Rights Norms of the International Covenant on Economic, Social and Cultural Rights and the Intellectual Property Rights Rules of Terbes," University of Tikrit Journal of Legal and Political Science, University, vol. 05, No. 18, 2013, 2013, p.159. (Arabic)



unfair commercial exploitation, and national companies are not allowed to rely on them to market generic medicines.³²

These are the effects of globalization on the right to health. It can be said that globalization in the current economic and political system has made it difficult, if not impossible, for most States to respect their right to health obligations under triangular policies. "World Trade Organization, International Monetary Fund and World Bank" imposing operations "Restructuring" and "economic reform" transformed most Governments simply into means of applying the neoliberal recipe, regardless of violations of the fundamental rights of their citizens. Neoliberal policies based on capital liberalization, deregulation, privatization, and public spending have created unfair conditions that make it difficult to enjoy the right to work, the right to education, the right to health, the right to food, etc., thus creating a clear contradiction between the stated goals of globalization and its disastrous consequences for the effective enjoyment of economic, social and cultural rights.

2/3/ Impact of the Corona pandemic on the right to health

The protection of public health is a human right enshrined in international conventions and the national legislation of all States. The latter are therefore keen to make efforts to protect this right by taking the necessary preventive or remedial measures. However, these measures may have a negative impact on the exercise by individuals of some of their other rights and freedoms, which has already been the result of the Corona pandemic. The rights affected include the right to freedom of movement, which has been partially restricted for a limited period, after the declaration of a state of health emergency and the adoption by States, including Algeria, of strict measures for protecting the public health of citizens. Legislation has also been enacted to regulate the movement of citizens and require them to be confined to the home and not to leave their places of residence within a specified period by the competent authorities.

The Corona pandemic is an emergency that occurs within or outside the State and affects its system of operation so that the powers

³² Farhad Said Saadi, "Parallel Import and International Exhaustion of Intellectual Rights in Trade, Study in the Trade of Patented Pharmaceutical Products," *Journal of the Faculty of Law of Legal and Political Sciences, University of Kirkuk*, vol. 03, No. 10, 2014, p. 103(Arabic)



granted to administrative regulators under the legislation in force cannot cope with these circumstances. It uses the adoption of a state of emergency legal provision through which a set of exceptional measures are taken, taking the force of legislation once it is submitted to Parliament and ratified, to cope with these conditions, and we are faced with a state of health emergency when an epidemic occurs³³. (An unusual event that poses a public health threat to other States through the international spread of the disease, requiring a coördinated international response.).

This definition includes the following elements:

-A serious, sudden, unusual or unexpected health situation.

-This health event has implications for public health beyond the national borders of the affected State.

-The event requires urgent international action and measures.³⁴

While international human rights law has emphasized the importance of protecting public health, allowing States parties to limit their international human rights obligations, declaring a state of emergency, and temporarily restricting certain human rights and fundamental freedoms, with a view to addressing serious consequences, it is not moral to abuse this right and uses emergency conditions to settle accounts by violating human rights.

Conclusion

In the light of the above, it is clear that economic globalization is the transformation of the world into a system of interrelated economic relations based on the economic contraction of the role of the State in favor of global economic institutions whose main objective is to make a profit for multinational corporations, thereby making economic globalization imperialist capitalism.

Although globalization has not directly violated the right to health, new Liberian policies based on capital liberalization, national deregulation, privatization, and public spending have created unfair

³³ Bonjar Mustafa, "Confronting the Corona virus epidemic between the declaration of a state of emergency and administrative control procedures," *Journal of Jurisprudence for Legal and Economic Studies*, University Center of Hajj Moussa Ak Akhamok Tamingst, vol. 09, No. 04, p. 92117, Algeria, 2020, p. 94(Arabic)

³⁴ Official web site of the World Health Organization, accessed at <http://www.who.int/a> 20:1818

<http://www.who.int/a>



conditions that make it difficult to enjoy this category of rights, highlighting the contradiction between the stated objectives of globalization, which call for respect for these rights without adequate conditions for their realization.

The outbreak of the Corona pandemic (Coved19) is a serious disease that threatens public health and the lives of citizens. Most countries of the world have therefore taken the necessary measures to prevent and respond to this pandemic, which has affected the exercise of other human rights, such as freedom to engage in economic, commercial, tourist, and sports activities, all of which are closely linked to the right to freedom of movement. The latter has been restricted by quarantine, the movement of internal transport, and the transport system.